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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

DRAFT REPORT ON COST RECOVERY

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

TRANSCRIPT OF PROCEEDINGS

AT CANBERRA ON WEDNESDAY, 13 JUNE 2001, AT 10.00 AM

Continued from 8/6/01 in Sydney

MRS OWENS: Good morning and welcome to the public hearings for the Productivity Commission Inquiry into Cost Recovery by Commonwealth regulatory administrative and information agencies. These hearings follow the release of the commission's draft report in April. My name is Helen Owens and I'm a presiding commissioner on this inquiry. My fellow commissioners are Judith Sloan who will be arriving shortly and Robin Stewardson. The purpose of this round of hearings is to facilitate public scrutiny of the commission's work and to get comment and feedback on the draft report. Hearings have already been held in Melbourne and Sydney and this is our last week of hearings in Canberra for the next three days.

We will be working towards completing our final report to government in August, having considered all the evidence presented at the hearings, the workshops held in mid-May, and in submissions as well as other informal discussions. Participants in the inquiry will automatically receive a copy of the final report once released by government. We like to conduct all hearings in a reasonably informal manner but I remind participants that a full transcript is being taken. For this reason comments from the floor cannot be taken but at the end of proceedings for the day I will provide the opportunity for any persons wishing to do so to make a brief presentation.

Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues raised in the submissions. The transcript will be made available to participants and will be available from the commission's Web site following the hearings. Copies may also be purchased using an order form available from the staff here today. Submissions are also available. I would like to welcome the Australian Bureau of Statistics to our first day of hearings in Canberra. Could you each give your name and your position with the ABS for the transcript.

MR CROCKETT: Dick Crockett, assistant statistician, information services branch.

MS MOSS: Celia Moss, director, strategic development section.

MR SULLIVAN: Paul Sullivan, director of secretariat section.

MRS OWENS: Good, thank you and welcome. I would like to thank you for yet another submission which we're very grateful for and for the participation in our workshop. I was wondering, have any of you got any opening comments you would like to make? I should have asked you before we started.

MR CROCKETT: No, that's all right. I have got a few comments I would like to make as an introduction. Firstly, thanks for the opportunity to discuss the submission here this morning. Our mission at the ABS is to assist and encourage informed decision-making research and discussion with governments and the community. Like all national statistical organisations we take our mission very seriously. A great deal of management effort goes in to continually checking that what we are doing is clearly in line with our mission. As part of this review process ABS consults widely

with a variety of user groups and at the end of the day our proposed forward work program is tabled with the Australian Statistics Advisory Council as a final check that our planning is in line with the priority expectations of clients across policy streams within Australia's economic and social domains.

Making sure that ABS resources are well deployed to address major areas of social and economic significance is an ongoing challenge for the ABS and we refer to that in the submission as ensuring the best possible balance in deploying resources on the various phases of the statistic cycle. We recognise that open access to official statistics on the economic and social conditions of a country and its population is essential and the ABS attaches considerable importance to easy and widespread access by all levels of government and the community generally to the basic official statistics. As pointed out in our first submission ABS is presently confronting a range of issues associated with the increasing shift to and demand for electronic dissemination.

While the ABS and other national statistical officers have quickly seen the potential advantages in embracing the Internet to pursue their dissemination objectives, it's becoming increasingly clear that the costs associated with the Internet-based strategy is substantial, and if not watched, can lead to unintended consequences. As an example both Stats Sweden and Australia have had Web site time-out problems at the time of the release of things like the national accounts. Our experience to date and that of other national statistical agencies suggested it is wise to proceed with some caution and that some of the main reasons proffered for the introduction of cost recovery in the first place, particularly the need for rationing mechanism where necessary and a mechanism for encouraging clients to address their real needs are as important in the current environment as they were when cost recovery was introduced in the mid-80s.

ABS struck a good balance with its cost recovery arrangements to date as evidenced by increasing community access to ABS statistics, and if I might add, very little concern expressed about ABS's approach to this particular inquiry. We are keen to continue to strike a good balance and this is why we have been very supportive of this inquiry and why we strongly support the expressed aim of developing a good set of guidelines to better guide cost recovery arrangements for the future. Our second submission basically reiterates the concerns we expressed at the recent workshop if information agencies which we found a very useful opportunity, I must say, to hear the concerns of other agencies as well.

Our major concern is that we consider virtually all that we do to be core and we do not want to lose the significant benefits that come from a cost recovery system in helping the ABS determine where to put its priorities, especially in respect of its dissemination channels and activities. We believe it is appropriate that some core activities continue to attract a charge. A second major concern we have was a lack of recognition the report gave to the impact on the existing work program should agencies pursue increase free distribution of their outputs within existing budget parameters. Put simply, if we were to provide all of our outputs or even a substantial part of them free in the interests of wider community access ABS would have to cut

out substantial amounts of statistical action work to fund it unless of course there is some budget supplementation.

Our submission in a few short paragraphs also attempts to give a clearer indication of how we are utilising the Web for dissemination and some idea of the costs involved in doing so. While our Web dissemination developments have progressed a bit differently in some respects to other national statistical agencies there are good reasons for this. Regardless, ABS stacks up pretty well with other sites in terms of content and most importantly has been developed with the express needs of Australian clients in mind. Finally, I wish to indicate our willingness to continue to work with the commission for the remainder of this inquiry and beyond if necessary in the interests of achieving the goal of establishing a good set of guidelines to help the ABS and other agencies now and into the future. I think at that point I'm happy to respond to any questions.

MRS OWENS: Thanks, Mr Crockett, for that. Do either of your colleagues want to make any further comments at this stage?

MS MOSS: No, not at this stage.

MRS OWENS: I think there are three or four key issues that I think we would like to cover. I would like to go back to this issue we discussed at the workshops and you raised this morning and in your submission which is this issue of core versus non-core. I would like to go back to the issue of the Internet and the impact of technological change on your activities, and I would like to also run through some of the comments we have had from other participants. I don't know whether my colleague wants to add to that list of things but we could come to other issues. Is there anything else - - -

DR STEWARDSON: I think those are the key, yes.

MRS OWENS: Those are the three broad headings I think I would like to get through in our hour that we have got with you. I think the first one to start with is this issue of core versus non-core. I think it obviously tripped up quite a few people at the hearings and we didn't mean it to but I think it's a definitional issue more than anything, maybe semantics. We have used the words "core" and "non-core" and maybe we'll have to think of other words, but I think what we were trying to get at is really what you're already doing which is you have got these things called community service obligations, CSOs, for which you don't charge, and probably in terms of our definition of what's core and non-core, they probably fit into the core, and a lot of your other dissemination and other activities fit into the non-core. I don't know.

Maybe at the margin there may be some things that would slip back into the core which we will discuss in a minute, but I don't think that we were really trying to imply that a whole lot of your activities that you're doing now, and for which you are charging would in the future be free. I don't think that was our intention but if there were activities that are currently being charged that would fall back into being a core

activity in the future for which there would be no charging, our presumption would be that you're not going to be squeezed but that would be taken care of in the budget. That may be a naive assumption but we're not taken as given where you are now. We're trying to provide guidance to government as to what is appropriately charged for and what is not.

I think one of the comments you made in your submission was that we didn't give you very much guidance as to what would actually go into the core but I don't know if we're actually the people to do that. I think what we are saying is these guidelines needed to be interpreted by the agencies themselves and in consultation with user groups and others to make those sorts of assessments. I don't think we can say, "ABS, these are things that should be in your core," although I would like to have a bit of a go at it with the Web issue, so I think the issue is partly definitional. I don't know whether it's a matter of substance, but I was going to ask you, in terms of your current CSOs, how do you actually decide what goes into that group? We have tended not to use the word CSO because it's a terminology that tends to be used for government business enterprises so we were trying to think of another term.

MR CROCKETT: Right.

MRS OWENS: But how do you decide what activities are non-chargeable?

MR CROCKETT: If you look at our current CSO it consists of content as well as channels for reaching the community, right? So our CSO - it's primarily pitched to trying to provide a good cross-section of summary data from any of our collections to the general community, and in trying to achieve that we concentrate on a number of areas. One is the media because we see the media as a particularly strong vehicle for informing the Australian community of, (a) the availability of statistics, and (b) what the basic statistics are and they are reported very widely. We use the Australian library service extensively and provide quite a large range of publications to in excess of 500 libraries in our library extension program, but they are entitled to actually acquire copies of other publications as well as part of our CSO.

We use the Internet increasingly, particularly over the last couple of years, to provide again the summary information, the main features, a substantial amount of summary information about Australia in the Australian - our component of our Web site - and I guess the final component, and I might have forgotten what it is, the national inquiry service, which is a free telephone inquiry service or in fact an email service as well, where again we define our CSO responsibility as a provision of information to requesting clients any information that we can provide it from publications that we produce or in a short space of time is provided free of charge. That's the way we have defined our CSO to date, although bearing in mind that the actual collection of the data and the compilation of the data is funded from ABS appropriation, and obviously makes up a large chunk of our community service obligation as well.

MRS OWENS: I was just going to follow up from my last question, how do you actually then make those decisions? Who is actually making those decisions? Are

you consulting outside the ABS? Do you revisit those decisions from time to time? I mean, you mentioned how you're increasingly using the Web. I mean, obviously over the last five years or so there has been major technological advances to allow you to do more and more on the Web. Do you go back and revisit this and say, "Okay, we are going to rethink what our CSOs are at the moment."

MR CROCKETT: Yes. I think you have got to divorce the last couple of years with the Web development from history beforehand, right. I mean, we defined our CSO quite clearly with the introduction of cost recovery back in the mid-80s. We did have a review and an associated pricing review in about the mid-90s, I think, 94. We, at the moment, in the last eight months have been through a major review of our dissemination activities and inevitably that brings a focus back on to what our CSO responsibilities are, and we're right in the middle at the moment of trying to rethink what our CSO should be in the context of clearly a very strong focus on the Web as our main channel of dissemination.

MRS OWENS: Do you talk to people outside? Do you talk to the Mark Patersons of the world?

MR CROCKETT: The short answer is yes, in a number of ways. With a pricing review or a review of any of our dissemination we will talk to a range of key clients in particular. We might do some market research. For example, we've recently done some market research across a number of agencies around Australia on their use of the Web and their expectations of how they want to receive data and what sort of formats and so on into the future. There's also ongoing discussion with the users of - from particular statistical collection areas about (a) their statistical needs and what should be included in the particular survey or whatever, but also in terms of the output that people are looking for from those collections. That information feeds into our dissemination arm as well in terms of trying to work out what the best approach is. We haven't had a formal consultation that I'm aware of in respect of the issue of what is CSO or what isn't CSO.

MRS OWENS: Probably if our recommendations are accepted we will be giving you an opportunity to do that because we're saying that one of the things we'll be recommending in the final report is that all existing arrangements be reviewed over the next five years, subject to some sort of timetable to be determined by the Department of Finance and Administration. So it probably means there will be an opportunity to reopen this. I think the other thing we will be doing in our guidelines is putting some greater emphasis on external consultation in making some of these decisions but I think with your CSOs, think of the CSOs as being our core, okay, because that will probably make you feel happier. The thing is a core is not set in concrete and that it's always evolving these technology changes and so on.

I think that what has concerned some of the people we've spoken to is that there has been a fairly narrow interpretation of what you would deem to be your core activities. I think that frustration may be reduced somewhat if there was a consultation process that people felt was inclusive, and you've said you do talk to key clients but maybe there are others that miss out. I recognise you can't talk to

everybody in the world, in Australia, but there may be a better way of dealing with it and we'll be thinking about that I think in our final guidelines. You wanted to add to that, Robin.

DR STEWARDSON: Yes, thanks. When you were asked just now about how you define your CSO, most of your answer was in relation to the aspect to do with channels of reaching the community. What about the content, how do you define your CSO in terms of content? Then I've got another question to follow up on that.

MR CROCKETT: It's broadly defined as providing a good summary of statistics from any of our collections. It's a bit like the definition of "core", it's something that moves in terms - - -

DR STEWARDSON: Sorry, can I just interrupt because I think you're again looking at the presentation aspect. I'm really going to what is in the collection for a start. If I'm a tourist operator and ask you to collect information about the tourism industry which is something that's going to benefit me but it's also going to have benefits presumably to the community if I develop Australia's tourism industry. How do you look at that sort of issue?

MR CROCKETT: Again what we're attempting to do in terms of content is provide a good cross-section of data from any particular collection to the general community. Under the ABS Act the statistician is obliged to publish and we attempt to publish a good cross-section - I'll try and step back a practical step - and that inevitably means national aggregates, state aggregates and is described, I guess, best in our Web site by what we include in our main features. So it will be the main aggregates from a collection. There may be a bit of commentary about those aggregates and what the key findings are. It is seen as the provision of a level of information to keep the general community informed, the fact that there is data out there in respect of this particular survey or whatever it might be, and presenting them with the key output from those particular collections.

So that's how we generally define it. There's one exception: we've taken the step consciously with our CSO to go down a further level through the library extension program and in that case we do provide copies of the publications for people who wish to step down another level of detail.

DR STEWARDSON: My follow-up question was that you said you didn't really think that you would find our guidelines helpful to you. That may have been partly because of this misapprehension of what we're calling a core because it's different from what you're calling a core and that's already been discussed. But if you look at our figure 9.5, as I presume you would have, which is on page 218 of our report that you have there, can you just sort of go down that - and again let's take the example that I'm a tourist operator and I'm wanting to develop the industry and it's going to benefit me, obviously, if I have more information but equally it's going to benefit Australia, it's going to bring in visitors from overseas, foreign exchange, all that sort of good stuff that will benefit more than just me. How would you apply that sort of situation or how would you apply our table to that sort of situation, because basically

when you say you find our guidelines aren't useful for your sort of operation it's this table 9.5 that's the key one.

MR CROCKETT: Yes, well, Celia might have a specific comment on this because we tried to track through this with a number of our collections and I think one of the comments in the submission is, "Well, it might have related to core rather than this particular issue that you could get the answer you wanted," in a sense.

DR STEWARDSON: That's what I'd like you to sort of explain to us because we obviously want to have the guidelines useful so that it doesn't leave it totally open that you'd get the answer you want.

MS MOSS: I think we recognise that there's so many users of our statistics that have so many different requirements that we've tried to - I guess in fact to find the spillover aspect has been of widespread interest and then try and separate out the things that are going to be of specific interest to different, individual users. They go down the track of being the user paying for the specific information they require. So I think that's a sort of separation, isn't it, what is of widespread interest to the community which is your broad level of statistics? It's what we define as the content of our publications at this stage which the subject matter is determined based on their consultations with people before they undertake the collection and then the flip side of that is, what is of specific interest. They will still have a benefit to the community but it's going to meet a specific requirement that one user has.

MRS OWENS: You might say that's the predominant reason you're doing it. I mean, you might have as a by-product it will benefit the community more generally because it will encourage more tourists to come, for example, but the prime objective is really to meet the information requirements of that particular person who comes through the door. So you go down that track which tells you that does the person using the product reduce others' ability to use it? Probably not. Is it easy to prevent someone from using the good? Probably, yes, if you want to just give them a hard copy. And then it becomes non-core, is charging cost-effective? You'd probably say yes and then it's cost recovery. So that's probably the way you'd go down there.

MS MOSS: We did find when applying the guidelines that beyond the first criteria it became very difficult because that was where we could really interpret a publication as being - - -

MR CROCKETT: Single hard copy of it.

MS MOSS: Yes, exactly. So applying those - - -

MRS OWENS: That's why it's going to be excludable by just giving them one hard copy and saying, "That's it," so it becomes excludable by definition.

MS MOSS: Yes. That element of the guidelines was really the difficult point that we - - -

DR STEWARDSON: I'm still trying to understand what is the problem with the table. Do you, for example, regard virtually all your activities - certainly all your collections and to an extent even all your dissemination - as having significant spillover benefits? Is the entire left-hand arm of that table a bit irrelevant to you because if you couldn't say yes to that you wouldn't be doing it at all. I mean, is that part of your problem?

MR CROCKETT: I think that's correct.

DR STEWARDSON: Then if you went down the right-hand arm of the larger part of that table, would you be able to go down that arm more easily if you thought in terms of separating out your actual activities? You thought of the basic collection as one activity, the adjustment of that basic data into a form that it could be published, whether it be to a lot of people or one person, and then you thought of your third activity as being the actual dissemination, be it printing out a hard copy or putting it on the Internet or whatnot. If you thought not just of the final end product but if you thought of those three bits and you went down all that right-hand arm, would that make it easier to look at for you?

MR CROCKETT: It does until you get to dissemination as an activity. I mean, I think that's where we struggle quite a bit because within dissemination in a sense we stepped back and said there's a whole range of activities within dissemination which you could describe from an activity basis as per the report - and just to give you an example of that you could say, I guess, that the provision of publication material, level material, to Australian libraries is a core activity. But the provision of publications to anyone outside the library program or whatever is a non-core activity, but when you start getting down to that sort of level it becomes a fairly problematic run through this diagram.

MRS OWENS: But let's just go back to our person who wants to get some tourist information. I mean, basically what you'd do is you'd go down and you'd say, "Okay, we are going to see whether we can charge or not charge," well, whether you charge or not is going to depend on how you give that information, but what you're really saying is the incentive for you, if you want to actually get some additional revenue into the ABS, is actually giving one copy, hard copy, because then you can actually get more money rather than say, "Well, we've done this work and we'll just plonk it on the Web." Are you inferring there's some perverse incentives that we've built into this? It's just that you can actually make the decision ex post how you're going to disseminate that information to that user. You're not constrained in how you do that so you could use the figure to actually make that decision or doesn't it work like that?

MR CROCKETT: I think not easily is - I mean, let's just track the tourism example through. Let's talk about the tourism publication, right, and the provision of a tourism publication. Does one person using the product or service reduce others' ability to use it? The answer is yes if I'm providing you with a copy of a tourism publication. The answer is no if I'm providing that publication into the library network, right? The answer can be yes or no in putting it onto the Web, depending in which way you put it onto the Web, right? I mean, you could put that information

onto the Web and have it freely available et cetera and answer one way or you could put it on the Web the way we have it at the moment and answer the opposite.

MRS OWENS: I think that's really you talking about excludability. I mean, rivalness is - that information is there anyway. I mean, one person consuming it doesn't mean - it's not like an apple that once you have consumed it, it's gone. It's still there. You have still got it for somebody else to use at some other time so in terms of rivalness you would go to no automatically. Then the question is can you exclude people? You don't agree with that, Robin?

DR STEWARDSON: If you're separating out the product, the actual content, yes, you're right, but if you're looking at the actual physical bit of paper with it on then if I have got that bit of paper you can't have it.

MRS OWENS: That's excludability.

DR STEWARDSON: Yes.

MRS OWENS: We're getting to whether it's excludable.

DR STEWARDSON: Yes.

MRS OWENS: But that information is still available at the ABS for somebody else to use. It's not an apple that's consumed and it has gone forever.

DR STEWARDSON: That's right, yes.

MR CROCKETT: That's true, yes. I think you're right. I think I was moving into excludability.

MRS OWENS: But then you can manipulate that excludability in terms of the way you actually decide that you're going to provide that information to that person. If you decide you're only going to ever produce one hard copy for that user you can exclude everybody else and you could charge that user the incremental cost of providing a hard copy to them if you wanted to. What we don't want is the guidelines driving your decision about how you're going to disseminate information. Is that really what you're inferring the problem could be? When you say you can choose which way you're going to go down that it's really choosing the way you're going to disseminate the information.

MS MOSS: I think this is where we were pointing out that they weren't that helpful, and that what we actually needed to do in the first instance was determine the principles under which you're operating. This comes back to determining what your CSO is. The first thing you do is what are your principles to meet that obligation that the organisation has? Then once you have got those principles you're looking down this sort of path to then determine how best to address the principles that you have - you know, the objectives and the strategies that you have put in place to determine what should be charged and what shouldn't.

MRS OWENS: But you will have the set of CSOs which, every now and again, you will revisit your CSOs as a set of things that you do, and every now and again there's going to be the big picture changes like putting more and more stuff onto the Web for example, but once you have made that big picture decision and you have pricing reviews, or in this case it might be ongoing reviews across recovery policies or whatever, then you have got the day-to-day decisions to make as to how you're going to charge the particular activities that you're undertaking. We might have Mark Paterson coming along wanting information about the use of roads or some transport request.

The question is are you going to charge him for that or not, and then there's the question of how much you charge but that's a separate question, but are you going to charge him or not? That's going to depend on how many other people are coming along who you might think might also benefit from that, and you might say, "Well, rather than just do this one thing for Mark Paterson, this is a useful interesting thing. We might want to do it for a number of other people," so you probably - Mark might actually say there are major external benefits from the research he's doing. You might go down and it becomes taxpayer funded if you could convince everybody but that means it's almost popping back into your core activity, you have popped it back into that, so that's a big change, but then if Mark can't convince you that the external benefits is a major reason, he's wanting this information but he really wants to do some interesting academic research or consulting work or whatever, then you go down the rest of it.

We'll have to keep working on this. You did offer at the beginning, Dick, to say that you would continue to help us so we might have to come back to you on this particular issue, but I would like to, if it's all right with - - -

DR STEWARDSON: Could I just say one more thing in winding up this particular section. I think it would be helpful if you could think as to whether the explanation that we have been giving you about the definition of core and non-core and the confusion that we think there may have been about that; whether that helps to resolve a lot of your problems in the use of the guideline table or whether those problems still remain. Secondly, whether, if to the extent that they remain, your problem is that you see too many things, as it were, "escaping" down that left-hand side of table 9.5, the external benefits line, the sort of example that was just given, that could anybody's individual research claim to have external spillover benefits and it would all get down that line. So maybe it would be possible for you to think about that and come back to us about those two things; whether one or other of those two points are your real problems or whether you still have problems with the right-hand side even after making allowance for those first two things.

MRS OWENS: Now, Web sites, you have got a lovely heading in your submission on page 3 which says, "The Web sites do not come free," which I think probably we would all accept, but you go into a discussion then. You seem to be expressing concerns. You say, "The ABS believes that with no demand management mechanism like pricing in place access to data on the Internet will grow unchecked

and at a very high rate leading to a significant increase in ABS operating costs." Then you go on to talk about Statistics Denmark and you say that, "They provide access to a range of statistics on the Internet free of charge. This has resulted in an increase from 1400 users in 2000 to 10,000 registered users as of January 2001." I actually thought, "Isn't that fantastic." You're sort of implying that this increased access is actually a bad thing.

MR CROCKETT: No, no.

MRS OWENS: Did I get that wrong?

MR CROCKETT: Yes, I think you have. I mean, our dissemination objectives are about improving access and increasing access, right?

MRS OWENS: Yes.

MR CROCKETT: What this submission is saying in doing that, and particularly through the provision of information free on the Internet, an agency is going to be faced with substantial increase in operating costs. I might just add a little rider to the Denmark example because we have just had a couple of people attend a conference in Canada with a range of dissemination people from other agencies. In preparing the submission I had made the assumption that Denmark had put all the publications on the Web for free but in fact they have only put 12 on, right? Now, 12 titles on their Web site, if you compare that to the ABS Web site where we have got of the order of three - well, nearly 3000 probably titles sitting up there is a substantial difference. So we're certainly not implying that increased access and improved access to ABS data is wrong or we should be avoiding it, but what we're trying to point out is that realistically there are some substantial costs. In fact, agencies overseas are finding that those costs are far more than they originally estimated in their business cases to go down this path.

MRS OWENS: But you have put in an estimate of how much it would cost to put ABS publications on the Internet around 4 to 5 million dollars per year which I thought sounded very modest.

MR CROCKETT: Unless it depends how you - - -

MRS OWENS: I mean, if that led to that degree of increase in use of the statistics I think that is - well, in terms of - if I was doing a cost benefit analysis, I mean, it's hard to measure the benefits of people getting access to your statistics but I would like to think that they're probably going to be quite significant. If you have got problems with - you mentioned up front when we were talking about Web site time-out problems, you could actually have a differential charging arrangement, so if people wanted to get the information a day earlier than everybody else they pay for that and then you just put it out for everybody else, but you could actually have a peak load pricing-type arrangement for those people that - you know, the people that wanted not get it earlier rather than later but there's something that sort of niggles me about this. It just worries me, and you do say earlier in your submission on the

second page in para 10 that ABS is presently looking to make all publications available electronically to interested libraries and to the media. Now, once you have incurred those costs of doing that those costs are gone. I presume that's part of your CSO. So why don't you just put them out there for everybody?

MR CROCKETT: The main reason is that the para that you previously read about the increased costs that might come from doing that rider - I mean, if you look at our Web experience to date, I think it's para 14, where we're looking at about 2 million accesses per month at the moment and 99 per cent of those are on free material, right, if you look at how the accesses in other national statistical agencies have increased as a result of putting their material up there free, that 2 million could blow out by a very, very large factor, right, and it's impossible to predict just how far it will blow out, but the extent to which it blows out come back to the ABS in terms of the need for additional infrastructure and so on to support that level of access.

MRS OWENS: I suppose it's a matter of are you in the business of providing access of the data that you have got there or are you in the business of making money from the data that you have got there? What do you see is your main role?

MR SULLIVAN: We're not actually making money, we're recovering our costs. I think it gets back to the initial argument about core and non-core. We're coming around to the view that everything we do is core and we should be providing it free of charge which would be a reasonable outcome, I'm sure, but one that's going to require at least \$5 million plus the costs of publications et cetera.

MRS OWENS: But if you put things onto the Web, and I presume with your data collections you have that electronically within the system somewhere anyway, don't you?

MR CROCKETT: The publication.

MRS OWENS: Yes. It does reduce the need for some of the hard copy publications you have got now. You did raise the concern about certain people's access is maybe limited because they can't - you have access to computers or whatever, but you have still the library as a medium to cover that contingency, haven't you?

MR CROCKETT: Yes. I think the reality is in this transition we're going through that there will be a critical mass of people that will continue to want to receive their hard copy for some time yet, right? Now, that's a decision ABS has to take at some stage. When do you force clients off hard copy and into the Internet or send them down to the library to get the information from the library and so on, but the reality is I don't think we're at that stage and we'll continue to go through that transition for a couple of years. Just referring to your earlier question, I don't think it's a case of are we in it for improving access, and we clearly are, or are we in it for raising revenue for revenue's sake, but I think the reality is our mission is to, as I set up front, is to assist and encourage informed decision-making amongst government and the community, and I think what we have been trying to do as an organisation is strike

the right balance in providing information, (a) through various channels, and (b) at certain levels to be able to achieve that mission. I mean, there's been little discussion about the real use that is associated with access via the Web. 2 million hits means a lot of people coming in and looking at the information, but I think an issue that has to be thought through here is how many of those 2 million hits are actually being used for informed decision-making in the community and really represent a real need of users.

But all of these sorts of issues we've tried to struggle with over time in (a) determining what our CSO should be and then (b) trying to determine within the charging regime what level of pricing you actually set to try and encourage people to access the information and to use it for decision-making.

MRS OWENS: Does it cost you a lot more to have 2 million hits than 500,000 hits?

MR CROCKETT: Well, it depends. If you look at Web site infrastructure increases, you can take it up to a certain extent. We got up to - I can't remember what the figure is. You go beyond, so you increase your capacity from so many megs to a couple of kilobits or whatever it is and throw another parallel server at it or whatever and then that will give you more capacity up to another level. I don't know what the pricing relationship is.

MS MOSS: It's also about the support costs, so what we're anticipating is that if we provide publications on the Net for free, more users who don't necessarily have the same sort of experience using statistics will find them and require a high level of support in terms of actually using the Internet itself but also in terms of understanding the statistics. So it's important that the infrastructure is there to support them as far as possible within the Internet but also that there's support within the ABS, experts available to talk to people. The more people using it, the more of that sort of support is going to be required.

MRS OWENS: But isn't there great potential now that we've got the Web and if people have got these needs for others to pop up and actually provide these services outside the ABS? Why does the ABS have to do everything?

MR CROCKETT: I'm not sure which support services you're referring to with that question, but - - -

MRS OWENS: Well, there's the support services your colleague was referring to.

MR CROCKETT: In principle there's no reason in the world. There's a couple of practical reasons why I think national statistical agencies, not just ABS, continue to be called on by users to provide some clarification of their data and further information about the data and some advice on which is the most appropriate data to throw at their particular problem. I think that's probably described as human nature: the national statistical agency produces the data and we look to those agencies to provide that level of support.

The point Celia made is a very valid one, I think, and Stats Canada are experiencing this very much at the moment with their advisory services program, which is similar to our consultancy program. The nature of the inquiries that they're now fielding around the country from their eight locations, according to the latest report I read, has moved quite a bit away from asking for particular data sets and information but more seeking clarification, elaboration and further description, if you like, and quality description in respect of the data that people have actually accessed from the Web. That sort of activity will inevitably increase. There's no doubt about that.

MRS OWENS: I do believe that there is a huge potential for consultants to get into this game and fill this gap. We were talking last week to MariTrade, who I understand that you have had quite number of dealings with over the years, and I think it's fair to say they were reasonably disaffected about some of the contacts with the ABS of late. Their concerns range from the fact that the fees had increased substantially and they were now paying a royalty, and they said that that had meant that they'd lost customers, but they also felt that the ABS was actually starting to move into areas that they'd been in in terms of competing with them. They gave the example of Transport South Australia. They were developing a database and they said that you were aware of them developing this database, but then the structure of the database was - you had some fields removed and then the ABS approached the South Australian department with its own database and they basically said that you were now competing commercially. Now, do you think that is an activity that really the ABS should be - is this part of your mission, to compete commercially with existing providers of information?

MR CROCKETT: I think it depends on what the definition of competing is in these cases. ABS provides trade data to people who want trade data. We always have. We've always been prepared to talk with other organisations who want to receive this data and then provide it in a secondary distribution role in some form or other. Consistently we won't enter into contract where we're tried to an individual secondary distributor. That's an up-front policy that we operate by, and we make it very clear that if people want to get this data, they pay for this data and they enter into a royalty arrangement.

MS MOSS: But we recognise that intermediaries, which is the term we use for those sorts of use clients, actually can satisfy users that we won't get to ourselves. So we encourage the sort of concept of using intermediaries to better distribute our information.

PROF SLOAN: Why would you charge them a fee and a royalty? That seems pretty steep.

MR CROCKETT: It seems to me that our original reason for doing that is very much associated with private benefit and there's a clear case where if someone wants data from the ABS and they're using it for a private benefit we'll charge them for the data and we charge that consistently, regardless of who they are. The on-selling of

our data - we've had a policy of charging royalties for that in accordance with normal copyright provisions over a number of years. We are at the moment as a result of I guess two things - the impact of electronic dissemination again, and our recent recognition that we should think beyond the square a bit more with intermediaries, because we are interested in working with them more and getting more of our data out there into the different markets - are reviewing that particular policy, particularly in respect of MariTrade-type operations, where the way in which they get the data and how they provide it on to their end clients is quite different to many other organisations that we're dealing with.

PROF SLOAN: How many intermediaries do you have that you're receiving royalties from?

MR CROCKETT: 60. Around about 60, 65, something like that.

MRS OWENS: But it does raise the question - we've looked at this issue of royalties and whether they are appropriate, and when we spoke to MariTrade they actually said that they weren't really on-selling, they were actually selling a value added product, and they actually gave us a demonstration of their product. They showed us how the data came in from the ABS, they showed us how they manipulated their tabular forms, and to me - I think to all of us - it looked like they were selling a different sort of product. I don't understand why the ABS should be able to profit or benefit from that. Those royalties aren't reflecting your costs in any way; they are just sort of skimming a bit off the top, as far as I can see.

MR CROCKETT: We do cost-recover our secondary distribution management arrangements. There's no doubt about that. I should make a couple of other points. If an organisation like MariTrade was simply taking our data and on-selling it, then our current policy would be we'd be expecting 70 per cent return. Where there is some value adding, then our royalty arrangements are different. Where it's complete value adding, we may decide, and have decided on a number of occasions, that the nature of the service that's being provided hides, disguises, ABS data and we won't charge a royalty. So there are decisions taken on those on a case-by-case basis.

MRS OWENS: So you've made a decision in the case of MariTrade that there's some value adding but there's also some - I was going to use the word "core", but there's some of your actual data in there that they're just basically using.

MR CROCKETT: They buy the whole exports and imports database.

DR STEWARDSON: You can see there are a number of queries that this particular little case threw up in our minds, but one of the smaller queries that it threw up was why you charge your royalty as a percentage of sales. I could see some rationale for saying an agency like them is taking your data and adding value to it and making a profit and you want to get some share of the profit, which might lead to a royalty on profit. I don't really understand the rationale for a royalty on sales.

MR CROCKETT: It's actually a client based rationale. It involved over time

where in the early stages we had quite complex formulas for determining what the level of royalty would be, and in many cases the industry was telling us that they couldn't provide the information to enable us to determine the level of royalty. It's only the last two years, I suppose, or three years, that we've moved to this percentage of sales, because it's actually easier for the client to compute and it was returning around about the same amount that we expected through the application of the formula.

PROF SLOAN: I'd like to talk - I might be backtracking, Helen, so I'm sorry about this - - -

MRS OWENS: That's okay.

PROF SLOAN: - - - about what you purport to be the bulk arrangement with the universities.

MRS OWENS: We haven't covered that. We waited for you to arrive.

PROF SLOAN: It struck me when I looked at it whether there were some ACCC implications, but anyway you might want to think about that - because you're kind of inviting other people to enter into collective arrangements with the ABS. You're telling me that that's got nothing to do with the identify of the user, ie, the fact that they're universities, but isn't it true that you've actually blocked other groups from being part of that consortium, notwithstanding those groups being willing pay to a proportionate fee to be part of that bulk purchase?

MR CROCKETT: You mean non-university?

PROF SLOAN: Yes.

MRS OWENS: Like us.

MR CROCKETT: Have we blocked you?

PROF SLOAN: You're telling me it's just a bulk discount, so why would you block other organisations from becoming party to that bulk discount if the identity of the user doesn't matter, which is what you're telling us?

MR CROCKETT: The arrangement with the ABS there was a bulk arrangement with the university sector.

PROF SLOAN: Right. So it did matter who the identity of the user was?

MR CROCKETT: We would discuss entering into the same sort of bulk arrangement with an industry association.

PROF SLOAN: But why couldn't other parties join that bulk discount. It's like someone else joining a cooperative, isn't it?

MR CROCKETT: Yes. I - - -

PROF SLOAN: It just makes me wonder whether it really is a bulk discount irrespective of the identity or the nature of the user. There are a lot of public interest researchers out there who don't actually have an attachment to the universities but they do university style work in its essence. But they're blocked from participating in this very considerable benefit.

MR CROCKETT: They are only blocked in the sense that the arrangement was negotiated with the university sector and ABCC was operating and representing the university sector in coming to us for a bulk arrangement. I mean, the important part of the arrangement was, as you say, bulk and required ABS working with one organisation which reduced our costs significantly in terms of billing and invoicing and management control and so on. If the ABCC was to come back to us for the renewal of the arrangement and wanted to cast its net wider, I think we'd talk to them.

PROF SLOAN: Right.

MR CROCKETT: I don't think we'd block from that sense.

PROF SLOAN: Right.

MR CROCKETT: And at the end of the day if we could get the Australian community involved in those sort of arrangements. If we captured everyone in the community in those sort of arrangements, it seems to me it's a win, win. That's the very reason why, as I mentioned earlier, we're putting a stronger focus on working with intermediaries and umbrella organisations because we think that (a) helps us achieve our goals of improving and opening up access and enables us to do it in more cost effective ways.

PROF SLOAN: Did I say I thought there was a classic example of cross-subsidisation in your submission when you were essentially admitting that your pricing policy on the Internet involves cross-subsidising the people who are buying the paper. I mean, what seems on the face an absolutely incredible policy that you would price publications downloaded from the Internet as the same as paper publications and there is a curious paragraph which tells me that you are worried about the people who don't have access to the Internet and that the cost of paper publication will get too expensive and we worry about that. But you say you're telling me there's quite explicit cross-subsidisation of this pricing policy.

MR CROCKETT: It depends how you define cross-subsidisation from my point of view. We took a conscious decision some years back to go down the path of providing electronic copies of publications at the same price as hard copy in the absence of any knowledge of the costs involved in having hard copy publications available on the Web. If you look at our publication cost recovery - hard copy publication cost recovery performance and our Web service cost recovery

performance for 99-2000, we just covered the costs of the hard copy stream, right, through recovering printing and distribution costs and - we the jury is out at the moment as to whether we covered it for our Web stream. If we did we probably only just covered it. We recognise that the issue of having the same price on our publications provided hard copy on the Web is increasing seen as an anomaly and we are currently reviewing that. At the moment along with a review of our general CSO and how that should look in terms of the electronic dissemination environment that we are now working in.

MRS OWENS: I'm not quite sure how you've only just covered the Web - if you are talking incremental costs, I just can't understand how you've just covered that. I would have thought the incremental costs would be quite small.

MR CROCKETT: Whenever there is a discussion of marginal or incremental costs or whatever, I think everyone is coming from a slightly different perspective. But the costs that we try to recover in our Web system, we don't try and cover the costs of the provision of the Web site per se or the server. What we do try to recover are the costs of taking the PDF file which already exists in terms of our statistical compilation, loading that to the Web, running the, you know, whatever Web management structure is required. We try to recover those costs that we incur as a result of providing the information on the Web site, at a price - the charged information on the Web site and there are a range of things there. In fact, I think the ABS costs involved on this side of it are actually substantially less than other national statistical agencies because of the Lotus Notes environment that we operate in and writing some of this stuff to the Web is relatively easy, but they are still substantial.

MRS OWENS: It was interesting because one of our participants in the Melbourne hearings, Cumpston Sarjeant, I don't know whether you've seen their submission, but they were complaining, or Richard Cumpston was complaining of being overcharged and he said that he felt - well, this was in a case of ABS publications for purchase at ABS branches, they appeared to be higher than the marginal costs of printing extra copies - so he felt that there was probably a bit of overcharging going on.

MR CROCKETT: We, in recovering our publication costs, we attempt to recover, as I say, the printing and distribution costs and the subscription service that we run as part of our publication distribution service and so on. As I say, for 99-2000, we just covered costs. It surprised me a little bit because our revenue dropped substantially, but so did our costs, obviously. The point I made in the submission here, that we'll get to a stage in the transition from hard copy to the Web where the hard copy costs per items sold, or distributed, will rise substantially and part of the reason for that is simple things like the viability of maintaining a printer, right, to actually print volumes of publications. You get to a stage where you pay premium because your volumes have dropped below the existing levels and things like that.

PROF SLOAN: I think Richard Cumpston was talking about when, you know, something has run out of print that you would charge the same for photocopies of, you know, computerised tables.

MR CROCKETT: And to that extent, as Robyn pointed out, I think, in the earlier discussion we had, we're charging an average cost.

MS MOSS: It's a consistency thing as well. If someone has paid a price for a publication, the next person that comes in should be paying the same price for the same publication otherwise you are getting inequities between - you know, it's just a timing thing in some ways, the inequity is caused. So a number of decisions were made based on those principles I was talking about before, one of those being the prices are consistent. The issue about the electronic dissemination and the hard copy was the same thing. We made a decision at that stage that, regardless of the media, people should be paying the same price.

PROF SLOAN: It sounds as though you are applying completely different thinking to how you are costing your Internet publications. I mean, you are just telling me its printing and distribution costs for the hard copy, so that's pretty simple stuff, and then when you start talking about the net, we're putting all sorts of other things in that - and bear in mind, you're going to be downloading these PDF files to provide your AusStats anyway, so I wonder whether there's really an awful lot of double counting that's going on, to how you are seeking to cost the Internet publications.

MR CROCKETT: I don't believe there is, the publications are - - -

PROF SLOAN: You are not imposing lots of capital costs on the - when you are thinking about how to charge for the paper publications, but you are kind of telling me that this sort of development in - - -

MR CROCKETT: Sorry, I misunderstood you.

PROF SLOAN: It's kind of completely applying a completely different methodology to these two things.

MR CROCKETT: No, well, I don't think our current thinking is applying different methodology at all and I think, as a result of looking at the pricing we continue to charge on the web, as I said before, I think we'll obviously look seriously at the nature of the price of downloading the publication versus some of the other data sets. I just don't know whether that will reduce - will see the cost of a publication reduced or not.

PROF SLOAN: Why wouldn't you just say this is part of your mission. I mean, there are other information agencies that provide this information free, because it's absolutely part of your - what you are doing.

MR CROCKETT: Well, maybe - - -

PROF SLOAN: And the fact that school kids fiddle around and stuff, that's good, that's not bad, you know.

MR CROCKETT: There's two main reasons why we haven't gone down that path, right, I mean in terms of our mission and our dissemination of objectives of increasing access and so on, in principle we have no problem with what you are saying but the two practical realities are, as quoted in here, we believe it will cost us four or five million dollars to extra to make publications available free on the Web and at the same time we have to incur the dual costs of provision of a hard copy publication stream and the Internet based stream, at least for sometime to come. I don't thin we can walk away from our hard copy clients too quickly. There's still a lot of people who do get hard copy publications even though they might use our Web.

MRS OWENS: It's interesting that the majority of the members of your Australian Statistics Advisory Council actually do support free availability through the Web.

MR CROCKETT: I think ABS supports it in principle, that's what I'm saying, but we haven't taken that step from a practical budget perspective.

PROF SLOAN: I mean, we've actually heard of instances whereby providing data free on the Web, in fact has increased the demand for paper publications. They are not necessarily substitute products. You're no test of that hypothesis.

MR CROCKETT: Well, I can make a comment, that it seems to only be applicable to a very small number of compendium type publications, like the year book or state year books. In fact, a number of overseas statistical organisations moved into electronic dissemination based on that understanding and have been quite seriously burnt. New Zealand in particular was.

PROF SLOAN: One of the things I think that did worry me, and probably still worries me, is the appallingly low incidence of secondary analysis of some of your expensively collected databases and I can think in my area, you know, you did those youth surveys, you did those surveys connected with Working Nation and the like. It seems to me that one of the barriers to secondary analysis is the fact that the data sets just cost too much and so you've got data sets that have cost millions of dollars collected, and yet you can name the researchers who work on those data bases, probably only using one hand, one set of the fingers on one hand.

MR CROCKETT: I might have agreed with you two years ago, the arrangement through the ABCC for access to confidentialised unit record files has seen quite a dramatic increase in the number of people who are accessing those and utilising them for secondary research, I think, up to 440 individual applications for these various files since it was introduced in about, I think April 98, something like that.

PROF SLOAN: Well, isn't that a good lesson, because doesn't that tell you that when these are free to the researchers who actually, you know - - -

MR CROCKETT: Well, they're not actually free.

PROF SLOAN: They are. They are to the researchers down at the grass roots

level. The universities might be paying through the ABS system..

MR CROCKETT: Yes.

PROF SLOAN: I mean, you ask a single academic to pay \$5000. You may as well ask for \$5 million, you know.

MR CROCKETT: That's right, yes.

PROF SLOAN: So aren't there important lessons in that, that you might want to extend, because not all the secondary analysts reside in the university sector?

MR CROCKETT: Certainly, and in respect to confidential (indistinct) record files, again we're then reviewing the nature of the distribution of those files and as part of that review looking at whether a similar sort of arrangement to the one we've got with the vice-chancellor's committee might be appropriate for people like ACOSS for example and there's a secondary issue associated with them and that is the use by university consulting arms, which presents another set of issues, but again we're trying to think through the implications of those at the moment as well. But I mean, to respond to you I think we did learn from the exercise and that's why we went to the vice-chancellor's committee on the AusStats arrangement - so yes, a clear lesson.

MRS OWENS: I think we've been running a bit overtime. But I think because Judith here is probably - no, it's worth pursuing some of these issues. Is there anything else you need to raise?

PROF SLOAN: No, that's fine.

MRS OWENS: I'm sorry to have held you up. I told you it would probably take us more than an hour to get through what we needed to and I had a few other issues I would have liked to have raised, but maybe we can do that at another time. But thank you very much all for coming and I think we'll take you up on the issue of how we get our guidelines working a bit better and if you've got any bright ideas of what we call our core activities we'd like to - to use the words here because of its other connotations, but would you please feed any input back to us, that should be greatly appreciated. We'll now break for just a minute and our next participant is Dr Mark Paterson.

MRS OWENS: Okay, the next participant this morning is Dr Mark Paterson. Welcome once again and I'm sorry for the slight delay, but I thought it was worth continuing our discussion with the ABS and I know you had an interest in that discussion. Would you like to give your name and your organisation, if you have one, for the transcript.

DR PATERSON: I'm Mark Paterson, private citizen. There will be another one who comes along representing an organisation, but I appreciated the scheduling of close timing with the ABS. I thought that was very helpful, from my point of view. I might say that the first submission tomorrow, Rob Gourlay, should also be interesting and I'd also like to say that something which is very pleasing about the Productivity Commission Web site is that you can look through it and you can see who else has made submissions and this is networking.

MRS OWENS: And it's free.

DR PATERSON: And it's free. So I suppose you have a cost for all - you recognise what the underlying cost is for all of that but - - -

PROF SLOAN: No, it has been fantastic. It has been absolutely fantastic because before - - -

DR PATERSON: It's a saving.

PROF SLOAN: - - - and we'd subcontracted it. People had to write in and you didn't know how crummy or good the submission would be, so there was a lot of - and then a lot of people just didn't because of the cost, whereas now people - - -

DR PATERSON: That's right.

PROF SLOAN: So the accessibility transparency - - -

DR PATERSON: It's a saving by cost.

PROF SLOAN: No, I think it's just a huge benefit for us.

MRS OWENS: Do you want to make some opening comments?

DR PATERSON: Very briefly, because I think there are many things to discuss which I think open up a little bit of new ground. The submission that I put to you really, I realised a few weeks ago when I'd already had a round of correspondence with the Australian Statistician that you could continue to pursue the question of things like individual products and whether they're public interest or CSO or they're not, and it seems to me that becomes a matter of chasing diminishing returns and actually losing sight of the purpose of collecting statistics about Australia and how the place works. So I've rephrased the question of whether we should be looking at recovery of value from our statistical heritage because in some respects it's now 100 years of national statistics.

There would be probably 20 years which are in reasonably good digital form and there's just a great deal of material which people simply don't know about, the people who might use it, or people who do know about it and have tried to use and found that there are barriers to doing so. I have a slight difference of view I believe from the ABS on what is public interest in that I did take this up in the early 90s in another area and I think the public interest was seen as that which is of interest to the public and the putting things out to libraries and the media is seen as the sort of front door to that.

Now, I gave you the final draft of this submission that I've made, but on the back page of that you'll see the first two pages of the Canberra Times from last Thursday. I'd like to just talk about three or four items. Page 1122 of 1, the headline item is one about state of recession or otherwise in Australia. ABS gets a mention in the first sentence of that and I think it is the sort of thing that people look for almost certainly quarterly and in general monthly indications of broad economic indicators. I've suggested that that sort of collection is in fact something which the policy makers in Treasury would be outraged if one suggested that it should be reduced in some respect and I'm sure that there's never any question that that is a CSO public interest thing, the cost of the collection.

But then on top of that, I think that this instant access at 11 o'clock on the key days probably is something which is sold to the finance sector for a reasonable return, and I'll come back to that. Turn over the top of page 2, there's another one on relative earning rates of women and men in the workforce and so on. Workforce participation levels and so on would come into the same category and I suspect that there's not a great deal of cost recovery looked for in that, but nevertheless there are some subscribers from whom a significant amount of what at the moment is the cost recovery income for the bureau is reflected there.

We get to the second item - go back to page 1. We get to the second item and you find that the big picture item on page 1 is about a survey of a number of things, drinking habits and so on. I'm not sure, Dick could probably tell us immediately about this, but I suspect that there may well have been one of the health agencies or some other agency which has actually contributed to the cost, or else made contribution in kind, to the setting up and the carrying out of this survey. I don't know whether that also represents some cost recovery income, but there are certainly some things which come out which are of that nature. I might say, go back to page 2 and on the extreme right-hand column, the bottom item, there's something there which I think may have some bearing on the Australian statistics on mortality and morbidity.

MRS OWENS: Are you talking about the human arm?

DR PATERSON: Yes. Now, if you look at that, there is actually a statistical angle on half of the other items in these pages and it just shows how much the statistical information underlies so much of our understanding of the community. Now, in my submission, which I titled Cost Recovery, Shouldn't That Be Value Recovery, the

implication that I would draw from people's continual adherence to the ABS and its mission is that it is costing a quarter of a billion dollars roughly a year to run. A great deal of that goes for those mainstream collections and the analysis of them, and having them available on the Net at the instant at which they're to be released to the market and so on, and that's undoubtedly core business.

But to suggest that when you start looking at other things they should be presumed to be non-core in the first instance is to get the cart before the horse. One shouldn't be looking at things from the point of view of whether they should be capable of raising a bit of extra revenue because that extra revenue, as pointed out in the preliminary report of your inquiry, that extra revenue is significantly less than 10 per cent of the total costs of running the ABS. I think that if we were to take out those other users of statistics who have no alternative but to pay and I believe that there is a degree - obviously the universities contribute something in this respect. The financial institutions contribute something, I suspect. I know that a number of state government agencies also do.

By the time you take those out of the 7 per cent of total income which comes from cost recovery I suspect that the rest of it might be accounted for by 3 per cent or something of the total ABS outlays in a year. If 3 per cent on top of those core activities - I think per cent is the total additional value of those numbers and those time series and the new perspectives and so on coming into the community and people being able to look at them, debate them and so on, if 3 per cent is the limit then I'm barking up entirely the wrong tree. But I suspect that 30 per cent might be more the figure and I think, Mrs Owen, you suggested that maybe \$35 million would not be an unreasonable - it might be quite good value spending an extra \$35 million in dissemination of ABS statistics if it achieves a great deal more.

I personally believe, although there's nothing that I find in print that says that this is the mission in Australia - although I think the Canadian Web site statistics, Canada actually carries something to this effect - that part of the mission of the national statistical system is to produce a more statistically literate and a more informed community at large. Clearly some of the people who tap into that will be people who get commercial advantage from it, whether it's AAT King Tours who are working out where the market is moving to or whether it's the crayfish catchers of South Australia, you know, they will find that it helps them develop markets or whatever.

But to put a lot of effort into segregating out those where you can clearly say, "Well, we would like to get some return from your use of this," to segregate that from the many other uses at the risk of inhibiting those uses or even those attempted uses, people having a look at it and then walking away from it, that to do that is to get things entirely wrong. So I've suggested in the final page of my second submission, I've suggested that in fact if the people who actually spend the budget once a year or announce how they're going to spend it once a year federally - if they were to seek a justification within what they're already talking about for doing it then there is one group who talk about innovation - and innovation at the moment extends to funding of some university research activities, some additional international

fellowships and a number of things like this.

Now, I have no quibble with those being valuable things, but whether that is the best place to put innovation money is a question in my mind. What is not a question in my mind is that if you were to put innovation money - and it might be 10 million or it might be that \$35 million. But if you were to put that into the first step in giving Australians an entirely different perspective on what they can know about their country and how easily they can and how it stimulates debate and development of policy options, even on options on how to disseminate ABS outputs, then I would say that innovation there could be very easily justified.

If you are looking at another cluster of policies you could say a knowledge nation isn't the statistical nature of the community, the economy. The land mass, the environment, isn't that equally part of a nation which knows itself? So I see that there's a basis on which people could look at this overall sum and stop quibbling about the 3 per cent but look at the merit that might be achievable in another 10 per cent or 20 per cent or 30 per cent being put into dissemination and creation of a statistically literate Australia. That's the essence of what I'd like to say.

MRS OWENS: Good, thank you, and you've raised a number, I think, sort of more philosophical points as well as practical points with us. With the 35 million I think I was talking about the 5 million additional costs that the ABS referred to in their submission, having free access to the Web. I think they had an estimate of 5 million.

DR PATERSON: Yes. I don't have the technical background to discuss whether these are realistic or not. I have said that I don't think that there should be a big bang and one big announcement about these things. I don't think you come up with optimum solutions in one go and I think that the idea that one organisation or one even top line consultant to that organisation could optimise either the nature of the Web site or the dissemination policy because that would be to sell it short. I think it has got to be incremental and whether it takes five years to ramp up to doing this properly doesn't matter all that much. But I do think that it needs to have a good strategic view of how to do it and whether it comes up - whether you find that the first 10 million has been so well rewarded that you want to put another - or whether at that stage is starting to run out of additional achievements from it I think has to be judged.

PROF SLOAN: What you're really saying is that in fact the ABS is not very good at cost recovery, because you're saying that there are kind of, like, within that - what is actually quite a small percentage by the standards of other agencies of costs they recover. There are a whole lot of very easy clients, right?

DR PATERSON: I'm sure.

PROF SLOAN: Well, you know what I mean, who are really quite willing to pay.

DR PATERSON: Yes.

PROF SLOAN: In fact if they probably engaged on more, what we call aggressive Ramsey pricing - - -

DR PATERSON: They could double the price and they'd still pay, yes.

PROF SLOAN: And exploited the differences and the elasticities, they could in fact raise quite a bit more money, but at the same time rethink the segmentation of that market and perhaps remove the charges for groups for whom the price is in fact prohibitive in many cases and you're choking off a lot of demand. Is that the point?

DR PATERSON: I think so, although you don't know to what extent - - -

PROF SLOAN: No.

DR PATERSON: With Ramsey pricing you wouldn't know to what extent different tiers of users who are paying different prices are actually - the barriers to them talking to each other are created by creating a tiered structure of charges. So personally I feel that we're talking about a few marginal per cent of the costs of running the ABS. There's no doubt in my mind that it is vastly undervalued at the moment, the ABS contribution to the management of Australia and Australians' knowledge of themselves, ability to compare ourselves with other countries and to learn from other countries and so on. I think that is in fact potentially very much greater than what we spend on it and I think that we should be looking to get the best out of that. So I wouldn't suggest we chase details of price.

PROF SLOAN: You get the best out of it though by maximising the dissemination and use of it.

DR PATERSON: Yes.

DR STEWARDSON: In terms of our diagram 9.5, basically, I think if you recall that one, you're saying that everything that the ABS does and disseminates would go down the "are there positive external spillovers" line, which puts everything down into the taxpayer funded thing, doesn't it?

DR PATERSON: Because the cost of doing otherwise is a very great - I mean, it's a cost to the ABS to have to decide on where it fits in that diagram. But it is also just a cost in that it delays and stands as some sort of inhibition to what I see as its primary task.

DR STEWARDSON: Yes.

DR PATERSON: So why not forego 5 million.

DR STEWARDSON: In terms of the ABS's concern about our report, while we can say what we feel would be an ideal system, and assuming that there's perhaps a benevolent government out there, they're much more focused on the budgetary constraints that they are actually faced with, and your proposal is even further, by a

long way, than our proposal.

DR PATERSON: It is, yes. It's seeing it as an investment, which government has not yet indulged in.

MRS OWENS: But the ABS has argued, I think, a fairly strong case in relation to demand management. That may not apply so much to the Web base services, but there is this broader question of whether you need some price signals in the system.

DR PATERSON: I was interested to hear that there were two million hits a month on the ABS Web site. I'm not sure whether that has been in any way subdivided and it's recognised where those hits come from, but I do know that there are many Web sites around where people register one way or another and they identify a sphere of interest and so on, and they are given some additional service. It might simply be an email which tells them that something is going to be available in 48 hours time, you know, it will be released at that time. It may be that it could actually accommodate a certain amount of give and take between the different users, and that's where I think you'd actually get the greatest value with the ABS being able to benefit from other people's understanding of statistics and their uses, rather than their own.

I do think that, I mean, ASAC in principle is a sensible organisation to have, but I've heard some stories about that which suggest that it falls far short of its potential, and I don't know whether it's improved in the last small number of years, but these consultative mechanisms - it depends on whether it is someone out the front from ABS saying that this is how we're going to do it, what do you think about the details, or whether it is really a community of people who use statistics and who take them right down to where it affects all sorts of social issues and community development matters and so on, those people actually identifying from the users end how the middle part of that chain can be done better.

PROF SLOAN: Is there a kind of second-best story though that even you might be prepared to enter in. I mean, even our draft report is very big on the principle that cost recovery should not be pursued for revenue raising. It clearly is, and it clearly is under the, probably quite - I mean, there's probably accurate understanding that their budgets will not be supplemented, so in the event of cost recovery not being undertaken, it would then become a choice of what kind of collections to axe. So should we think about what is the harm minimisation strategy in that second-best world?

DR PATERSON: Within a totally capped budget?

PROF SLOAN: Yes.

DR PATERSON: I find it very difficult to - I mean, sure, one should do ones best within that, and in fact the attachments to the submission there show that the Australian statistician, in the middle of his letter, he actually said, "Well, if we're going to spend more money on making stuff available on the Internet, then it's going to come out of surveys." Well, I think that's just a trade-off which is terribly

short-sighted.

PROF SLOAN: What's your view of your arrangement with this university?
You've got an attachment - - -

DR PATERSON: I don't know how that's structured, I'm afraid. I've looked at
the - - -

PROF SLOAN: How do you feel as an outsider who's interested in public interest
research and that kind of - - -

DR PATERSON: Well, I'm glad someone is getting access to it. I do think that
some of that questioning which suggests that there might be a bit of a penumbra
around the universities - I mean, clearly the way academics' activities these days will
typically go from purely teaching and university core research supervision and so on,
right down to their private consultation and consultancies, I think that that really
blurs the boundary so much that it's a nonsense one to try and maintain.

MRS OWENS: You mentioned in one of your letters, the letter you wrote to
Mr Truan, this suggestion of having an on-line circle of statistics users.

DR PATERSON: Yes.

MRS OWENS: Is that something that's a different kind of concept to having an
ASAC? Can you explain a little bit more about what that would be? It is obviously
a consultation mechanism so you can feed back as a user your views on the
collections, what's collected, how it's collected, how it's disseminated, how it's
presented. What's the idea?

DR PATERSON: All of those. I think that you'd find that there would be some
areas where it might at most be 20 or 30 or 50 interested people or organisations
would show up, and you'd have to regard them as being different interest groups or
bulletin boards or whatever, but I do think that there are bulletin board structures. It's
quite standard to go on-line after an ABC program which is provocative, and you get
an idea within an hour of a whole lot of people who have either stupid things to say
about it which you wouldn't want to waste your time on again, or else very intelligent
ones, and I think that it's very difficult - I think that to create a community of people
who do these things is part of - I think that that should be part of the charter. It's not
in the Australian Bureau of Statistics charter at the moment, but I do think that
creating that would be a very sensible thing, and I think that whether ones talking
about innovation or knowledge - I mean, those are just headings under which
governments justify packaging some spending, but I do think that that's the name of
the game and I do think that it's something that should be considered. That notion
will not stop with this note. That will go further.

But I do think that if the ABS in a couple of years came up with a plan which
allowed it to, for instance, say, "Well, as well as having our existing group of
transport statistics users groups, which is so many academics, and each of the state

government transport departments, and a consultant, one consultant" - I'm not sure whether there's any consumer group representative on that, but instead of going in with the preconception that that is the market, if they used the actual uptake of statistics and chat about them and people, I mean, it may be that they award brownie points and you actually become a preferred prescriber if you provide references to ABS stuff which is being referred to in academic publications or in consultancies for whatever.

I identified a couple of areas. The whole drift of my argument is that you can't pick winners in this. You can't say those ones deserve more support than these ones. I think you've got to see what comes out of the woodwork, and I've just identified two areas where I would have a little bit of background and would be able to say that there is a community out there which is being underserved at the moment, and I think one shouldn't regard them as clients for the ABS, but one should regard them as Australian statistics users who come to the ABS. Unfortunately there are some other areas, but the commercially based statistical areas tend to be concerned with this month's marketing, whether it's by colour of car, or where holiday destinations are, some of those things are being done as well. It is the bringing of these things together which is the total value of Australian statistics. It's not living solely in an ABS universe.

MRS OWENS: It's interesting you say there's a community of users out there, but as Mr Crockett noted before, I mean, very few of those people have actually come and participated in this inquiry. Maybe that's because they don't know that the inquiry is on. Maybe they're not concerned about some of the issues that concern you. It's a bit of a puzzle.

DR PATERSON: I can say that that is the case, the latter. I've been talking about this since the inquiry started. I've talked to various people, and that second exemplary area that I gave about sustainability issues, that's one where I've had a fair bit of contact with people, and, for instance, when one talks about intermediary organisations, there would be things like whether it is the cooperative research centre on whatever - salinity and something or other, which I think is a South Australian based one - which has been looking at the state of land and water systems and so on, whether it was something like that or whether it was some private sector organisation which was spun off from it, there would be bodies like that which would, I think, do a good job of interfacing with the ABS and bringing a lot of satellite information, ABS data on a number of things, both agricultural production, population densities, length of road, all of those sorts of things, they would bring that together in ways which are very much of interest these days at the local government level. I was in a discussion just a couple of weeks ago where two consultants, people who do some consultancy, were comparing notes on how they brought three different entirely, you know, very different databases together. One of them was trying to do something for the Dubbo Shire, as I recall it. Another one had done something for another area of New South Wales, and one said to the other, "How did you get access to that?" Now, I don't think that those things should be mysteries. I think that if access is available, I think that it's availability should be evident to anyone who takes an interest.

What they said was that - apparently there was this exchange of letters. It was in fact the ABS connection, and one of them had been doing a consultancy on behalf of local government, or the landcare group or whatever it was, but something which had an interest on that catchment or subcatchment sort of basis. They had got the impression that it was a matter of weeks or months of exchanging correspondence and getting a note from your mother and so on, and that they would then perhaps be able to get access to it, but there's another route in which works, and they weren't able to know that. As a result of that, the work for the particular local government area cut off before it got those things together. Now, that seems to me to be a lost opportunity. No-one's valued it. No-one's costed it. I guess the consultant might have had an extra thousand dollars worth of time and work put into it, and you could say that there's some private gain from that, but I see the funding of these things and the fact that they feed into things like applications for a slice of the - what is it, billion dollar Natural Heritage Trust money and so on, the fact that those are less informed rather than more informed as being a terrible price to pay for difficult access to data.

PROF SLOAN: That's fine, thank you very much for coming again.

MRS OWENS: Yes, thank you very much. You once again gave us a very thoughtful submission, and we appreciate the participation. I wish we'd got some more people like you along. We've had a few, but not as many as I was hoping, so thank you very much Dr Paterson. We'll now break for 10 minutes.

MRS OWENS: The next participant this morning is the Australian Chamber of Commerce and Industry. Welcome to the commission's hearings. Would you each give your name and your position with ACCI for the transcript.

MR PATERSON: Mark Paterson, chief executive for the Australian Chamber of Commerce and Industry.

MS CURTIS: Karen Curtis, director industry policy.

MR REARDON: Tim Reardon, adviser industry policy.

MRS OWENS: Good, thank you, and thank you once again for your submission and for your active input that we've had right throughout this inquiry and we do appreciate that. I understand, Mr Paterson, you have got some opening comments for us and then we'll enter into some discussion.

MR PATERSON: Thanks commissioner. As you know, we have strongly supported the reference to the productivity and the review process. The observations that I make this morning are just to highlight some of the elements of our submission to the draft report, not to necessarily add additional material but to give emphasis to where we'd like to see your further attention given in the final report. We do believe, given the basis of the draft report - and we've said this in our submission - that we fully expect the final report to be the seminal work on cost recovery in regulation. We're very, very pleased with the direction that the draft report has taken, the development of the guidelines that have been outlined in the draft report. We do feel that some of those guidelines could be tightened or some greater clarity provided but our observations I would submit are probably at the margin. So it's clarity in terms of the operation rather than suggesting an alternative change.

You've adopted the high-level principles that we put forward in our original submission and for that we're grateful. The areas where we think that some attention could be given - most attention I'll come to under recommendation 6.8 and 6.9 but in some of the earlier recommendations, under recommendation 3.1, there's an extensive analysis of potential legislative structures that might be available within the draft report but there's no recommendation on which outcome provides the best for community and regulated industries. It may have been that there's a challenge in terms of being able, having widely canvassed the potential legislative approaches, to be able to pick the best one but if on further examination you're able to identify on the basis of all the submissions which legislative model would best suit regulated industry and which would suit the alternative, we think that would enhance the recommendation.

One of the concerns that's highlighted in the report is that on your examination you could not get DOFA, Department of Finance and Administration, to actually identify cost recovery receipts which is an incredible disappointment and an indictment on the system and to not be able to distinguish those receipts from other revenues when there's a clear distinction being drawn cost recovery and tax in terms of revenue collections, it's disappointing. It's further disappointing that some of

those agencies couldn't even provide the rationale for cost recovery. I'm not sure whether your recommendations will go as far as to suggest that those who can't provide the rationale for cost recovery should cease cost recovery. If you're prepared to go that far I would urge you to do so. Clearly, if the agencies that administered them can't provide a rationale for their collection and can't tell you how much they collect from those measures, they're not managing the process appropriately so a strengthening in that area is something that would be welcomed.

You report under the discussion on recommendation 3.3 that on only three occasions in the last four years has the regulatory impact statement been used for cost recovery but unfortunately one of the examples, even one of those three over the last four years, is the issue of the office of gene technology regulator where a regulatory impact statement on cost recovery was prepared. The disappointing part of that - and I don't think it's brought out strongly enough in the report - is that the draft legislation was introduced to the parliament in June of 2000 and the RIS was done in October. The regulatory impact statement process requires that RIS to be done before a decision is taken and certainly well before the bill is drafted and the bill introduced to the parliament so whilst we only have a very limited number of occasions where proper process has been followed with the adoption of the regulatory impact statement process - and you will recall from our previous evidence and from our original submission that we're strong supporters of the process of regulatory statements because they do provide the frame of reference of looking at the alternative forms of regulation, looking at the cost benefit analysis of various approaches and that should be undertaken where cost recovery is sought but even in those limited number of examples there's one that's certainly seriously wanting in terms of following process.

Under recommendation 3.4 you talk about the cost recovery impact statements and one of the things that we'd like to see more explicit is that those cost recovery impact statements be publicly available; that they're open to scrutiny and that they're not something that is merely part of the informing process of decision-makers but is available for public scrutiny for those industries that might be affected or who have an interest in that particular area.

Under recommendation 6.3 there is some ambiguity or potential ambiguity when read in isolation. We recognise that if you read recommendation 6.2 and 6.7 along with 6.3 it's clear what the intention is but taken in isolation where there's an identified percentage target in terms of cost recovery, it could distort interpretations for agencies like the CSIRO and I think we use that as the example in our response to the draft report, that there are some clear targeted recovery guidelines that you might find where people are doing cooperative commercial work or potentially commercial work and you can set some targets rather than the broader target areas of cost recovery for regulation. So the difference between the agencies - and I think it's clarified when you read 6.3 in the context of 6.2 and 6.7, that if someone just picks up recommendation 6.3 and tries to apply it in isolation there is the potential for confusion or ambiguity and it just requires I think some slight tightening or some cross-references to those. If it's read in conjunction with them then the opportunity for there to be ambiguity is substantially reduced.

In terms of 6.8 and 6.9, which are really the recommendations on who should pay for regulation when a case has been demonstrated that there might need to be some approach to cost recovery, we think that there remains a degree of ambiguity between the beneficiary pays and regulator pays concepts that are outlined. It has been put to me that the definition of "beneficiary" is to be found in the text of the report but I think it's in pieces in the text and it certainly doesn't come through in the recommendation and we would like to see a clearer articulation of what is the beneficiary of regulation when you're trying to contemplate the distinction between beneficiary pays and regulator pays but it's a useful distinction in our view and it does help people guide the decision-making process between the two but we'd like to see a clear concise definition of beneficiary and see that in the recommendations and not tucked away that you have to try and find in the body of the report because the recommendations will go forward and inform something and the body of the report will stay behind it to some degree.

It may also be useful to provide some examples or some guidance on when, in the view of the commission, the regulator pays or the beneficiary pays approach is best applied. So I think it just adds to the definition of beneficiary that by way of example the beneficiary pays or the regulator pays in the recommendation would help. They're the opening observations that I would like to make. As I said at the outset, we strongly support the review and we're highly supportive of the draft report and our observations are observations made to improve it to the extent that we think it can be.

MRS OWENS: Good. Thank you very much, Mr Paterson, and I would like to, I think on behalf of us all, thank you for the submission because it was actually extremely clearly written and I think extremely constructive for us and I think your points that you've made about a number of those recommendations and particularly 6.8 and 6.9 I think are well taken and having read your submission I went back to the report and I thought, yes, I see what he means. I think that we can do a lot more to tighten that up and make it clearer and I think your point also about the recommendations stay and everything sort of gets left behind is a good one because people often don't go back into a body of a report ever again. They just take the easy bits and so I think we will give that a lot more attention to see whether we can try and make that clearer and I think that we will try and give some guidance on when to apply each approach.

We tended to be fairly vague and say it depends on the overall object of the legislation. If the object is to reduce negative spillovers then you would go the regulator pays approach and if the object is to benefit consumers or some other objective, to increase exports or whatever, if you're talking about AQIS, then you would apply a beneficiary pays approach. I think we haven't made a clear enough distinction between the fact that there are different beneficiaries. We have in different points said the firm can be the beneficiary and in other points we've said consumers can be beneficiaries. Sometimes the Australian community can be the beneficiary if we're talking about positive spillovers so I think all of that will be tightened up and I think we will try and make it look a lot better for you in the report.

MR PATERSON: For the record I thank you for your compliments. The authors of the report sit to my right.

MRS OWENS: We like it when you get a submission which is exactly how yours is presented - you've got a bit of text and then you've gone through each of the recommendations and told us what you think about them very clearly and it just makes it, I think, much easier for all of us including the team to be able to very quickly get out the essence of what you're trying to tell us. I just wish a lot more submissions could be written in this way. It's surprising how many aren't. I don't know whether Judith wants to make any comments at this stage or Robyn?

MS CURTIS: If I may, commissioner, just to expand on something Mark said and taking up then what you said. There is potential confusion with actually identifying what the agency objective is and that is very much linked to which approach you take, the beneficiary pays or the regulated approach. For instance, on page 207 with your table 9.1, I would have thought that some of the agencies that you're really addressing here would not view what your definition of the policy objective is. I don't think it would marry up with their view and so that's why the guidelines have to be so explicit and clear, to make sure that everybody is adopting the same approach. For instance, the one for NICNAS, reducing the risks of harmful spillovers, including enforcing safety and quality standards that will affect the broader community. NICNAS would not see that, I don't believe, as their prime policy objective.

MRS OWENS: I think what will happen is that we are suggesting that all the existing cost recovery arrangements be reviewed and I think at the time of those reviews is the time to actually sit down and say, "Let's be explicit. What is this agency objective? Is it set out in legislation? If it's not set out clearly then let's work out what it is." Then I would think that there should be some consultation during that review process which we haven't really specified in our draft report but one of the other submissions said that they felt that our guidelines should talk more about having a consultation process in undertaking to apply the guidelines and I think that would be the time to clarify some of those objectives. I mean, that table 9.1 was really our attempt at trying to say what do we think they are.

You may be totally correct. It may be not what the agency see their objectives as being at all but we're really thinking what is their primary objective. They may have multiple objectives and, you know, some of it may be about negative spillovers and some may be about benefiting consumers. That's when it gets a bit confusing and one of the other areas we haven't really gone into in much detail is this issue of partial cost recovery and whether we need to actually think about that. The more you go down that track the more complex the arrangements become and we're trying to keep it fairly simple.

PROF SLOAN: I'd like to take Mark up on I think the initial points you were making which I somehow I think we're going to have to think a bit about, which is this idea of should there be some sort of legislation model underpinning this. We had George Brownbill representing a number of organisations in the

non-pharmaceutical, medical field in Sydney, basically telling us that unless this kind of had some legislative teeth, that guidelines were all very well but that agencies might in the end pick and choose a bit and therefore the effectiveness of our recommendations would be significantly diluted. Is that what you were on about?

I mean, he had kind of a certain model in mind and I think there's a secondary point. We had to make sure that the guidelines are precisely articulated so there is not much ambiguity in terms of where you go down in the tree, for example, and I think we've got a bit of work to do on that because when we had some agency workshops clearly some of them thought they could get any answer they wanted, really. But on that first point, I mean, should we be considering something more? I mean, we've got the CRIS and the RIS, but whether that's even enough.

MR PATERSON: The mindset of many of the people who have approached this have taken the view that they're unfettered if it's not a tax and that therefore they can essentially do what they want. I think that it was drawing that distinction between the two legislative models, and if there isn't an authority, I think, in some legislative framework for the collection, then they don't have authority to do it. I think that in the absence of an exclusion there's been an assumed authority in some agencies to collect fees. So I think on balance, and we're certainly not an organisation that would argue in favour of additional legislative instruments, but in the absence of an authority to collect that has been examined as part of that RIS or CRIS process, the absence of that within the legislation would say they're not entitled and that there ought to be some explicit provision. If it's a tax, there has to be an explicit provision, but if it's some other form of cost recovery arrangement we'd see that the model ought to identify the framework in which that's done in the legislative approach.

PROF SLOAN: And hence spell out the guiding principles for the agency which could then be some - at least subject to interrogation - potentially legal challenge, presumably, yes. I think we'll have to think about that.

DR STEWARDSON: I'd like to go back to the point that Ms Curtis raised just a few minutes ago. Reading your submission and listening to the opening comment, I was wondering whether the problem was merely that we hadn't made sufficiently clear that we thought whether one looked at the beneficiary as being the ultimate consumer of the product, of the food or of the therapeutic good, as whether we saw that as being the appropriate case or whether we saw this as being a case of preventing negative spill-overs. So I was wondering whether it was just a matter of our lack of clarity or whether you saw something that was a problem with what we saw as the answer - and, as you've said, we saw as the answer the prime object of the agency as stipulated in their acts establishing them. I would have thought that on the whole there was, in rough terms, that NICNAS and NRA maybe were there to prevent negative spill-overs onto the community and that most of the others were to benefit the users. Do you see a problem with going to the acts - I think you've indicated that it's not perhaps as clear as might be - and if so, do you have an alternative suggestion to put to us?

MS CURTIS: We were very keen to ensure that when the guidelines are

implemented there will be no confusion or any way that someone could misconstrue what was intended. So by trying to clarify the definitions that are included in the guidelines will mean that everybody should adopt a similar approach, and that's what we're looking for, that uniformity across all the agencies that cost recover. So we agree with your analysis and definition. We just want to make sure it's explicitly brought out in the guidelines and that it's a step-by-step process that all those agencies can go through and actually follow quite easily what they're doing. So understanding clearly what their core responsibility or rationale for existence is vital and I think if you've got a process in the initial stages for those that exist now to go through and identify what their purpose is, that will be a great start.

MRS OWENS: You'd like to think that they do this anyway.

MS CURTIS: But they haven't, Helen. We understand that quite a few agencies have interpreted your guidelines differently already.

MRS OWENS: Mm'hm.

MS CURTIS: And so if that's the case, we'd expect that, you know, over time lots of agencies would be able to find different ways to possibly interpret them. So we want to tighten it now to make sure that that doesn't happen in the future.

MRS OWENS: I mean, there's always a trade-off between having very tight and inflexible prescriptive guidelines and trying to retain some degree of flexibility and it's a matter of getting that balance right. We heard from the ABS this morning and they argued that they could actually interpret the guidelines in terms of the information agencies any way they liked to actually get the outcome they wanted to get, which is a worry, and we have to go back - we're going back to the drawing board and seeing how we can address that at the moment.

MS CURTIS: But the step-by-step process, the four stages, is good and then, you know, whether you're in the pre-market stage or in the post-market or, you know, information services, whatever. I think that's a really good analysis and I'm sure most will find it useful. But the core, the threshold question - need to make sure they get that answer right, because if they don't get that answer right, well, they can go down the wrong route. That's what we're trying to ask for.

MRS OWENS: No, I think it's a very good point. I'd like to clarify the point you made about the targets. I'm just trying to remember which recommendation.

MR PATERSON: 6.3 was the one I made reference to.

MRS OWENS: Yes, 6.3. Again, I think you've made quite a good point. But I was a bit puzzled about whether you then believe that there should be a target on those activities of the CSIRO where they have a 30 per cent external earnings target. I mean, are you actually saying that that is an appropriate approach?

MR PATERSON: I'm saying that there may be agencies for particular activities

where they can have targets which isn't about cost recovery for regulation. Our principal concern was cost recovery in the environment of regulation. CSIRO, many of their targets are about establishing commercial relationships with commercial partners and having targets for earnings - externally, as I understand it, unless I'm - - -

MS CURTIS: Yes, but they are an information agency as well.

MR PATERSON: Yes.

MRS OWENS: Well, I've got a concern which I'll share with you because this is one of the issues that we didn't make very clear in the draft report, as you've pointed out. I'm concerned about having targets per se relating to cost recovery, regardless of what it's for, because I think once you start to set targets then you need to then go and manipulate what you're cost recovering to meet the targets and then you can end up cost recovering for all sorts of things that we believe should not be cost recovered such as, you know, providing policy advice to government and information activity - international activities and other administrative responsibilities which should actually be funded out of the budget. So I just have felt very uncomfortable about anything which says, "Thou shalt have a target." Even with the CSIRO, they have a 30 per cent target which means that some parts of the CSIRO can get 100 per cent, some - you know, there's very limited prospect of them earning much external revenue at all. So you end up with these distortions within the organisation which we pointed out a number of years ago in our R and D report.

MS CURTIS: I'm not sure you disagree, do you?

MR PATERSON: No, we don't.

MRS OWENS: It's just the use of the word - I mean, maybe I can paraphrase what I think you're saying. I mean, you agree with the idea that an agency overall shouldn't have a target.

MR PATERSON: Yes.

MRS OWENS: What you're really saying is that we shouldn't be precluding individual activities, having (indistinct) business plans which might involve, you know, private sector partnerships and the like. It's the kind of target, isn't it, that - - -

MS CURTIS: But from a policy objective, ensuring that CSIRO interacts more closely with the business sector gets a much better return on the public investment in R and D.

MRS OWENS: Yes.

MS CURTIS: As a policy outcome, that's one of the things we'd like to achieve.

MRS OWENS: Yes.

MR PATERSON: So we're not disagreeing, it's the - - -

MRS OWENS: You're talking about an internal sort of management plan.

MR PATERSON: Well, it's been applied to ensure that there's some - there's pure research being pursued. But overall, the agency is developing both pure and applied research and it's able to demonstrate the fact that it's got strong partners in a lot of that pure and applied research by the commitment that it gets from external partners in terms of funding. But as an information agency and a potential regulatory agency, you don't want to confuse the two. That's why we said taken in isolation you could potentially confuse it. If you read 6.2, which is the general principle, cost recovery arrangements should apply to specific activities, not to the agency which provides them. Then it is seen in context so we don't want to cut it out in those particular circumstances but we don't want targets used for cost recovery agencies.

PROF SLOAN: It might be just a drafting issue I think that we've got to count - - -

MS CURTIS: There is room for confusion and we would like to avoid that confusion.

PROF SLOAN: I would like to raise this issue of that distinction between beneficiary pays and regulated pays. I think that is right. I think this is somewhere we have to make sure the drafting is very precise. I wonder, an area which we might have to think a bit more about, is whether we should codify this issue of where you've identified the beneficiary, you say, "A class of users of a particular product, but we say it may be impractical and not cost-effective to actually be directly charging those so we charge the firms." I would have thought that was something you might be pretty interested in because it could be a bit easy to jump to the conclusion, "Look, it's impractical to charge the real beneficiaries and we'll charge the firms." So in effect the kind of regulated pays and the beneficiary pays end up being indistinguishable in practice, you know. I am probably being extremely leading is asking you these questions.

MR PATERSON: I think that is the tenor of what we're saying in the submission, that we are concerned that if there isn't a clear identification of beneficiary in the circumstances in which the two situations can apply, I'm sure you would find a regulator saying, "It's too hard for us to do the hard work to identify the beneficiary and how we might get it from them."

PROF SLOAN: Yes. I wonder whether we need to tease that out a bit more, that issue, because it seems to me it is sort of easy and in fact potentially lazy to say, "Well, it's really too hard to directly charge the beneficiary or charge the firm," on the assumption that they pass it on. Now, we had an interesting case in Sydney where we had the medical devices people come to see us. They are involved in facing a lot of regulatory costs but it turns out that their customer is not the ultimate beneficiary, the people who receive these devices, but really state health departments and federal health departments essentially act as monopsonists. In fact, their ability

to pass on the regulatory costs is limited. In fact they are basically unable to fully pass it on, as the theory would tell you.. So you have got to make sure you have got a clear view of the chain there.

MR PATERSON: Evidence to date in terms of regulatory impact statements would lead you to the view that an agency given an option of saying it's too hard to identify with precision who the beneficiaries might be or what the potential costs might be. That's the likely path that an agency would go. So we would support trying to tease that out further.

PROF SLOAN: I think that's an important thing for us to try and do.

MS CURTIS: If I may, one of the areas where that also could be teased out is, you know in the implementation stage there should be a lot more. I don't think you have explicitly spelt it out in chapter 9 but if there was more consultation between the regulator and the industry you might get a better sense of how that was going to play out for that particular market segment.

MRS OWENS: At that point?

MS CURTIS: Yes. So I suggest that - because that was another issue that we didn't put in our submission but we would like to ensure that when these guidelines are implemented that there is extensive consultation with those that are affected by the regulation.

MR PATERSON: There's a passing reference to that on the bottom of page 16 in the table.

PROF SLOAN: One of the vexed areas for you I think is that if you look at - I mean, in a sense, probably from your point of view the regulatory agencies are more interesting because they act as monopolists, and without going through the hurdles you're not participating in the market so I mean at least there's a demand curve with the information agency, although there are in particular issues, but if you look at the price structures of the cost recovery charges a lot of these agencies impose there are lots of cross-subsidies that swirl around often directed towards assisting small business. Now, from our point of view purists are not very keen on that kind of thing really and we would argue that if you want to assist small business go and subsidise them directly, and don't play ducks and drakes with your pricing schedules in your cost recovery ratios.

MR PATERSON: Because they will invariably get it wrong, and NICNAS is an example of the reverse applying where in fact the advantage by the cost recovery approach that has been adopted is that it advantages larger users and disadvantages smaller users so whilst there might have been an overriding philosophical desire to try and skew the regulatory regime in favour of small business they don't do that on a uniform basis.

PROF SLOAN: So in other words you would support our idea that

cross-subsidisation should not be a feature of these cost recovery regimes.

MR PATERSON: Wherever you do it, do it transparently so don't use cross-subsidy arrangements and that's consistent with our original submission.

PROF SLOAN: There are examples which I think are probably easier to justify from an economic point of view where they might try and smooth the charges over the life of a product. So rather than necessarily charging kind of the full up-front costs they might take the view that that might provide an undesirable barrier to entry so they will recover the costs over a longer time frame. That's not necessarily involving cross-subsidisation between firms but it does sort of over time. What would your view of those arrangements (indistinct) or is that something you should take up (indistinct) and the consultation - - -

MS CURTIS: That was going to be my response. I think that if you have actually gone step by step, if an agency is sitting down analysing what it proposes to do and answering each question along the way, it will come up with the answer, "Well, perhaps it is okay on this occasion to put it over the life of the product."

PROF SLOAN: I think the NRA does that, doesn't it?

MS CURTIS: Yes.

PROF SLOAN: I mean, on the face of it that looks a reasonably sensible thing to do. I mean, a private sector firm is not necessarily trying to recoup the development costs, you know, in the first week the product goes on sale. So, you know, there is a kind of parallel.

MRS OWENS: You have to be pragmatic, I think, at the end of the day.

MS CURTIS: But if there is effective consultation throughout that implementation stage then that would be addressed.

MRS OWENS: And if there is transparency in how it is implemented so that everybody knows that that is the way it's going to be approached.

MR PATERSON: The reason I hesitated in responding is because it does raise some questions of effective life which has consequences elsewhere in the tax context in terms of depreciation and the like. There are different rules that have been introduced recently in terms of write-off or depreciating of assets where you have got the pooling of assets in small businesses up to a given amount. We've seen the removal of accelerated depreciation and some challenges in relation to effective life so I just think that if we are going to introduce a concept like that into the RIS process and examining against those questions, we actually need to think about, "Are we doing something in a regulatory reform sense or cost recovery sense that is inconsistent with another treatment of exactly the same - the use of the same asset elsewhere?" because we don't want to create different regimes where your fee recovery regime will necessarily be different to the life regime that you apply

elsewhere and what happens when circumstances change and the life of that product just went from a 20-year lifespan to zero because it's been superseded.

I would like to think about that a bit further but there is a note of caution there just in terms of how you treat some of those things. I think Karen is probably right, that if you go through the process, where it is appropriate to do that will probably stand out. It is going to be at the margin where the potential consideration of some of those other factors may have to be taken into account.

PROF SLOAN: Another issue I think is your view on the second best world in which we live. If you go through our survey results - and if you were a fly on the wall at our workshops - apart from those agencies who couldn't actually tell us what the rationale for their cost recovery was, there were some who basically articulated a view that they cost recover because money was taken away from them in terms of their appropriations and therefore they are doing it for revenue raising. They have a clear understanding that if they were not to cost recover there would be no supplementation of their budgets and therefore activities would have to be cut.

MR PATERSON: I hope that is all on transcript and I hope that you publish those examples because the parliament appropriates the dollars for expenditure by those agencies, not the agencies appropriating it themselves. If they have given evidence to that effect I think that they would probably find that they have been collecting those moneys without the authority of the parliament and they probably need to pay it back. If they have given evidence to the Productivity Commission to suggest that they have to do it because they didn't get enough in appropriations, they are in trouble.

PROF SLOAN: So that comes back to your need for explicit legislative authority.

MR PATERSON: And explicit evidence to suggest that they have used this as a device to get around the proper appropriations by the parliament, which is our concern right from day 1. If they have given explicit evidence to that effect then they had better get their chequebooks out.

MRS OWENS: Can I raise another issue? That's relating to your comments about our recommendation 6.5, which was our recommendation relating to information and agencies and defining the boundaries of their core and non-core activities. You have actually agreed with that but then you've gone on to say, "Cost recovery through fees and charges should only be initiated where there is a legitimate and necessary role for government." So you are basically implying if there is no legitimate role or necessary role for government there should be no cost recovery. Now, there are actually lots of examples of government engaging in commercial activities. Whether we like it or not, that is really outside our terms of reference, but for some reason or another they do engage in some commercial activities where you might say, "Really, there is no role for government because the private sector can do it."

Are we then suggesting - or are you suggesting then - they shouldn't charge at all because that is not a legitimate activity for government? I think of, say, the

Bureau of Meteorology that does engage in some commercial activities. You're implying really they shouldn't charge at all. Then you run into a problem of competitive neutrality.

MR PATERSON: Well, it's not cost recovery in the environment. It ought to be commercial charging for a commercial activity and not cross-subsidising, not seeking to be cost recovery. If there is a commercial activity where they are directly competing, as long as it's competitive neutrality grounds then they can do so but it will not be pursued in the context of cost recovery. It ought to be full competitive neutrality, so capital asset charges, the whole activity, not just, "It costs us this amount of additional resources to provide this service." So that's the context in which we were responding to 6.5.

MRS OWENS: I think we actually did make that point in our discussion on the information agencies, that if they were engaging in a commercial activity there would not be incremental costs or marginal costs, it would be the full cost for competitive neutrality reasons. Maybe I misread what you had written there but that does clarify it.

MS CURTIS: Mark is right, that's what we were trying to say there. They should be full fee for service based on all of the capital costs. Ideally though, for some of them, some of those agencies shouldn't be involved in providing some of those services but we accept that they are.

MRS OWENS: Some of them are doing it - like, the Bureau of Meteorology would say they are doing it for - it is a transitional measure until there is enough suppliers of that information out there and then they have argued that they will step back but others, I think, just do it because again it gives them some revenue. I think they get confused about what their real mission is.

PROF SLOAN: One of the issues which I presume is of particular interest to you is the overlap between cost recovery practices and what you might see as cost padding and regulatory creep, which clearly are potentially linked. We had some good examples in Sydney actually. I mean, people, I suppose when they have got company policies which require them to fly, you know, down the back of the plane and they see the bureaucrats or the agencies all flying at the front of the plane. I mean, that might be a trivial point but you can sort of see their point of view. But we had one participant who brought the TGA newsletter, which is 100 per cent cost recovered agency and it had little stories about us, you know, training people from Vietnam in therapeutic goods registration.

MRS OWENS: A lot of good works.

PROF SLOAN: A lot of good works but you could kind of also understand why the relevant companies in Australia might quite legitimately object to funding these good works. We have got some ideas here about how to stop cross-padding and regulatory creep. I mean, it seems to me that once you have got 100 per cent cost recovery, the idea of sort of costs and benefits of regulation tend to kind of fly out

the window because you could have more regulation and you're recovering the cost so it all looks like a pretty good idea. I mean, at the margin there would probably be benefits, it's just that you have forgotten to worry about the costs, you know.

MR PATERSON: I think in our original submission we certainly made reference to the 100 per cent cost recovery and the absence of any control. If an industry is going to be subject to 100 per cent recovery, it has to be involved in the regulatory process. Many of those 100 per cent cost recovery agencies either constrain the level of involvement or limit the level of involvement. They are certainly not involved in the proper administration of the agency. Superannuation was a good example, where they were collecting substantial revenue sources but no-one had any control over the way the industry was administered. I think a lot of that regulatory creep and cost padding would be addressed in the context of - if there is 100 per cent cost recovery then they have got to be actively involved in the administration.

Once again, it is not the agency that is 100 per cent cost recovery, it is the activity. That will stop therapeutic goods administration having the agency as the cost recoverer and the activity then subsidising things - - -

PROF SLOAN: I think that is a good point.

MS CURTIS: In fact, if you read your report - which we have in detail - - -

MR PATERSON: I am presuming they have.

MS CURTIS: There was never any justification for 100 per cent cost recovery for an agency ever. I think that that is a change in mindset for a number of the government agencies.

PROF SLOAN: But is that enough, just moving to cost recovery by activity? I mean, is that going to entirely prevent cost padding? I mean, we have got our idea of the efficiency audit committees because, the thing is, contrary to some suggestion - one of the submissions - that we have got a whole lot of people who come along and complain about paying for things, in fact I think a lot of the complaints are actually complaints of frustration about the lack of transparency and the feeling that they are not paying the efficient costs. So it is kind of a more complicated issue than just saying, "We don't want to pay." I mean, maybe they don't want to pay but actually they say, "Look, we're happy to pay but we would like to feel some assurance that we're actually paying the efficient cost.

MR PATERSON: That was certainly the tenor of our original submission. We have never argued that there is no role for cost recovery in particular circumstances. We have said, "Define the circumstances, make it open and transparent. Have a rigorous process that people have to go through." We don't say, "Don't do it," but certainly it can be done more efficiently and I think the report clearly demonstrates that.

DR STEWARDSON: On that issue you responded to our question for comments

about the efficiency audit committee idea by suggesting that a one-off efficiency audit process would be a good idea. We're just wondering why you are suggesting it should be a one-off one rather than a regular one every three years, five years, whatever.

MS CURTIS: Is that under 6 point - - -

MRS OWENS: It's on page 15 under information request. You raised it a bit earlier on I think on page 6 as well.

MS CURTIS: Yes, we were saying with that, not necessarily there shouldn't be ongoing monitoring and review - and that includes efficiency - but to start off with there should be that efficiency audit of the existing agencies. I think that was the tenor.

MR REARDON: Certainly now without a clear picture of how efficient they are, I think a snapshot at this moment would provide a benchmark from which then it could be assessed at a later date.

MRS OWENS: That's quite an interesting idea because as I said before we've been thinking of this idea of reviewing all the existing cost recovery arrangements and maybe part of that review could establish this benchmark. We're trying to get it do a lot of things but they should be looking at what the agency is there for, the objectives. But maybe this idea of reviewing where they stand and looking at their costs could all be tied into that review. What do you think about that?

MR PATERSON: I'd support it on the proviso my introductory remarks - I said with a degree of a smile on my face - but those who can't demonstrate why they're doing it now, they can't tell you how much, they don't get this chance. They're gone. They have had the opportunity and if they can't demonstrate why they're doing it now they should not do it. They shouldn't have this, "Well, they ought to be subject to review." I think they all ought to be subject to review and the benchmark efficiency audit for those who keep going. But for those who have been unable to demonstrate, with the best resources available to them, to the commission why they're doing what - - -

MRS OWENS: But should we then put them out into Siberia forever - - -

MR PATERSON: Not forever. If they come back through the appropriate process and can identify something that meets the guidelines and meets the appropriate test, in fact there would be an encouragement for them to return from Siberia rather rapidly if they - if there was a legitimacy to what they were doing, even if they can't yet explain it, then they wouldn't have too hard a task of meeting the guidelines.

MRS OWENS: So it's incumbent on them to come back.

MR PATERSON: Absolutely, particularly if there's no statutory foundation for them appropriating in the way that they have.

PROF SLOAN: One of our recommendations which seems to have attracted a bit of criticism - although we would argue a misunderstanding - is the idea that cost recovery regimes should be subject to a review within a five-year period, and it's really the five years that seems to - I mean, I think the problem is that the participants are worried that the agency they're particularly interested in will be at the four and three-quarter year time frame. I suppose the misunderstanding is that we would see some significant prioritisation in that time frame. Have you got a view on that? I mean, is it feasible for us to recommend a shorter time period and is it sensible?

MR PATERSON: If there was bipartisan support for the recommendations that were made then a time period longer than a single sitting term is appropriate. If there isn't bipartisan support necessarily then you would need to look at the shorter term, but doing some priority establishment in the first instance of some of the major ones you wouldn't want to see one of the major ones at four years and seven months.

MRS OWENS: We've given that job to DOFA to try and sort out who should be the first cab off the rank. We've had lots of suggestions as to the possible candidate. The Therapeutic Goods Administration seems to be seen as being a very strong candidate to be reviewed earlier rather than later.

MR PATERSON: I think if it's looked at more broadly in the context of other policy developments that are going on then it will influence some of those priorities. If you use the Therapeutic Goods Administration as an example, as you would be aware the government is currently examining the prospect of a free trade agreement between Australia and the US. The role of the Therapeutic Goods Administration and the nature of its administration, the way they operate, would be one of the elements that would be likely to come up in a free trade agreement. If there was a government priority of pursuing a potential free trade agreement where one of those central regulatory agencies was going to be a critical part of those negotiations then you would want that review to be early. So some of those external considerations would need to be taken into account in the priority setting.

PROF SLOAN: I think an even more immediate concern is the harmonisation with New Zealand and the need to get some synchronicity going with therapeutic good regulation across those two countries.

MS CURTIS: On a related issue with the timing, you did recommend that there should be, apart from that initial five-year review, that it should be reviewed every 10 years. Although we didn't mention that in our submission we thought that 10 years may be a bit long. I wondered was the 10 years plucked for any reason?

MRS OWENS: No, there was nothing magical about 10 years. It was just - reviews are not costless and you can over-review as well as under-review and I think we're just being a little bit cautious. We don't want to suggest that these things just be reviewed all the time and create a whole new review industry. But on the other hand, maybe if there's opportunities to look at some of these issues earlier as some of the problems arise, well, maybe 10 years is too long but we just really plucked that

one out of the air and waited to see if we got any response.

MR PATERSON: Some of the approaches that have been adopted in other but unrelated areas to this are that you might set that as the parameters but then there would be an expectation of ad hoc or targeted reviews in the intervening period so that agencies weren't immune from external scrutiny during that period of time in terms of the regime. So as part of the overall review there would be an end point where the review needed to be finished by but that there could be some targeted audits or reviews on a risk management basis almost in terms of ensuring that the integrity of the system that you recommend is being maintained over that period of time.

MRS OWENS: There will be partial reviews in the meantime. If an agency comes up with an idea to cost recover something different they would have to put in a cost recovery impact statement and that means reviewing generally where they're going with cost recovery, so there would be other opportunities as well.

MS CURTIS: Yes, but on page 201 it says:

At least every 10 years the approach to service delivery, the level of cost recovery and monitoring arrangements need to be reviewed.

But what happens, say, if a lot more was being cost recovered than was intended. We'd hope that it wouldn't take 10 years for it to be addressed and that was just a concern.

MRS OWENS: So we need some sort of process so that those sort of issues can be brought to the attention of somebody. We need a trigger mechanism.

MS CURTIS: Yes. A stage 3 involves all the ongoing monitoring but in that ongoing monitoring you'd expect if there was a great variation in the amount of money that was projected to be cost recovered, there would be an opportunity to review that.

MRS OWENS: We might give that more consideration as well. Are there any other comments you'd like to make before we break briefly?

MR PATERSON: We wish you well in your further deliberations.

MRS OWENS: Thank you. We wish ourselves well too. Thank you very much for coming again and we greatly appreciate it, thank you.

MR PATERSON: Thank you.

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

MRS OWENS: The next participant this afternoon is the Red Meat Advisory Council. Welcome everybody, and what I'd like you to do is each give your name and your position with the council, or with your own organisation, for the transcript.

MR HETHERINGTON: Bill Hetherington, chief executive officer of the Australian Meat Council.

MR COOMBS: Bob Coombs, secretary of the Red Meat Advisory Council.

MR TOOHEY: Justin Toohey, executive director of the Cattle Council of Australia, representing the producing sector.

MR JUREIDINI: Geoff Jureidini, chief executive of the National Meat Association.

MR LARKIN: Terry Larkin, director, J.P. Larkin and Associates and consultant to these red meat gentlemen.

MR HEILBRON: Selwyn Heilbron, I'm a director of S.G. Heilbron, a consultant to the council.

MRS OWENS: Good, thank you, and thank you very much for - I was going to make a terrible pun about the meaty submission, I was going to say, but I'll take that back, because we've had two very substantial submissions from the council, so I'd like to thank you very much for that. This one was is your - it was the study on the impact of government on industry competitiveness that was prepared by S.G. Heilbron, and that was submitted as your submission to us as well, and I think we've found that a useful contribution. Now, I understand that we're going to have an opening comment from Bob Coombs.

MR COOMBS: Thank you very much. Thank you for the opportunity to come here again. We provided an earlier submission, you will recall, prior to the preparation of your draft report. The process, as far as we're concerned this afternoon, I'll make some brief comments. I'll ask Geoff Jureidini to elaborate, and then, with your forbearance, I'll ask Selwyn Heilbron and Terry Larkin to briefly go through the report, particularly as it impinges on the commission's draft report and some of the crossovers there. We are a major stakeholder in this whole process. We have a particular interest in cost recovery, because the industry makes major contributions to AQIS and other programs such as National Residue Survey and Australian Health Council et cetera, so we have a vital interest. This afternoon we will be particularly focusing on the relevance of the commission's work to AQIS, and others will elaborate on that.

As a general introductory comment we're very happy and I might say impressed with the commission's draft report. We felt that it really takes the debate a long way. There's nothing in that report which is at odds with what we would like to see, except we'd just like to make some comments of clarification and also to encourage the commission to explore one or two subjects, such as marginal costing,

in more detail. Just as a final comment from me, just a couple of brief comments on some of the recommendations in the draft report. One of the draft recommendations is the funding of cost recovered regulatory activities should be subject to the same budgetary and parliamentary oversight as budget-funded government activities. We would like to add some comment there, that those who are paying the cost through compulsory excises, taxes, such as industry, should also have a very well-organised window into how those cost structures are set. In other words, that same process of transparency and scrutiny should be built into the process so that those who are asked to bear those costs have that same opportunity.

Another issue which I felt was very important: the commission made a comment that cost recovery activities, arrangements which are not justified on grounds of economic efficiency, should not be undertaken merely to raise revenue. The commission goes on to find there are some activities, such as policy development and international obligations, that fall in that category. As we'll go on to say, we believe that's a very large issue, because we are at the moment funding activities which in fact fall within that categorisation. So that's a very important aspect and we'll encourage you to highlight those issues further in your final report. With those comments, I'd like to ask Geoff Jureidini, who's the chief executive, NMA, to elaborate further.

MR JUREIDINI: Thank you. I just think it worth while saying that the red meat industry always features as one of the top three exporters of Australian commodities from Australia and is very important to rural and regional Australia because now almost exclusively the major plants in Australia are in regional centres and it employs in excess of 30,000 people. We would like to commend you on your draft report. Particularly the meat industry I'm sure endorses it fully, and most particularly the findings of the severe impact of government-imposed costs and charges: the admission they are disguised taxes, the rejection of full cost recovery by the Productivity Commission and the rejection of opaque, non-transparent Department of Finance cost recovery instructions to agencies such as ACOSS.

We also agree most fully with chapter 6, and that is that marginal cost pricing is the correct principle, and that's supported by the report that Selwyn did, which was commissioned quite by coincidence before your commission actually started; that incremental cost pricing should only be seen as a proxy for marginal cost pricing if it can be shown that convincing technical difficulties prevent estimation of marginal cost pricing; and that AQIS full cost recovery should be abandoned forthwith for marginal cost pricing and full transparent disclosure with an independent regulator of the new marginal cost regime. Finally, this would put the Australian meat industry on a far better competitive footing with its international competitors, chiefly the United States, in which meat inspection charges are absolutely free, and that puts us at a considerable cost disadvantage to that. So, in conclusion, we're very supportive of your draft report and hope that it becomes very close to that when it becomes the final report. Thank you.

MRS OWENS: Good, thank you.

MR HEILBRON: Commissioners, to assist the process we prepared just half a dozen slides to summarise some of the key points of the - - -

MRS OWENS: We haven't got it.

MR HEILBRON: That's okay. I've photocopied copies of them so you can actually look through them.

MRS OWENS: Thank you.

PROF SLOAN: Okay, thank you very much. Let's assume we have an overhead projector.

MRS OWENS: This is quite good, because if we had an overhead projector it would be projecting up there and we'd have our backs to it anyway.

MR HEILBRON: You wouldn't be able to see it anyway, right.

MRS OWENS: Yes. So this is perfect - not so much for everybody else at the back of the room.

MR HEILBRON: I'll try and take us through it reasonably quickly. Just by way of background on page 2, this was a project that was commissioned by the meat and livestock industry and the focus of it was somewhat different to the focus of the inquiry.

MRS OWENS: Yours is broader.

MR HEILBRON: It's much broader, so what I'll try and do is try and focus on those aspects that are particularly relevant to the inquiry. But it's also worth pointing out that the kind of methodology and data collection and the focus of it also goes beyond the traditional concerns of the meat industry, which have been in the past very heavily focused on meat inspection, and some of the broader principles here that we uncovered are, we believe, significant and relevant to the broader issues of cost recovery. Now, we understand your prior focusing on the Commonwealth and this study covers a much broader range of charges. We've included on pages 3 and 4 some examples of the output of the study, which I don't propose to go into in any detail. It's just to illustrate the types of findings we came to.

When it actually comes to inspection costs - this is on page 6 - the finding that we came to was that the charges are significantly higher in terms of their percentage of revenue, which was the revenue that we adopted to try and measure this, in Australia than in the United States, but actually lower than they are in New Zealand. As regard to say on page 7, that appears to reflect the different cost recovery practices of the agencies in the two countries respective to the United States. In the United States there have been persistent efforts on the part of the United States Department of Agriculture to introduce a higher level of cost recovery for inspection charges, and those have never succeeded. The USDA in its most recent attempt published a

report, which we go through in some detail in our report, arguing the issues surrounding user fees in meat inspection. The United States recovers currently around 13 per cent of the outlays on the inspection service - up until this year.

Subsequent actually to the report being produced, it has been decided that user fees will not be imposed at all. It's interesting to note some of the arguments that were used to support that, but for the purposes of our analysis we looked at what the USDA said was a desirable level of charges in cost recovery and we broadly concurred with what the USDA's analysis came to. By contrast, it appears that in Australia well above that level is recovered. Part of the problem with this is that the data that has been made available publicly, specifically in the Australian National Audit Office report, in our view did not really enable us to make a defiant conclusion on exactly what an efficiency cost recovery based on marginal cost pricing would produce. But from what we were able to discern from the numbers that were publicly made available, there would be significant savings, even on the basis of those numbers, if more efficient principles were applied in the case of AQIS cost recovery. We go in some detail through the arguments and economic issues associated with this.

By way of contrast, we also managed to obtain some information on the situation in some European countries, which varies quite widely from country to country, notwithstanding the fact that there are some general cost recovery principles embodied in European union law. In terms of the principles - - -

MR LARKIN: I should say there's the EU directive where they use the words that fees should "have regard" to costs that are not full cost recovery, so that allows the French, the Germans and everybody to have regard to as many costs as they would wish.

MRS OWENS: So it's loose.

MR LARKIN: Very loose, yes. The directive is simply to have regard to the costs.

MR HEILBRON: The directive, as I recall, does provide some general principles but then allows member states to rebate or discount the recoveries by varying percentages which are actually embodied in the legislation. The analysis that we suggest is that really the basic economic principle for determining the amount that should be recovered is marginal cost pricing. With regard to inspection services, there are generally two rationales for introducing efficiency pricing, one of which is the allocative aspect of it, which is to do with signalling to users of those services the level at which they might consume those services. In the case of inspection services that is actually fairly redundant, because inspection is a requirement. It's a mandatory requirement, so it doesn't really have an allocative aspect to it.

But where it does have an impact is in terms of signalling back to the agency that's providing the inspection service as to the level of costing that should be imposed. In other words, it's an incentive for the agency providing the service not to

charge excessively, and that does apply in the case of inspection services. As we say, the main economic purpose of user fees in inspection services is really to help the agency operate efficiently in a cost-efficient manner.

Our conclusion was that the US system would appear to have been far closer to marginal cost pricing than the Australian system. The way that it actually operated in the United States when we looked into this was that the only charges that were imposed on meat processors in the United States were for services provided of over and above the normal service. In other words, if the operator was operating an unusual time period, additional shifts or there was a requirement for overtime, that would be recovered, but the normal operating basis of the service was not recovered at all. That has now, as we mentioned, moved to zero cost recovery under the latest moves in the United States.

MRS OWENS: Thank you. Does anybody else want to make any other comments before we talk about it?

MR HETHERINGTON: If I can, just briefly. We believe that the inspection service is actually a market access service and underpins government-to-government guarantees and as such the government should play a more fulsome role in its cost. If I could just read out from AFFA's corporate business plan, it clearly states that. It says:

The Commonwealth Department of Agriculture, Fisheries and Forestry Australia has wide-ranging responsibilities that include helping Australian agricultural, food, fisheries and forest industries become more competitive, profitable and sustainable, thereby creating jobs particularly in regional Australia. In addition to those responsibilities, AFFA has a vital role in quarantine, export inspection and certification and food safety standards activities. These are essential to maintain Australia's highly favourable animal plant and human health status and are also important parts of the international regulations governing trade between nations.

MR HETHERINGTON: Thanks.

MRS OWENS: Do you want to make a new contest?

MR TOOHEY: Justin Toohey here. Could I just comment - of course we are not focusing entirely on AQIS here, it's a broad principle that applies to a number of agencies. In respect of the cattle production sector, one could argue, depending on the economic circumstances that the producers are paying for AQIS or they're not, depends a little on supply and demand balance. In the case of the national residue survey which is another agency providing "a service to industry" there is direct levy funding of that service from the producers. So every time they sell an animal they pay 32 cents that goes towards the national residue survey. We at Cattle Council have very close dealings with the NRS and in fact find the NRS an excellent agency to work with. We're heavily involved in the design of the programs and so on. But

the NRS has two fundamental roles. One is trade access and that's the more general random monitoring component of their activities, the other one is targeted testing.

It's really that former activity that we are focusing on in respect of these principles. The latter is something that the NRS conducts on behalf of industry. It's about a fifty-fifty cost. Sorry, a little bit more clear, about 50 per cent of the NRS's total costs is related to the random monitoring and about 50 per cent to the targeted testing and it's the general principles that we certainly would like applied to the former of those two about the random monitoring because that's a market access issue.

MRS OWENS: Mr Larkin, did you want to also add to that before we start. Do you make any opening comments.

MR LARKIN: No, thank you.

MRS OWENS: Okay, I think what you've done is you've raised – well, there's a different layer of issues, but I think that the first layer is the issue of, should there be charging for meat inspection in the first place and how do our principles, if they were applied, affect what is happening now. So at that level there is the underlying rationale for charging and then I think the other set of issues relates to, if charging is deemed to be appropriate in some form or another, what costs should be charged for and what should not be charged for. I suppose I'd like to start with the first issue and that's the one of principle and whether indeed it is appropriate if you were to apply our guidelines whether it would be seen as being appropriate to charge in the first place. Now, correct me if I'm wrong, but the meat inspection charges are imposed to enable you companies to export into export markets so we have in our reports suggested that if there is an underlying rationale for charging, one rationale is that beneficiary pays, if a beneficiary can be identified.

The question would be, in this case, can we identify beneficiary clearly? Is it the exporting company or is it the Australian community more generally because it has regional implications. There are consumers that benefit but they are not Australian consumers, so should we be - but we could potentially have a charging regime where the companies that are being charged pass on those costs to those consumers outside Australia. I suppose the first issue is, who do you see as being the beneficiaries of the activities of the meat inspection service relating to AQIS.

MR JUREIDINI: Could I have a shot at answering that. I don't think it's any particular one. What I would say, that all of the above that you mentioned could be classified as beneficiaries, but I think the fact of the matter is that this is an imposition that could quite easily be argued as an impediment to exporting anyway. AQIS meat inspection is imposed on the Australian industry by the importing countries. That's a requirement of the United States, Japan, EU et cetera, that a government appointed meat inspection regime is in place. Every attempt that has been made in the past to make this more self-regulatory, and the industry would argue that it is highly sophisticated with very good food safety, and after all it's nothing more than a food safety issue that we are talking about.

Some of the hurdles that the Australian processors are made to jump through are higher than the hurdles that the domestic market has to jump through at the importing end and so it is a market access issue. I think, we would argue and I think Bill would agree that the major beneficiary is the Australian economy because of the very large amount of beef and lamb or sheep meat that is exported and if there was a co-regulated safe food environment in place that really doesn't need inspection, you have to say, why are the inspectors there? The government appointed the inspectors and the reason they are there is because we couldn't export without them.

PROF SLOAN: But think of a more, say, liberalised world, would you not enter into forms of self regulation, you know, in the form of quality assurance and the like in order to win those export markets and of course you would have to pay for self regulation. I mean, what then is the objection to paying for AQIS because the counterfactual is self regulation which you would have to pay for anyway.

MR HETHERINGTON: Could I have a stab at answering that one. In fact the industry is very supportive of co-regulation. The export industry and the domestic industry. In fact over the last five years, and particularly in the last three years, industry has accepted by far the bulk of the responsibility for the production of clean and hygienic and wholesome product to the extent that they hire they're own quality assurance staff and most often with tertiary qualifications. They have they're own quality programs in place that are audited for AQIS and audited by everybody from around the world. I often think that if you want to meet somebody somewhere just stand at an Australian export meat plant long enough and I'm sure they'll come in and review the place.

But notwithstanding all that, AQIS has been unable, and that's not a reflection on AQIS ability, but AQIS has been unable to get that self regulatory regime accepted. Unfortunately the first customer for the Australian export industry is the importing countries regulatory authorities and they for their part haven't shown any desire to accept a commercial quality assurance approach. In our industry they certainly have, in areas like wine and so forth.

PROF SLOAN: So is your objection not to pay, it's what kind of percentage you pay and the basis of the pricing regime. I mean, it's hard to not think that your exporting firms are not beneficiaries in this second best world where it is a requirement to have government certification in order to export.

MR HEILBRON: It seems to be a couple of things, one is that the idea of being able to pass on additional costs in these particular industries is highly unlikely. It's a commodity based market, no price takers, so the ability to charge and recoup is minimal. In terms of the likelihood of the possibility of moving to an environment where self regulation operates in this industry. If it was difficult to achieve that type of breakthrough over the last five years then what's happening in world food trade at the moment and the food scares that are going on in Europe and the United States as well, I think, makes it even less difficult now.

PROF SLOAN: I agree with that.

MR HEILBRON: In terms of the idea of cost recovery per se and the principles per se, it does seem to me that it can legitimately be rolled into the pricing mechanism. That it can be inculcated into the marginal cost pricing idea, which implicitly accepts that there is some element of cost, which on efficiency grounds in this case, does need to be recovered. I believe that that might be a more useful way of addressing it than in trying to determine, which it seems to me essentially often comes down to value judgements, difference of views. You know, it's almost, I would say, very difficult to get an objective estimate of how that benefit is shared across. You'll get different studies and different reviews whereas the pricing mechanism seems to me to be a way in which you can get to some objective and a relatively transparent way of saying, "Look, essentially this is the element of recovery and benefit that you will implicitly be getting."

PROF SLOAN: I'm not sure I entirely agree with your economic analysis in the sense that it seems to me that the short run allocative efficiency losses of, in fact any kind of pricing regime, or the costs imposed might be low because what you are saying is that regulation is compulsory so the notion that there would be any quantity effect is dubious. It seems to me, in the long run, you might entertain a possibility of greater elasticity because presumably you could have a charging regime which made it quite inhibiting to invest in - in, you know, growing herds and getting to the end of the chain. So I'm kind of surprised you said that because that's not a bit of an invitation to put the price up because you are telling me that there aren't any allocative efficiency losses.

MR HEILBRON: It does generate those risks. That's precisely the risk that you want to try to avoid, because it is insensitive there will be an inherent bias towards raising the price higher and higher. My guess is that if that was left unrestrained, in the long term you could essentially drive people out of supplying that market at all, but for the purposes of the pricing regime. I think it's probably the short run that we'd really need to focus on and in the short run, it's just insensitive, it doesn't really matter.

MR TOOHEY: Can I just add, in separating the two issues of market access and the provider of the service, as in AQIS, I think that the point has been made that if it were over to industry there would be an embracing of the quality assurance approach. That's certainly been the case, in theory, up until now. We've had this problem of foreign governments accepting that approach and hence we've had to rely on the inelastic monopolistic supply of AQIS and I think then we need to look at, as someone has pointed out, at the pricing of that service and as a monopolistic service and the efficiencies. We come down to the fact that the marginal cost pricing is critical to involve the government in injecting efficiency into the situation. Now, the government may come forward with a counter argument and say, "Well, we've reduced AQIS charges from 110 million a year down to 52 million, that equals efficiency. I'm not sure it does, it's a marginal cost issue and I think a lot of the cost reductions from AQIS have come about by, for example, certain states adopting QA approaches to their domestic inspection and AQIS is moving away from that. So

there has been a quantum reduction in charges but not a marginal reduction in the improvement in efficiency.

PROF SLOAN: Local argument.

MR TOOHEY: Yes. It's just a counter-argument we have to be wary of, I think.

MR HETHERINGTON: In fact if I could just add to that. Certainly we have a task force with AQIS, a charges task force, and AQIS itself has been very transparent. The next interface with finance has been less transparent for us and that's been alluded to earlier. But in terms of AQIS costs, we could also argue that in fact a lot of staff are no longer employed by AQIS because they weren't needed to start with and so if you own a plant, the chances are you've got the same number of inspectors as you had five years ago if your production has been the same. So to an individual plant there hasn't necessarily been the savings.

PROF SLOAN: That's the like for like.

MR HETHERINGTON: Yes.

MR JUREIDINI: And also, commissioners, it should be remembered when you look at AQIS reduction in their costs over time, you need to be aware that there has been a huge rationalisation in the meat processing sector and there are a lot less plants operating now so the demand for inspectors has also concentrated. You've got, I think, close to 65 per cent of the Australian cattle herd is now killed north of Inverell.

PROF SLOAN: And in bigger plants.

MR JUREIDINI: And in bigger plants, yes.

MR COOMBS: As we said earlier on when we first came here, the concept of having some economically logical way of determining these things is at odds with the history of this whole process. We all remember the 50 per cent cost recovery came in on budget night so there wasn't a think tank in the government agencies working out - it was a revenue raising exercise.

PROF SLOAN: A small think tank.

MR COOMBS: It was revenue raising. AQIS is required to meet a revenue target, then it moved to 100 per cent cost recovery or defacto for the same reasons. So this is a very good opportunity to put some rigour into what was - - -

PROF SLOAN: Well, they really fail our tests, those kinds of knee jerk moves.

MR COOMBS: Yes, very much so.

PROF SLOAN: I'm interested in the point, one that you made I think, because I

think its a bit ambiguous what the effect of the cost recovery is on what you might think of as the technical efficiency of the regulatory agency and what you're saying is that you actually think its helpful - and I think we had the guy from AQIS at our workshop who also said that. His view was that in the past a little issue had arisen and the government was inclined to throw a lot of money inefficiently at it; whereas having a cost recovery regime there are more people watching the costs. I mean, it could go the other way. Why I say it's ambiguous is because an agency is 100 per cent cost recovery. Well, who cares about the cost?

MR HEILBRON: Exactly right.

PROF SLOAN: But you're telling me in this instance and which - I mean, I don't know which way it goes.

MR HEILBRON: I think in this instance it could be but it depends a lot - and our experience in conducting this research really brought this back to us. The level of analysis and scrutiny and the determination of what the appropriate pricing regime is, is extremely dependent on the quality of the cost collection system. That was one of the problems which came out of the ANAO before. The categories in which costs are being collected off the general ledger either can be very useful or it can be very useless. What that suggests to me is that the mechanisms which Bill was describing of interaction with AQIS to try and get to the bottom of this, I haven't been party to them, I don't know how detailed they have been, but my experience suggests to me that probably a fair amount of work would need to be done to even have the raw data to be able to properly apply those efficiency principles and then made sure that you get some of these benefits from doing the analysis. It's only as good as fundamentally the management accounting system.

DR STEWARDSON: One of the things that we asked for comments on in our draft report was the suggestion of an efficiency audit committee and in the light of what you've just said in the light of your recommendations 2 and 7 in your report, which is talking more generally about efficiency and what you said, Mr Coombs, those paying the costs should have a window to ensue that the regulation is being done efficiently - was your words. Do you have comments on the idea of the efficiency audit committee?

MR HEILBRON: Personally I would support it, I think. It's absolutely essential to the process and its work rarely needs to begin at the level of the general ledger - to look at exactly what cost data is being collected, how it's being collected, what categories it has been put in - so that when it comes to the point where you're trying to identify what these various allocation mechanisms are and how they come out you'd have data which is useless.

PROF SLOAN: Because you are actually arguing - not that you realise it but having answered that way, you're saying that you want marginal cost pricing but you want to ensure that the costs are efficient. I mean, you could have marginal cost pricing on the basis of an incredibly inefficient agency and it wouldn't probably get you very far.

MR COOMBS: We're trying to come up with what is basically an administrative way of testing efficiency in the absence of having market force, as it were. You normally say, "Look, this is contestable," so - I mean, Bill made a comment before that the industry has a window into the costs but it's not entirely - it's a little bit opaque. So the concept of having full information disclosure would be very useful.

MRS OWENS: In terms of your window into the costs, your sense is now that it's full cost recovery, so they're recovering all costs? I mean, it's average costs or what are they doing as far as - - -

MR HEILBRON: That's a very good question. Until you actually go through that exercise which I've just outlined of identifying exactly how the costs are being collected, what categories they have been put in and how they are being aggregated up, it's actually quite difficult to tell.

MRS OWENS: So it's not that transparent.

MR HEILBRON: No, not at all. I looked to the ANAO report for that level of transparency and really wasn't able to do a huge amount with it. What I was able to calculate based on using - applying really the principles that were generated after the USDA's analysis is some still significant savings but it's quite possible that the savings go well beyond that. One just doesn't know. There are really two issues here: (1) what are the costs that are actually being recovered and (2) what percentage of those costs are being recovered. It's the first level of the exercise which is unclear in the case of AQIS.

MRS OWENS: I suppose the next issue is what costs should be recovered. If you're want to implement a notional cost pricing arrangement - - -

MR HEILBRON: Indeed. Absolutely correct.

MRS OWENS: - - - you suggested earlier that the US approach where they're just looking very much at overtime and unscheduled meat inspections, is that really all you think should be recovered or do you really think - what about the day-to-day activities of those meat inspectors, shouldn't that be part of the marginal costs?

MR HEILBRON: What I think is probably the closest to it is what the USDA was suggesting in respect of recovery of inspectors' wages costs for actually operating in the plants.

MRS OWENS: In that approach what costs wouldn't be recovered?

MR HEILBRON: All the fixed costs associated with the production of the service and all the overheads associated with producing it. It seems to me that that's pretty close. That seems to be reflective of the principles about as best as I can see them. But there is room for interpretation and argument on that.

MRS OWENS: You still probably would find that if you were to implement that approach the cost recovery would actually - the inspection costs would still be higher here than they would be in the United States because you're saying that rule would come in but not as much as you think is going into the costing now.

MR HEILBRON: Our report does not come out suggesting that there should be an implicit subsidy to inspection services which is what we believe is happening in the United States. There are competitive effects of that and the industry may very well differ from that point of view because they're having to compete on that basis, but on the economic grounds I think that is the justifiable view.

MRS OWENS: It's not a very transparent subsidy in the States really if that's what they're indeed doing.

MR HEILBRON: No, the level of the subsidy is not transparent, that's quite correct.

PROF SLOAN: You wonder whether it's WTO compliant too.

MR HEILBRON: That is a very interesting question. The inspection costs are actually included within some of the general estimates of support given to - they're included, for example, within the GSSE which is done by the OECD. The WTO does not appear to pick up those costs.

MR JUREIDINI: I think one of the points that Commissioner Sloan made earlier - and again I'd seek some support or otherwise from Bill on this, but I think there's a notion there that if the self-regulation came in, then the industry would replace an AQIS inspector with a company employed inspector, so you'd be just transferring the costs from area to another. But I don't think that's necessarily the case. I think the AQIS imposed regime is very much a quality control point and in a lot of instances I think that cost could be absorbed within a quality assurance program so you wouldn't necessarily be saying, "We're paying \$100,000 for an AQIS vet" - for argument's sake - "and he's only getting 70,000 - - -"

PROF SLOAN: That's the issue of dynamic efficiency, you see. You'd get a completely different model. I'm sorry if I gave you that impression.

MR JUREIDINI: But if you were doing it yourself you wouldn't be doing it the same way as is being imposed upon you and I think that also has to be taken into account because that is a cost that is being put on the industry that the industry doesn't need. I mean, the industry can operate very well without it.

MR HETHERINGTON: Those requirements for quality programs are very prescriptive.

MR TOOHEY: In respect of probably what should be charged and what shouldn't be charged, all caught up in the cost recovery, I think just going back one step, there is a little bit of transparency at the moment offered through the - I think it's called -

Meat Industry Inspection Charging Review Committee. It's an annual event roughly.

MRS OWENS: Are you on that committee?

MR TOOHEY: Yes, and we have other representatives there. Through that process AQIS may argue that there is a degree of transparency.

MRS OWENS: Or complication.

MR TOOHEY: Yes. But I think on the basis that AQIS is incumbent by the broad principles forced upon it by government or the Department of Finance in respect of 100 per cent cost recovery there is actually no transparency between industry and government. There is transparency at the interface between industry and AQIS but not deeper than that, not behind the barrier. I think that's one of the problems. If we can break down that encumbrance and therefore break off the shackles of the principles of 100 per cent cost recovery, I think a lot of these things will start to find their own level - what should be charged to government and what should be charged to industry and so on. So each line item will be well and truly scrutinised by industry and government through a joint committee, and must be.

MR HETHERINGTON: If perhaps I can give a practical example. AQIS recovers a lot of its overhead costs which is about \$20 million a year through a registration charge - well, actually it's a tax. It's based on throughput and it varies from 1500 to 80,000 or whatever. I'm not quite sure of the exact figures these days. That really doesn't bear any relationship but it necessarily services that particular plant - if I'm making myself clear. I mean, some of those plants really don't call on AQIS services, they have them imposed on them. So when I said that AQIS is very transparent, AQIS has been very transparent with industry through this charges task force. It has said, "Look, this is the reality. These are on-costs for staff. These are" - so forth. Then, as Selwyn has said, they have said, "All right, so much money, so many staff, that's the charge," but that's the level of transparency we have through that and it's been a good consultative mechanism and it has allowed us to get closer to where the real charges are but that's where it ends.

Another example is that industry, in a way to maintain costs as much as possible, said that bad debtors must be subject to a 20 per cent impost/interest which is quite severe. Within AFFA the costing centre was centralised. That was taken away from AQIS without recourse to industry and we didn't get the same transparency that we had before, even within AFFA because that unit was centralised. We argued quite strongly to get either that back or the service improved in the feedback to industry from there, which we did get but I don't have the same confidence now that I had when AQIS was managing that centre itself.

MRS OWENS: We are going to I think in our guidelines beef up what we say about industry consultation in terms of application of the guidelines. We haven't quite worked out how we're going to say that but there is a question of whether industry should be getting involved in these initial cost recovery decisions about what's chargeable and how it's charged. We haven't really touched on that. We've

talked about ongoing consultation and we've had the proposals about efficiency audit committee and so on. The way it was drafted was it was going to provide a link back, not just between the agency and industry but between the industry and government, because it would be reporting back to the minister.

So we've talked about that but what we haven't really spelt out clearly at the draft report stage was whether there should be some consultation during the application of the guidelines which would give industry an opportunity to say some of these things about the efficient costs and what's done and how it's done. I mean, there's some basic questions that need to be asked about, "Is this necessary? Is this approach necessary?" I think it's important that that consultation gets done at that stage as well.

MR JUREIDINI: This might sound a bit naive but it might need actual definition of what consultation actually is because in our dealing with a lot of government agencies, consultation is a process in which you see the people at the other side have got a box marked "Consultation" and they put a tick in it and said, "We've now consulted with industry." They have completed that task and you really don't feel as if you've been taken along at all or had any real impact on a decision. It is a particular box called "Consulting".

MR TOOHEY: I think there's an important analogy in our industry and that's the evolution from what was the Australian Meat and Livestock Corporation and Meat Research Corporation, the old legislative bodies, to what is now Meat and Livestock Australia and is an industry-owned company, levy funded to conduct our programs - R and D and promotional programs. Since the change from a government regulated body now to an industry body, we demand extraordinary levels of consultation to the point that they find it almost debilitating, but I think it's quite healthy. We go through as peak councils, line item by line item, and determine our view of the level of expenditure whether the activity itself is needed and so on.

I think what's happened there is government who was involved with AMLC and MRC through board representation has pushed that to industry and said, "Right, that's industry's responsibility." Government still has responsibility for a number of activities, AQIS being one, NRS and others, and there still pervades to some extent the halls this sort of culture of, "We are the government and we'll tell you what you'll be charged. I mean, we listen to you." But the only influence industry tends to have over levels of charging there is political influence. There's no financial influence coming through as a result of this, so that's why we'd like to get this sort of consultative culture to get further into the government. I think AFFA generally has been very good in evolving towards that over the last few years, but there are still some areas that we could improve on.

MRS OWENS: We understand that. Hopefully our guidelines will be sufficiently objective that there won't be a lot of room for manoeuvring on the part of agencies or departments, but no set of guidelines could be totally prescriptive and there will be grey areas. Is that all we - - -

PROF SLOAN: That's fine, I think. It was very thorough.

MRS OWENS: Is there anything else you'd like to say? There was a whole set of issues, I suppose, we could have discussed about the National Residue Survey as well, but - - -

MR TOOHEY: No, it's just all in the same box.

MRS OWENS: But it's really in the same box, yes. Thank you very much, everybody, for coming.

MR TOOHEY: Thank you.

MRS OWENS: We'll now just break for a minute, and I think we're going to be talking briefly to Mr Terry Larkin.

MRS OWENS: We will now resume. The next participant this afternoon is J.T. Larkin and Associates. Could you please give your name and your position for the transcript.

MR LARKIN: Terry Larkin, director of J.T. Larkin and Associates in Canberra.

MRS OWENS: Thank you. Thank you once again, Terry, for another submission which I think follows on quite neatly from the discussion we've just been having with the Red Meat Advisory Council. I understand that you want to make a few extra points.

MR LARKIN: Really just briefly to say, as I have in the written submission to you, that I think your report is commendable. You have done a very good job, a very brave job in this vexatious area and I think chapter 6 is very good. I think on the question of, I suppose, the operational issue of the question of guidelines and administration, I'm inclined to think the guidelines certainly should be very clear. But going on from the final point of the previous submission, I think it really does need to be adversarial and I have the feeling that you were suggesting that the Office of Regulator-General of the Productivity Commission should be upgraded to play some role which I think is a very good idea. I think the Office of Regulatory Review - I should say - has been doing a good job for a number of years but I think it does need something to vitalise it and give it teeth. Indeed I think it should be the vehicle you recommend to take on a pseudo state regulator-general role.

So I would think what is really needed is an IPART or a Victorian regulator-general or a state regulator-general, which can well be your Office of Regulator-General upgraded, which would allow adversarial processes to occur so that people like the meat industry or whoever can appear before it, make their submissions, equally the functional department can make its submissions and you will have an impartial ruling handed down and we will bring to an end the present opaque situation where the Department of Finance imposes opaque and non-transparent rules on spending departments and functional departments and they in turn simply pass them on to their clients, so to speak.

This is a view I think we've been impressed with from the research recently completed for RIRDC - and I quote the recent RIRDC report cost methodologies in infrastructure pricing. That really comes to the conclusion that national competition policy in a sense really hasn't worked because it's never been tried, because what happens under national competition policy is that the users inevitably or invariably are not well organised, don't know that there's an adversarial process that they really should be appearing before IPART or before state regulator-generals to argue that their electricity prices or gas prices are too high. They should be able to meet the submissions which are very sophisticated and very well prepared of the proponents - the major electricity companies or gas utilities or whatever or government departments, we submit, but they don't even know that. So rural and regional Australia complains greatly about national competition policy, what a great disaster it is and so on and so forth, but in effect they have never tried it.

One of the recommendations in that RIRDC report is indeed that it should be understood that national competition policy is supposed to be adversarial. The state regulators - the regulator-generals - are supposed to and do operate as an adversarial process but unfortunately there's no client, you might say, appearing. It operates very much as a court of law, the IPART or the state regulators. There's no-one with a contrary review. "The material I have before me says so-and-so" and decisions are made. So I do think in the consideration you have to give obviously, the guidelines and the process for a new regime I strongly suggest should be modelled or inspired by the state regulator-general processes but with a strong, I suppose, guidance and statement that really you do have to participate to make it work.

Quite obviously the meat industry would be a very willing and vigorous participant in an adversarial process as I'm sure the other clients of regulatory services would be. But I simply bring that to your attention because I think it would be a shame if it fell back into a cosy relationship between the client department and the Department of Finance or even your Office of Regulator-General and guidelines are issued which may be a bit vague or which don't allow for, one might say, adversarial input by the client and nothing much will change. So really that's - I suppose, in the sense of the things that you're asking for further comment on I would draw your attention to what is quite a very interesting and useful RIRDC report which, as I say, comes to the conclusion that national competition policy hasn't worked because the users in many cases don't know that they should actually participate in the adversarial processes of regulator-general.

PROF SLOAN: Bear in mind that may be a kind of fundamental design flaw.

MR LARKIN: It could be.

PROF SLOAN: But how could you expect a fragmented group of often unsophisticated users to pit themselves against large, sophisticated utilities, for example, you know. So it might be even a step before to have ever expected it to work really without some kind of intervention beyond just letting it work the process through.

MR LARKIN: Yes, in a way - and I suppose to the extent that I think the report says that, they did survey the regulator-generals and most of the regulator-generals said, "Yes, we are supposed to play God and we try to take the public interest into account and we're aware we're not getting submissions, but really rural and regional Australia would be better off not complaining but actually getting them there and - - -"

PROF SLOAN: There are some user groups - - -

MR LARKIN: There are some who do but the burden of this RIRDC report is actually to argue that that's been the major problem and that rural and regional Australia and users generally should understand, and that's really been a failure of - well, I suppose one shouldn't say a failure, but the National Competition Council should have, the government policy should have explained that at the time.

PROF SLOAN: I mean, it's a challenge for us really. I mean, the ABS will point to the fact that notwithstanding the fact that they may feel they followed guidelines they would say, "Well, not many people have come forward to complain."

MR LARKIN: That's right. It's a classic problem.

PROF SLOAN: They can take away the conclusion that that means everyone is happy; you could equally take away the conclusion that the small number who have complained are actually just the tip of an iceberg. Why are you so worried about Ramsey pricing? You want to get rid of Ramsey pricing?

MR LARKIN: I think it's a licence to monopolists - particularly the government monopolists - to gold-plate and charge what the market will bear.

PROF SLOAN: Yes, but don't you minimise the efficiency losses though by them charging according to the elasticities?

MR LARKIN: No, only in a T-sector modeller, if there's only producers and consumers. If there's intermediate users, such as business, it doesn't work, and that's been shown in the literature - the Samuelson, I forget who, but has shown the Ramsey pricing - it's only correct if there's no - even a T-sector model. It's not correct to say that - because indeed there is no elasticity with an intermediate user. There's an elasticity of substitution for no elasticity of demand. So I think the romance with Ramsey pricing which Treasury tried to inspire perhaps five or seven years ago - and I think even your good Productivity Commission took it up somewhat from time to time - I think the fashion has died and it's been understood that it's nothing more than a licence for monopolists to tax.

PROF SLOAN: Do we know examples of Ramsey pricing? I'm trying to think of an agency - I mean, certainly I don't think any of them explicitly Ramsey price. I mean, there are kind of cross-subsidies that swing around like - - -

MR LARKIN: The evidence in your report, the ABS said, "In the past we did actually charge a market price but then we've decided to pull back and have a cost base," so there's no question they were engaging in Ramsey pricing at the beginning and it's in your report, so there's an example. I mean, another example which I find appalling is, I think, the Film and Sound Archive or someone - it's in your report - but they say, "If a little old lady comes in and wants a film we'll charge her this but if it's Channel 9 we charge them the earth." That's appalling and that's Ramsey pricing. Unfortunately the discipline of economics says that's wrong and unfortunately for Mr Kerry Packer you should say the same price as the little old lady.

It's all very tempting for a government monopolist to say, "We know they will pay more and make a fortune out of this," but so what. I mean, why not sell the budget papers? Why not put them out to tender and say to Kerry Packer and Rupert Murdoch, "How much will you pay?" and exclude everybody, because there's a fortune to be made in reporting the budget as we know. So it goes on, and I mean

really I do think Ramsey pricing now as a fashion has past and it really is seen as nothing more than a licence to tax and equally then to gold-plate.

PROF SLOAN: Sure, we get that bit of it.

MRS OWENS: Can I just come back to your proposal to beef up the Office of Regulation Review. I don't know whether that's going beyond our terms of reference but this issue of having some sort of adversarial processes in place does worry me somewhat because it's really up one end of the spectrum and I wonder whether if you introduce an appropriate degree of consultation with industry whether that would be sufficient.

PROF SLOAN: Yes. I agree one would think - in a way you'd say, "For God's sake why do we need an IPART in the Commonwealth or a Victorian regulator-general in the Commonwealth. It will be more and more paperwork." I agree it's a question of what would be the most efficient form of public administration. I think if your guidelines can be sufficiently clear and be made to stick and you're hopeful they will survive to longer term or perhaps even your Office of Regulatory Review does have to report annually on its assessment of the effectiveness of how this works and is the consultation effective. Something like that might be a solution. I mean, I'd be the last to advocate that a whole new empire in the Commonwealth bureaucracy. But I'm sure if it's within the Productivity Commission it would be quite modest in size and so on. But I do agree it might seem overkill but - - -

DR STEWARDSON: On that point about the guidelines you did say in your submission it would be a pity if we ended up with vaguely drafted guidelines. Do you think they're vaguely drafted at the moment in the draft report?

MR LARKIN: I wonder how specific you may have to be about things like marginal costs pricing or incremental pricing, what does it mean - and as I said in my first submission, whether you should specifically be excluding that we will not agree that you should have gold-plating like this and this. I mean it's a question of how specific you need to be, particularly in areas of, I suppose, where the likelihood of gold-plating or Ramsey pricing could intrude. That's where I think it is a problem. I think they need to be clear and specific and not allow self-serving interpretation because there will always be the buyers and therefore self-serving interpretation by the government monopolist, I would think. That's the buyers that somehow you have to check and somehow you have to have a mechanism that checks that, I would think. So, no, I don't have a specific answer.

MRS OWENS: As I think I said before, I mean, we really do have to balance having these very prescriptive guidelines saying "thou shalt" and "marginal cost pricing, this is what it means" - to, "These are the sorts of principles you need to adopt," and it does raise that question of marginal cost pricing versus incremental costs and I think you were inferring in your submission that we've been a bit weak on that. I think probably what we've been is just a bit pragmatic because we I think quoted somebody in one of our boxes saying that it's very difficult sometimes to

implement marginal cost pricing and I think I believe that. I think it is hard and you've got to think about who will actually be implementing the guidelines and you're not going to have a bunch of economists there doing it and I don't even think if you got a bunch of economists together and said, "We're going to have marginal cost pricing," they would all do it the same way. So you need to have a few rules that can be implemented.

MR LARKIN: Yes. I don't envy you, I suppose, in developing that or trying to articulate what that guideline should be. I suppose if you had the adversarial process you wouldn't need guidelines at all, would you? You would sort of have an IPART or a regulator general and that's it and they will be guided by your report but that's that but then, as you say, you could well be developing a major new bureaucracy and a replica of the state bureaucracy, I don't know. I do think it would be a good opportunity if the office of regulatory review could in some way or other come into play here.

PROF SLOAN: What about the idea that ACCR are pushing that there needs to be clear legislative authority within the legislation that underpin these agencies for cost recovery and that the principals governing cost recovery should be there in the legislation too?

MR LARKIN: I don't know.

PROF SLOAN: That would give it additional teeth.

MR LARKIN: Legislation would - I suppose it would if there was - - -

PROF SLOAN: That might be able to provide some horses for courses. It wouldn't necessarily have to be the same for every agency.

MR LARKIN: I suppose so.

PROF SLOAN: The trouble is the guidelines that sit outside legislation. It can be a bit take it or leave it, can't it.

MR LARKIN: Yes. I suppose it's just a practical question of what form the legislation will finally emerge in after we go through this and the various minor parties come into play.

MRS OWENS: I don't think (indistinct) in this commission.

MR LARKIN: Anyhow, I really don't mean to keep you at all and keep up the good work. It's a delightful report so far.

MRS OWENS: Thank you very much and thank you for coming. We'll now break.

MR LARKIN: I'll have to forecast, my learned friend, Dr Dwyer is going to descend on you on Friday so he's not with me today.

MRS OWENS: He's appearing - are you going to come back and listen? We'll now break until 2.45.

(Luncheon adjournment)

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

MS JOHANSON: Thank you, I'm Gail Johanson, executive director of the Complementary Healthcare Council.

MR CROSTHWAITE: Alan Crosthwaite, the technical director of the Complementary Healthcare Council.

MRS OWENS: Thank you, and thank you for the submission. Well, I should thank you, we've had about five separate inputs, five separate submissions now from the council and we appreciate all the trouble you've gone to and I think your current submission is a nice clear document. We sent it to the Australian Chamber of Commerce and Industry. We liked their submission because they carefully went through each of the recommendations and then told us what they thought of it and your submission does the same. We find that very convenient and useful because at a glance you can just see where people are coming out on the different recommendations. So thank you for that, and I understand, Val, you've got a few opening comments you'd like to make.

MS JOHANSON: Yes, I would like to make a few comments, thank you very much. I guess firstly I would like, on behalf of the CHC, to congratulate you on an excellent report and I guess we were pleased that many of our issues were picked up and reflected in that report. In our original submissions to the inquiry we did point out the difficulties that our industry experienced being regulated under a drug regime and we supplied additional comments in relation to the TGA submission where we had some difficulties with the comments they made, particularly in their first submission. They didn't, in our view, adequately identify that many of the comments they made were in relation to drugs and pharmaceuticals and didn't apply to our sector of the industry, particularly in relation to subsidies by the government. I have a couple more comments I'd like to make in relation to their second submission, the one that dealt with complementary medicines, but I'll come to that later.

I guess, in summary, the CHC welcomes the draft report as a significant contribution to community understanding of the implications of cost recovery by the government and particularly in our case the 100 per cent cost recovery. CHC notes that our expressed concerns have been picked up and are shared by the commission in many cases. We strongly support the view expressed by the commission that activities that are not directly related to industry services, such as the briefing of parliamentarians, a lot of the public interest responsibilities, international obligations, we believe should not be funded by the industry and we also urge the government to act very quickly on the recommendations. We feel that five years for review is totally inappropriate when I think you have clearly identified difficulties with the current system and we would suggest that if there is going to be a schedule of review prepared, maybe TGA should be top of the list.

CHC concurs with the following statements and I'll just move through them

briefly. Cost recovery can have a significant impact on both actual and potential users of regulatory and information agencies. We would comment that the fees and charges imposed by the TGA have been estimated to amount to about 15 per cent of after tax profit which for a small business is quite considerable. You comment about cost recovery lacks clear rational accountable transparency, perform assessment and review. We have been calling for a long time for greater transparency and accountability in relation to cost recovery of the TGA. Nor is it clear why some agencies recover costs while comparable agencies do not and I guess that's particularly relevant in our case where we feel we sit somewhere between foods and drugs, yet we are regulated as drugs. 100 per cent cost recovery is imposed and under food law ANZFA, at this stage, there is not an equivalent cost recovery regime.

TGA's fees and charges being the highest in the world as a result of governments 100 per cent cost recovery policy. This was a comment made by MIAA, but I feel that's also particularly relevant to our sector of the industry where we are regulated in a very different system here in Australia from the rest of the world. I would agree that, not on the regulation, but the costs as well are a barrier to trade. I think you suggested in the report that it's sometimes difficult to identify when it's the cost and when it's the regulation that actually creates the problem, but in this case I would say it's both. The cost potentially stifles competition, we would agree. It creates undue burden on start-up companies, particularly in our industry. You have many companies who are just one or two person companies. They might only have one product and the start-up costs are horrendous and we have had recently some examples where trying to get through the TGA regulatory system has almost sent those companies to the wall, and in fact they may still go under. That, I guess, isn't just the TGA fees and charges, although that's a substantial part of it. It also relates to the regulatory system itself.

They prevent the public from access in MIAA's case, to medical devices; but in our case, to many low-risk products that are freely available in the rest of the world - well, certainly in the English speaking countries of the world and we've no apparent public safety issues. There is some uncertainty about the legal standing of some cost recovery charges. For example, where charges are not directly related to the cost of providing a service to a particular user, these maybe subject to challenge as inappropriately amounting to taxation and I'm not sure if MIAA, if Brian Bale pointed out last week that we did have legal advice suggesting that in fact many of the fees and charges applied by the TGA, would amount to taxation.

To the extent that agencies are, in effect, self funding, there is less incentive for their respective portfolios and expenditure review processes to subject them to close scrutiny and I guess that goes back to our call for greater accountability, transparency; and we would also see great value in TGA being subject to budgetary scrutiny in a similar way to other government agencies. Cost recovery has impaired government efficiency, leading to regulatory creep and the CHC has some very good examples of regulatory creep over the last couple of years in relation to our industry and the way the regulation is interpreted and applied, causing significant cost to the industry and additional cost in terms of fees and charges by new requirements being

applied, therefore changes to application always at another cost imposed by the TGA.

We note with interest the comment that, "Under the constitution all money raised to cost recovery must be credited to the consolidated revenue," and my first reaction was I'm not aware that that's the case in the TGA, but then they do operate under a trust account, and I presume that could be one of the other methods that you've identified that sometimes applies in these cases:

Cost recovery should be subject to the same public administration principles.

We've mentioned that one.

The proposal to establish efficiency audit committees, including industry and consumer representatives and reporting directly to the minister.

We'd like to see further consideration of that proposal, so long as there is some incentive for any outcomes or recommendations to be acted upon, and we'd also like to see it be an independent committee, so independent of the TGA. I guess there could be some argument that the current therapeutic industry coordinating committee is in effect an EARC, but I think the fact that it's not independent makes it not a very effective committee in terms of scrutinising TGA's budgetary activities:

The prompt release of endorsed guidelines would enable the government to act quickly into the review of existing cost recovery arrangements.

As I indicated at the start, we would like to see it done as a priority. I understand there's a lot of work to be done, but I think certainly from our industry's perspective, it's such a big issue for the industry. I guess that's somewhat demonstrated by the fact that we've put five submissions in to the commission's inquiry. We would like to see it done as an urgent matter, not take five years to get to us.

Another issue I'd like to comment on is the latest proposal, the increase in TGA rent which came out of the blue last December, even though the TGA was clearly aware that this was on the cards. We are now facing 166 per cent increase in rent over the next three years. It's going to be phased in over a three-year period, but again, the way it's brought to our attention, just six months before it's been implemented, doesn't feed into industry's budgeting; also, another cost. It's just an ongoing increase in fees and charges. Our added concern is that over the next three years it's likely that rent in Canberra is going to increase anyhow, so what's been suggested as the amounts to be fed in over the last three years, in all likelihood are maybe expected to increase, so it's just a never-ending spiral of increased fees and charges. In relation to the TGA's submission on regulation of complementary medicines, there's a couple of comments I'd like to make there. They comment about:

a unique regulatory system for complementary medicine that enable

streamlined reduced cost access to the market.

I'm not sure what they mean, because it's reduced cost to what? In most other countries they're not evaluated, there's no cost imposed, so I'm not sure if they're comparing it to pharmaceuticals or if they're comparing it to other countries. I don't understand what the comment means, but I don't agree with it either. Comment on page 3 about fees and charges:

TGA claim a discount on the various fees and charges from what would have been imposed had they doubled the fees and charges.

Back in 96, I think it was, but the system is such that the TGA decides how much it's going to cost to regulate our sector of the market over the next 12 months, and then it's up to industry to actually decide how that amount of revenue is going to be found. So it's up to us to allocate the level of fees and charges across the industry, and the fact that they're claiming this a discount there, I find a little difficult to accept. It's probably accurate in terms of if you double the charges as to what they were in 96, yes, we're not paying double what they were then, but by the same token, a lot of it has got to do with the services they provide. We have no say in what services they provide, what level. We have no ability to sort of drill down into the finer detail of their budgetary processes, so I think their comment there leaves a little to be desired.

The reference on page 4 to important areas that are covered by the fees include several areas that we would argue are public interest areas or government responsibility anyhow, and shouldn't be funded by the industry. On the top of page 5 - this one is just amazing - they claim that:

These public interest activities would not be necessary if the complementary medicines industry did not exist.

In a country where 60 per cent of the consumers use these products at least once a year, I find that an extraordinary statement. I could argue very well that if the level of regulation was more appropriate to the low-risk nature of these goods, then they wouldn't need the resources and it wouldn't cost the amount it's costing to regulate us, particularly when we're out of step with the rest of the world.

PROF SLOAN: That is a kind of Mount Everest explanation, you know: the industry is there, therefore you pay.

MS JOHANSON: Therefore it has got to be regulated regardless. The levels of evidence guidelines they claim to be deliverable, and they're not necessarily a benefit to the industry. While we fully support the need to be able to substantiate any claims on our products, they've developed guidelines that are very complex, confusing, costly and have been introduced at the same time that we faced a 39 per cent increase in fees and charges, we faced 10 per cent GST, a new tax on our products, and levels of evidence. They all came within a few weeks of each other and the levels of evidence have imposed quite a burden on the industry in terms of both cost and resources. Every company is virtually researching literature worldwide to pull out

the same evidence that the company next door has and each company has to fund that and in terms of both monetary costs in getting the information but also in terms of infrastructure in putting additional resources in. So as a result of all those, they have all attributed to what amounts to about a 20 per cent downturn in the industry since July last year and that is quite substantial.

MRS OWENS: What do you mean by a downturn in the industry?

MS JOHANSON: The turnover of the companies in terms of units and dollars has averaged a 20 per cent downturn in the industry. It ranges from about 17 to - I've been told as high as 37 per cent. I think that's probably all I'd like to say except to thank you again for giving us the opportunity to meet with you today and I'd be pleased to answer any questions you have of us.

MRS OWENS: Thanks, Ms Johanson. I think there's a number of issues you've just raised in your submission but I think one of the issues that you have expressed concern about was this timetable for reviewing existing arrangements and said five years is too long. What we were inferring - maybe not so clearly in our implementation chapter - is that there would be a timetable over the next five years which would be determined by the Department of Finance and Administration and you're not the only group to say that maybe five years is too long to wait to review the TGA, but we are suggesting that there needs to be some criteria developed to determine who would get looked at first and possibly TGA may fit into the criteria, but have you got any suggestions - we can't just say review the TGA first because some people have said review the TGA first. We have to actually have some decent criteria that we can apply. Have you got any suggestions about that?

MS JOHANSON: I would have thought that many of the findings in your report would start to set the criteria and the fact that it seems to have been reasonably clearly identified that there are certain activities that are not related to industry services may be a starting point as to - and also the fact that TGA is one of the few I think that is totally 100 per cent cost recovered. I thought they may be two criteria which would be taken into account.

MRS OWENS: In that there's a target.

MS JOHANSON: Yes.

MR CROSTHWAITE: Plus the burden on industry of the continual increases in the time-frame suggested, it's going to make it very difficult for industry over the next five years to absorb all these increases.

PROF SLOAN: On that issue of the rent which is an issue which is obviously annoying a lot of participants, I mean, there's issues of principle at stake, isn't there? Here's a building, a laboratory and the like, that has been paid for by the taxpayer. I suppose arguably under a cost recovery regime over time you can recoup the costs from the appropriate participants, but this is something different, isn't it? This is really predicated on the basis they want to sell the business and in order to maximise

the price they get for the building of the laboratories and the like they want to up the yield on the building in order to maximise that price. I mean, has that got anything to do with good regulatory practice and good cost recovery practice?

MS JOHANSON: Or better outcomes from the regulation and better consumer protection, no.

MR CROSTHWAITE: Increases will be driven by commercial property investment rates on the industry in the future. Anybody that leases a building or purchases a building will want to have an increase factor built in there based on the commercial real estate values and that on top of the running costs to the TJ will just continue even to build the costs.

PROF SLOAN: That's the kind of decision over which there really is no influence at all. I mean, you can write letters of protest and that's about it.

MS JOHANSON: That's about it and we're still pursuing that avenue but the increased fees and charges come into being in two weeks' time so there's little likelihood that we're going to get any relief in that next 6.6 per cent increase. Even though the last - well, it's less than 12 months ago when we had a substantial increase - 39 per cent increase in the case of our sector of the industry; at that time we were told there would be no further increases other than CPI and less than six months later we were suddenly hit with increased rent.

MRS OWENS: Do you think that was in the pipeline when the initial 39 was determined?

MS JOHANSON: I can't say for sure but I understand it was. I think that the national manager has actually gone to some trouble to try and reduce or minimise the increase which at one stage was substantially higher than what we've ended up with so we are grateful for the action that the national manager has taken to reduce it from what it might have been but it's my understanding that it was likely on the agenda at the time when we were negotiating fees and charges last year.

PROF SLOAN: I'm not sure I quite understood a point you were making which seemed to be about the duplication of kind of research assessment type input the companies were being required to make in the context of - - -

MS JOHANSON: Levels of evidence?

PROF SLOAN: Yes, I mean, even though there's no pay for the protection for it. I suppose the other argument is that if you didn't have some kind of compartmentalisation and require each company to do it, so the first company does it and then the data is shared by all, why would the first company want to do it?

MS JOHANSON: It's a difficult one, I agree. I think our argument is - - -

PROF SLOAN: I can understand your point that, you know, this is crazy, you're

getting all this duplication, but if you had a model where the data is shared and the first one has borne all the cost, no-one would want to be the first one. So you have to kind of think outside the square altogether, do you?

MS JOHANSON: We had exactly that same situation with new substances? Why is someone going to pay 10, 20, 30 thousand dollars to have a new substance evaluated when there's no patency protection and therefore everybody can free row it on that application.

PROF SLOAN: But does it come back to your kind of big picture point that you've got a regulatory framework which really is not particularly suited to the features of your subsection at all?

MS JOHANSON: Yes, absolutely. We would say yes, you do need to hold the evidence and every claim should be able to be substantiated but there must be a better way of doing it and I would suggest that the levels of evidence have been developed - based more on a pharmaceutical paradigm rather than a long history of traditional use that many of our products are developed from and we're still working on it but it was just a huge impost on the industry at the same time we had a 39 per cent increase in fees and charges and I guess my point was that that was claimed by the TGA to be a deliverable from the fees and charges that we pay but it has actually imposed more cost burden on the industry.

DR STEWARDSON: On the question of efficiency audit committee, in your submission you were quite supportive of that idea. In your verbal presentation you said something to the effect that you felt that it needed some more consideration and thought. Can you elaborate on that please. I don't understand what you mean.

MS JOHANSON: Yes, we're supportive of the idea but we'd just like to perhaps make the point that we would like to see it be independent of the TGA and that there be some imperative that any outcomes or recommendations or findings of the audit committee are to be acted upon and we have many cases where there's a committee set up that makes recommendations and then perhaps there's no action or not appropriate action taken as a result.

DR STEWARDSON: Would you want to give that committee the authority that its recommendations actually had to be acted on? What we were floating was that it would report to the minister as being the man or woman who had the power to insist that the recommendations be acted on but equally the hopefully impartial further assessment of those recommendations. Is that satisfactory?

MS JOHANSON: I would think so, yes. I'm not sure though - I couldn't quite clarify from the report whether you're proposing that the audit committee be independent in the case of that TGA? Is it just another tick, I suppose, is what I'm asking. Is it a tick just reporting to Senator Tambling or - - -

DR STEWARDSON: The proposal that was being floated in the draft report was that it would be a committee set up by the relevant minister, composed half of people

from industry who as well as letting industry have a say in it would be bringing knowledge in the relevant area to bear; a quarter from the consumers of the produce and a quarter from the regulator and that the share of such a committee would not be the regulator. Maybe it would be an independent person. It might be someone from the national audit office, and that there would be some power given to that committee that it had the right to have access to relevant information from the organisation and it would then report to the minister.

MR CROSTHWAITE: Sorry, the minister could choose or not choose to consider the recommendations or to act on the recommendations from the committee or would he have to act on the recommendations from the committee?

DR STEWARDSON: No, in the proposal that was being floated the minister would have discretion.

MS JOHANSON: And how are the members appointed? Are they appointed by the minister?

DR STEWARDSON: Again, in what was being floated in our draft report, yes, appointed by the minister.

MS JOHANSON: In consultation with the industry?

DR STEWARDSON: It didn't say that but it's a suggestion you could make.

MS JOHANSON: I would suggest that.

MR CROSTHWAITE: So the minister - it would only be on the recommendations of the government of the day that the minister would react on the policies so if a recommendation came through from the committee he could choose not to follow that recommendation based on the policies of the day. That would leave us in a very difficult situation.

DR STEWARDSON: The difference from the present situation is that at present the tick - (a) has no particular rights to be information and (b), from what you people tell us, is dominated by the regulator, in this particular case the TGA, and that it gives its output to the regulator which then can ignore the output completely if it so wishes and in all those respects the idea that has been floated is quite different.

MS JOHANSON: It certainly seems to be a much better system than what there is at the moment.

MRS OWENS: This is one of the issues that we've raised with other people as well because we've been seeking feedback on this idea and other participants - some have been favourably disposed and some have said, "It's really going to just create another layer there and we can't see why you need to do this when there are a whole lot of other mechanisms in place. We've got the auditor general and we have output pricing reviews and we've got benchmarking," and there's a whole range of things that we

listed in one of our chapters and do we really need to have another body? Others have said, "Why can't the TICC take on this responsibility but change its charter so that it has more clout, and clout to actually get appropriate information from the agency?" That would like a halfway house between the status quo and moving up to an efficiency audit committee model. I don't know whether you've thought about this idea. You talked about wanting to ensure some independence, and independence can mean different things to different people, but that could mean not having any TGA representatives on the committee or it could mean something else.

MS JOHANSON: My thoughts were that - and it could either be a revamping of TICC, but along the lines that have been proposed; or replacing TICC with the audit committee. But by "being independent" I guess I was looking more at an independent chairperson. I think TGA have got to be involved - I don't see how you can audit them without them being involved - but with an independent chairperson.

MRS OWENS: It's one of those issues that we're giving more thought to. As I said, people are a bit split each way on this.

PROF SLOAN: But you, along with others, are clearly of the view that the TICC is a very limitative forum; it meets quarterly; the paper is limited.

MS JOHANSON: I don't think it's even meeting quarterly at the moment.

PROF SLOAN: You meet the costs of TICC meeting?

MS JOHANSON: Yes, and I know the TGA are working towards a better reporting system, but there's a lot of information that's just not available. That would be very beneficial to have, to make TICC more effective. So a lot of the information we ask for is just not available and therefore I think it's very hard for a committee like that to be constructive and productive if it doesn't have the right information at hand.

PROF SLOAN: You've got in your second submission a couple of propositions which we find pretty interesting, and you might want to take these on notice because some sorts of specific examples are always very useful for us. You said in your verbal presentation that there have been clear examples of regulatory creep in the last two years. I think it would be very useful for us to have those examples. In your written submission you talk about companies not entering the market because of high direct regulatory costs. Again, examples of that would be quite good.

DR STEWARDSON: If I could just interject at that point, you were making the point that it was the cost, and not the cost of regulation but the cost recovery point, which is what I think you were looking for the example of.

PROF SLOAN: Yes.

MS JOHANSON: I can give you a good example at the moment. We're currently, as you're probably aware, doing quite a major exercise on trans-Tasman

harmonisation with our counterpart in New Zealand. At the moment these products, these same complementary medicines, are regulated in New Zealand as dietary supplements under food law - no prevaluation, no GMP, no evidence that there are major safety problems, except in one case that I'm aware of recently, and I'm not sure that that was a legitimate dietary supplement that met with New Zealand food law anyhow.

But there's one importer in New Zealand who has well over 1000 products that he imports from America - food supplements, dietary supplements in the United States as well, and now he's facing potential closing of his business because, under the current proposal for a joint trans-Tasman office he will suddenly - at the moment he pays no regulatory costs at all. He will suddenly be faced with all these fees and charges to apply to every one of his 1030, whatever it is, products he's importing and selling in New Zealand with no apparent safety problems. While the Australian industry wouldn't like to see us go back to a system where there's no regulation, we believe there needs to be more appropriate regulation in terms of lower the barrier but also lower the costs.

MRS OWENS: If you're harmonising with New Zealand, why can't we be harmonising with that approach rather than them harmonising with our approach?

MS JOHANSON: Well, they'd argue that way. I guess from our point of view we see value in being regulated and in having quality products but not being regulated as drugs. We're not drugs.

MRS OWENS: So you don't want to go all the way to the New Zealand model necessarily.

MS JOHANSON: No, somewhere in between.

MRS OWENS: So you want somewhere in between.

MS JOHANSON: Yes, and Canada has just recently, I think I might have mentioned last time, established a directorate of natural health care products, which are separate from food and separate from drugs. We believe that they've got it right. We don't necessarily like all the things they're doing, but it's just identifying it as a different approach to health care. It's all about enhancing health and reducing the risk of disease rather than treating and curing, so it's a different approach to health care - different products in terms of lower risk and potential to actually improve health, reduce the cost of health care and require lower regulation.

DR STEWARDSON: The example that you just gave about the New Zealand - what was it, a producer or an importer, was it?

MS JOHANSON: An importer.

DR STEWARDSON: - - - having his 1000 products likely to be subject to TGA-type fees. Are there not a whole lot of examples like that? I don't really

understand why the New Zealand industry isn't making an enormous fuss about this proposed regulation.

MS JOHANSON: They are. Believe me, they are.

PROF SLOAN: I don't think we'd read about it in Australian newspapers.

MS JOHANSON: No. There are quite a few smaller manufacturers in New Zealand. It's obviously an industry similar to the Australian industry. There are a few major players, who represent probably 80 per cent of the market in New Zealand, but because they're major players they export to Australia and therefore they're already TGA-compliant. It's the small companies in New Zealand who are not TGA compliant who are going to have major difficulties moving to a TGA-like system, and again we would support the New Zealand view that - fully supportive of the common market, fully supportive of the common label, fully supportive of an appropriate regulatory system and a joint office, but we need to get it right. We need to get the level of regulation right.

PROF SLOAN: I think sadly that issue is slightly outside our terms of reference, although there are some I think important phrases, including in the recommendations, about the need for appropriate regulation and ongoing support for a RIS and the like. I can understand your frustration that the TGA run basically what you might call a kind of listing fee, where you pay whatever it is, \$200 or whatever, to just have your product listed, which involves seemingly very minimal costs. I wonder if you had better knowledge of how it works it may be that that kind of fee is kind of offset somewhere else in a sensible way. I mean, is that sort of just a little micro-example of the lack of transparency, and therefore the seeming irrationality of the fee structure, that you'd be charged what seems like a large amount of money for someone probably just updating the date on the computer to say that this is still listed?

MS JOHANSON: No, it's all electronic and I think because we've been involved in developing the new electronic system in particular we've got a fairly good understanding of how it works. Each sector of the industry is more or less responsible for deciding how we're going to raise the revenue that the TGA has indicated it's going to cost them to regulate us for the next 12 months, so we could actually say, "Let's make the listing fee \$50 per product because there's very little work there." Industry does most of it anyhow because it's industry self-assessment. But then we've still got to find this other big bucket of money, so then we'd have to put up our annual charges or something so at the end of the day we still bring in the same number of dollars.

PROF SLOAN: That goes back to our recommendation about the inappropriateness of targeting for overall agency costs as opposed to activity based costing arrangements, so it is picked up.

MS JOHANSON: That's right.

MRS OWENS: The legal opinion you mentioned - I don't know whether we have asked anybody else for that or whether we've asked you, but is it possible to - - -

MS JOHANSON: Yes, of course. I thought I had supplied it after our last appearance.

MRS OWENS: That's why I'm being a bit uncertain about it.

MS JOHANSON: Anyhow, I'm quite happy to supply it again. That's no problem.

MRS OWENS: We'll talk to you about that later or we'll get the staff to talk to you. I just can't recall seeing it.

PROF SLOAN: I've got a copy. I think you sent - - -

MRS OWENS: Okay, sorry about that.

PROF SLOAN: No, but it's definitely here.

MRS OWENS: I was just making sure. You referred in the submission right at the end to:

US companies have indicated their interest in establishing an Australian presence as a stepping stone into Asian markets but have decided against it because of the associated difficulties.

Have you got any specific examples of those US companies?

MS JOHANSON: Only anecdotal evidence. I could probably go back to them. I know when I've been to United States trade shows on various occasions many of them have come to me and said they're very interested. With the change in the exchange rate now they may be even more interested, and I think, Allan, you've had some approaches from some American companies to do that.

MR CROSTHWAITE: There are a lot of phone calls coming through from American companies making inquiries and you go through the procedure and the cost and they've got to come into Australia with a big product range to justify the cost and they look at the size of the Australian market and offset the cost of the regulatory environment and it's not worth their while. It certainly doesn't add up. It causes a lot of problems for the overseas companies, because our market in Australia is not as big as the American market or the other world markets, and the cost of setting up and bringing the products to Australia doesn't justify the expense.

DR STEWARDSON: Is the result of that that you've got already more or less the same products in Australia from Australian manufacturers and there's just less competition by not having these overseas firms and their products in the market, or is the result that you're having products for which there is not an Australian equivalent kept out of the Australian market?

MR CROSTHWAITE: I think it's the latter. A market needs to have innovation and new products to remain healthy, and with the trends of cost recovery - of falling applications, falling variations of applications - the new products coming in add life to a market and help a market grow. It's certainly making the Australian market cost-wise only operate with the products that are in the market, and the new products from overseas, which have got a proven safety record overseas, are not coming to Australia. They look at the size of the market, they look at the cost, and they decide it's too expensive to bring these products out to Australia. So from developing market growth, growth within the market, it's stifling from that effect.

MS JOHANSON: I think it's actually \$350, is it, at the moment, for a listing application? It's not just that \$350 per product; it's the cost of having a new substance evaluated in any case, which is your 10, 20, 30 thousand dollars, to have a new substance evaluated and approved, and once it's through the system everybody else can use it. So the cost there is a deterrent on new substances coming into the market and, as Alan says, although we've had, I think TGA, say something like 54 new substances over the last two years, apart from that it's just all reformulation of existing substances, trying to find something new to put on the market.

The net effect of raising the fees and charges all the time - and I've probably mentioned this before - is that particularly over the last 12 months even the big players in the industry have gone through and rationalised their various ranges of products. So they've been deleting whole lines of products off the register to rationalise their costs and fees and charges. So ultimately it's likely we won't even reach our revenue target anyhow because we're not going to have sufficient products on there to bring in the revenue.

MR CROSTHWAITE: It's actually causing the opposite effect. By increasing the fees and charges, the number of applications, the number of new sponsors is going down the other way so you're just making the situation - - -

PROF SLOAN: I wouldn't find that surprising.

MR CROSTHWAITE: It's making the situation worse by doing it and then you're loading the ones that are in the market with the cost of running it. Then at the consumer end the products are just going up in price to where you're denying a lot of people access to these complimentary medicines in the market purely because of cost. They become expensive and only available to a small sector of the market.

MRS OWENS: So they steal products from the register and the ones that are left they're pushing the price up because presumably there's less competition. This comes back to what Judith was asking before.

MR CROSTHWAITE: They're pushing their prices up because of the increases of fees and charges that are continually coming through that they have to offset against their products.

MRS OWENS: But they can only do that if there's less competition unless they're all doing it - everybody's incurring - - -

MR CROSTHWAITE: Everybody is incurring the same fees and charges and the same cost.

DR STEWARDSON: Is the net result of all of this that we are having fewer products for sale in Australia or is the result that we are having products being sold without the TGA imprimatur and presumably without being able to make various health claims that can be made under the TGA imprimatur?

MS JOHANSON: I think it's probably both. I think there has been a renewed interest in trying to get products on the market as foods, a lot of those products in the food therapeutic interface, and again sometimes that's deliberate. It's a way to try and get a marketing niche. Sometimes it's done in ignorance because people find these products on the market in other comparable countries and think, "That's good, we've got nothing like that in Australia. We'll bring it back and put it on the market here." Newcomers to the industry run into all sorts of difficulties with both the therapeutics regulations and the advertising requirements just because it's so different from overseas and then as we said, they face these huge start-up costs.

PROF SLOAN: Because if it's marketed as food, aren't there then restrictions - you know, there can't be any notion of a dosage, is that right, and there can't be claims of efficacy or the language is restricted, isn't it?

MS JOHANSON: Yes, by law you can't have a dosage regimen on it but people can be very innovative and put on a serving suggestion or a serving size and so they play those games just to try - if there's a market out there for them and they say - - -

PROF SLOAN: I mean, you've probably followed the transcript that when the TGA came they said, "Why are you complaining. Go and market it as food. What's your problem?" That, unless you kind of knew a bit more, seemed kind of plausible but the thing is marketing as food as opposed to marketing it as some sort of therapeutic intervention, they're not the same things, are they?

MS JOHANSON: No. Many foods can make health claims and health claims do include some of the claims we can't even make on our products although under the new system we probably can. Up until 12 months ago we couldn't. So there are some limited claims you can make on foods but I guess our view is that we've built up an industry that is credible, that's renowned internationally for its quality because of GMP. If we go back to food, GMP is not a requirement and again, I guess we go back to the position that these are a different class of product and should be regulated appropriately. They're not foods, they're not drugs, and that's the way Canada has gone. The European commission has also come down with a finding somewhat similar; not foodstuffs, not drugs, but again, that's not specifically relevant to this discussion.

PROF SLOAN: On that issue, one of the things that the report is a bit undercooked

on I think is this issue of a partial costs recovery model and what are the principles that you might apply for a partial cost recovery because you have basically conceded that there are benefits to companies in having a TGA stamp of approval and there are clear benefits if you're seeking to export, as I understand it, because - well, you can correct me.

MS JOHANSON: There should be.

MR CROSTHWAITE: There should be, yes.

PROF SLOAN: Yes, but there's some kind of international currency to the TGA stamp of approval.

MS JOHANSON: There is, yes. Again, it causes difficulty in our sector of the market which is different from your pharmaceutical drugs because in many cases we're exporting products to a country where these products are foods but because they're regulated in Australia as medicines some of those regulatory agencies in those countries see the word "medicine" and suddenly up their regulatory requirements even though the same product is sold as a food there. In terms of international recognition, yes, there is good value in being able to say you're TGA complying but then we run into problems and actually have restricted our export potential as a result of the TGA export system. So we're working with the TGA on that one at the moment but that's one area where we have seen some considerable regulatory creep over the last 12 months.

PROF SLOAN: I suppose the point I wanted to make though was that even though presumably the consumer or the person who ingests the substance is the real beneficiary, both because of the assurance of safety and also the claims of efficacy. You're also conceding that the companies do have some - you know, gain some benefit from the system too. Does that kind of point you in the direction of partial cost recovery in your opinion?

MS JOHANSON: Yes. I think we said in our initial submission or certainly in our supplementary submission that the industry, the CHC and its members would support I think certainly costs associated with regulating the industry as opposed to those other public interest activities that the TGA undertakes. I think we suggested, in line with Minister Staples' introductory comments when he introduced the legislation somewhere around 50 per cent because I think he clearly identified that - - -

PROF SLOAN: He gained some support for previous models actually which didn't last long.

MS JOHANSON: No, change overnight.

MRS OWENS: You probably didn't like it much at the time but it's better than what you've got now.

MS JOHANSON: Absolutely.

MR CROSTHWAITE: But even with the benefits the company has to weigh up the cost at the end of the day and if the cost keeps on rising and it's outweighing the benefit then it really needs to be reviewed.

MRS OWENS: Hopefully when we have some guidelines in place some of these concerns will diminish over time because at that stage there will be in the public domain underlying reasons as to why the charges are the way they are and that hopefully will alleviate some of the concerns of industry and hopefully industry will have some involvement in a consultation process in implementing those guidelines so we'll just have to wait and see what happens. Have you got any other - - -

PROF SLOAN: No, thanks very much.

MRS OWENS: No, that was very interesting so thank you. Have you got any other comments you'd like to make before we break?

MS JOHANSON: Just one comment that I'm not sure is relevant but it's to do with fees and charges and in relation to the provision in the legislation that allows for reduced annual charges to apply to low level, low turnover products and we have one company - we don't, they're not a member, but there is one company who has 4300 products on the register, most of which will be classed as low volume, low turnover, and therefore are only required to pay \$70 per year as an annual charge but there's a ceiling on how much one company can pay which is \$10,000. In effect this company should be paying something like \$270,000. So the net result I suppose is that the industry is subsidising those products being on the register to the tune of something like \$260,000 and we have tried to say that every product on the register should - you know, that cost should be spread equitably across the board. That's a substantial amount.

PROF SLOAN: I suppose the general point is that once you have all these caps, rules, minimum charges, maximums, they can create quite serious distortions.

MS JOHANSON: This one certainly does, yes.

MRS OWENS: I don't know how far we'll get into looking at the structure of charges like that but we are interested in the principles of cross-subsidisation and we're saying where possible there should be not any support for particular types of companies or small companies in this way. If there's going to be any support it should come through other mechanisms although this company may not be a particularly small company if it has got that many products. It's just that it's spreading its product range over a wide number. So that was relevant. Thank you for that.

MRS OWENS: We'll just now break for just a minute. Thanks for coming.

MRS OWENS: We will now resume. The next participant this afternoon is the Plastics and Chemicals Industry Association. Welcome. Would you mind giving your name and your position with the association for the transcript.

MR VAN KRIEKEN: Ashley Van Krieken, commercial affairs manager.

MRS OWENS: Thank you, and thank you for your submission. We've had two submissions from you.

MR VAN KRIEKEN: That's correct.

MRS OWENS: You have an interest in a number of the agencies that we have an interest in, including NICNAS and the NRA and TGA. So we welcome your insights and I understand that you would like to make a few opening comments.

MR VAN KRIEKEN: Yes. I'll be very brief. I guess, first, I'd just like to thank for the commission for giving us the opportunity to comment again on the cost recovery review and also to say that the draft report is certainly a step in the right direction in terms of removing the more ad hoc nature of cost recovery that seems to be applied at the moment, so it's a step on the way there. As we noted in our submission, the bulk of the recommendations we support, particularly the ones that are directing that cost recovery should be on activities only and not on whole of agency costs and also subject to parliamentary oversights. One of the critical areas in our original submission was increasing the transparency and accountability of the agencies.

So we support the bulk. Certainly recommendation 4.1 is probably the critical recommendation, I think, in our mind, which states:

The Commonwealth government should adopt the formal cost recovery policy for regulatory and information agencies. This policy should implement the cost recovery guidelines recommended by this inquiry.

When we read the report that sort of basically summed up our argument, I think, that there needs to be some coherency in cost recovery and how it's applied. I think the guidelines in this report will go some way to do that. Rather than going on, perhaps I'll leave it at that and I'll go through the submission and if you have questions on it may be an easier way to do it.

MRS OWENS: Good, thank you. I note from your submission - as you said just then - you support most of our recommendations but you raised particular issues relating to recommendation 5.2, 6.8 and 6.9 and you did have a discussion on the guidelines. I thought it might be worthwhile just working our way through each of those. I think some of the comments made a lot of sense to me and others, I think it's probably worth just exploring a bit further. But the first one you talked about was recommendation 5.2. You say that you agree there's a need to address the effectiveness of the existing performance review processes and you said you didn't feel our recommendation provided a means to undertake this.

What we did with 5.2, we left it deliberately vague, I suppose, because we had this information request about possibly establishing these things called efficiency audit committees and I think what we've been trying to get is some feedback on whether that approach is a worthwhile approach to adopt, whether we should be thinking more or less ambitiously about possibly looking at - in the case of some of the agencies - beefing up their existing consultation mechanisms and giving them greater teeth. I was wondering whether you did have a view on that, whether you think that - you say if we have an efficiency audit committee it should be non-biased, accountable inclusive. But you're presuming in your comments - I read from your comments you're actually supporting an efficiency audit committee approach but with some qualifications. Is that an appropriate interpretation?

MR VAN KRIEKEN: Yes, that's correct. We certainly would be supportive of the efficiency audit approach. I guess we just wanted to raise some concerns that we had with the process and I accept that it was kept vague, I guess, because you did want some more information on it. What we've tried to do is, based on our experience with other oversight committees - not necessarily the ones just that the agencies were involved in but on a broader level at state and federal government level - just some issues that perhaps the commission may want to look at. Before I move on to that I just would note that we probably would have liked to have seen something and it was probably difficult to build it into the recommendation but certainly the report does cover third party competition benchmarks and mutual recognition.

But I guess we were just perhaps thinking that certainly they are probably very good ways of establishing the criteria and perhaps if there's some way to work them into the recommendation or make them just a little bit more prominent in the report may go some way to helping the government work out how to create various targets and how the committee would actually operate.

MRS OWENS: Yes, what are you meaning by criteria by which the committees would operate? Is it the principles?

MR VAN KRIEKEN: Yes, the principles of the committee. My reading in the draft report is that the committee would be concentrating just on efficiency, so I see it as separate to, say, the IGCC which looks more at the activities that the agency is undertaking, so it's really just looking at how efficient it is. I guess what we're trying to get to there is that in establishing the committees there has to be some clear principles that the committee is going to adhere to; whether it be that they have to review targets on an annual basis and I guess what means do they have to review those targets.

MRS OWENS: Which targets are you talking about? We've actually stated in our report that we don't like the idea of cost recovery targets. Are you talking about some internal agency targets?

MR VAN KRIEKEN: Internal agency targets. Say, for instance, if we take NICNAS there may be a target that the time taken to assess and approve a chemical

may be - the target may be to reduce it by a week, for instance.

MRS OWENS: So they're sort of managerial targets.

MR VAN KRIEKEN: Managerial targets, because I think that's a very good measure of efficiency and productivity. If you just look at the overall budget of an industry or a company, you can't really tell whether they're being efficient or not. I mean, the costs may have risen because they become more efficient but they're producing a lot more. So NICNAS could have doubled their number of assessments. Their costs would have gone up. If you just look at costs you would say, "Hang on a minute your costs have gone up. That's not what we want," so you've got look at those sort of measures. That's what I mean by targets.

PROF SLOAN: KPIs really.

MR VAN KRIEKEN: KPIs, yes - key performance indicators.

PROF SLOAN: You want a series of KPIs that are agreed to.

MR VAN KRIEKEN: Yes, and that should be agreed in the establishment of the audit committee so that they know what they're looking at when it comes to review the - - -

PROF SLOAN: That's quite a good point because otherwise it could be a rather negative nitpicking exercise which you'd probably never get to the bottom of actually. What you're saying is, focus on agreed KPIs and work out the costs of achieving that and see if you can - - -

MR VAN KRIEKEN: That's correct, see if you can work it out. It is a difficult area but certainly a lot of - my experience is a lot of companies operate under that sort of system where they have KPIs and it's up to various branches or departments to meet those KPIs and to justify if they don't need them, why they're not doing it, which is where I'd see this EAC working. I guess the second point would just be, certainly we said that the appointment should be by the minister but I guess there's a critical problem there in that if it's possible that if a minister is adversely or unduly influenced by one party, whether it be the agency, whether it be industry, whether it be consumers, that in fact in its very set-up the committee, whilst it seems to be independent, may be biased towards one or the other views. I note that when CHC was here you were saying it would be 50 per cent industry, a quarter agency and a quarter consumer.

PROF SLOAN: I don't think we talked percentages but - - -

MR VAN KRIEKEN: But it would be something like that. Certainly we'd support that but we'd support a balance, and the balance is not done just on numbers but also on experience and skills. You don't want to have a committee of 10 and have five industry people on it who don't have any idea what the agency is doing but have agency people on it who are very experienced in it. You once again open it up to

biases. We certainly support the comment that the chair should be independent and certainly not from the agency involved. I think that's probably the critical point. One of the concerns raised by our companies often is - with the IGCC, for instance - whilst it does allow industry quite a good comment we don't really have a lot of input into the agenda on it. So we do struggle sometimes to raise issues that we feel are important.

On the issue of making any recommendations by the EAC to the minister publicly reported, once again we support that but with the qualification and certainly perhaps from the chemical industry's history, with the qualification that any recommendations be made with sufficient substantiation and information. The case that leaps to mind is a recommendation by the EAC that says something along the lines of, "By mutually recognising countries X system, a thousand new products can enter into Australia which would significantly decrease the amount of work having to be done." Depending on how you look at that, I can just see the media headlines screaming, "A thousand chemicals released into Australia with no testing," for instance, which could then cause a whole different raft of problems, and it moves away from cost recovery. But I think there does need to be that qualification in the committees that they give the recommendations but they also provide sufficient background information so that people do interpret it correctly.

MRS OWENS: Would you then replace the existing consultation mechanisms with that mechanism?

MR VAN KRIEKEN: Such IGCC?

MRS OWENS: Yes.

MR VAN KRIEKEN: Going back to - as I mentioned before, I see the efficiency audit committee really as a separate entity to the committees that already exist. The committees that already exist are there to assist in the operation and determining what programs or the agency undertakes what chemicals, if you like, it undertakes what chemicals are listed on its priority, existing chemicals on its new chemicals. I feel adding efficiency audit to it may - I think it just adds an extra burden on that committee. If it's already working inefficiently, even if you make some changes, it's probably not going to do a lot to improve the efficiency of it. I certainly think the idea of having the independent chair coming from Department of Finance or from one of the government auditing bodies is a very good suggestion.

PROF SLOAN: One of the other suggestions we had which is kind of to see the efficiency audit committees as perhaps more as a one-off, so you basically would create a committee in order to establish the efficiency - and maybe that series of KPIs as well, at a point in time - and then maybe at some further point in time down the track there may be thought to be a need to reinvent it. But, you know, the idea would be that it may not be a kind of ongoing arrangement but one to establish - - -

MRS OWENS: Benchmarks.

PROF SLOAN: - - - that efficient costs are being achieved.

MR VAN KRIEKEN: We'd probably support that. We'd want to see something in the rules or the legislation governing the agency. We would want to see some requirement on it, so whether it be every two years, every three years. Once again - and that time period being determined with consultation between the agency, industry and consumers as to what they feel is a necessary time. With chemicals, for instance, as we noted in our original submission and I think in our original hearing, the pace of change in a lot of chemicals markets is very, very quick and it may be by that nature that you would have yearly EACs for chemicals, for instance. But certainly I wouldn't see a problem with that.

MRS OWENS: Okay. The next recommendation that you had some concerns about was recommendation 6.8 and you said that your concern that - it was about the definition of beneficiary. You say:

Industry should only be subject to cost recovery for elements of regulation that it gains a benefit from.

But you had a problem with the definition of beneficiary, for instance:

Companies that receive approval under NICNAS or TGA gain benefit in the form of an ability to sell the product. However, the consumer receives a benefit of better quality and safer final goods.

I suppose what we were interested in is, can you define a primary beneficiary or is that going to be very difficult in some instances? I mean, it's a dilemma, it's difficult.

MR VAN KRIEKEN: This is a dilemma. We even had a dilemma in trying to address this recommendation. In some instances I think it's very easy to determine who the beneficiary is. I'm not an expert on it but, I mean, for instance if you're allowing an approval for a company to use a single product that it can only use it, for instance, so they've got an exclusive licence, well, quite clearly there's a direct benefit to that company. They're the only ones who can use it, they're the only ones who can market it and can sell it, whatever. I think when you get into something, for, such as NICNAS, you have the difficulty of a chemical is approved which may be used as a component of a paint or a windscreen film or something like that. Once the chemical is approved, in many cases it's then possible for other companies to come along and use that product, that chemical. But also I guess there is also the benefit to the consumers and we repeated in here one of our examples of how - if the newer forms of solvents and paints were released into Australia there would be substantial savings. In that case I see three beneficiaries there; one is the companies; the second is the direct consumer and then the third, I guess, is society as a whole because you are having less solvents and less waste going into the environment. So it is a difficult question and I think what we've tried to do is say perhaps this is a case where it can't be determined clearly where partial cost recovery needs to be considered. I must admit, I did read the report and I didn't see a lot in there on partial cost recovery but I could be wrong.

MRS OWENS: No, you're right. I'm a bit undercooked on that one.

MR VAN KRIEKEN: Yes, I guess that's certainly one way we see the process moving. Our industry as a whole doesn't have a problem and sees a need for regulation of products. We're certainly not arguing that, but we do have this difficulty that at the moment it seems we're paying the costs of the entire agency, so from the actual testing of the products in the lab through to the A4 reams of paper that are put into the photocopiers, for instance, hence, why we have a push for partial cost recovery. I'm probably pre-empting a question here, that in itself brings a whole new range of issues in, I guess, in how do you determine the partial cost recovery.

MRS OWENS: It becomes complex and there's a bit of a trade-off there.

MR VAN KRIEKEN: It does become complex.

MRS OWENS: I mean that's not our excuse for not looking at it in more depth in our draft report, but it does raise the question if there's partial as to then how do you decide what the balance is between those different groups.

MR VAN KRIEKEN: I think the recommendation that asks cost recovery to be placed on activities only - probably does go some way to doing that. For instance, an agency that's assessing chemicals; you could theoretically say that the lab and the technicians in the lab, their sole purpose for being there is to assess and test the chemicals, which is the purpose of the agency. So you could probably say, "Okay, well, it's quite possible that those costs be assigned to the company using it." But I think it becomes a lot less clear when you then say, "Okay, well, you have the administration of that company," and now not all of those administration costs are going to be directly a benefit to company. There's going to be - as we've said before - the formation of policy and reporting back to the minister; reporting back to the other departments, which is very much in my mind a role for government funding.

PROF SLOAN: I wonder whether you are being too kind, in a sense, I mean, the fact that we're suggesting cost recovery by activity and that we're suggesting the excision of certain activities, like policy, advice, international liaison and the like, I mean, I'm not sure that fully addresses what might be seen as an appropriate role for partial cost recovery. It seems to me that the partial cost recovery is saying that there are a group of distinct beneficiaries. Let's take an activity, so in the case of chemicals, yes, you're telling me the companies benefit by being able to market the product and having a kind of stamp of approval, but by the same token, well, certainly the public at large is benefiting and maybe the consumers of the chemicals, probably they must be seen as beneficiaries too. And bear in mind we've got to always - there'll be a lot of inputs, presumably. You're not the final product sellers, generally, are you? You're kind of selling as - - -

MR VAN KRIEKEN: Generally the chemicals assessed - - -

PROF SLOAN: - - - in the production chain.

MR VAN KRIEKEN: - - - by our companies are generally at the upstream end of it, so they're going into other products.

PROF SLOAN: So the thing we have to give some more - I'm not sure we can just think that the application of cost recovery to activities plus the excision of certain things is the final answer. We might have to think that there may be cases where partial cost recovery - I mean I agree with you that there have to be simple rules applied. You can't work out the percentage to the last decimal place, I don't think.

MR VAN KRIEKEN: That is a fair point and I think perhaps one of the ways of partial cost recovery to move is to perhaps an ongoing process so if, for instance, you implement the guidelines first, you implement some of the other recommendations in terms of increasing transparency, accountability, putting it on activities. I think as you start to do that, if you have the intention there you can actually start defining some of these benefits to the different parties as you're going through the actual process.

PROF SLOAN: One of questions I'd like to ask people is that if you were operating in an environment that didn't have government regulation, do you think the industry you represent, or parts of it, would opt for forms of self-regulation?

MR VAN KRIEKEN: Most definitely. If I can just, by way of example - - -

PROF SLOAN: Which you would clearly have to fund?

MR VAN KRIEKEN: We would fund that. We have a program operating in this national program called Responsible Care which is a voluntary program and certainly companies are willing to fund that. I'm hesitant to say too much more because obviously there are issues, as you said, about - - -

PROF SLOAN: I'm not saying this is the same type of regulation - - -

MR VAN KRIEKEN: No, it's not the same type of regulation, but - - -

PROF SLOAN: - - - but I just think it's an important question because what that's telling me is that there are benefits to the companies in being able to essentially signal to consumers that they're offering safe products.

MR VAN KRIEKEN: Yes. And I think certainly probably what a mandated or legislated assessment process does is just give consumers that bit more of a guarantee, I mean, certainly if I could put on my consumer hat I would certainly be more comfortable having a government agency telling me that the paint on my car is quite safe, than having industry saying it's quite safe. I think most consumer groups would probably agree with that. Once again it comes back to the issue of how do you measure the consumer benefit; is it peace of mind; is it - - -

MRS OWENS: If you've got a company benefit, like in that example, and you've

got a consumer benefit, then do we really need to think about partial cost recovery or do we think about the company paying the fee and then possibly be able to pass some of that fee on to the consumer. You seem to have discounted that as an option in your submission by saying that there is any benefit to consumers that that should be paid for out of the government's consolidated revenue account. But what about the option of the company paying the whole lot and then passing some of that on - passing on what they can get away with.

MR VAN KRIEKEN: That is certainly an option. I think what a lot of our members are telling us is that unfortunately because of the size of the Australian market and because of - relative to the global industry, is that a lot of these products that are getting assessed, they're price takers effectively, so the price is set internationally. So certainly, yes, it could be passed on to the consumer but it's likely that it's going to lead to reduced sales for the company. Now, that's certainly not for every product, but as a general rule the Australian industry occupies about 1.5 to 2 per cent of global chemical production in the world, so when we have very large plants operating in other countries, obviously we have to sell at whatever the globally mandated price is. But I think your recommendation, as it stands, does recognise that because it does say, "Only where costs can be passed on to beneficiaries," so - - -

MRS OWENS: Yes, but I'm just trying to tease out this idea of when do you have to go down this track of partial cost recovery and charge something less than the full costs and when could you conceivably do something else and it's a matter of - who prejudices that?

MR VAN KRIEKEN: I guess that certainly is a relevant question and I think the best way to answer that is through consultation with the parties involved. Now, probably this review is not the place to do that type of consultation, but it's certainly something that the government could be directed to do. So almost it comes back, doesn't it, in some ways, to the efficiency audit committees. It's almost as if you established a committee that has the various groups represented and that that is part of their - and perhaps their initial mandate is to go through and just say, "Can costs be passed fully on to beneficiaries?" If they can, we go down that path, if they can't, then how do we work out how much benefit is obtained to companies - - -

MRS OWENS: I don't know if that's the role of that sort of committee. I think that what we've suggested in our guidelines is that there be an initial, what we've called cost recovery impact statement process, and maybe it's at that stage in the process that you'd need to be thinking about these issues explicitly.

PROF SLOAN: I suppose the more normal partial cost recovery model that would be where the taxpayer's picking up a certain percentage and the rest is being passed on. It seems to me that, you see - it's all very fudgy who the beneficiaries are and in the ACCI submission they cite the NICNAS legislation, which if you look at the object of NICNAS, it's actually got absolutely nothing to do with helping business. It's to protect the Australian people and the environment by finding out the risk to occupation, health and safety; to public health and to the environment there could be associated with the importation, manufacture or use of the chemicals. But I think

one of the points they were making is that - and I suppose this is true of the CRIS and the like - that we've actually really got to sort out what the objects of these regulations are and from doing that you can then assess who the beneficiaries are.

MR VAN KRIEKEN: No, I would agree with - - -

PROF SLOAN: I mean they're arguing in that case that, I mean, the legislation is suggesting that the public is the beneficiary - or the public and the environment. The environment would not normally - going to be a good payer, so, it's kind of heading you in the direction of the taxpayer paying for this, which is not then what's actually happened with NICNAS.

MR VAN KRIEKEN: No, it's not, no, obviously the companies are paying for it. But I think the key issue does revolve around what is the purpose of the agency and I think doing the CRIS's is probably the only way you're going to find out what is the true purpose of the agency; what is the true purpose of putting in regulation.

DR STEWARDSON: I'm still a little bit confused as to why you found recommendation 6.8 in itself confusing as to who we thought the beneficiary was, because it says:

Under this approach, regulated firms would be charged for the cost of regulation only where it's not feasible to charge the beneficiaries directly.

So therefore by implication in this particular example it's not the firm's:

Costs can be passed on to the beneficiary.

So therefore again, by implication, it's not the general public, it's the consumers. So I'm still a little confused as to why you found that that recommendation was unclear as to who we thought it was getting at as the beneficiary. I understand all the discussion we've had since then, but simply I don't understand why you found that one confusing.

MR VAN KRIEKEN: I guess, perhaps, when we looked at this we probably looked at it in respect to the agencies that are currently operating, because the question is to say that if we say that we can't charge the beneficiaries, if we say the beneficiaries are consumers and hence the agency can't technically charge them, I mean you can't send a bill to every Australian consumer to charge them for that and it's not possible for the companies to pass on the cost because they would lose market share and lose profits. My reading of this recommendation then says that who pays for the - and I guess that's part of our concern, it gives these guidelines but if one of these four dot points isn't met, or a couple aren't met, where do you go and at the moment we're not - that would say to me that you then go and say - I mean, that could be one assumption you take away from that is - "Okay, well the government pays."

But at the moment the government is not paying, yet we could apply certain

instances with the agencies where we wouldn't be able to meet those four criteria. That's probably where the concern originated from, so - I mean, certainly, I can see in some cases, yes, this recommendation will work quite well, but there are the cases, as we say at the moment, where if the conditions aren't met, what happens if we can't pass the costs on to the beneficiaries and they can't be charged directly, do you use taxation and then you come back to the whole argument again of should the government - - -

DR STEWARDSON: In what circumstances would you envisage that the companies couldn't pass the costs on to the consumers?

MR VAN KRIEKEN: In what?

DR STEWARDSON: Yes.

MR VAN KRIEKEN: It would be cases, as I said, perhaps where either they're price takers and they could pass the costs on but it's probably going to result in loss of market share. Now, I don't think the purpose of any regulation is to cause harm to a company.

DR STEWARDSON: But aren't all companies in the same boat? Why would they lose market share necessarily?

MR VAN KRIEKEN: To imports, if they're producing for the domestic market and as a result of paying the NICNAS fee and then raising, say, their costs they have to raise by - in some instances, in some products, it can be \$5.

DR STEWARDSON: But won't the importer have to pay as well, the same thing, go through the same regulatory process?

MR VAN KRIEKEN: It's for the raw product, if we're talking the raw product, yes, but if this is for a product - if I'm a chemical company and I'm producing it and selling it to an automotive windscreen manufacturer then I will say to them, "Okay, I'm going to have to raise my price by \$5 which means your windscreens are going to go up by" - whatever the margin is on that, which may push the cost of domestically made windscreens above that of imported windscreens which don't have to go through the regulatory processes. It's this chain effect that's coming to the final - - -

PROF SLOAN: That example of screen tinting or whatever.

MR VAN KRIEKEN: Certainly if it's raw chemicals then they are subject to regulation as well. That would be where it's an embodied product. So many of the companies that are using NICNAS and to a lesser extent TGA and even NRA are producing chemicals that are going into other products. Those products are obviously also trying to compete on the global scale.

PROF SLOAN: Is there are buyer concentration in the markets into which your members sell? I mean, we had an example with the medical devices group. They're

mainly selling to state health departments who basically become buying groups - monopsonists - and drive down the prices. So the ability to pass regulatory costs on in that arrangement is very limited. I mean, there probably aren't, are there?

MR VAN KRIEKEN: Not that I can - - -

PROF SLOAN: Prof Fels wouldn't like them, would he?

MR VAN KRIEKEN: No, that's right, but I can't think of any off the top of my head where there is a bias - - -

PROF SLOAN: No, but there's clearly some sort of commodification in your markets too where there's world prices.

MR VAN KRIEKEN: Yes.

DR STEWARDSON: How significant a part of the cost of the final product, the tinted windscreen - the example you were giving - is the embodied chemical? Is that case you were talking about more by way of a sort of theoretical thing that would make a tiny difference to the price or is this a really significant thing?

MR VAN KRIEKEN: At this point in time I don't have the figures on exactly what per cent of the final product price that chemical would be. I can certainly seek to find that information out for you if the commission would like. So I would enter that at the moment as an example of a possible example - a theoretical example. But I can find out the information. Talking to the company I had the distinct impression that it was quite a substantial cost because it effectively lost the contract.

DR STEWARDSON: I think it would be interesting if you could give us some sort of feel for whether - in that particular instance and indeed across the whole industry - this is a big issue or whether it's more by way of an interesting little exception.

MR VAN KRIEKEN: I'll certainly investigate. Obviously one difficulty is that there is a lot of issues with confidentiality and a lot of companies don't even like telling us what margins they're doing. I guess some of these decisions by a company not to go ahead with a product because it's going to cost so much, are often done on sort of back of the envelope calculations which make it difficult to substantiate. But I'm certainly happy to try and get that information. We're surveying our members at the moment who are involved in NICNAS but unfortunately that wasn't ready to present to the commission but certainly out of that I might be able to provide some more examples, some cases in point for you.

MRS OWENS: We'd appreciate that.

MR VAN KRIEKEN: I haven't seen the results of the study yet but that would be one possibility.

MRS OWENS: Can we just move on very quickly to recommendation 6.9 because

that's where I think you've got your greatest concerns. You're concerned that that could be seen as a catch-all and it could be interpreted that all government legislation is designed to set standards and minimum performance levels that are established to prevent negative spillovers. You're recommending strongly that we remove this recommendation or clarify it. I think if we removed it altogether that would leave a gap because there are potentially areas where the main objective of the regulation is to deal with external spillovers. But I take your point that there is a danger of pushing activities into that basket, unless it's fairly clearly defined in some way, and I guess it comes back to be able to - if undertaking a quiz - satisfy external people that this is the primary objective. But there would be a process in place so that people couldn't just automatically get away with that.

MR VAN KRIEKEN: Certainly if there is a process in place that is going to look at what the legislation is principally designed for - and Judith read the NICNAS Act for instance. I may interpret it differently to yourselves or to a member of the public. Certainly if there was a system in place whether it be a CRIS, whether it be some other government review forum, we would be more comfortable with the recommendation perhaps if that can be built into the recommendation or certainly more built into the discussion around the recommendation and the final report. We'd be a lot more comfortable with that.

I also noted actually ACCI was making the point that really you couldn't apply both at once, so you would have to apply one or the other, so I guess the broader question is to say - I guess the first decision is, is it a regular - you know, to get external spillovers the beneficiary pays and then if it is a regulator pays approach then to say, "Well, what is the intent of the legislation." As I said, it has happened where legislation has been interpreted to cover absolutely everything. Does it mean that if I'm a plastics person and I'm using an emulsion or something like that. If that has a risk of having an external spillover, does that mean I should pay also for the cost of getting that assessed and approved.

MRS OWENS: I think it depends on the overall objective. That may have been one objective but there may be other objectives which may be to make consumers happier.

MR VAN KRIEKEN: Okay. But I would certainly be happier if there was some sort of system put in place to assess the intent of legislation.

DR STEWARDSON: It's rather ironic that you're concerned that the negative spillover references that we have could be used to make the regulated firm pay for almost anything in any situation. Some of the information agencies are equally concerned that our comments about positive spillovers could be used to make it so they weren't allowed to charge for anything. You made the point that you'd either like that particular bit of the recommendation on negative spillovers removed or significant clarification. We've talked about one way just a moment ago. Did you have any particular suggestions for how the significant clarification of the point could be made?

MR VAN KRIEKEN: Probably my thinking was more closely aligned to going back to the original legislation. But I guess a regulated firm should be charged for cost regulation only where those businesses are the source of the negative spillovers. I guess once again it comes down to process. What is the negative spillover and how do you determine whether the business is the source of that negative spillover.

PROF SLOAN: Is it actual or potential.

MR VAN KRIEKEN: Is it actual or potential. If I'm a chemical company producing a product that does have a negative spillover effect then, okay, you might say I'm the source but if I'm producing it in a controlled environment and I'm then putting it on a transport company which is then taking it to another company, is there more risk of it being spilt in the transport stage or is there more risk of it being spilt at the other end. I guess businesses are the source of the negative spillovers, and in that case you'd probably say all three examples are potential sources of spillovers.

PROF SLOAN: You sort of acknowledge also the benefits of having these chemicals brought to market too, yes. But it's kind of an important issue of semantics - and we've got to get it right, I think, because you could say, "Why does this regulation exist? Well, it's because horrible, polluting chemical firms are trying to ruin the environment." Okay, that's the "why" question. Or you could ask, "What is the purpose of the regulation? The purpose of the regulation is to protect the public and ensure public safety and protect the environment." So depending on how you pose the question, you could get different answers. So it's pretty important we get that right, I think.

MR VAN KRIEKEN: Once again, industry would be more than happy to work a bit further with the commission on trying to flesh out both 6.8 and 6.9.

DR STEWARDSON: At the moment what I hear you saying is that you think the way around your problem in this respect is the one of looking at the intention as expressed in the legislation to set up the agency. If you have any other subsequent thoughts or elaboration on that I think we would be interested to hear from you.

MR VAN KRIEKEN: Certainly.

MRS OWENS: With the guidelines - this is the other area you talked about - you made a useful comment that you felt that industry consultation would be an essential component of stages 1 and 2 of the CRIS process. We've raised that with other participants. We've picked up that idea and we'll be thinking about that a bit more.

MR VAN KRIEKEN: That's good. The comments for the guidelines were really more just in relation to an information request, just on the areas we felt needed a bit more - - -

MRS OWENS: That was very useful to have those comments. But I just wanted to reassure you we hadn't really given a lot of attention to industry consultation at that early stage. I'm really not quite sure in terms of the regulatory impact statement

process currently how much consultation takes place with industry in that process.

MR VAN KRIEKEN: I don't think there's a great deal but once again I can investigate that further. I only had a quick look at that in the RIS but I didn't see that there was a big role for that either. Certainly we've had experiences with other forms of legislation and processes where there hasn't been a high degree of industry consultation and the end result is that the act or the legislation comes out, it's implemented, it then becomes unworkable or it becomes costly, time-consuming, it's reviewed and all it gets is negative criticism, a lot of which could have been avoided if there had have been industry consultation at the very start.

MRS OWENS: I think we're very big on accountability, transference, consultation. They're all principles that we think are very important principles. You don't want to go overboard but we like to think if you have a government process which is going to directly affect a particular group in society you want to make sure that that group is consulted.

MR VAN KRIEKEN: Correct. The transparency and accountability is not just for industry either, it's for consumer and the general public.

MRS OWENS: Yes. I just have one other comment and I'd like to thank you for sending us the Underpinning Australia's Industrial Growth report which came out in March. I don't know whether that is actually a report that's in the public domain? It is?

MR VAN KRIEKEN: It is now. That does also have some recommendations in it on regulatory agencies.

MRS OWENS: Yes, it's got a bit on cost recovery.

MR VAN KRIEKEN: Which I hope we've adhered to in the submission.

MRS OWENS: Yes, you've been quite consistent because I went through that as well and it was nice that this was going on at the same time. But in that you say you don't think companies should be charged for the cost of administering cost recovery arrangements. Administering cost recovery arrangements possibly could include the efficiency audit committee, for example. You could lump that in as being a cost of administering cost recovery. Others have said, "We don't mind the idea of an efficiency audit committee but don't charge us for it." You feel that there's a limit to the costs that should be recovered and you put this - administration of costs recovery in with those other administrative costs and government policy and so on. That's where that belongs.

MR VAN KRIEKEN: That's correct. I mean, certainly it's not much - I mean, the government when it's introducing legislation certainly doesn't charge industry to develop the legislation and EAC, as I said, I see it as a separate entity to the agency as a whole and that it is more a government role. It's a way of the government also ensuring that its agencies and its legislation's working correctly, hence, probably

should be government funded.

DR STEWARDSON: Sorry, have you finished on that?

MRS OWENS: Yes.

DR STEWARDSON: A little later on on this page you talk about - - -

MRS OWENS: Which page?

DR STEWARDSON: Page 5.

MRS OWENS: Of the submission?

DR STEWARDSON: Of the submission, yes. You talk about figure 9.2 of the report and that PACIA doesn't think that the company should have to pay for compliance and monitoring costs if these are clearly government businesses. We look at that in a little more detail in figure 9.4 and the - you might actually rather just take this one on notice too - accompanying text to that we talk about the issues that should be looked at. We look at his charge inconsistent with policy goals and mention that in a number of cases it probably wouldn't be consistent with policy goals. We also look at - is the charge - is it cost-effective and again a number of examples in the text of where in this particular circumstances it probably wouldn't be, so I think we may not be as far away from your thoughts on that one as 9.2 indicates, but maybe you might like to look at 9.4 again in light of that comment and if you want to add anything more to us on that, perhaps come back.

MR VAN KRIEKEN: I'll take that on board.

MRS OWENS: I think you've just taken a few things on board, so, thank you for that. It would be very good if you could get back to us. You said you'd have a look in more detail at the windscreen - the cost impact on that and perhaps work with us further on recommendations 6.8 and 6.9 and the role of consultation in the regulatory impact statement and the issue that we just discussed then. I know it's awful giving people that have just taken the trouble to come to our hearings further homework, which is a bit what it sounds like, but we would appreciate it if you could possibly cover some of those issues. Have you got anything else, Judith?

PROF SLOAN: No, thanks very much, Ashley.

MRS OWENS: Okay. We'll now break and we'll resume with our next participants - well, we might just break for 5 minutes and go and find them.

MRS OWENS: We will now resume. The next participant this afternoon is the Australian Trade Commission, Austrade. Thank you for coming and thank you for the submission which we've read. Would you each like to give your names and your position with Austrade for the transcript.

MR DICKIE: Jason Dickie, senior project officer government and policy.

MR JOFFE: Greg Joffe, corporate adviser, strategic development.

MS WILKES-BOWES: Dee Wilkes-Bowes, senior adviser policy.

MR CHESTERFIELD: Ian Chesterfield, general manager of finance and assets.

MRS OWENS: Good, thank you. Who would like to kick this off?

MR JOFFE: I think I will.

MRS OWENS: Greg, yes.

MR JOFFE: As you've seen from a written submission we actually think the concept of - we're probably one of the few agencies that says the concept of what you're doing is great and we agree with a large amount of it. In fact, most of our issues are around the particular model and how, in our view, it could have detrimental effects for Austrade which we'd like to alert you to. I think there are two main issues we'd really like to talk to. One which has only become very clear to me in the last day, which is the use of the terminology "core versus non-core." I don't know if other participants have raised this - - -

MRS OWENS: Yes.

MR JOFFE: We've been having internal conversations where if we brand a whole bunch of the services we provide as non-core, but we actually think they are core - our job in Austrade is to help Australian companies, particularly SMEs get into international business and we do a number of different services to do that. Trying to categorise those services as core versus non-core is very difficult, but specifically if those words are applied, core and non-core, we think it becomes even more difficult because you're actually taking a chunk of your services and saying these are non-core and then a reductionist government would come in and say well why are you doing things that are non-core.

PROF SLOAN: Is this because we've, in a sense, made a defining characteristic of core that those services are free? Is that the kicker?

MR JOFFE: No, this particular issue is just around the actual use of the terminology core and non-core.

PROF SLOAN: So you regard everything you do as core?

MR JOFFE: Yes, we have, as we've explained, three tiers of service, but we see all three of those as, in a sense, in the generic use or the general use of the word 'core', as being core to getting Australian businesses into export. Following the specific technical definitions you guys have used, you might decide that some of them are non-core, but we actually have a great worry about saying some of our services are core and non-core.

MRS OWENS: We will come back and discuss that because it's a really interesting issue and you're certainly not the only participants to have raised this problem. It's really a problem of terminology and I think people have taken a fairly emotive response to the words. Non-core doesn't mean, it means it's not important and then why are we doing it? So we'll come back to that.

MR JOFFE: Well, if I could just throw one more line which may help into this discussion. If they were termed predominantly public benefit services and predominantly private benefit services, we'd probably even be more comfortable. It's actually that specific word, core and non-core, that creates great unease for us and we can come back to that if you want.

PROF SLOAN: You know we are raising that issue; we probably will have to use another term. That's in a sense what we mean.

MR JOFFE: Yes, that's my reading of what you put down. Okay, so that one's easy. The second one, and it sounds as if you've already read our submission, is around the flexibility in how the pricing is applied. Using your definitions of core and non-core, we would say the vast majority of things we do would be under core and that would mean that under your pricing model they would all be free. Equally, the things that we categorise as non-core would be incremental cost. Our view, as set out in the response, is we would find it - it would work better for us if there was more of a sliding scale from totally public benefit to totally private benefit and agencies were allowed (a) to use a sliding scale, but (b) to also overlay some of those other factors that we have highlighted we look at. I don't say that just to say therefore Austrade should be able to do its current pricing, but we have a pricing mechanism that's been in place for about five years that's working quite well, here.

It starts with free services and as the services become more tailored we charge more for them. Under this thing, most of those services would then become free which impacts first on our demand - a whole bunch of services that people currently are charged for would be free, so that would really blow our demand out of the equation and secondly, of course, revenue impacts on Austrade. Equally, at the other end, if we did incremental costing and it was very expensive, it may actually price our ability to help SMEs by providing those services out of the market, which would mean we couldn't fulfil our predominant function.

So we like the concept of the scale and we just wanted to put back to you the proposal that it be some sort of sliding scale with agencies allowed to also allow an overlay of other things, particularly agencies like us that have pretty wide discretion on how they set their prices. That's probably it unless anyone thinks I've missed

anything.

MRS OWENS: I think we've bounced back to this issue of core versus non-core because I'm just looking at your tiers on page 5 of your submission. Tier 1, Getting General Information and Advice About Exporting; which you say you delivered free of charge. I would think under our view of what a core service would be, that very much fits in to what we would say a core service would; to have certain characteristics which are predominantly public benefit, if we use that other terminology, so I think that that would have actually worked quite well in relation to how we were thinking.

Tier 2, you've got - Selecting, Understanding and Entering New Markets. Now, in this one you're actually got differential charging; \$100 for the first 10 hours and then \$150 per hour thereafter and you could argue then that that is a service which is possibly got some private benefits for individual companies and I don't know whether those fees in some way reflect incremental cost or something else, but you can tell me in a minute, if you like, but it does raise the question of whether all of those activities in tier 2 should actually attract a fee, but let's assume that most do, well, that probably fits in reasonably well with our approach.

Then you've got tier 3, Expanding Overseas Business, where it would be - I would way that probably fits well and truly into the non-core, I don't know, in terms of there's even greater private benefits in that activity and you've got a fairly high hourly fee on that. So if you looked at what you do and how you're charging now, I don't think that what we were inferring is that a lot of those activities in tier 2 and tier 3 would end up not attracting a fee. I think what you're doing is actually looking reasonably okay. I don't quite know where the 100 and 150 come from or whether they're fairly arbitrary or whether they're meant to reflect incremental cost. But, my sense, I don't know about the others here, your approach isn't a bad one and it actually is fairly consistent with what we were thinking about.

MR JOFFE: We think that too and I think in many ways we're aligned with where your direction is, particularly in your draft report you actually refer to the Austrade pricing structure as in some ways aligned with this. So, yes, we see that as a public/private spectrum and as you move up those tiers - it's more from tier 1 versus 2 and 3. Tier 1 would be predominantly public benefit. Tier 2 and 3 is individual companies starting to receive individual tailored advice, so there's much more private benefit, although there are still lots of public benefits in all the spillovers et cetera. I think both of our points then come back to that. So the core/non-core, because of the terminology, because we're very nervous saying what the majority of what we do is actually non-core and then the second issue of being able to have more discretion.

For instance, in tier 2 there's this pricing of \$100 for the first 10 hours in order to give even greater encouragement to companies that aren't yet exporting to get into export. We don't want to be locked into something that says even though you want to do that, you can't because you have to charge full incremental price for anyone getting this service. So it's this issue of, firstly, a bit more flexibility around a sliding scale of public to private and then allowing us to do the overlays of some of the other

factors we've taken into consideration. For us a particular one is things like potential exporters. You might, for exactly the same service, say market research, want to charge someone who isn't currently exporting differently to someone who is exporting because there's much more public benefit to getting a new company to export, than just helping an existing exporter expand a bit more.

DR STEWARDSON: I'm not quite so sanguine that we are talking the same thing. I'm not convinced that there isn't a bit of a problem here. I think that your charging system, the three tiers, makes a lot of sense. So what I'm saying is not necessarily criticising it, but I just don't see the fit so well, because if you take our figure 9.5, which would be the relevant decision tree and try to go down it, then either you go down the external benefits line in which case according to our decision tree it would be taxpayer funded and you wouldn't be charging for tier 1, 2 or 3, in my view.

You may go down the other side of the decision tree where there's a substantial element of private good, in which case you would be charging, and at least so far in the decision tree thought you would be charging the full cost recovery which, again doesn't align with your thing, unless possibly you could adjust or you could fit your sliding scale into this sort of categorisation by saying that there is a community service obligation which justifies a heavy subsidy at taxpayer expense to your category 1 and a slightly less heavy one to your category 2.

I hesitate to use the word, community service obligation, because there seem to be at least three definitions of that, but some sort of injection would seem to me to be necessary to fit your scheme into our scheme as it is at the moment. So given that there seems to be, I would have thought, some prima facie merit to what you're doing, there may be a bit of need for discussion as to how these two things can fit together.

MR JOFFE: I think that's entirely right. I sit somewhere between Commissioner Owen and yourself. We had various looks at how we thought our services would play out under your figure 9.5. In our first assessment our tier 1 type services would go on to the core services and tier 2 and tier 3 would go into the non-core services and I guess that's when we first felt that the model was too directive and that's why we put the submission in saying we think that agencies should be given more flexibility, both with more of a sliding scale so it's not one and/or the other. And secondly, in the case of agencies like us, be allowed to overlay these other factors that we take into consideration which are the ones set out in the submission.

PROF SLOAN: If we were, I mean, I think we recognise that we've under-developed the possibility of partial cost recovery. It seems to me that what you point to is that depending on the mix, the public and private benefits, you can move in them, which presumably - I mean, Helen asked the question, "Where do the \$100, \$150 come from?" I mean, presumably the \$100 is only a partial cost recovery, is it, or - - -

MR JOFFE: Yes, the 150 was set several years ago and needs to be updated, but

the 150 was set using a, sort of, full incremental cost of delivering service. Then the \$100 was set by saying we knew that we wanted to do something extra and it was an arbitrary decision by Austrade and our board on what sort of reduction would we then make for people who are exporting for the first time into a market and that's the sort of discretion - we know we want to encourage that and trying to have a mechanistic formula that applies to all agencies becomes very difficult.

MRS OWENS: But maybe it's just a smoothing issue. We're not being very rigid and saying you've got to charge full incremental cost from day 1 and this is a similar issue to we've got with other regulatory agencies that maybe you don't want to charge the full amount up front, but over time you may want to charge them more because you want to get them established and maybe this is all this is, a smoothing. You're charging low to start but higher later, and rather than saying we are going to say, this is - we've got to have this cost charge here for this group of people and this charge here for that group of people. You might say, "Well, new exporters, they're getting into the game; we want to encourage them into the game so we'll start it off low, but later on they will get, like everybody else, they will be charged at full incremental cost, or maybe you'd even charge a bit more than full incremental cost later to make up for the fact that you've now got them in and because you're trying to average out the incremental cost over all the participants in the game.

So, coming back to 9.5 - 9.5 doesn't tell you how much you are going to charge. All that does is tell you whether you're going to be a core service or a non-core service and I think if I was using this figure, I would say tier 1 probably comes down to core, down the left-hand side. Tiers 2 and 3 probably come down somewhere into the non-core bit and you decide whether it's cost-effective and then you decide to cost recover and then you need to have another process to say, "Okay, what's the structure of our charges going to look like?" We may say, "We're going to charge incremental costs." Okay, but we've got different sorts of groups, and we have other - our mission statement says we want to encourage new exporters. So we want to actually fill all those things so we want to make sure that our charging arrangements are going to be consistent with those other objectives, so you may say, "Well, we may want to just have a smoothing arrangement." So I can see that it actually - sorry, Robyn, I still think it could actually fit reasonably well.

MS WILKES-BOWES: No, that's all right.

PROF SLOAN: But with those tier 2 ones you actually - I mean, there is a persistent subsidy essentially in the arrangement. It's not a matter of recouping the costs over time. There is that early subsidy.

MR JOFFE: Yes. There is an early subsidy.

PROF SLOAN: And no intention of ever recovering - - -

MS WILKES-BOWES: I suppose one more fundamental and long-term way of looking at, you know, for other services that may not even exist now, there is the possibility that we would want to have other services that as you say we may never

actually want to bring people right through a range of services and average out to have incremental costs. There might be a situation where you really - the public, private benefit ratio actually requires that you have different - you don't ever recover fully the incremental cost.

MRS OWENS: I think that's a matter of deciding up front. If there is going to be, whatever we want to call it, community service obligation or a decision that you're not going to recoup all your costs, it would actually be set up front as being, "This is the objective of government; that we are doing this and we're not going to recoup our costs." There is a sort of a community service obligation which would be budget funded, but that would be something that would be predetermined, I would think, rather than before you even got into this.

MR JOFFE: Let me have two cuts of that and then maybe our chief financial officer will also want to comment. I think as - is it Dr Stewardson - as Dr Stewardson said CSO is an incredibly vague area of what is a CSO and I am quite hesitant to go down the path of saying, "What does Austrade do that's a CSO?" We have this general public good thing that is increasing the internationalisation of the Australian economy and our services become more and more tailored to private companies as we work through it. To sort of overlay a model that says, "And some of this is CSO," actually has a level of complexity that I get nervous at. What you're saying about if the model is sufficiently flexibly applied then there is much less likely to be a problem.

I guess it's just, yes, that makes good sense but myself and Ian have recently sat through a pricing review, or we're in the middle of a pricing review and we're in the middle of an ANAO review of our performance which includes recommendations on efficiency and effectiveness, and I have visions of us sitting here in two years and one of these other oversight agencies saying, "But page 79 of this says this is the model and you've applied this overlay and it's not in there." So we're strongly requesting that the model be more flexible on that sort of spectrum rather than either core or non-core. Secondly, that the overlay of other things such as wanting to look after non-exporters and give them extra subsidies is built into the model, so we're not sort of forced into doing something that's against our objectives simply because a model is there that has been accepted by government. Is that clear?

MR CHESTERFIELD: And on the pricing issue, as we have said in our submission, we have vastly different costs all round the world and even within a post, for example, we have got an Australian-based officer. It can cost us half a million dollars in India for example, whereas a locally-engaged staff member might cost us \$25,000 a year, and there are vastly different ways even in one location. So if you look at Chennai in India and Tokyo you've got a vastly different cost structure and then within those posts once again you have got different cost structures depending on who's doing the work. So you can get a very, very complicated model. If you have 100 locations around the world, 25 different services, and 10 levels of staff, that's 25,000 pricing points. We have got to be careful - - -

PROF SLOAN: So you go for an average rule.

MR CHESTERFIELD: We go for an average and a simplistic model.

PROF SLOAN: That 150 and 100 - - -

MR CHESTERFIELD: That's why we have got these other factors in here.

MRS OWENS: We're into simplicity too and I think that's probably why I balked a little bit at your alternative model because, you know, where you have this 25 per cent to 75 per cent proposal, a spectrum of charges. Just because I thought it could quickly get into something more complex. If this was set up as a general principle across agencies it may become more complicated than you think it might become, so what we're trying to do is find something that's going to translate across other agencies as well. We will have to think about this further. I know that my colleague, Dr Stewardson, was quite responsive to this idea, weren't you?

DR STEWARDSON: What, about thinking about this?

MRS OWENS: Thinking about it, yes.

DR STEWARDSON: Are you aware of any other agencies that have this same problem because I don't think any others immediately occurred to me to have it quite so bluntly as you do. There are others - well, such as for example the ABS which has an issue of selling to value adders who in turn resell and they're getting some sort of a private benefit but there is also a sort of a public benefit spillover, an externality there, but I'm not quite sure that I could express it clearly in words but it doesn't seem to me that that is quite such a central issue as your issue.

MR JOFFE: I'm not in a position to answer that but maybe one the others.

MS WILKES-BOWES: No, I must admit, I haven't spoken to other agencies about the issues. Whether ABARE may have similar types of issues, I'm not sure, but in sort of commissioning, having work commissioned and so on, which has a public benefit, but we're not aware of any other agencies who have the same issues and I guess we also have the added complication or unique factor of having our services delivered all over the world in different markets which as Ian said is a complicating factor that other agencies perhaps don't have.

PROF SLOAN: They're also I suppose a little different in that you're not really a monopolist, are you? I mean, you're facing demand curves but there are alternative sources of advice that people can see, particularly the more micro level if you know what I mean. There will be experts on India or Ecuador - - -

MR CHESTERFIELD: Except where our services involve the use of the government badge for example which is a major reason why people use us in quite a lot of markets to gain the access they may need.

PROF SLOAN: Okay.

MR CHESTERFIELD: So in that sense, yes, we do - - -

PROF SLOAN: But isn't that a consideration for you with your pricing. I mean, you're saying that \$150, historically anyway, is going to incremental cost reflective.

MR CHESTERFIELD: Yes.

PROF SLOAN: But by the same token you would have to keep an eye on what your competitors are charging.

MR JOFFE: There are different client segments who look at different providers as being competitors or not.

DR STEWARDSON: When you give your advice to Australian firms, perhaps more particularly when you're getting into tier 2 or even tier 3, there's no exclusivity about that, is there? The fact that you give certain advice to firm A doesn't stop you from giving it in any way to firm B which is firm A's rival?

MR JOFFE: We face much the same issue as law firms, investment banks and consultants on that front. By the time we get to tier 2 and tier 3 service we're doing particular tailored work around a particular client's requirements so client A would come to us and say, "I'm interested in entering the Japanese market. Can you help me choose whether I should use a distributor, an agent, set up my own retail." We would go and do the research and provide recommendations and help them make a decision. We would never then sort of resell that report but that knowledge that gets built up in doing that is corporate knowledge and might be used in another company in a similar industry entering the Japanese market. But we would try extremely hard to make sure that the second company - or that the first company sort of - knowledge was built up purely for the benefit of the first company is not then just given to the second company.

We might do that by using two different people to do the work so that we don't create a conflict. Often what you find is in fact that each company is so unique that the tailored answer to their tailored question actually ends up being quite different but it is something we're very conscious of because if we sort of reused a report that was done on a confidential basis for a first client the first client would have a heart attack.

DR STEWARDSON: I'm just wondering how you answer one of our questions, "Does one person using the product or service reduce others' ability to use it?"

MR JOFFE: Yes. Our assessment is it does and that's because in the tier 1 services, particularly things that are put on the Web, so general information, it doesn't because as you pointed out in your report the more users on the Web makes no difference except for maybe a bigger server at a certain point but in our advisory services, particularly overseas, it's actually the time of the Austrader doing the work and the hours spent working for client A means they're not working for client B, and

we don't reuse the reports in the way we have discussed.

PROF SLOAN: So you are trying to provide an exclusive benefit?

MR JOFFE: An exclusive benefit but with public benefit flow-ons, yes, but for that - we sort of see it as the scale - - -

PROF SLOAN: Of the private benefits that are part of it there may be a public benefit - - -

MR JOFFE: Yes, it's an exclusive private benefit.

PROF SLOAN: It's an exclusive - - -

MRS OWENS: Which then does justify charging the incremental cost.

MR CHESTERFIELD: We don't ever want to say no to the next person who comes along asking a similar question.

MR JOFFE: And if there was no public benefit in general to Australian companies going international then you would just argue, "Well, that's just purely for the benefit of the company that received the service," but all of our research indicates there are lots of flow-on effects from getting companies into business; both Australian companies that go in will then bring other companies with them but also general flow-ons in terms of innovation, in terms of sort of - what would be the key one - you know, labour standards and - with that - sorry, I'm rambling. We have recently done a report which is cited on page 2 of our submission which talks about the public benefits of the company going into export and so - - -

PROF SLOAN: I'm not sure I accept any of that. Your economists wouldn't. Why don't we subsidise people to import, give them lessons how to import well.

MR JOFFE: There's a comment on there which I may as well put on record which is Ross Gittens often says the only reason you export is in order to be able to pay for your imports, and he's partly correct on that.

PROF SLOAN: But that doesn't matter. I mean, the decision has been made to establish Austrade and it's not really for us to question that rationale.

MR JOFFE: Given that everyone else does every few months but, yes. So we would say even where you're working exclusively for a single client there are public benefits as well but everyone is - - -

MRS OWENS: While we're on page 2 you actually argue in terms of the rationale for charging a fee for some of Austrade's services. The first rationale you have got is that there's an over-arching government policy which requires government agencies to charge. Now, when we were looking around we couldn't find such an over-arching government policy. That's why we have recommended there needs to

be one.

MR JOFFE: Do you want to answer that?

MRS OWENS: We assume there is an answer - maybe.

MR CHESTERFIELD: I think we have all assumed it then.

MRS OWENS: No, I thought I would just put that on the record.

MR JOFFE: We want to stress, some of the other benefits we have gotten from charging are I think some of the things that your report has highlighted. It really has driven a much better culture of clients' expectations being more commercial and our services, people actually expecting that they're being paid so they should deliver higher quality, and we would hate to lose that as well.

MRS OWENS: Yes.

PROF SLOAN: So it changes the nature of the services provided, doesn't it, if someone is actually paying real money for it?

MR JOFFE: Yes.

MRS OWENS: Can I just get a point of clarification. Just going back to your tier 2 and tier 3, what's the difference between those clients where you're charging \$150 an hour, which are the existing exporters under tier 2, and those under tier 3?

MR JOFFE: If you think about it as just two steps, so tier 1 is the general information. Think of your Web site et cetera. Tier 2 and tier 3 are both tailored information. So both of those are particular companies getting tailored advice. Tier 2 is around companies entering a market for the first time. Tier 3 is around companies already in the market. To make it concrete. In Tokyo you would be getting tier 2 services if you have never exported to Tokyo before but you would be getting tier 3 if you already had an operation in Tokyo and we were doing further work with you.

MRS OWENS: So who gets \$150 and who gets \$100 charges in tier 2?

MR JOFFE: The first 10 hours at a post. So when you first come and want to work in Tokyo you get those first 10 hours at \$100 per hour.

MRS OWENS: Presumably your cost structures actually go the other way, the first 10 hours probably are actually more costly to you than the second - the hours thereafter.

MR JOFFE: Yes, I would think so, as per most consulting companies.

MRS OWENS: So this comes back to the smoothing I was talking about before,

it's really just to get people through the door.

MR JOFFE: It works on the premise that companies going to export for the first time are more valuable than companies already exporting, as in we add more value to Australia by getting new companies into export than just helping existing exporters. Then we add more value to Australia by helping companies diversify into new markets than just helping them expand in existing markets. We see that we make a greater difference where people are doing something new than just helping them do the same thing every year. Again, to make it concrete, if we're working with an electrical company that's been in Japan for many years, we might do a bit more work with them, helping them think about their market. But we think there's actually more value in getting a totally new company into that market, so we've then skewed our pricing to give a bit more benefit if you're getting into that market for the first time, either as an exporter for the first time or just as a new market. So we're trying to achieve objectives using our pricing or aligning our pricing to that.

MRS OWENS: Have you tried to verify that or is that just a warm and fuzzy feeling that it's nicer to subsidise newcomers than existing players?

MR CHESTERFIELD: Don't answer that. The answer to that is neither of those. It's not warm and fuzzy; we have good data to support it.

PROF SLOAN: I suppose the test would be what is the addition to exports from those two kinds of interventions, helping existing exporters maybe export more. Presumably you get a lot of failures from potential new exporters who never actually go and do it.

MR JOFFE: We've done some research looking at ABS data. There's a higher - at least a doubling, sometimes a tripling success rate of exporters that we work with, so we know we make a difference. In terms of the issue you've asked, do we have specific data on those newcomers versus existing. We have both client satisfaction where the clients are rating how much difference we made and also where they do get exports we use a scale - we do a written survey to follow up on the impact we've had. So we might say to an exporter who we know has had a \$5 million sale, "Did you get a sale in Tokyo?" "Yes." "How much was it worth?" "5 million." "Please rate Austrade's involvement." The exporter rates them from, "I would not have made a sale without Austrade." "Austrade was a key factor," or, "Austrade was a positive factor." What we find is where they're doing something new or difficult we tend to make a greater difference than where they've just ongoing repeat business.

PROF SLOAN: A nice little project for Tim Harcourt.

MR CHESTERFIELD: I think there's data out of the US and Canada that we don't necessarily have but we understand shows that there's a greater benefit for economy from having more companies exporting than just helping the existing ones grow. That's why I was a bit flippant in my answer before. It's not just warm and fuzzy, they looked at it over quite a long period in the 80s, as I understand it.

PROF SLOAN: Yes.

DR STEWARDSON: Are you happy with the suggestion that the worries that you have expressed can be dealt with as far as tier 1 is concerned versus 2 and 3 by thinking of tier 1 things as what we've called core and that your problem is really only in terms of the difference between tier 2 and tier 3 or in terms of what you said about some other assessor coming along later and wondering what you're doing. Are you concerned about the difference between all three of your tiers?

MR JOFFE: On our current pricing structure we would be much more concerned about tier 2 and tier 3. I haven't done enough thinking about - I don't know if the others have - any future impacts on tier 1. I mean, it sounds logical to me at the moment we don't charge for tier 1. Under this model tier 1 would almost certainly be a core service. So it seems right but I haven't given it sufficient thought to give you a definitive answer.

DR STEWARDSON: I was wondering whether it's a core service because you don't charge or whether there really is a significant, different public versus private balance because in tier 1, compared with tier 2 and 3, because even within tier 1 the individual firm is getting a private benefit. You're helping it to make an informed decision.

MR JOFFE: Yes, your point is correct because, for instance, in a seminar there might be 50 companies attending a seminar but those 50 companies are getting greater benefit than the other 595,000 companies in Australia.

PROF SLOAN: But it's not an exclusive benefit in the sense it's not capturable by one firm. I mean, I think tier 1 and tier 3 can be accommodated. Your tier 2 is the problem. The description of core and non-core is a problem for you. If we called it something else you probably - so if we could accommodate tier 2 and call it something else we would probably be great friends.

MR DICKIE: I was going to say I think the definition of core and non-core is slightly problematic in that you've said core is your services that - are essential for achieving your charter or goals, whereas tier 1, tier 2 and tier 3 are all essential to achieving our charter or goals. So I mean that's slightly problematic as well for us.

MS WILKES-BOWES: It could also come back to the definition of whoever is applying these guidelines perhaps not agreeing that tier 1 actually fits into the core, even under these definitions. I suppose that's our concern, that it's open to interpretation, I guess. If we at this moment could put our services into the either/or camp then if an external agency were to be implementing it then we could have some difficulties, hence the idea of the sliding scale because it's not quite as black and white as putting our services into one of these three categories.

MRS OWENS: I'm still not quite sure why tier 2 causes a problem in the scheme of things. I really can't see that. To me it looks as if it's something that would be charged for, in the same way as tier 3.

DR STEWARDSON: But isn't it because we would recommend under those circumstances at the moment incremental cost, and they're not charging incremental cost as a subsidy.

MS WILKES-BOWES: That's our concern, I think, exactly. At the moment it's one of three camps and the middle camp is full incremental cost. Recovering full incremental cost may not be appropriate for the other reasons that we've outlined. So with somebody coming in and looking at these completely afresh might actually say, "Well, your services need to have your full incremental costs recovered," and if we did that we would not be meeting our charter.

MR JOFFE: I was going to say I think we're great friends - - -

PROF SLOAN: Yes. No, I don't say that we're not great friends, and of course great friends can disagree. What you're also saying is that that might be misinterpreted too that if something is deemed to be non-core then why would there be any public subvention in that because it's non-core, it's not essential. In fact some information agencies, the way we've defined core and non-core don't actually have a core because they don't actually do anything for free and that's a worry for them.

MR JOFFE: I think as many of you have alluded to, that is the key issue. You're tied to a framework that covers all these different government agencies and we sympathise with you. We have enough trouble trying to get a framework that has worked for Austrade, and Austrade is very different to a number of these other agencies. I think all we're trying to put forward is, these are the problems of the kind the proposed model has with Austrade, given our experience in pricing and given what we're trying to achieve.

MRS OWENS: I still maintain that I don't think there's a problem with tier 2. I'm sorry to come back to this because I think the subsidy element - it comes back to the timing. I still can't see why it's a subsidy at the beginning to be made up at a later date. I don't see there's a clear distinction between tier 2 and tier 3. Tier 3, all you're doing is charging the full incremental cost. Tier 2, you're charging different costs at different times. I still don't necessarily believe that that infers that you would adopt a different approach for tier 2, except for the timing. So it comes back to my initial point that I still don't think - I think that tier 2, tier 3 both fit within our approach. I'll give it some further thought.

PROF SLOAN: But you never make out the subsidy.

MR JOFFE: I'm happy to try - - -

MRS OWENS: No, but I'm saying - - -

PROF SLOAN: They never do.

MRS OWENS: That means that there's - - -

PROF SLOAN: It's \$100 for the first 10 hours and then - - -

MRS OWENS: But what I'm saying is we're looking to the future, we're not looking to the past. We're looking to what sense does this make in the future and should there be a subsidy element on tier 2. It's a different issue because we're going back to square one. We're not trying to design our system to fit in with what you've got, we're trying to design a system that actually makes sense in terms of promoting economic efficiency. So the question is should there be a subsidy element in tier 2? If you're going to subsidise initially I am suggesting that you make up for it at a later stage, either once they hit tier 3, once they expand their business, or you think about the way you structure your charges in tier 2. For the first 10 hours you would have \$100 and \$150 thereafter.

You would average those out so that it's covering your full incremental cost if that was deemed to be appropriate, because I still consider unless you make a decision up-front that that activity is going to be something that's subsidised by government and you say that's the CSO and government is going to provide budget funding and so we won't be charging at a certain level, I think it can be accommodated. But I think we'll have to go away and think about it further.

MR JOFFE: It's worth me giving you two quick comments on that if it's useful. On the timing I think there's an issue of it never catching up. A lot of the work we do is one to five hours or 10 hours of work, so the presumption that clients work with us long term and pay the first 10 hours at 100 and then the rest at 150 is probably not statistically valid. A lot of clients particularly SMEs do a few hours and this whole subsidy was designed as a particular subsidy to help those people be more successful. So there is an issue about whether you actually ever catch up. Secondly, it's not clear to me from the draft report - and I don't know this as intimately as my colleagues - that there is any phrasing supporting the use of averaging and allowing an agency to subsidise at the beginning and catch it up later, so I guess - it may be in now, I'm just saying I don't know the report intensively enough.

MRS OWENS: In other contexts. We've talked about smoothing in other contexts but not in this context.

MR JOFFE: I think that ties to our thing about giving more flexibility around some of those other objectives. The third thing about full incremental cost, again I'd state that if Austrade do this full incremental cost and it turned out to be \$300 an hour and we found that most SMEs couldn't afford it, we would actually find that our costing was stopping us from achieving our fundamental objectives and that's something we would - that's why we're proposing a model that has more flexibility that says, if you believe there is public benefit in companies successfully going international then there should be some subsidisation allowed. Under the current model, as I see it or as I read it in the report, it's really one of those three alternatives - zero cost, full incremental cost or full cost. That's this flexibility we keep talking about.

MRS OWENS: This issue of SMEs not being able to afford the full incremental cost, we've also argued elsewhere in the report that the way to - if you're going to subsidise companies you do it transparently and directly rather than indirectly with lacking transparency. If the underlying rationale for doing this is to help SMEs then I think that needs to be explicit and it needs to be up-front, not necessarily through the pricing structure. We've argued that elsewhere in the report that this may not be the appropriate way to support SMEs, that you can do that more directly if you need to. I mean, I don't know how it fits in with WTO, for example. I mean, it is an indirect way of assisting companies and not particularly transparent.

MR JOFFE: I understand what you say. If we found that our full incremental cost was \$300 an hour and we had to apply it, we would probably find that a significant number of companies we currently work with would not go into export and would not use our services which would reduce their chances of success and that's all. It's not that we're trying to justify our current system, all I'm saying, given our experience over the last five years these are some of the implications of the model you're currently proposing. I do understand your point.

MRS OWENS: We'll keep your point in mind too.

MR JOFFE: Yes.

DR STEWARDSON: Just one small question. On page 4 you're talking about our suggestion of a possibility of a thing called an efficiency audit committee. You've said that ANAO performance audits frequently review efficiency and effectiveness. How frequently does the ANAO have a performance audit of your organisation?

MR JOFFE: Of Austrade? In our view far too frequently. We had our first performance audit in 1997-98. We had another audit in I think 2000 of coordination of export activities and how efficiently and effectively that was being done. They are now doing a review of the implementation of their 1997-98 recommendations and no doubt they'll do a review in another year or two of the implementation of their follow-up recommendations to their original report. In my view we have the ANAO at least every two or three years coming through and doing detailed reviews of our service and whether it's efficient and whether it's effective and DOFA, as you would know, with the pricing reviews, are doing much the same thing. So luckily we can reuse the data, but having yet another agency reviewing whether we were efficient and effective would consume the remaining part of my time and my colleagues' time that's currently spent on working with clients.

MRS OWENS: Then we come along and we actually pose another requirement on you, which is to write us submissions at short notice. So we're very grateful. Do you want to follow up?

PROF SLOAN: That's fine.

MRS OWENS: Okay. Thanks very much. Are there any other issues that you want to raise with us before we close today?

MR JOFFE: No, thank you.

MS WILKES-BOWES: Only perhaps that we would be happy to continue to provide feedback if you wanted to develop a model.

MRS OWENS: Thank you. I think because you are a bit different we probably should come back to you at some stage and just see whether what we've done is going to work for you, and we'll give these issues a bit more consideration when we talk among ourselves about it. Ladies and gentlemen, that concludes today's proceedings. I don't see anybody in the audience that may want to appear before us, unless one of the staff would like to get up - I'm sure they would. So I'll adjourn these proceedings and we will resume tomorrow morning at 9.30 am.

AT 5.46 PM THE INQUIRY WAS ADJOURNED UNTIL
THURSDAY, 14 JUNE 2001

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