



**TRANSCRIPT
OF PROCEEDINGS**

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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 THURSDAY, 14 JUNE 2001, AT 9.30 AM

Continued from 13/6/01

MRS OWENS: Good morning once again, and welcome to the public hearings of 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 the presiding commissioner on this inquiry. My fellow commissioners are Judith Sloan on my right, and Robin Stewardson on my left. 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 last week, and our final day of hearings is tomorrow here in Canberra. We will then be working towards completing a final report to government in August, having considered all the evidence presented at the hearings, the workshops with agencies which were held in 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 an 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 other 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 staff here today. Submissions are also available. I'd now like to welcome the Environmental Research and Information Consortium Pty Ltd. Welcome, and could you please give your name and your position with the consortium, for the transcript.

MR GOURLAY: Thank you, Helen. Yes, my name is Robert Gourlay. I'm the managing director of Environmental Research and Information Consortium at 2 Napier Close, in Deakin West, ACT.

MRS OWENS: Thank you, and thank you once again for your second submission and for taking an interest in this inquiry. We have been welcoming submissions relating to information agencies because it's important I think to get feedback from the users of the service, if you like, and we've been trying to get others to take an interest, particularly in the ABS, where we've had only a few respondents who have put their concerns down on paper. So thank you for that, and I understand you've got a few opening comments and some further information for us.

MR GOURLAY: Yes. Thanks, Helen. Just by way of opening remarks, I believe the draft report is a very good report. I know in my industry it has been received extremely well. It has become a cornerstone of recommendations we're now making within an action agenda for the Spatial Information Ministry, within Nick Minchin's department. It's a report that we've waited for for a long, long time, and I think the emphasis on the core responsibilities of agencies, and the impact that cost recovery has on particularly the services industries, those involved in emerging technologies and the knowledge industries, the impact is quite severe, particularly on their growth,

development and employment opportunities. So it's certainly very welcome, and I think the report does certainly cover most of the issues.

In my second submission, I've just suggested that we place greater weight on the issues of governance. I believe they should be highlighted in the key issues in the front of the paper, and perhaps in the third dot point, where it mentions policy, I think that should be governance and policy. A lot of what I have to say now really relates to issues of governance, and I think the breakdown in governance in most of these government agencies and the impact that that now has on their competition with private industry. I think the central issue to cost recovery by these government agencies, and I think particularly by universities, and why they're not specifically addressed in here - I think the universities are going down the same road as the government agencies, and there is an impact of governance, industry, development, growth and innovation.

There's certainly now an emerging culture in these government agencies that they own the data, they own the information and the knowledge, and this infrastructure then underpins their commercial activities, to support their cost recovery. Cost recovery and government information agencies particularly, and I will focus on the information agencies, because they're the ones I deal with most. My company accesses geophysical data, space data and airborne data. It underpins all of my R and D, and innovation, and export opportunities. Without this data, my company wouldn't exist, nor would companies like mine ever grow in this country.

I think the information agencies are now distorting this concept in the practice of good public service, or providing good public service. The partnership the government has with industry, in R and D, and innovation - government agencies are now forming cartels to maximise their access to public funds, and that they established for R and D. The National Heritage Trust Fund is one particular target for the public agencies. The Land and Water Resources audits and now the salinity program, 1.1 billion; most of that will go to public agencies. Of course, the list goes on.

This is a revolving door of public funds that is a key source of cost recovery for the information agencies and CSIRO, and I suspect most of that money that CSIRO recovers is actually public money. So it's only the multinationals that have the resources to participate with the R and D and the information agencies through the CRC program, because they have a high requirement for external funding and cost recovery. To give you an example, two weeks ago I was in Africa as part of an ACT government trade commission, basically to export techniques my company has developed in saw mapping, climate modelling, and vegetation mapping, which is in some respects world leading and certainly leading in Australia. But I was only told by many of those agencies in Africa that the following week, CSIRO were there with an American multinational to sell precisely the same services.

I think the principles of good governance, industry and innovation policies are being ignored by the information agencies in pursuit of their external funds. The government does have a very good industry policy put out in November of last year,

yet when I've approached a number of information agencies - for example, the Murray-Darling Basin Commission, just recently - they didn't even know it existed. They did respond by saying they would look at that industry policy and see if they can incorporate it within their strategies. So I think the information policy is not being sold to these agencies.

Public moneys within the information agencies are increasingly being expended on fundraising to reach their budget targets, and I believe this is a major hidden cost, commercialising the public R and D outcomes, rather than diffusing the R and D into supporting industry innovation, and of course they now form partnerships with the multinationals for innovation and export. I think this is to the detriment of Australian companies. I think cost recovery entices public servants and academics to take a free ride into the spin-off companies, on the back of public funds, particularly to provide seed funding for the capitalisation of the companies and their running costs. There are numerous examples I could give you of companies that have been set up in universities and other agencies that use public funds to support their operation.

Certainly the multinational companies are participating with CSIRO to support the agency's cost recovery objectives, but not because I believe of the scientific capacity of CSIRO, but because of its name, and they know that they can take CSIRO overseas, and the name sells. I think a good example of this is the current salinity mapping program. CSIRO and the BRS and AGSO have linked with a multinational through technology they've developed jointly. They have been able to entice funding. CSIRO has equity in this multinational, and obviously were interested in the commercial outcomes of that technology. Other technology that's available in Australia, and my company is one - our technology is being ignored. It's not part of the process at all, and I think what we're now seeing is that the government technology is being given a leg-up, along with the multinationals, and I think this is an outcome of cost recovery.

Now, the commission has asked for information on a number of areas, and I will now address those areas. You asked for the effects of cost recovery on agencies, and particularly for review and efficiency audits. In the context of review, I believe there's a need to test the application of the good governance principles in cost recovery for these agencies, which would include such things as industry participation; the rules of law which might cover competition policy; the transparency, particularly in the way that they currently use public good data and other information to support their own operations, but charge this out to industry. I think there are equity issues in terms of public access to goods and services that are being denied, but the cartels of government agencies who have access to public funds are using these goods and services at no cost to themselves.

I think there's a need, under the review, to look at the support for industry and innovation policies of government, such as putting business first. These are principles within the industry policy; that is, putting industry first, investing in Australian companies, supporting international competitiveness, regional and sustainable development. They would be a good test of the cost recovery activities.

In the efficiency audits, I believe that we need to examine the public cost of cost recovery. Undoubtedly, there are many public scientists now, sitting down right now filling out tenders and expressions of interest and spending a lot of their research time trying to capture money. That's time that is wastes, when they probably should be out in private companies, supporting R and D in private industry.

The agency uptake of best technology from industry I think is being ignored, and I gave you the example of salinity mapping technology, available in Australia, which is not being taken up because the government has got invested interest in other technology. I think this is a major risk - is that because of their conflicts of interest, they will ignore emerging technologies in Australia. There is obviously issues to do with compliance with the competitive neutrality policy, and we see many examples now where tenders from industry - and given that companies talk to each other, we generally know what the price is for a job. We see these jobs being won at a fraction of the price. We know that competitive neutrality is not being applied in many cases, and jobs are moving between the cartels of government agencies. There is no real test of competitive neutrality, and the tenders do not mention competitive neutrality requirements. The only agency I know that is actually specifying this is the Australian Greenhouse Gas Office, and AusLIG.

Also under the efficiency audit, I think the agencies' report to emerging technology and knowledge companies should be examined. I think this is where much of the innovation lies in this country, and these companies certainly need a leg-up. The cost of data or information and knowledge is certainly stifling their development, and I think retarding employment opportunities in these companies. On the issue of economic affects, I think the key effects of cost recovery activities on the industry are the lack of ready access to Australian coverage of resource data. This is particularly important to my company. I could develop technologies now that if I had access to a broad range of Australian data - we now have the technology to cover most of Australia, either through satellite or geophysical data. But because I can't access the total Australian data set, we can't develop that technology. We get little small parcels, at large cost. So we're only able to focus on very small areas. So therefore the regional view or the national view is not possible, and to develop those technologies.

The data is there. For example, the Australian Greenhouse Gas Office will very soon have full coverage of Australia of satellite data, over a number of different years. If that data was made available to companies who were capable of processing, which is probably about 60 to 80 companies in Australia, I think we would have an enormous rush of new, innovative products and services that we could use right across Australia, that would benefit local government, community groups, state government agencies and national policy developments. The government agency could do this right now, but because of cost recovery, it's not possible. The government fundraising cartels are capturing moneys for R and D, innovation, commercialisation and consultancy that might otherwise support R and D, innovation, commercialisation and export opportunities in private companies.

I think the revolving door of public funds is taking hundreds of millions of

dollars away from industry that would be better spent in industry. The diffusion of public good data information and knowledge is drying up as the information agencies protect their commercial base for cost recovery and external earnings from consultancy. We now see that these agencies are our major competitors in consultancy and the more money they access from the government the greater the bill their consultancy capacity and squeeze out small companies.

The cost recovery targets for the Bureau of Rural Science, AGSO, CSIRO and ABARE are stifling the development and growth of environmental resource management companies and the spatial information companies through unfair competition and lack of partnerships with industry. At this stage the Commonwealth government has action agendas for the environment industry and the spatial information industries and I know from being involved in both of these action agendas that the key issue for both of them access to data.

The R and D and information agencies have certainly lost their core business focus and it seems to be the non-core activities that they're pursuing. So is it any wonder that a recent report from Deloitte Touche and Tohmatsu survey of 96 CEOs of technology companies found that 88 per cent did not see a role for government in providing direct R and D in CSIRO. The public R and D agencies have lost their relevance and value to industry on the coat-tails of cost recovery and there are significant diminished confidence in CSIRO and other public agencies to support emerging technology and knowledge surface companies. I think there is clear evidence that private industry has lost this confidence in our R and D agencies and I would put this down directly to their cost recovery activities over the last 10 years.

In terms of the guidelines for cost recovery I believe this is absolutely essential and the attention that your report has drawn to this I think is very important. These guidelines certainly should use governance principles and I've attached to the extra notes some suggestions about the sorts of characteristics of government, but certainly there are issues to do with transparency, partnership, equity, rules of law, responsiveness, consensus orientation, efficiency and effectiveness, accountability and a strategic vision. There needs to be within the guidelines an adherence to industry and innovation policies of the government and I think this needs to be given greater attention in your report and I think if you were to draw on some of the policies - industry policy 2000 and the new innovation policies - you would start to see some of the alignment of cost recovery with these policies. I think the capacity to embrace regional development and sustainable development initiatives in partnership with industry, I think that is a major test for these agencies in the guidelines.

I just want to give you a few examples in closing. I've already mentioned national projects where government agencies are competing full-on with private industry in technology; salinity mapping technology is just one. I've already mentioned in Africa just recently CSIRO and government and multinationals are over there competing with companies like mine but geophysical data is a very important data set along with climate data and I believe the ABS data but in terms of geophysical data there are two states in Australia that provide their geophysical data

at no cost and that is the Northern Territory and Victoria. Over the last four years I've had the opportunity to speculate with that data, to process it, and now in the Northern Territory we're using that data to attract investment into there, into neim oil, sandalwood and mahogany. We're using this to support Aboriginal communities in that area. If that data hadn't been provided at no cost to me this investment would probably never have eventuated.

We're now attracting investment into viticulture in Victoria. In fact, at the end of this month I have major investors coming out from France and Lebanon who will bring in tens of millions of dollars into this country for investment into viticulture based on the results of work that I've undertaken in Victoria and to some extent in New South Wales, although I had to buy the data in New South Wales to do the work. I think that's a good example that if public data were available at no cost industry would do something with it. It would add value to it and it will attract investment.

Also in summary I think it's important to appreciate that when public data are available at no cost and industry can use it, there is an important feedback loop back into government about the errors in their data, about the usefulness of the data and this feedback loop would go right back to NASA in terms of their satellites and how they might use them but at the moment when NASA is in this country we're solely with CSIRO, not with industry. Industry are denied those opportunities and therefore that feedback loop and that process of continuous improvement is being diluted. I think in terms of the innovation and industry policy, if we provide data at no cost and improve the capability of our services companies in emerging technologies in the knowledge industries we'll have that opportunity to employ our new scientists. That's all I have.

MRS OWENS: Thank you very much, Mr Gourlay. I think you've raised a lot of really important issues and I think it would be worth working our way through those. There are issues that you've raised now that weren't in your submission and I'm pleased that you have done so and you have given us some good examples as we were requesting earlier before we started. I think I take your point about the governance issue and maybe highlighting that a bit more in our key messages and you've given us a page of characteristics of good governance in the material you tabled this morning so we will take that one on board. I think there is an issue relating to CSIRO and government agencies which you talked about which I don't think we picked up in our report and that is the possible incentive effect that you are suggesting occurs when you have cost recovery that provides incentives on agencies to move away from what you call their core business and to actually start competing with industry to get into commercialisation and so on, set up public companies, and then that turns it around so that they're reducing your access to the data that they may wish to use for their own activities.

MR GOURLAY: Yes, and you would only have to look at the participation rate of small companies in CRCs to see that the participation is dominated by multinationals.

MRS OWENS: But I think one of the questions I was going to ask you, what you really are inferring from that line of logic is that there are competitive neutrality concerns - you're not inferring it. You've actually mentioned it as well and there are mechanisms to bring that to the attention of government. There is a competitive neutrality complaints office for example. You haven't thought of going down that track?

MR GOURLAY: Yes, I have and I've had it recommended by the spatial information action agenda group. I've been reluctant to do it because I've been subject to considerable retribution by these government agencies already and to pursue that further I would only be subject to more retribution by them.

PROF SLOAN: What you're saying though - and I can say it and then you don't have to worry about it - is that there's a concern that the agencies develop an incentive to essentially hoard the data for their own purpose and to in effect establish cost barriers to others who are potential competitors.

MR GOURLAY: Yes.

PROF SLOAN: Even if they're not, just have that incentive toward it because that would improve the commercial value of it presumably.

MR GOURLAY: Yes, and I guess unless they have it exposed to industry, the less competition there is, the less innovation there is in industry. I think they are certainly protecting their own consultancy arrangements.

PROF SLOAN: There's just one point I wanted to clear up though with you. It's a technical point. There are the kind of issues about data being provided free but there's also data which is basically provided at very low sort of dissemination costs. I mean, presumably we're not arguing about that point. You're not going to get too worried about being charged - - -

MR GOURLAY: No, I think the point is any argument in industry, that we would have to pay for the cost of dissemination, that is, the cost to extract data, to put it onto CD-ROM, although I believe if government agencies were to set up their dissemination arrangements properly they would have that information readily available for downloading either via the Internet or have it readily available onto CD-ROM as we already see in the Northern Territory and the Victorian government and they send it out as a matter of course.

PROF SLOAN: It's just important we know what - you're really objecting to the fact that they're really attempting to recoup kind of a portion of fully distributed costs including the cost of running the agency, selecting the data and stuff. That's compared with just, you know, the low cost option of making dissemination - - -

MR GOURLAY: Yes.

DR STEWARDSON: Do they give you any rationale for arriving at a particular

charge once it has gone beyond just simply the cost of doing the dissemination?

MR GOURLAY: I have inquired about this. I haven't been given any rationale for their costings and when I compare their costs with other agencies, for example the cost of AGSO data is significantly higher than the state agencies but then you also have differences between the states. For example, the cost of cadastral data or property boundary data in New South Wales is exceedingly higher than every other state and I'm not sure that they understand the implications of that in terms of regional development or sustainable development in New South Wales.

PROF SLOAN: They are actually looking at that at the moment. I mean, they are worried about it.

MR GOURLAY: But, no, we haven't been given any rationale. They just tell us that the government expects them to recover the costs and they have set a price based on recovering that cost of the number of sales by the cost of collecting the data.

MRS OWENS: There's a number of reasons why the costs may be higher. It may be that they are lumping, as Judith said, as much as they can into the price that they're charging. It may be that they are less efficient in the way they collect the data so that their costs are inherently higher or maybe their collections are over a much wider area than the states. Maybe they're doing something that's more complex than the states. I don't know the answer.

MR GOURLAY: Many of the agencies are significantly overstaffed and I think if they stuck to their core activity into some efficiencies in data collection they could probably lower their costs significantly, there's no doubt about that, but certainly the cost of ABS data, it is so expensive that we just have stopped using it now for economic and social work although we could incorporate that within our environmental studies but it is just far too costly and a lot of the census data is presented in a spatial format. It would be of enormous use for us to integrate that with biophysical data but it really is too costly for our clients to afford and with licence restrictions which stop - the licence restriction is another impediment because often once you buy the data you can only use it for one project and you can't use it for another project.

DR STEWARDSON: When you talk about for example the ABS data, is your request to them for data which is already just to pass across to you or are you asking them to do some considerable restructuring of the data?

MR GOURLAY: No, my company only ever works with raw data. In fact, I would prefer to get the raw data from the census but they won't do that for privacy reasons. Essentially we require raw data. What we would be doing would be to add value to it, to extract other intelligence, to carry out other inquiries or analysis or to integrate it with biophysical information so we can look at relationships say between social and demographic data with biophysical information. So we're always in a role of adding value. We're not there to on-sell data. I mean, there is no value in on-selling data.

PROF SLOAN: Have any of these agencies ever sought some compromise with you? I mean, perhaps low fee but plus royalty. Is that a possibility?

MR GOURLAY: Yes, there are at times compromises. I've found by approaching the right minister in the New South Wales government for example, the minister for state and regional development, often I can get data at no cost where I'm demonstrating that I'm adding value to a regional development group. So often there are compromises. AusLIG have compromised at times to give me data where we're carrying out research and development particularly. So I should say that there are compromises from time to time and they do see the value of providing the data at no cost but I believe most of them feel hamstrung by government policy and cost recovery and I'm sure that AGSO would probably give its data away if it didn't have to recover its cost. Actually, when you speak to the individuals involved in these government agencies most of them do not support cost recovery.

MRS OWENS: We talked to AGSO I think last time here in Canberra and I think that was the impression that we got at that stage.

MR GOURLAY: It's certainly the impression I have got from talking to the staff.

MRS OWENS: Yes. I think what we have been trying to do in our guidelines is get the agencies thinking about what we have called their core activities which we have said would be free and their non-core activities. Now, the agencies themselves don't like that terminology because they see everything we're doing is core and we don't want to give everything away, but there is a general principle we have been trying to establish that there are certain things that should be free and that includes a lot of the material that could go on to the Web at very little incremental costs anyway.

MR GOURLAY: We would have to ask whether consultancy is a core activity for AGSO, Bureau of Rural Science, CSIRO. This is just straight consultancy. These are services that can be provided now by industry. They're not core activities as I would see it.

MRS OWENS: I think those sorts of factors would come to light. We have also been suggesting that all the existing cost recovery arrangements be reviewed and that review would require going back to asking some pretty fundamental questions like, "What is the business you're in? Why are you cost recovering? What's the underlying rationale?" - and it would be asking some fairly fundamental questions. We have been talking about developing these things called cost recovery impact statements where that should, I think, establish some principles and it should extract information I think from the agencies as to what they're doing and why. I mean, if that process is to work successfully all these problems should come to light.

MR GOURLAY: I think the impact statements would also extract a lot of information from industry as to what the impact is.

MRS OWENS: That's one thing we haven't really, I think, highlighted sufficiently in our report at this stage, is that we think - we have been talking to people who say, "You really need to include a consultation process as part of that. When those impact statements are being done we need to factor in consulting with the users of the data."

MR GOURLAY: I'll give you an example. I approached the head of land and water division of CSIRO last year on this matter and he indicated that he had no formal process of consultation with the industry. Now, this is a land and water R and D division that has no consultation whatsoever with the environmental or land and water consulting companies or with the Spatial Information Ministry. It has no formal process. It does not even understand the innovation process. So it would really have no idea about the impact of its cost recovery on industry. I think there is a need for formal processes. So if they are engaged in cost recovery I believe they should have formal processes of consultation with the industry to assess, not only the impact, but also look for opportunity for partnership and the general principles of governments to test them through that contact with industry.

PROF SLOAN: I mean, you're making a slightly more sophisticated point in the sense that when you think of cost recovery you think of them recovering costs which occurred at point A and continue into point B and then they start to recover some of the costs. I mean, what you're really saying is that it's skewing the kind of activity that these agencies undertake so in fact B looks quite different from A.

MR GOURLAY: It's taking an entirely new path.

PROF SLOAN: Of course, I mean, in that context our recommendation that, you know, cost recovery targets sort of like the 30 per cent for CSIRO are most inappropriate because that presumably - I mean, what you're saying is it's not that that just drives cost recovery activity per se. It actually skews the type of activity they can undertake.

MR GOURLAY: It sends them off in an entirely different business pathway and it has been - - -

PROF SLOAN: Yes, so they become consultants rather than basic scientists.

MR GOURLAY: Yes. That's why CSIRO were with a multinational in Africa last week - pure consulting.

MRS OWENS: Did they win that particular contract?

MR GOURLAY: I don't know.

DR STEWARDSON: Is it always obvious where the line is as between in our terminology the core business of these information agencies, and what you're calling the consulting, and in the case, for example, of the ABS I think I can see the distinction by analogy, although I understand less about it, I think I can see the

AGSO case, but ABARE and CSIRO may just simply be my ignorance, particularly in respect of CSIRO's area of work, but is it always obvious to people who do know where the line should be drawn in their cases as between the research and the consultancy? I would have thought there could well have been some blurred issue that the research was in fact at least in some details areas only really able to be properly done in conjunction with some real life situation?

MR GOURLAY: Undoubtedly opportunities will arise for CSIRO and others where they were contracted perhaps by industry or others to carry out certain work but I believe that work should be open to tender and I believe there is a lot of work been undertaken which is really arrangements between government agencies which converts to consulting work but is not subject to open tender. It's not subject to competitive neutrality. There are partnerships not only between government agencies but also with multinationals. I have already mentioned, the multinationals are not there because of the science. They're there because of the name really.

PROF SLOAN: The name is connected with science.

MR GOURLAY: That's right but - - -

PROF SLOAN: Maybe from the past but - - -

MR GOURLAY: But I guess with - in the action agendas I have been involved in I think we do see a very clear distinction. We see that CSIRO and the R and D agencies are there to provide R and D outcomes as inputs to our innovation process. Innovation is about the transformation of ideas into commercial outcomes. That's what innovation is. If those inputs are not being provided, as we might expect, industry will go off and do its own R and D which is what's happening. This is why 96 per cent of these CEOs say, "The public agency is really of no relevance to us any more because they've forced us to go and do our own R and D and factor that into our own innovation process." Fortunately there is more and more money available from the government these days to underpin innovation and R and D but, I mean, they're the things that are odd. I mean, on one hand we're setting up CSIRO and asking for cost recovery and then giving money at the industry for R and D and the innovation. The two never really meet at all. So there would be opportunities for partnerships and perhaps consultancy from CSIRO into industry which could be paid for by industry but when CSIRO is competing with you in the marketplace you are very reluctant to engage a CSIRO or someone like that when they're competing with you.

MRS OWENS: I was interested in your point about churning. I'm not sure I kind of fully understood that; that in fact quite a lot of the cost recovery activities undertaken by agencies are in fact accessing other public moneys that are swirling around for particular reasons and you mentioned the National - - -

MR GOURLAY: Precisely. The National Heritage Trust Fund. I think if you were to examine that you would find a significant amount of that supports bureaucracy and it's getting less but some 10 years ago a report showed that for Land

Care, 80 per cent of that money for Land Care was going into bureaucracy. The National Land and Water Resources audit is another one. You will find that most of that money has gone to public agencies when most of the work for that audit, particularly the mapping work, could have been done by private industry. So they form consortia. They form consortia to buy data to pool their resources and use it amongst themselves. These are things that we really can't engage in in industry but they can do it in government and I think more and more we're seeing cartels being formed in government to use public funds and to put submissions to cabinet for funding.

I think the national salinity funding is an example where they can work out a proposal, take it to the cabinet, and get the money, and they have got a strategy basically to share the money amongst themselves. I think there are many national projects like that. Those national projects really need to be examined to provide opportunities to industry.

MRS OWENS: You mentioned to me that you have had some experience with information agencies overseas. I think you mentioned the United States and the fact that they have a different policy, don't they?

MR GOURLAY: Yes. In fact, in my recent trip to Africa I found that they were prepared to give me their climate data, their geophysical data, at very low cost. The only requirement is I work in partnership with companies in Africa, but the costs are very low in Africa for data. They have a very good public policy on the cost of data. Of course, America - at the moment it's cheaper for me to work out where to put vineyards in California than in New South Wales. In fact, I have done this for a consultant who is - for investors looking at new vineyards in the Napa Valley. I pulled the climate data and biophysical data down from the Internet for California, processed the data, and sent it off to my client.

MRS OWENS: We're hearing that about a lot of US data, aren't we, that's available on the Web. Yes, it seems to be quite a common policy in the States particularly. I was just going to come back to this paper you just tabled earlier today and ask you - you talked about this. You talked about efficiency audits and gave us ideas about the sorts of things such audits could cover. What I see in those points, you have examined the public costs of cost recovery and looked at agency compliance with competitive neutrality and so on. They are all I think issues that should be picked up in the context of a broad and more fundamental review of the existing arrangements. We had been toying with the idea of having more micro, if you like, efficiency audits looking at the incentive of the cost recovery arrangements inefficiency of the actual agencies themselves, whereas this is a bigger picture work if you like.

MR GOURLAY: Yes. I think it has to start with government policy on industry, on innovation, science capability. It's really at the core. Most of this cost recovery - I think the greatest impact really is in the area of science in Australia and building our knowledge. There are obviously other impacts but I think this is where the major ones are and I think this is certainly detrimental so we need to go back to some of these overarching policies and see whether they are being implemented and where

they clash with cost recovery, because there are other countries who are really getting a lead on us now. In the area of remote sensing, countries such as Singapore and others are getting such a major lead now in Australia, whereas we were leaders.

Scientists from these Asian countries would come into Australia 10 years ago and just absorb all the information. They are now coming here and leading because they have got access to data far more readily out of Singapore. They're doing work in China and so forth and we're really losing the edge in our area of science and I think underpinning this is just our poor relationships we have with public agencies in terms of R and D, lack of support for export by these agencies, and of course the cost of data.

MRS OWENS: So it's not just data. What you're saying really is a range of factors that all come together in a negative way.

MR GOURLAY: Yes.

MRS OWENS: It's a matter of pinpointing what contribution the cost recovery element has in that, so there is a bigger picture here, isn't there?

MR GOURLAY: Yes. Well, I've spoken to many of my colleagues on the spatial information action agenda and the environmental action agenda, and we believe at the core of it all is the cost to access data, information and knowledge, and because of that, the lack of partnering and the synergies that come from that.

MRS OWENS: There's almost a case for a different sort of inquiry, to really revisit some of the work we did a number of years ago when we were the Industry Commission, and we looked at R and D in Australia, and we picked up some of these issues but I think it was earlier days then. I think things have moved on since 1993-94, and - - -

MR GOURLAY: Well, it's almost a case for a royal commission, I think, into some of the failures of our government agencies and the impact that's having on the industry. I think we are at a critical point. When I go back to the CEOs, I mean, why are so many of them, such a high level, saying that they've lost confidence in their public R and D strategies? We are, I think, at a crisis point, and we need to change this around very quickly. That's why I say that people in my industry would see this report as probably the most important report that has come out that would impact on our industry in the next 10 to 15 years.

MRS OWENS: Well, I think what we will do is take a number of your suggestions on board and we'll discuss them among ourselves. I think what you've done is given us a number of examples which I think will enrich our report, and I think another line of thinking about the impact on agencies which we really hadn't embraced before. If we did, it was not probably done in any great depth. So I'd like to thank you very much. Did you have any questions?

PROF SLOAN: No.

MRS OWENS: So thank you very much for coming once again, and we'll now just break for a minute.

MR GOURLAY: Thanks.

MRS OWENS: The next participant this morning is Insight EFM Pty Ltd. Good morning. Could you please give your name and your position with Insight for the transcript.

MR BARNES: My name is Chris Barnes. I'm a director of Insight EFM Pty Ltd. We're a small consultant in the fields of economics, micro-economics and financial management. My personal background is that I have worked in cost recovery in departmental, statutory authority and GB environments, both here in Australia and overseas. I was reading the recent submissions to this inquiry on your Web site last night and primarily the non-public sector submissions and it brought home to me the memories of working in cost recovery and consultations with industry where you get all of the misunderstandings, fears, prejudices, ideology and self-interest that seem to dominate over common sense in terms of what's being done. That certainly features quite strongly in a number of the submissions and I wish you well in trying to distil some common sense out of the voluminous amount of information that you've been provided with on this inquiry.

MRS OWENS: Thank you.

MR BARNES: I have no particular axe to grind, unlike many of the industry representatives or public sector organisations. While I've implemented cost recovery in a number of instances, I've also stopped it happening in a couple of cases because it was inappropriate or because there were legal problems with the way in which the decisions had been taken to have applied. My view is that cost recovery is simply appropriate in some cases and not others. Cost recovery is a well established feature of the public sector in some portfolios and in the last dozen or so years it has spread more widely to a number of other areas of the Commonwealth public sector where it previously wasn't apparent.

Nevertheless, I feel that as an issue it's not well understood. It may not have been implemented consistently. In particular the legal requirements within which cost recovery must be applied, I don't think have been properly understood and observed in all cases and that's something where I think the public sector would benefit from a much clearer understanding of what they can and can't do in terms of the constitutional requirements there. I think that justification for cost recovery is also not well understood by the subjects of cost recovery and I think that's an area that I'd like to say a few things on in terms of when governments are going to cost recover there will always be opposition to it. As I mentioned in my submission, you very definitely don't get a situation where the industry concerned says, "Okay, fine, how much do you want?" They're always going to oppose cost recovery on principle.

I've come across a number of instances where cost recovery has been opposed not for valid reasons but for other sorts of reasons. I remember one instance where we were working on cost recovery and we were consulting with industry on a particular approach, and one of the major industry representative organisations strongly opposed it in a formal way, but informally the members of that delegation came to us and said, "Look, we don't really have a problem with what you're doing,"

because the reality was that their overseas associates were taking a different line in Europe on cost recovery because they were in entirely different circumstances that didn't apply here, and that being a multinational they didn't want to be seen to be supporting something in Australia that they were opposing in Europe for other reasons, so it was more of a political opposition.

I've also had instances where the industry has vigorously attacked the organisation for being woefully inefficient in public and then come to us privately and said they didn't have a problem with what we were doing. The issue there was that they wanted to demonstrate to their own constituency that they strongly opposed what we were doing and told us what they thought of us and that sort of thing, when in fact privately they recognised that what we were doing was reasonable.

DR STEWARDSON: It's a good thing that sort of thing never happens in the public sector, isn't it?

MR BARNES: Yes. The body of the draft report identifies most of the main relevant issues and I suppose the challenge is to pull that altogether into a logically sound and practical set of guidelines and recommendations, and to try and assist that aim I have provided some brief comments. There were a lot of things I could have said but I confined myself to what I believe to be the major issues identified in the report and I'd be quite happy to discuss any of those if you have any particular questions, thank you.

MRS OWENS: Good, thank you. Thank you for the submissions you've sent us too in recent days. We might cover both. I'd also like to thank you for coming to our workshop because I think your contribution there was extremely useful for us. Maybe we might start with the more recent submission that you sent - I think it was the more recent one.

MR BARNES: The one-page guide.

MRS OWENS: Yes, that was the more recent one. You've given us some brief guidelines for implement of cost recovery and before we start I said it's often more useful to have something in one page than 100 or 200 pages because it summarises quite a lot of what we've been thinking very well. I asked you just before we started how you felt that your brief guidelines fitted into what we have been suggesting our guidelines would look like in chapter 9, and in particular our proposal to absorb our guidelines into a cost recovery impact statement in terms of implementation.

MR BARNES: I think it's worth having a cost recovery impact statement as part of the process and I would see that in terms of the one-page guide as being part of the implementation process that that would be something that would be prepared in the light of feasibility studies and consultation with the industry concerned. You'd come up with a final recommendation of which direction cost recovery should take and that would be the appropriate time at which to prepare a cost recovery impact statement. I think one of the issues of cost recovery is that it has been somewhat arbitrarily applied perhaps without having undertaken a proper feasibility study of exactly what

is the nature of the organisation that is to be the subject of cost recovery; what do they do; how does that fit in with the legal framework within cost recovery must be applied.

MRS OWENS: You've inserted into your list of guidelines, number 7, "To consult with the intended payees, usually industry representative association." If you were reviewing a cost recovery arrangement would you consult early or later or when you've got a proposal? How would you undertake the consultation?

MR BARNES: In my experience in consultation - and I've been in situations where I've been physically prodded in the chest - I've been abused over the phone, I've had long and esoteric theoretical arguments with people about the pros and cons of it. I suppose the bottom line of all that experience is that when you're dealing with industries in particular you really need to go to them with a concrete proposal with actual numbers and impacts on them. I've been in situations where we've discussed in theoretical terms what we intended to do with industry and they would always be very guarded because they didn't know what the bottom line was, "What's the impact on us?" because at the end of the day they're quite rightly driven by self-interest.

I think that effective consultation really needs to be based on a fairly well developed proposal that has fairly clearly defined consequences for the intended payees of the arrangement.

PROF SLOAN: They would of course then interpret that as a *fait accompli*. So if you don't actually engage in some consultation early in the process it seems a bit pointless.

MR BARNES: No, I wouldn't go that far because - - -

PROF SLOAN: Because the decision has been reached to impose cost recovery.

MR BARNES: That's a political decision generally made by governments in my view, quite rightly. I don't think it's something that individuals or public servants or executives of statutory authorities need necessarily make as such.

PROF SLOAN: I'm not sure we'd agree with that. I would also take issue with you about your description of our submissions by what you might regard as the user groups. I don't actually think they're poor quality at all and in fact when they have come to us I think they have showed considerable maturity. I think the notion that, "Well, they would say that," is not fair to them. In fact a lot of them have adopted quite sophisticated approaches and are happy to pay, given a certain circumstance, given certain qualifications. I think it's way too easy to dismiss it as, "Oh, they would say that."

MR BARNES: That's not my position.

PROF SLOAN: Presumably the previous participant, you'd say, "Well, he would say that."

MR BARNES: No, that's not my position. I didn't say that. I said there were features of self-interest, ideology, prejudice and misunderstanding in some of the submissions that I read. I certainly didn't categorise all submissions of being of that nature. I thought some of the submissions were quite good and that there were many valid points raised. It's just that in other cases I think it's quite natural that some people will express their own particular prejudices or self-interest.

PROF SLOAN: That's similarly true of the agencies themselves.

MR BARNES: Exactly, yes, I agree entirely. I'm just saying I don't have any particular axe to grind one way or the other. But I think there are misunderstandings in some cases.

MRS OWENS: I've actually been reasonably, pleasantly surprised with some of the submissions that have come in and our discussions with people when we have asked them about cost recovery and they have, as Judith said, "We are quite happy to pay something because if it means we get a better service, that's fine. What we are concerned about is we want to ensure that the agencies are working as efficiently as possible and that we're charged for the appropriate cost. We don't believe that all the costs should be lumped onto us." So their concerns have been more about how the cost recovery has been implemented and efficiency, than about cost recovery per se.

MR BARNES: I believe I said that in my submission. At the end of the day, cost recovery will be reluctantly accepted but their main interest is making sure that it's fairly and equitably applied and that there isn't a major cross-subsidy in the scheme that's being used.

PROF SLOAN: The truth is just because user groups protest in strong terms doesn't necessarily tell you what the right answer is. It may be that no cost recovery is the right answer.

MR BARNES: Of course. As I've said, I've had decisions on cost recovery overturned because they were the wrong approach, they were inappropriate for the circumstances and it became quite apparent from the reactions of the industry concerned that there was a lot of cases where that is appropriate. I just wanted to answer one question that Prof Sloan raised and that is, "Are you presenting them with a fait accompli?" and I would say the answer is very definitely no, because I'm aware of some instances where - I know there was one cost recovery proposal in New Zealand a few years ago where the industry concerned said, for example, "Look, what you've come up with is theoretically wonderful. Justifications are terrific in theory; in practice it's a highly complex, administratively very difficult system to apply. Could you please go back and try again," and they did.

They came back later on with a much simplified approach with the industry said, "Okay, we accept that." I've certainly been in situations where the consultation has been genuine in terms of the approach to be taken for cost recovery. If you're working on a decision where cost recovery is to be applied and the industry is

obviously not going to willingly accept that but they reluctantly accept that and you come up with an approach which is fair, reasonable and equitable, that is the result of back and forth consultations and changes made where there's a reasonable request.

MRS OWENS: I think how you approach consultation, it's really going to depend on whether you're reviewing an existing cost recovery arrangement or it's something totally new. I'd like to just pass this one by you but I think if, as we're suggesting, the existing cost recovery arrangements all be reviewed within the next five years that industry should have an opportunity early on to be able to express their concerns with the current arrangements that they are living with so that the people doing this review can understand what the problems are early on, so not just come back to them later and say, "We've gone through this process and this is where we've got to." Do you think that's a reasonable approach?

MR BARNES: Yes, entirely.

DR STEWARDSON: I wanted to ask you about two things you've raised in your submissions which I think would be helpful to have your views on, or a little bit further elaborate. One is this business of the legality which you put a question mark against of a fee for service where it's recovering significantly less than 100 per cent of the cost of that service, say a 50 per cent recovery, and your diagram suggests that that could be problematic. We used the term in our definitions that the charge must be - for a fee for service - the charge must be, amongst other things, proportionate to the cost of the service rendered, and I'm advised that in fact that word "proportionate" is our word, and that it's attempting to summarise a phrase in *Air Caledonie International v Commonwealth*, which used the phrase "discernible relationship", which said that for the thing to be a fee for service, there had to be a "discernible relationship" between the fee and the value of what's acquired by way of a service.

Now, "discernible relationship" could be less than 100 per cent presumably, although it might in context mean something nearer to 100 per cent. I was just wondering if you could expand on your concern about - or at least you're putting a question mark against the partial recovery, particularly - you presumably thought about that "discernible relationship" phrase.

MR BARNES: Yes. The basis of my concern there is that if I recall correctly - it's quite a while since I read the judgment, and I'm not a lawyer so I'm not getting a legal opinion, but the area in which I would seek legal advice is that one of the High Court justices said that a problem in the *Air Caledonie* case was that the target was a sum of money, not a recovery of costs as such, and there was no clear knowledge of what costs were. I think it was probably likely in that circumstance that the amount being recovered was below full cost, but because nobody knew exactly what full cost was, and the target wasn't recovery of costs, it was simply a percentage or a sum of money, so many million dollars of revenue to be sought, then I think that was the area that gave me some concerns about a circumstance in which less than full costs could be recovered, yet it could still be legally doubtful as to the validity of the approach, simply because costs were unknown.

DR STEWARDSON: If costs were known, and one were consciously making a charge, a fee of 50 per cent of costs, would you have the same concern?

MR BARNES: Probably not. When I was responsible for cost recovery in the aviation sector, there was a 10-year phase-in of cost recovery for regulatory services under the aviation safety regulatory regime. That was a deliberate phase-in of full cost recovery, phase-out of a subsidy, in effect, because the sum of money - the cost of safety regulation didn't change, it was just that the proportion of that recovered from the industry increased over time, and the amount paid by the government to the authority for doing that role was reduced accordingly. That was more of an explicit subsidy arrangement, rather than one where the actual costs were unknown.

DR STEWARDSON: And that was acceptable as a fee for service?

MR BARNES: Well, I believe so. I don't - that has never been specifically challenged. So it's more - - -

DR STEWARDSON: The bit that's worrying you or causing you to put this question mark is more the unknownness of the costs, and perhaps, although you haven't said it, am I right in saying that it's the fear therefore that if costs were unknown, the fee could be exceeding the cost, for all we know. Is that where your concern arises from?

MR BARNES: Partly, partly. There's also a situation where in the *Airservices Australia v Monarch Airlines* case of 1999, where Dr Fitzgerald gave evidence that Ramsey pricing was acceptable, because as long as marginal cost was being recovered, then there was no cross-subsidy. That appeared to be accepted by the High Court. I might have argued it a different way, but that's the way it came out. But there may be cases where the amount being recovered is less than marginal cost, and that would possibly amount to a cross-subsidy or it might amount to some other possible problem. I'm just saying it's a grey area, that's all. I'm not saying it can't be done. I'm just saying it's a grey area which hasn't been explored properly.

DR STEWARDSON: No, I just wanted to clarify the cause of your concern. The second point I wanted to raise is the matter that you talk about under the subheading *Who Should Pay*, and particularly you talk about the fact that we identify in the report beneficiary approach and the regulated - the beneficiary pays approach and the regulated pays approach, under the regulatory agency situation. You suggest that this debate can be clarified by considerations of equity. I was wondering two things.

First of all, can you elaborate a little on what you have in mind there, and secondly, in the discussion that you do have in your paper about it, one of your dot points is that you say, "If the concept of regulators existing to protect the consumer/community is accepted, then seeking to recover costs from the regulated becomes very compelling." I'm wondering why in that context, saying that seeking to recover costs from the regulated becomes very compelling, why in that context you lump the consumer and the community together, because I would have thought

that if the object of the legislation is to protect the community, we're probably talking about an externality, a negative spillover, and that there was a case there for dealing - addressing the cost of the regulated to the firm; but if one's looking at a consumer, that it's more a different situation, that the consumer might be the beneficiary. So I just wondered why you were lumping consumer/community together in that context.

MR BARNES: I made - when I attended the workshop three or four weeks ago here in Canberra, I raised the point that I felt that the term "beneficiary" was used in the draft inquiry, but perhaps it could be a little better defined as to exactly what that - where we're talking about the community at large, where we talk about the users of the industry concerned. I made the point that in a couple of instances I'm aware of, that the regulated are in fact beneficiaries to some extent. I'm certainly aware of - in the maritime safety regulation area, some shipping lines want to be inspected for safety, because when they get a clean sheet with no deficiencies found, they use that as a marketing tool.

PROF SLOAN: But that's a different point.

MR BARNES: Yes.

PROF SLOAN: I mean, you make that point over the page. I mean, to me that's kind of the classic, "This is the Mount Everest explanation of cost recovery." The industry exists, the government has decided to regulate it, so the industry pays. I mean, I think we're actually completely rejecting that.

MR BARNES: Yes, and I think - - -

PROF SLOAN: You're saying, you know - there must be more sophisticated thinking than that.

MR BARNES: I'd have to ask you to reconsider that, because when I was in charge of aviation safety regulatory cost recovery, it was put to me that the average couple in the suburbs should be happy for their taxes to be used to pay for aviation cost recovery, because it might mean that a plane doesn't fall on them from the sky. Well, I'm sorry, but as a taxpayer from the suburbs, that threat wouldn't even arise if that person didn't want to fly that plane for commercial or other reasons. So I think that the person flying the plane is the one who should pay.

PROF SLOAN: But then the taxpayers - for example, paying the ANZFA costs. I mean, why then shouldn't the food industry be paying that.

MR BARNES: Okay. I've also - - -

PROF SLOAN: And the Industrial Relations Commission, that's paid for by the tax. So it's all over the place.

MR BARNES: No, I know. One of the points - - -

PROF SLOAN: Our taxes are used for all sorts of reasons.

MR BARNES: No, one of the points I wanted to make was at the end of the day, no matter how elegant the theory might be, the practical application of cost recovery has to be based on the circumstances of the industry concerned. I have worked on food standards cost recovery, and that was one of the areas where I had it stopped, and the reason simply is that the amount of money was so small, the size of the industry was so large, the beneficiaries in terms of - if you wanted to go that far, the people who would ultimately pay the cost, whether they were directly charged or whether they were charged via the industry, is essentially the population at large. We all eat food. It was simply administratively impractical and unreasonable to recover the cost of food standards in that case.

In the case of say the aviation industry, even the users of the industry in terms of the flying passengers - I think there was one study done in the late 80s in the May report where they said that something like 2 or 3 per cent of the population flew with any regularity. That's a completely different circumstance. I think that you need to pay quite a lot of regard to the practicality of what's being done, and I know that might cut across the elegant, theoretical approaches, but at the end of the day, you have to have a workable system that does that.

MRS OWENS: I think we recognise that in our guidelines. We've said, "Is it cost effective to do this?"

PROF SLOAN: But it would have to also meet, you know, a sound theoretical reason for imposing cost recovery.

MR BARNES: Of course.

PROF SLOAN: And then the issues of practicality come later.

MR BARNES: Yes, and the problem with food standards, which is the one you raised, was that there was so many free riders out of it. There was - I think there was one instance that I was aware of when I worked on it where a patented product was covered by a food standard, and therefore all the benefits went to the patent holders. In virtually every other case, there was no such clear association. If you wanted to cost recover food standards, then the approach would be to apply some sort of levy on the food industry, but because there's such a huge number of participants and the amount of money to be recovered was so small - about \$8 million - it just became administratively unworkable.

MRS OWENS: But I still don't know if we've covered Robin's point, which was - I think your point here relating to the regulators existing to protect consumers or the community, then the regulator pay - you're actually talking about our regulated pay. We've got a recommendation that says if there's negative spillovers - if there's spillovers, that the regulated could be seen to be responsible and therefore pay in those circumstances, but I think what Robin was saying was that was really to protect the community rather than the individual consumer, and you've added in consumer.

We're just sort of wondering what the argument is there.

MR BARNES: Well, no, I've put consumer/community simply because of what I saw was a little too broad a definition of beneficiary in the report, that was all.

MRS OWENS: But this was really not us - we basically split it into two. We talked about beneficiary pays under certain circumstances, if you could have a defined beneficiary, or in some cases, if the primary purpose of the regulation was to stop negative spillovers or to reduce negative spillovers, then we said the regulated should pay.

MR BARNES: Well, I suppose I was thinking along the lines that if you take aviation safety, for example, you're protecting the passengers sitting in the plane but you might also be protecting the people on the ground who get killed when the plane crashes. In that instance, there is a community being protected as well as the beneficiaries in terms of the passengers. In other industries that may or may not be the case. In the case of medicines, for example, it's presumably the person who's taking the medicine who's at risk and not anybody else.

MRS OWENS: Well, there might be some instances where others are at risk as well, but I think the aviation one is a good example of where it can go both ways, and it's really saying what is the main purpose of this particular regulation. It's probably to - the primary purpose would probably be protecting the people in the plane even though you've got the other benefits as well.

MR BARNES: Yes, of course, yes.

DR STEWARDSON: I think we were making or trying to make a distinction that the passenger in the plane, the consumer, is getting a benefit, namely being able to travel by air from A to B, and there is a risk and the passenger as consumer is benefiting from having the risk reduced while still consuming the benefit of the service, whereas the dweller in the house onto which the plane is going to crash, is not a consumer, is not really getting any significant benefit at all, and that possible risk to that person is a different sort of thing in that it's an externality, and that was the distinction that we were trying to make, I think, between those cases.

But perhaps I could just ask the question a little more generally. I mean, you started this section by saying that this debate could be clarified by considerations of equity as between whether the beneficiary should pay or the regulated should pay, and I wondered whether you had anything else to say on that.

MR BARNES: Well, as I tried to cover in the submission, that the risk only arises because of the activities of the industry, and therefore I think there's a strong argument along the lines of the polluter pays concept, that the industry should therefore, as the regulated, in your terminology, should be the ones who are the subjects of cost recovery. I would also add that it's often administratively much simpler to do it that way anyway, and at the end of the day, the users of the products of industries bear the cost which are passed on.

PROF SLOAN: But you could hardly call a safe airline a polluter. It just seems to me you're saying the industry says there's a decision to regulate it, therefore they pay. It just goes around in a circle. You're not - - -

MRS OWENS: It's actually not what you've got in here.

PROF SLOAN: Government wants the industry to exist.

MRS OWENS: You've actually said:

If a service is being provided to an individual then why should anyone but that individual who by definition is receiving something of actual potential economic benefit pay the cost.

That's not the industry, that can be the user.

MR BARNES: My main submission takes some effort to draw the distinction between services to individuals and other regulatory activities, such as the setting of standards and monitoring of compliance standards. So you need to bear that distinction in mind and once you do that then both of those are consistent. They're not contrary to one another.

MRS OWENS: What about this argument you've got here about:

Cost recovery should not be applied where the industry concerned is immature.

MR BARNES: I think there may be instances, just in reading your report, there might be some relatively new industries - say, the gene technology regulation, for example. I'm just saying in theory it's possible that the regulatory cost may initially be quite high compared to the size of the industry, and the industry simply couldn't afford to pay. It's only when industries reach a certain critical mass that they become able to afford cost recovery. If you go back, drawing on my experience, in the aviation industry, there were certainly times during the development of that industry in the early days where it simply wasn't probably able to afford the cost of the facilities, services and regulation that were in place for it.

As part of the development process, governments need to bear these costs up to a point, but at some stage, which is probably a bit difficult to define, you need to go ahead and take the step and say, "The industry is now more mature and should be able to afford these costs." I think that's related to the comment I made about the fact that the report certainly relays a lot of opinions expressed by many people, some of which have a lot of merit and others perhaps less merit. I was saying that it would have been good to try and inject some objectivity into the analysis by saying, "What is the cost of regulation versus the size of the various industries?" because that might at least give some sort of starting point to say, "How affordable are these things? How significant would it be in terms of the cost structure of the industry if these

costs were to be recovered?" So I'm just suggesting that as an avenue that might be worth pursuing for you.

PROF SLOAN: One of the issues that generated quite a lot of heat is a quite micro issue. I'd just like your opinion on it because we've had quite a lot of participants from the therapeutic goods industry. You do cover the point about seeking your return on funds employed. The TGA has a building and a lab here in Canberra and I presume what's happened in the past is the taxpayer has paid for that to be built and they have amortised the costs presumably across its life and because they've got 100 per cent cost recovery, that's part of the fees that the participants pay. The government has now decided to sell the building and in order to maximise the sale price of the building they have decided to up the rents I think by about 160 per cent and therefore all the fees that the - the participants in the therapeutic goods industry are facing very considerable increases.

That doesn't seem to be consistent with what you're saying, because you're saying at the point in time a facility is built there's a choice between equity, ie, the taxpayer funds it, or debt, and that there will be costs either way. It seems to me to be changing course midstream, which they're doing, by essentially - I mean, if it had been entirely funded by debt then presumably the costs of servicing would be part of the fees. Now, they're involved in kind of changing the rules midstream.

MR BARNES: I essentially agree with you in that I would have thought the neutral way to go would be to simply say, "What's the market value and rent of that property?" - under the circumstances. Any organisation that occupies premises has a choice between renting or building their own and a lease fee for property reflects many things, including depreciation and a return on the funds employed. If what you're saying is that the rent might have been artificially inflated to trigger a very large selling price, that's something that I would regard as being undesirable from the point of view of an honest application of cost recovery.

PROF SLOAN: Isn't this part of the problem we face? Here's a monopoly regulator. The participants in the market have got absolutely no choice but to use the monopoly regulator. Where is the break in the system for them to do something like that or to decide the amount of regulation. I mean, as long as you're not bothering about the costs you can probably always argue that there are benefits to more and more regulation.

MR BARNES: I agree with you. I think it's a problem. The organisations that I worked with on cost recovery have progressively reduced their charges to reflect economies of scale on cost savings. If that doesn't happen then you have to ask yourself what's going on here and is this really a backdoor tax.

MRS OWENS: That's why you need appropriate review mechanisms presumably to pick these sorts of instances up. Can I come back to the infant industry argument that you were putting which we moved away from. You've got the argument which we've just discussed, you know, the problems it can cause for the office of the gene technology regular, but on your next page you say - you're talking about small

companies and you say:

not to recover simply because the small proportion of industry participants that cannot afford regulatory charges would miss out on the revenues that those that can afford to pay. The issue here is really that those few small organisations should seek subsidy assistance for their operations -

which tends to be what I think we were saying in our report. So there's a slightly different approach you're taking to the new companies versus the small companies.

MR BARNES: It depends from industry to industry. If you take either aviation where there are big and small participants, or you take the food industry where there are equally large and small participants, you might find that 95 per cent of the participants are quite able to afford the cost of recovering regulation but there may be new entrants with a good idea who are small, they find the regulatory costs a barrier to entry for them. But that's not the case for the rest of the industry, and it's really an issue that they probably really need to secure either subsidy assistance or venture capital to promote their idea. What I'm saying is that I don't see that you would not apply cost recovery simply because a very small proportion of an industry can't afford to pay, because as I say, the issue is really that they're inadequately funded and they need a better funding from either subsidy or venture capital to successfully participate in the industry.

PROF SLOAN: Although there is the possibility of regulatory capture. What the large firms do is basically ramp up the regulatory standards beyond those strictly necessary, in order to keep out new entrants. The chemical industry is a classic of that.

MR BARNES: I've worked with several regulators. I've seen not much evidence of that. I know in the case of food standards there was a proprietary product for which a standard was being sought. There was an existing competing product that had already been approved and the company that controlled that product made the approval of its competitor quite drawn out and difficult presumably as a strategic ploy to try and minimise competition and I think you need to recognise that that can always happen. Cost recovery probably works better and the scope for industry capture is minimised to some extent, I think, where the revenue base for cost recovery is fairly broad. If it's tied quite closely to individual packets of work then I think there's probably a high risk of capture.

MRS OWENS: I'm just seeing if there's any other issues we'd like to discuss.

PROF SLOAN: You made the point finally that you were recommending that policy advice be excised as a kind of allowable cost for cost recovery. You make the point that there are levels of policy work.

MR BARNES: Yes. The setting of standards is I think reasonably regarded as policy work because you decided what sort of standards to apply but they are directly

related to the regulation of industry. There may be other levels of policy which arise from time to time about whether, say, the act governing a regulatory regime needs to be reviewed and that sort of thing, in broad terms, or whether a policy decision is at a high level about whether a particular regulatory regime should be part of a department or should be a separate statutory authority or things like that. That's still policy work related to that thing but it's a step removed from the actual day-to-day regulation of the industry.

PROF SLOAN: What about the costs of government? Should that be cost recovered? I mean, that's a kind of sticky point in certain areas.

MR BARNES: In principle I can see the point; in practice I doubt that it's significant. One of the things I was going to say; that a number of people in the report have talked about why should they cover the cost of handling ministerial correspondence and those sorts of things, and that's a valid point. But in reality, in my own experience, the organisation I'm currently doing some work for, their cost of regulation is of the order of 18 to 20 million dollars. The amount of money that would be spent on ministerial correspondence would be so small in the scheme of things that it wouldn't make any difference at all in reality to the charge applied for cost recovery. One of the comments I made was, yes, it's an issue but I think the importance and significance of it is greatly overstated. I don't think it's a big issue in terms of actual dollar costs in proportion to the rest of the work done by these organisations.

DR STEWARDSON: I would have agreed with your comment there, just thinking about it, but we're told that when the TGA first started cost recovery, the TGA authorities and the industry being regulated discussed the sharing of costs and what was and was not appropriate and that they came up with a figure of 50 per cent of costs would be recovered, and it wasn't just saying, "Well, let's look at a number," they tell us that they looked at the individual cost items and said, "Yes, this one is something that the government should pay for and this is something that is reasonable for industry to pay for," and they got to roughly 50 per cent and said, "Okay, let's round it to 50 per cent." In the light of what you've said - and what I would have presumed - it's hard to see how they got to 50 per cent.

MR BARNES: I can't comment on the detail of TGA. I've not studied what they do. I suppose if you want to ignore most of what I've said in my submission I'd plead with you to at least consider the issue about the nature of regulatory bodies and the approach of breaking their operations down into the four categories of setting standards, monitoring compliance with standards, implementing standards and then remedial action and so forth, because if you approach it from that way it's quite easy to identify what should be recovered by way of fee for service and what perhaps should or should not be recovered in other ways for the activities of the organisation concerned.

One of the problems with the food authority is that the food authority undertakes only two of those. It sets standards and it does a bit of education campaigns of the public about food standards. It has no involvement with the

monitoring of compliance of food standards which is the responsibility of the states. I think that was an instance where a decision was taken to recover 50 per cent of costs and it was completely inappropriate because that organisation just did not do the sorts of things that could be recovered by way of fee for service or fairly and equitably by other means. That's why I'm saying you really should do a feasibility study around the concepts of the legal requirements and other issues before you come to an arbitrary percentage.

In reading the report I noticed a number of agencies talked about having to recover 50 per cent of costs. Now, I've got a pretty good idea of where that comes from, from my experience in the past and I believe it's arbitrary and inappropriate in some cases. I think in some agencies it should be 100 per cent, in other agencies it should be less than 50 per cent.

DR STEWARDSON: I don't know that anywhere in the report we specifically take those four categories and actually say, "Here are four categories - one, two, three, four" - in the one paragraph but I think we do make those distinctions that you're talking about and I wanted to ask you whether in your reading of the report you feel that we are not making that distinction.

PROF SLOAN: They're in our guidelines.

MR BARNES: No, look - - -

PROF SLOAN: Yes, they are. We have got that categorisation.

MR BARNES: Yes, they are there, it was just that I felt that it was worthwhile stressing the point that if you approach cost recovery from that methodology then it becomes a lot easier to discern what is appropriate and what perhaps isn't.

MRS OWENS: I'm just looking at your broad categories here, and you mentioned that in relation to setting of standards, you see that as being policy. There has been a bit of I think disagreement about what policy work and what is not policy work. Some of the agencies say, "Well, just about everything we - any policy work we do is related to our activities as regulators, and so we should be able to charge for that." I think we heard that at the actual - when we were doing our workshops. Others are arguing, "Well, a lot of the policy work is just general policy work that shouldn't be charged", and I note your setting of standards made - deemed to be policy work.

But you also make the point that it may be possible to charge a fee for service for the processing of an application for a variation to standards, even though the result would benefit a wide range of industry participants. Now, when we're concerned in that instance about first movement disadvantage - would mean that nobody would make such an application. You don't see that that's a problem?

MR BARNES: That is certainly an issue. The reason I raised that was that ANZFA raised it in their initial submission to this inquiry, and that was actually something that arose when I was doing work for them. I don't want to go too deeply

into legal advice that was provided to an agency that I once worked for, but it was felt that there was a service being provided to an individual applicant if that applicant applied for a variation in standards, even though the consequent change of the standard benefited all, and bear with me, I - - -

MRS OWENS: We're (indistinct)

MR BARNES: This is right on the knife edge of what I think is legally acceptable.

PROF SLOAN: It doesn't matter whether it's legally acceptable or not, it's a silly idea, isn't it?

MR BARNES: Well, I'm not going to disagree with you on that. What they said was that they could discern a service to an individual because the service was the considering of the application. It wasn't the subsequent modification of the standard as such.

PROF SLOAN: Yes, but who wants to be the mug who pays for something that then - - -

MR BARNES: I'm simply the messenger here. I'm not saying that it's fair and reasonable.

MRS OWENS: No, we were just curious about that one.

MR BARNES: Yes. I can give you background as to why it arose and, you know, there are other areas where I think the back alleys of the law have been investigated to find ways of justifying what was to be done.

MRS OWENS: Okay. Thanks very much, Chris, for coming, and we certainly won't be ignoring what's in your submission. I don't think you recognise that we are very interested in what you have to say, and I think as a practitioner, that makes your input all the more valuable, so thank you for coming. Is there anything else you'd like to - - -

MR BARNES: Yes, I'd just like to make one closing comment. The report quotes a number of submissions to this inquiry as suggesting that cost recovery encourages gold plating and various other adverse consequences. As I said in my submissions, my experience is quite the opposite. I've found that when dealing with industry representative associations, they can be extremely thorough in their grilling of bodies to identify costs and efficiencies and make managers accountable. I see that as a major benefit.

One organisation I worked on with cost recovery, when we increased cost recovery, there were pressures on the organisation, and it was found that for example the agency concerned has all of its staff physically located in an office in the CBD of a major capital city. Quite a few of those staff had all of their work out in the western suburbs, and they were spending an hour and a half a day driving to and

from the western suburbs to do their work, all of which was part of what was being paid for by government. It became apparent once the industry was being charged that they identified these issues and said, "Hey, why is this happening?", and immediately a building was constructed out in the western suburbs and these people were put out there, and they became much more productive. It certainly was quite the opposite of gold plating, and had major beneficial affects for the industry in terms of - and for the taxpayer in general, who was previously bearing these costs.

I have personally appeared before senate estimates on a number of occasions with some of the agencies I worked for at the time, to talk on cost recovery. I think four years in a row I received one or two questions from senate estimates on cost recovery, and they were by no means anywhere near as thorough or as searching as the sorts of questions that I typically picked up every few months from the industry that we were recovering costs from.

So I'm just saying that I don't accept, for those reasons, the assertions that cost recovery decreases the efficiency of organisation. I found reluctance amongst senior manager in some agencies to apply cost recovery, because they would then have to be accountable for their cost structures. You know, I've told managers what their hourly rate of their staff is, and they say, "My God, that's a big figure. I can't justify that to the industry", and they don't want to. I've seen instances where cost recovery has actually benefited the industries to which it has been applied, rather than the reverse. So I will stop talking with that comment.

MRS OWENS: I think that was a useful, different perspective on the issue of gold plating, so thank you for that. We'll now break for 10 minutes.

MRS OWENS: We will now resume. The next participant this morning is the Industry Working Group on Quarantine. Welcome, and thank you very much for your submission. I'd like you each to give your name and your position with the working group for the transcript.

MR KRTSCHIL: Thank you. My name is Hart Krtschil and I'm the chairman of the Industry Working Group on Quarantine.

MR BEAVER: My name is Tony Beaver. I'm an executive member of the Industry Working Group on Quarantine and I'm also the secretary of the Food and Beverage Importers Association.

MRS OWENS: Good, thank you. I understand that you want to make an opening statement.

MR KRTSCHIL: Thank you. Just briefly by way of background, the Industry Working Group on Quarantine was formed in 1993 as a direct result of the introduction of 100 per cent cost recovery of AQIS charges. It was a fairly I guess acrimonious start to cost recovery, and the formation of this working group signalled a process that has brought us here today. We had, as I said, a fairly acrimonious start and we're now in a situation where we formed the AQIS Industry Cargo Consultative Committee. The industry and AQIS gets together to talk about all issues pertaining to cost recovery, operational efficiency et cetera. The considerations of the AICCC and the Industry Working Group on Quarantine are dealing with all sorts of matters - as I said, the operational side of things, but financial management, cost recovery, how over-recovered funds have been dealt with, income equalisation reserves that have been established et cetera.

In our submission we covered two basic points. One of them is the cost recovery mechanism, the administration and the attendant costs. We want to perhaps share our experience in that. The other one is an inconsistent application of cost recovery for like services, and there's a recent experience as a result of the announcement of government to inject \$6 million into the quarantine border action - that we've seen some fairly inconsistent applications of cost recovery measures. The other issue is competitive neutrality, but we understand that the Confederation of Asia Pacific Express Carriers will deal with that. Mr Muldoon has appeared before you on that particular issue.

Overall we'd say that the draft report of the commission is all-encompassing and we support it. Many of the recommendations that you have in the draft report are already part of the modus operandi that operates between this particular industry and AQIS. I can turn over to Mr Beaver.

MR BEAVER: Thanks, Hart. As a member of the Industry Working Group on Quarantine, I represent a particular category of importers or cargo owners, food and beverage importers. Against that background I have just a few general comments about the draft report, but I think in summary, as Hart said, it's a report that we support in its basic thrust. In my conversations with people I represent and other

importers, I think the first major issue that is raised is the question of equity. If cost recovery must be applied, it must be in an equitable way, that there are no major cross-subsidies of competitors or competing activities or the food importers subsidising the timber importers or vice versa. That's a critical issue. Charges should be as much as possible predictable before any transaction and be set for a significant period so that companies can put these charges into their own costings and then recover them as best they can in the marketplace.

There is need for accountability and transparency in the cost-recovering mechanisms. That requires an effective consultative mechanism, which depends on the willingness of the regulators, in this particular case AQIS, to contribute to that, and indeed the willingness of industry to participate in the same way. But any effective consultative mechanism I think needs to go beyond just the cost area into performance monitoring and review so that we just don't the same old same old and things just rolling over from year to year.

There is also, I believe, an expectation from the cargo owners and indeed the service providers that, if you have a cost recovery mechanism or system, it should lead to an improvement in efficiency in the service - if you're paying for it - and in our case it has led to efficiency improvements, but it's not just a case of handing over the money.

The final point would be I think just the one Hart mentioned earlier, and that's concern with the administrative cost of any cost recovery regime - that the administrative cost of cost recovering is cost recovered itself, and if you have a very cumbersome system with a lot of time being spent in sending out invoices or whatever for small amounts, it gets built into the costs and gets cost recovered as well and can lead to bad debt situations or issues like that. They're my few general remarks.

MRS OWENS: Good, thank you. You've actually set to some very nice principles. I hope we've got those principles somewhere in our report - equity, predictability, certainty, accountability, transparency, efficiency in administrative costs.

MR BEAVER: I'm sure you do. I wouldn't claim ownership of them.

MRS OWENS: They're nice principles. We do relate to those principles, I think, at the commission. I'd really like to just explore in terms of your own experience how each of those principles if working for you. In terms of equity and no cross-subsidies, would that be the case in terms of quarantine services? Is the structure of the charging arrangements reasonably equitable or would you see that there are some concerns there?

MR KRTSCHIL: Basically there's equity, and we've arrived at the equity by taking, for instance, the import clearance program, which is one of the largest programs at AQIS. It recovers at the moment somewhere in the vicinity of \$38 million, but that \$38 million is split up into specific activity groups such as the issuing of permits; the cargo risk management on the air cargo side, on the sea cargo

side; entry management, which is the whole IT issue; and also treatment and inspection. So each area does in fact recover. It's got its own profit and loss account, so to speak, and if we perceive that there are under and over-recoveries and if they get out of whack, then we act on that and we either increase the fees in some or decrease them in others. But the issue basically is that we try to have a predictability of costs, and that's very, very important to industry - that industry knows what the up-front costs are and also doesn't have those costs changing every year or every six months. It's very important to us.

PROF SLOAN: So do the charges meet the equity test at the moment?

MR KRTSCHIL: The ANAO audit has gone through that, and I guess I had a bit of input into it when I was interviewed by them. My answer to it is yes, because there is sufficient scrutiny from industry of AQIS, and if I were to say to you that the detail of the financial data that we're getting from AQIS and other operational data would go far beyond what is normally acceptable, I guess, to a regulatory authority.

PROF SLOAN: So really it's a case of that intense consultation absolutely.

MR KRTSCHIL: Yes.

PROF SLOAN: Because presumably without that they might come up with a charging structure which unwittingly is quite inequitable.

MR KRTSCHIL: Yes.

PROF SLOAN: What you're saying is that really without the detailed involvement of industry it's - that's how you think you can drive a fair system?

MR KRTSCHIL: I would go back to the closing remark of the previous person here. That is exactly how it happened: industry questions the regulatory authority a lot more than perhaps the regulatory authority would through an internal audit, because we see the commercial side of things and we may suggest that there are better ways of dealing, for instance, with the cost recovery mechanisms.

DR STEWARDSON: Can I ask how you've achieved this, because most industry representatives that have spoken to us have said, "Well, yes, there's something that's called a consultative committee but the agency sets the agenda. They don't give us any decent information and, when we do make sensible recommendations, on the whole they don't pay any notice to us." You're suggesting that your AICCC has been quite effective and that it gets, I think you said, good information on costs in order to make an intelligent discussion with the agency and that you're reasonably satisfied with the outcome. What have you done right that everybody else has done wrong?

MR KRTSCHIL: I guess it takes two to tango and, as I said, from a fairly acrimonious start AQIS and industry got together and said, "Let's look at the future with the benefit of hindsight," as depressing as that might have been, "Let's look at the future and let's get together. What are your problems, what are our problems?"

Government institutions have got their own problems. I mean, they've got the Public Service Act, they've got all sorts of accountabilities that we may not have in private enterprise. We had to appreciate where AQIS was coming from and they had to appreciate where we were coming from. We've achieved that, and the AICCC was formed I think in December 93. We'll have 26 official meetings by July this year. It was an appreciation of both sides of the equation.

It was a rocky start, but we now have a situation, for argument's sake - I can tell you now - where at the next meeting, on the agenda, are financial matters, financial reports, budgets, debtors. We look at debtors, and there's charging review, final report, implementation planning. These are very, very detailed discussions, but it was an appreciation of AQIS were coming from, their willingness to open the books to us.

MRS OWENS: That really was the key to this. AQIS was willing early on to say, "We have this acrimonious relationship. We want to do something about it," and industry likewise wanted to meet AQIS in the middle, but it was a matter of getting the right sort of information. You've been reasonably happy with the information you've got. That's been able to show you what's happened to the efficiency of the organisation. You said you felt that the efficiency of the organisation had improved over time.

MR KRTSCHIL: Yes.

MRS OWENS: So you've had information which you'd be able to review.

MR KRTSCHIL: Yes, we do and we have done a program review that is dealing, for instance with: how many full-time equivalents you have got operating in South Australia on port surveillance? We do comparisons across the spectrum: how come two guys in Cairns can do the same as five in South Australia? They're the type of issues. We go into that detail.

MRS OWENS: Yes, there's a lot of detail.

MR KRTSCHIL: And come up with suggestions where they might reduce the number of FTEs they have in a particular area and increase them in others, or bring the whole number of people they have in particular surveillance areas down to a reasonable level, an agreed level. But they also must appreciate that ultimately it is AQIS's responsibility to ensure that their regulatory obligations are being met.

DR STEWARDSON: But they do some of these things that you're suggesting?

MR KRTSCHIL: Yes.

PROF SLOAN: It is interesting, because this kind of highlights a real compare and contrast because there are industry consultative committees for other regulatory agencies where we've really heard absolutely nothing but complaints, lack of information, lack of follow-through and the like. Do you think there were kind of

key individuals with certain attitudes that generated - I wonder whether there's kind of some idiosyncrasy in these things, that you've got to get people with certain mind-sets that - - -

MR BEAVER: The people who are committed to this type of process. There were people who were committed at AQIS to this type of process. I think the success of the committee has led to further success, so that as it's seen to be an effective way of working, then you can do more, and once you get to that stage, then you can do further. I think there was a - - -

PROF SLOAN: And the reverse, I think, too. If something doesn't work it just gets really, doesn't it?

MR BEAVER: That's right. I think there was a recognition from AQIS that industry in a sense wasn't opposed to what it wanted to do, that industry was as committed as AQIS to AQIS's function of maintaining Australia's quarantine status. I mean, importers and the service providers, no-one of them wants to bring FMD into the country, or capra beetle or anything else like that, and the industry, broadly speaking, is very happy to work with AQIS to ensure this doesn't happen. I think also at the time there were a number of key individuals on both sides who saw the benefit of this and were committed to it and forced the pace. Then its success I think has led to further success.

PROF SLOAN: Yes, a good story.

MRS OWENS: Maybe you are a little bit different, because you do have a common objective in mind, whereas when you look at some of the other agencies, the industry may have a different objective to the agency. We've talked to say the complementary medicine people who say, "Well, we're being regulated as if we are drugs, when in other countries it's much lighter handed regulation," and they're regulated as food. So maybe it's because you've got these common - it might be personalities and some common objectives.

MR BEAVER: I think that's right. I think AQIS would say that they couldn't achieve their objective without the assistance of industry.

MRS OWENS: Yes.

MR BEAVER: They can't do everything that would be required. So you do need the assistance of industry.

MRS OWENS: Did you at any stage complain about having a hundred per cent cost recovery? Has that been of concern to the industry or do you accept that as a necessary level of cost recovery so AQIS can perform its duties?

MR KRTSCHIL: That hundred per cent cost recovery was - it was ramped up to a hundred per cent from the late 80s. In the 93-94 it went to a hundred per cent cost recovery. That was a decision that we were fighting at the time but we've ultimately

accepted as a government policy decision. We were saying to ourselves, "Let's make the best of it and have some say as to how the money has been spent, so that we don't end up having a hundred per cent cost recovery and no control in any way, shape or form over the efficiency and the effectiveness of the program.

PROF SLOAN: We had the AQIS managers come to one of our workshops. Indeed, they made a presentation, didn't they?

MRS OWENS: Yes.

MR KRTSCHIL: In fact they're saying things that I think are entirely consistent with what you were saying: that in fact it's a superior situation compared with the government funded situation. The feeling was that money was wasted, there was excessive manning, and an issue would arise and the government would say, "Oh well, you know" - and throw a lot of money at something, which was not used effectively, whereas in the era of cost recovery there's much more measured response to things and the organisation has become considerably more efficient.

MR KRTSCHIL: As far as the consultative mechanism is concerned, there is a report that was commissioned by the Quarantine Expert Advisory Council and AQIS. I guess I could make that available to you. That basically talks about the consultative mechanisms that have been developed. Most of the consultative committees that AQIS has established started off as charging review committees.

PROF SLOAN: It's interesting, yes.

MR KRTSCHIL: They started as charging review committees and they then became consultative committees because the consideration of charges then led to dealing with the operational side of what was behind the charges and efficiency gains - that report, I can make that available for you.

MRS OWENS: It might be useful, because I think in terms of trying to work out how to have the best sort of consultation mechanisms we need to have some idea of the arrangements which work in practice now, so that we can really develop a model. One of the ideas that we had floated in our draft report was to have what we called an efficiency audit committee.

MR KRTSCHIL: Yes.

MRS OWENS: But it sounds like you're almost operating in that way now. The only difference is that we were going to have a committee that would have reported directly to a minister, but in your case it doesn't sound like you really needed to do that.

MR KRTSCHIL: Well, there is a mechanism in place within AQIS actually, where the consultative committee have a member of the Quarantine Expert Advisory Council or QEAC. That council in turn reports to the minister. So there is an accountability built into that process already.

MRS OWENS: We will look at that model I think.

PROF SLOAN: Yes, I think so. Well, I think we're probably coming to the horses for courses conclusion on that. We don't want to cut across existing arrangements. You do make a point about the costs of cost recovery.

MR KRTSCHIL: Yes.

PROF SLOAN: Which is something you clearly think is not quite right.

MR KRTSCHIL: That's right.

PROF SLOAN: So this is sort of the cost of levying the administrative - - -

MR KRTSCHIL: We found that there is an inherent inefficiency in letting people who are regulatory authorities operate in running good revenue collection method. I was part of an inquiry into the horticulture export industry and we looked at the efficiency of the cost recovery mechanism there. We found that the program issued 24,500 invoices at an average amount of \$162. There's no efficiency in that. We also found that - the old 80:20 rule - 80 per cent of the business was done by 20 per cent of the client.

So we suggested a completely different revenue mechanism in that anybody who does less than 10 transactions with AQIS is on a pay-up-front - either by cheque or by credit card - and you have to establish an account with AQIS and then have a very clear understanding that within 30 days you pay or else. Next time somebody turns up on the export side, you pay cash.

PROF SLOAN: So what you're saying is the accounts receivable is just - - -

MR KRTSCHIL: Yes.

PROF SLOAN: I mean, you've got to think about the costs of the transactions and the nature of the clients.

MR KRTSCHIL: It goes back to - fee for service for instance. If you say, "Okay, you pay on a quarter hour increment," then you can only issue an invoice after the event. Issuing an invoice after the event is not good.

MRS OWENS: Not for small amounts.

MR KRTSCHIL: Not for small amounts. So if you send an invoice out for \$68 the cost of - well, I guess 30 bucks to get the money in. This is why the cost of cost recovery is a major issue. We are in the middle now of making improvements to the whole mechanism by setting costs - by going away from fee for service costs and putting them into a unit cost.

DR STEWARDSON: Can you explain that?

MR KRTSCHIL: Well, if an inspection under normal circumstances takes quarter of an hour - it's been worked out that the average is quarter of an hour and it's now costed at quarter of an hour - you say, okay, quarter of an hour in a manned depot, let's say, is \$30. So before the inspection is carried out, the \$30 has been paid by EFT. So the money is there, the service is provided. Under the old system you had the service provider and then got the invoice for \$30.

PROF SLOAN: Yes. Maybe you could do it like Citilink, where you put \$100 down and then dig, dig, dig and then - - -

DR STEWARDSON: Have an account, yes.

PROF SLOAN: That seems to actually work pretty well.

MR KRTSCHIL: If you've got impressed accounts, yes. I mean, that has been worked as well. But we're having a situation here of course where the payment is the responsibility of the importer, let's say. But of course then you have a middle person making the payment on behalf of the importer. So you have a situation not dissimilar to the airlines, where the passenger pays a departure tax, yet the airlines collect it and submits the funds to the government.

Our line certainly would be, having achieved efficiencies - the efficiencies only come about by an up-front payment that is guaranteed by Diners, say, or by MasterCard. So AQIS has got its money. It pays a percentage to MasterCard and what have you. But that's not the problem of the payee or AQIS. They've got the money. If the importer or the exporter defaults on MasterCard, that's not AQIS's problem.

PROF SLOAN: But presumably this is - is this something that you can deal with in the existing consultative arrangements?

MR KRTSCHIL: Yes. But we wanted to raise the issue - - -

PROF SLOAN: It is an issue, cost recovery.

MR KRTSCHIL: - - - in a broader fashion I guess, to demonstrate that there are much better mechanisms around. If I were to say on the import clearance program - I don't know exactly what the cost of collection of the money is but let's say it's 1.2, 1.3 million - if you can bring that down to \$300,000 there's a million dollars been saved and as a benefit that should accrue to somebody who participates in making that possible.

DR STEWARDSON: Who pays the cost of actually operating the AICCC?

MR KRTSCHIL: The AICCC is funded through AQIS. It is part of the import clearance program. The import clearance program pays for the establishment of a

secretariat and the running of the secretariat. That's a cost against the program that's agreed between industry and AQIS.

DR STEWARDSON: And people coming to attend meetings from interstate?

MR KRTSCHIL: Yes.

DR STEWARDSON: So AQIS pays for that?

MR KRTSCHIL: That is the normal situation with consultative committees at AQIS. The AICCC has got a secretariat that has been funded. However, the travel and the attendant expenses are being met out of what we call an industry project fund. They're funds that were over-recovered back in 94-95 and we still have those funds and we're funding the travel and expenses of the membership out of that.

DR STEWARDSON: Okay, thank you.

MRS OWENS: I was going to ask you in your - I think it's the second submission you put to us. You mentioned that there's an inconsistent application of the user pays or fee for service principles for like services provided by the Australian Customs Service and AQIS.

MR KRTSCHIL: Yes.

MRS OWENS: What is that all about?

MR KRTSCHIL: We have an initiative, I guess you could call it, where the Australian Quarantine Inspection Service and customs will look at what's common as high volume low value cargo that has been brought in in the documentation - DHO, UPS, Fedex and TNT - not considered to be of a very high risk, or originally not, but now, as part of this foot and mouth disease initiative, there's now a hundred per cent inspection of those commodities.

Now, I don't want to really belabour that point too much but the customs service has assessed a cost of \$10.7 million to do that, and AQIS are doing the same work in conjunction with customs and charges 4.6 million a year. So (a) we've got a disparity in the actual cost and - - -

MRS OWENS: So they're both - I just don't quite understand the process - they both do the same thing?

MR KRTSCHIL: Yes, identical processes, but one - - -

DR STEWARDSON: Why do they both do it?

MR KRTSCHIL: Well, I really don't know. My guess is that customs would be looking for matters other than quarantine issues.

DR STEWARDSON: I see.

MR KRTSCHIL: I guess that. I don't know.

MRS OWENS: So maybe we're not comparing quite like with like, if that's the case.

MR KRTSCHIL: Well, they are the same type of units, is my understanding. But going away from that, the cost recovery through the AQIS processes is one where the activity area pays the cost. On the customs side, the cost has been socialised, so to speak, across all imported cargo. That was the initial proposition. Since we have made the submission that has changed. It's now only air cargo that pays for the surveillance of just a very small portion of cargo that comes in by air. So we have two government agencies here and both having a different - - -

MRS OWENS: A different approach, basically.

MR KRTSCHIL: - - - approach to cost recovery, yes.

PROF SLOAN: I think our report has highlighted the inconsistencies across the agencies.

MR KRTSCHIL: Yes.

PROF SLOAN: There are clearly some groups like you who actually have to deal with the inconsistencies, in a practical way.

MR KRTSCHIL: Yes, but that's really a very, very recent issue, that that arose. We thought it was worthwhile raising it with you and bringing that to your attention.

PROF SLOAN: Yes.

DR STEWARDSON: One thing I would like to ask you concerns who the beneficiary of the AQIS activity is. We've had a number of people who have commented to us that they don't think that we've looked sufficiently closely at who is the beneficiary. So can I ask you, who do you see as being the beneficiary of AQIS's activities?

MRS OWENS: You've got a few options here. Do you see it as being the Australian community, do you see it as being the ultimate users of the imports or do you see it as being the firms that are doing the importing?

DR STEWARDSON: And perhaps could I also say that in terms of the export activity, the guarantees for exporters that AQIS deals with, that's another category.

MR BEAVER: In terms of import activity I think we would say all of them receive some form of benefit out of it. The broader community by the maintenance of the quarantine standards, the purchaser of whatever goods they might be and the actual

importer of the goods in the sense that they are engaging in - I guess the explanation that has been given to me is, "You're engaging in a commercial activity that requires some form of regulation for the greater community good. If you weren't there we wouldn't need to do this," and therefore in a sense it's a clearance into the market so that in that sense, if I'm an importer-owner of something then I get a direct benefit in that I can bring these goods into this market now and I can sell them there. The consumer - I pass on my costs, as much of those costs as I can to the purchaser of those goods who has shown an interest in them and at the same time the broader community benefits because the quarantine status is maintained and not an immediate direct cost to the taxpayer.

PROF SLOAN: Do you think it gives you some legal comfort as well? I mean, let's say you unwittingly bring in something nasty that then gets sort of passed on to particular groups. I mean, the fact that, you know, there has been import clearance by AQIS, do you think that - - -

MR BEAVER: No.

PROF SLOAN: You don't really.

MR BEAVER: No, I'm sure - without going through all the legislation I'm sure there's a clause there that says, "Whatever we do you're on your own."

PROF SLOAN: "You're on your own now."

MR BEAVER: Yes. In a sense, look, it does provide some degree of comfort, yes, it does, but it doesn't give you a legal - - -

PROF SLOAN: Legal immunity, yes.

MR BEAVER: No.

MR KRTSCHIL: I guess you could say, as far as quarantine issues are concerned and the Nairn Report of course came up with it as a shared responsibility and as such it's a government decision that says, okay, industry pays. The beneficiary really is the Australian population as a whole. On the export side, if you go into a phyto-sanitary market such as Japan or Taiwan you have to meet certain standards to enter that market and the export certification that AQIS provides enables you to go into that market and most of those markets are premium markets. So there is a requirement, a government to government requirements, for goods to go into a particular market to say they're free of fruit fly or whatever. It works the other way around too of course. We insist on a lot of goods coming into the country to have certification from overseas agencies. For instance, stuff we import from New Zealand has got to have certain certification.

PROF SLOAN: Is it the exporter that you would see as being the primary beneficiary in that case because if they didn't have that certification they wouldn't be able to go into the market.

MR KRTSCHIL: They wouldn't be able to go into the market.

DR STEWARDSON: Do you have a feel, terribly roughly, for what proportion of AQIS's work is to do with imports and what to do with authorising exports?

MR KRTSCHIL: On the import side this particular program, the import clearance program and the seaports program has got about 45-odd million - that's pre-foot and mouth disease. It has gone up by 24 million I guess. On the export side, the meat export of course is by far the largest program. That's about \$55-odd million and then the other ones are really fairly minor programs. I can't give you the exact split-up but I think it might be in the ANAO report.

DR STEWARDSON: Of the order of fifty-fifty.

MR KRTSCHIL: About that, I guess.

PROF SLOAN: I think we actually import more than we export because we run a deficit.

MRS OWENS: It depends on the value, I suppose, not so much on the trade side.

DR STEWARDSON: I didn't know that AQIS had much to do with mineral exports though.

MR BEAVER: We export more food than we import.

PROF SLOAN: Is that right?

MR BEAVER: Because the meat makes up such a large proportion of the exports so that's about 3:1.

MRS OWENS: It might make up an even larger proportion in the future. We talked to the meat people yesterday who were I think reluctant to acknowledge that 100 per cent cost recovery should apply to that sector of industry but what you're saying is that you really believe in the context of exports that it's a reasonable approach.

MR KRTSCHIL: Import representatives might - - -

PROF SLOAN: I mean, they talk about meat inspection services which is a slightly different issue.

MR KRTSCHIL: On the export side of course there's a fair bit of approach to co-regulation provided the country to which you export accepts it and Australia has been - - -

PROF SLOAN: Which they - - -

MR KRTSCHIL: No, Australia has been - the Americans, yes, but the Europeans won't. The Americans have agreed to it but it may well not be worthwhile for a meat export plant to go through the expense to set themselves up if they're exporting to the EU as well as the US but I'm not an expert on that so it's just a remark by the bye.

PROF SLOAN: No, that's fine. It's interesting. It's actually quite nice to have some good news.

MR KRTSCHIL: One issue that I wanted to perhaps touch on and that is you were talking about the regulatory impact statements. We are certainly firm believers in that and we're not really getting all that tangled up in it because of these consolidated forces we have but we are at the moment involved in putting new charges to be introduced and the regulatory impact statement is of great importance and it should have as a minimum a requirement in it that there must be consultation with industry.

MRS OWENS: Yes, I think we were actually thinking about this issue of consultation in the context of regulatory impact statements and costs. We've also suggested that there needs to be cost recovery impact statements where regulatory impact statements are not relevant and we are starting to think that maybe we need to put a greater emphasis on a consultative process at that stage as well.

MR KRTSCHIL: I guess I was more talking about the cost recovery impact statement and also should as a minimum be a post-implementation review. That should be an absolute requirement.

DR STEWARDSON: I'm sorry, I didn't catch that.

MR KRTSCHIL: A post-implementation review.

MRS OWENS: At what stage would you consider doing that?

MR KRTSCHIL: I guess it varies from case to case but I guess after a year, that should be the maximum.

MRS OWENS: We've got a diagram in our chapter 9 which talks about four different stages and one of the stages would involve some ongoing monitoring which I think is probably what you're talking about as being a post-implementation review.

MR KRTSCHIL: Yes, but we just sort of like to support that specifically because I think that's absolutely important. We found that when new charters were introduced or there has been a change in the cost recovery mechanisms, you know, whatever you think before you introduce it everybody says it's a great idea but a year down the track you find out it's not really working all that well and especially when things are regulated and you have to make changes, then you have to have a good reason to have the regulations changed and that's very important.

MRS OWENS: Good. I think that's worth highlighting on the transcript as well

because we hadn't thought about the monitoring in a formal way but we maybe need to be clear that there may need to be a timetable with that ongoing monitoring. We're also suggesting that there needs to be a more major policy review after - we've said 10 years but people have questioned why 10 years, but at some stage to really go back to basics and say why is this agency cost recovering? What are the underpinnings? Have some of these things moved on? Do they need to continue to do this in this way? So we're also suggesting that as an extra check and balance in the process.

MR KRTSCHIL: Yes, it's interesting that you say that because - I don't want to belabour the point but it's sort of an issue that we don't think about now because we've been through the process.

DR STEWARDSON: I'm still trying to think about this reason of why your consultative committee has been so much better than most other industries and we've talked about perhaps personalities presumably on both sides. You've talked about congruence of interests between the agency and the importers. I suppose it's true that you both have a congruence of interest in the sense that you both want absolute 100 per cent no importation of nasty diseases whereas say the TGA, there may be a slight difference as between industry and the regulator in what sort of degree of possible risk is acceptable. Maybe there's a difference there but I'm wondering also whether there's - what the position is with tests and time taken to do it. Presumably there must have been scope for disagreement between you on whether you do this sort of a test or that sort of a test on the goods being brought in and how long it's going to take and that sort of thing. How did you handle those sort of issues.

MR KRTSCHIL: I could perhaps open up on that and that is in the import of food side for instance there have been a monopoly of the Australian Government Analytical Laboratories, AGAL, to do all the testing for AQIS and I guess that has led to some delays in tests being performed et cetera but there's no an agreement to use other NATA accredited laboratories to carry out tests and that's the recognition, that there are commercial imperatives that say, "Okay, if my goods come in on a Monday and I have shelf space at Coles or somewhere that's going to be filled on the following Monday." Yet, if I sent my test to AGAL, AGAL may not be able to do them and they knock off at 5 o'clock on Friday afternoon, yet if I can get control over carrying out the tests I can get these guys to work over the weekend to ensure that my goods are on the supermarket shelf. They're sort of the issues that we've discussed but Tony here will - - -

MR BEAVER: In terms of the tests in the imported food program, they're set by the Australia New Zealand Food Authority so they're in a sense not set by AQIS as such but by the food authority under its legislation which is based - and the test is set according to a risk assessment of the particular foods involved. There is a committee on which AQIS, ANZFA and industry is represented at which issues like that can be discussed. So there is - not this committee but there's another committee which sort of communicates with this committee that handles some of those issues. I think for importers the critical issue, and I think it doesn't matter what commodity, is getting hold of their goods as quickly as possible, getting it through the system, not having it

delayed on the wharf, not having it caught in a warehouse but having it within your own control so that in a sense if you're having 100 per cent cost recovery program is something that can be borne if it leads to the efficiencies that take goods through the system as quickly and as safely as possible.

I think that's a critical issue as I was saying before, that if you've got - one of the many things retailers hate is out of stocks for very obvious reasons and it's a severe penalty to a supplier so that having a smooth system, even if it perhaps costs you something, it's in a sense worth the price because you get it to the end of there.

DR STEWARDSON: So this business of having approved outside testers other than AGAL was perhaps something that was an issue between you which you've resolved in this way.

MR BEAVER: Was an issue, yes. The history goes back a long way. I think it might have related to a particular minister at the time who was responsible for particular agencies who arranged for this to happen but as government policy it certainly has been overturned since then.

MRS OWENS: There's hope for the users of the TGA services there, isn't there?

MR BEAVER: I guess the only other thing to say about the relationship is that, you know, in this industry there is very regular contact between the industry taken broadly - service providers and cargo owners and the shippers - and with the regulator in that case, AQIS, that every day there is generally an importer with something to do with AQIS and customs brokers do and freight forwarders do so that there is that sort of ongoing relationship. You don't just see them once a year at some consultative meeting.

PROF SLOAN: That's true - other industries have very constant contact with the regulators but their relationship does seem to be fairly poisonous so I wish regular contact was just the answer.

MRS OWENS: Okay, thank you very much and I think as Judith said, it's a nice refreshing change for us to hear from you and I would like to thank you both for your time.

MR BEAVER: Thank you for the opportunity.

MRS OWENS: We'll now break and we'll resume this afternoon at 3.45. That's a long break, isn't it.

(Luncheon adjournment)

MRS OWENS: We will now resume. The next participant this afternoon is Screen South Australia, welcome, and if you wouldn't mind giving your name and your position with Screen Sound for the transcript.

MR BRENT: Ron Brent, I'm the Director of Screen Sound Australia, the national screen and sound archive.

MRS OWENS: Thank you, Mr Brent, and thank you for your submission. Well, we've had two submissions from you now and you've appeared before us before and participated in our other activities and we'd like to thank you for your involvement to date and I'm sorry to hear that you had to burn the midnight oil to get your submission done, but I still found it very useful to have, so thank you for doing that and I think we all have read it, but if you would like to make a few opening remarks and then we'll open it up for discussion.

MR BRENT: Thank you. Yes, I'd like to add a couple of small postscripts. On rereading the submission myself I did want to emphasize that although I've expressed some concerns about the cost focused basis of pricing, we are in a position, probably better than a lot of other organisations, to provide detailed costs of services we deliver in that we've been undertaking the shift to accrual accounting and activity-based costing for some years now so that our systems are perhaps better developed than they otherwise would have been three or four years ago. That does allow us, to a significant degree, to identify costs associated with various activities. My concern with the cost-based model is rather the policy decisions that would surround the attribution of various forms of costs, overheads or some costs and exactly how one calculates the concept of a marginal or incremental cost in the context of intellectual property where the marginal cost of the delivery of the intellectual property, the information, can often be trivial or, in some cases, in fact, as close to zero as it's possible to get, and at the other end of the spectrum can be exceedingly expensive, particularly if you are the first to request that particular piece of information.

The second point I wanted to add was that we do undertake very serious and regular reviews. For instance, we have planned for the coming financial year, a major review of all technical services prices. We undertook one of those about 18 months ago and it's our policy to regularly review all prices. In the current financial year we have recently just undertaken a major review of our access services to the professional broadcasting industry. That is already built into our processes.

The third postscript is that there is perhaps one area of - in my long list of services for which we cost recover or charge - one item that perhaps I didn't include in the list that I should have and that is the role we play as an international consultancy service; that is, other archives and international agencies have employed us to provide technical services. Perhaps that is, in part, covered by some of the advice or information or technical advice headings that I put in. But we've been employed, for instance, by UNESCO or the Asian International Broadcasting Bureau - I think I've got that name slightly wrong, but the relevant body - to provide technical advice, support or consultancy services. I also apologise for the typos that

I've since found as I've reread the document, but hopefully that's not too serious and I think they're the main postscripts.

MRS OWENS: Good, thank you. Just starting at the end, really, the international consultancy services, do you charge for those?

MR BRENT: Yes, we do - varying rates again. To follow something that I was saying prior to the session beginning and should repeat on the record, much of what we deliver in those sort of areas is a very highly tailored service and the pricing relies heavily on an individual costing and the individual circumstances. They don't come off a price sheet, in much the same way as a carpenter or a plumber would quote on a particular job. The factors that we take into account often include circumstances such as the longer term benefits to the organisation and the associations it might develop; the reputation enhancement that might flow from being given a certain piece of work by an international agency and the spin-offs that we can achieve from the work for our own benefit. So the costings are really quite variable and complex but we do charge, certainly.

MRS OWENS: Good, thank you. I think there's a number of issues that we'd like to discuss with you and I think we'll just throw some of the issues in as we go, but I think one of the things that you appear to not like, what you say, "I would not like to see a new layer of cost recovery impact statements and increased reporting," and so on. We haven't had any other participants that have actually rejected that idea of going down that track and I was wondering is it because you're a reasonably small organisation and you would see it as an intrusion on your time, or have you got more concern with the actual principle of doing it?

MR BRENT: No concern with the principle at all and indeed if we were not to be subject to a cost recovery impact statement I would be looking for alternative ways of ensuring the transparency that I think I've elsewhere acknowledged as important, and ensuring that a clear and obvious rationale and understanding for the decisions we make is made public. My concern flows from two things that may not apply to other agencies, but I would have thought at least some other agencies would be in the same circumstances. The first is that, yes, we're a small agency and that does mean that any extra layer of administrative work is a burden. But secondly, and much more significantly, for a small agency we have, I think, an exceptionally large range of services, very different in their character and therefore, potentially at least, in the position where we might have very large and complex cost recovery impact statements that we would need to provide. I do note the word "significant" in the phrasing of the sort of charges to which a statement would apply, and it may well be that if we're talking about some of the consultancy services we provide, as a one-off service, that would not be regarded as a significant service or a significant cost recovery and that would help us a great deal.

Even so, in our more standard arrangements, there are still many services that we provide, quite different in character, and I'm concerned about the administrative workload that would be involved. Having said that, I believe we're already quite significantly answerable for what we do in areas such as parliamentary reporting; our

annual report or annual review as we call it; the documentation we put out about pricing and our pricing policies and our prices. We have price lists; we also have on our Web site and available in paper-based form, a set of policies that cover our key activities, such as our preservation activities and our acquisition activities, but that also cover our access services and the logic behind charging for them.

MRS OWENS: I think - I just was reading the Bureau of Meteorology submission a little while ago and they were concerned about the proposal we had to review the existing arrangements because they said, well, we've got a whole lot of services and products that we provide and that would be administratively quite a big ask and made the suggestion that perhaps it would be possible to lump a lot of their products or services together to be reviewed as a whole, so that the review could look at the principles for why they are undertaking cost recovery; what's the underlying rationale; what are the costing arrangements and so on. Would that approach be a more acceptable approach to you if you if - instead of looking at a whole lot of small services that you provide, if in some way you could say, "Here is Screen Sound and they've got a range of activities and we can group them together in a certain way."

MR BRENT: Yes, certainly that's true, although I don't recall off the top of my head the number of the box, but one of the boxes in your draft report had a list of the items to be covered in a statement, and I think my concern is to multiply that list of items by the number of even significant charges that we have, or significant at least in our terms, and it's that composite that's the concern. To do a single cost recovery impact statement that might address a number of different charges, if we could lump some of them together where they're analogous and where we can be reasonably sensible and concise about the way we do the document, that would worry me a lot less.

Again, it comes back to this concern about the number of different charges and even justifying each individual charge for each individual service as something that is or isn't significant would be a burden in itself, but if we could lump them together that would address a lot of my concerns. Again I repeat that I'm very much in agreement with the notion that we should be answerable for the charges we impose and that we need to be able to be held accountable; that they should be as transparent as possible. I think my concern is, because we publish much of what would be in a CRIS in different forms, it would obviously suit me better to continue to do that.

MRS OWENS: But a lot of that work is - you've already done it and maybe it's a very minor step to just take it that bit further and put it into some sort of process, which we are trying to think of as something that can be implemented across the board, not just for your agency where you do do all these things and I think, by the look of it, very well. But other agencies don't, and we're trying to think of an approach which would embrace all the agencies that we've been considering.

MR BRENT: Yes, perhaps to turn that around, the best outcome for me would be to have a requirement that certain information needs to be provided on the policy basis for charging, the way charges are calculated, many of the things in the box, but that they wouldn't necessarily need to be consolidated in one place if they are clearly

and easily and readily available. Having said that, I acknowledge the concerns you have in looking across a number of agencies for such an approach to be abused simply by identifying a myriad of obscure sources in which every little piece of a CRIS could be compiled and then saying, "Well, it's all there buried somewhere and it's the customer's problem to find it." So I do acknowledge the benefit of having a uniform format, a requirement to consolidate.

In practical terms I don't have anybody in my organisation who would logically be responsible for that. I'm going to have to pull somebody off some other activity. They don't have, necessarily, the economic or other credentials that would be required to deal with all of the sorts of concerns. My finance team is very small and I'm deliberately keeping it very small so even the accounting skills necessary to properly identify some of the issues I was talking about, such as the costing basis for certain services, are in scarce supply. It's those very practical concerns that, when you multiply them by the number of different services we have, worry me.

PROF SLOAN: Part of our problem - you provide a very compelling story and it's extremely hard to think that there are any kind of efficiency losses or distortions created by what you do, but you're small and close to the industry; can judge the demand pretty well. The trouble is that we can't necessarily generalise from that experience and you can't have an agency which has a budget of \$250 million exercising flexibility, really, in the same way. But by the same token we don't want to have guidelines which would inhibit good work, so you can - I hope you can appreciate our dilemma.

MRS OWENS: We don't want guidelines that are going to keep you up to 2.30 again working on a CRIS, so, we will keep that in the back of our mind.

PROF SLOAN: Yes, that's right. Your compliance costs are a consideration as well. It seems to me that one of the things that, I mean, this is a draft report and, you know, this really is a draft report and one of the things that we have concluded that the guidelines for the information agency is probably too black and white in that you go down one path and it's free and the other one, it's fully cost recovered, and really there's got to be something in between, partial cost recovery, and we need to build in some branches which will lead participants into that direction. I think that will help you considerably.

MR BRENT: It certainly will, yes, that well describes one of my key concerns.

PROF SLOAN: Yes, because they are very black and white and that you would often end up with that partial cost recovery solution where there's a mixture of public and private goods. You would go the kind of fully distributed cost recovery where it's really just a private good and there's that - the capturable benefit which you talked about - and that's when you probably - I mean, some of your prices might appear high but they probably are cost-reflective, particularly if you include your capital charge, are in fact just reflective of fully distributed costs. On that - I mean, it's a kind of minor point - you talk about the table, we've got a table there with the information agencies and we talk about the percentage of cost recovered revenue and

you make the point that we're including the capital charge, which I presume - assume - we do for all the agencies, but presumably the agencies are differently capital intensive, so I'm just wondering whether your suggestion would be we should provide another table excluding the capital charge.

MR BRENT: Probably not.

PROF SLOAN: No, or need to note it.

MR BRENT: I think the key point is perhaps, just a footnote, the issue from my perspective is that the distortion of the capital user charge in our case is massive. I am not sure whether you would find many other agencies, maybe no other agencies, in which the capital user charge effectively more than doubles our appropriation. So that our cash appropriation for the delivery of service is about - in rough figures to the nearest 2 or 3 million - is just under \$20 million. The capital user charge is about \$22 million.

It may well that either the National Library or the National Gallery is in similar circumstances but I'd suspect there would be very few others. The point about that is therefore in our cases, the capital user charge (a) makes a large distortion and (b) perhaps an inaccurate one because the extent to which our capital user charge reflects things such as property assets, machinery assets, I think it's an entirely legitimate reflection of the use of those capital assets. The extent to which - - -

PROF SLOAN: Because you could sell them.

MR BRENT: Because we could sell them, the government could realise the funds and apply them in an alternative way. They are assets that are acquired for the commercial purposes - the business purposes - of the organisation. They're paid for with good, hard, solid, real dollars. At the other end of the spectrum though our collection is comprised principally of things that have been donated. To give you a perspective on that, every year we have approximately \$5 million worth of material donated to us and we purchase certainly less than \$100,000 worth of material. So it's massively and overwhelmingly donated.

The valuation is essentially on replacement cost because a lot of the materials are of very little inherent value as physical items. The value to us as an organisation is having the physical item and needing to replace if it's lost. That means, therefore, that in terms of what could be realised by the government or applied to a different purpose, even in a financial sense, there is very little. In a financial sense it's costing the government very little to acquire the asset. At the same time the asset isn't actually a tradable resource of the organisation, it's something we hold in trust.

So for all of those reasons that capital use charge, the logic of it, does not actually, I believe, work well in that context. For various reasons I think it actually has some logic in terms of how it impacts on the finances of the organisation; the fact that the collection is therefore a financial asset means it has to be depreciated, the depreciation has to be funded and that reflects the cost of preservation that we do

have to invest in the collection. So some of the consequences of including it are actually quite logical but some are quite illogical. That means that that capital use charge is a massive distortion (a) because of its size and (b) because of arguably its irrelevance.

DR STEWARDSON: You really are making two, I think, main points in your submission: one is the point about CRIS that we've been discussing up until now, and I think it's useful to raise that and it helps to focus our minds on the need to look very closely at just how much detail is going to be involved for agencies in that. The other main point that you make is your desire for flexibility in pricing and to vary from incremental cost or whatever it might otherwise be or indeed zero cost and to vary both up and down. The varying down is something that you have in common with at least a couple of other agencies - one is the Bureau of Meteorology.

They make the point particularly that by selling information to a user who's going to in turn work on it and contribute something of value that that will be of benefit to them and presumably to knowledge in general. They want to be able to have a subsidised price, as it were, for that, in effect, the same point you're making. Austrade, yesterday, have a somewhat similar sort of issue, though there's a bit different. Theirs is more that it helps their general function to encourage exports.

I suppose that some of your variation downs can be thought of as sensible things. Your variations up are I think more difficult for us and though maybe small exceptions they're not in themselves significant other than as a principle that might be applied. You make the point where you're looking at a particular demand that's very inelastic, well, what difference is it actually going to make to the allocation. But that is a bit of a problem for us as a principle rather than as a perhaps relatively isolated example in your own case.

MR BRENT: Perhaps I could expand on that in two ways: firstly, there is one category of services that perhaps ought to be segregated out a little bit more explicitly - and I touched on it in submission - and that is what I might call purely commercial activities of non-commercial agencies. We're not a government business enterprise. However, there are some activities that we can sensibly undertake as a purely commercial transaction and therefore ought to be transacted, in my view, at a market price, therefore a price affected essentially by both supply and demand.

Interestingly in some of those cases the situation becomes more complex because we're a monopoly supplier. I've used a simple example. We, some two or three years ago, did \$40,000 worth of work restoring some film prints that were damaged in the custody of a commercial film distributor. To give you a very short tale of how it happened, the cafeteria was above the basement where the film was stored, a pipe burst, water ran down onto the films, the films were damaged. Those were films that actually belonged to a head distributor who had leased the films to the regional distributor who was then taking them around Australia. The damage had to be paid for. The insurance company was submitted a claim for about \$100,000 which was the cost of replacing all of the prints in question. The person who was making the claim realised that he would be better off if the insurance company wasn't

hit too hard because his premiums in future years wouldn't go up quite so badly.

So he talked to us and said anything we can do. We were able to restore all the prints for about \$40,000. So we did the work and charged about \$40,000 which was our costs plus what we considered a modest profit margin and that was on the basis of a full cost attribution model. Therefore we included in that a notional cost of rent, capital and so on. That meant we were better off in that we had not just recovered the costs which would have been a neutral transaction and query whether we should be devoting our time or energy to neutral transactions that are outside our business at all, let alone our core business. But by making a profit allowed us to throw money back into the enterprise for other purposes. It benefited the insurance company - a significantly lower payout; it benefited the film distributor with less pressure for future increases; finally, it actually benefited the public in that the turnaround time for cleaning the prints, as we did, was for all the prints less than a week.

To have them reprinted was going to take in the vicinity of three weeks and therefore some of the distribution schedules would have been disrupted and the public wouldn't have seen the films, so everybody benefited. But I put that in the category of a purely commercial transaction and one where I guess I'd like to say it should be entirely free of control, that is there was no issue here about a right of access to a public resource or a right of access to a service or information. At the other end of the spectrum - and in a sense it's not an information agency issue, it's simply a service delivery - we have services where, let us say, a television service wants to put together a documentary. They want to run a documentary on the life and times of Sir Robert Menzies. They will then go to a series of archives around the country that hold different materials - paper based archives; documentary archives and audio-visual archives; ourselves; the ABC; Nine Network; Film Australia; Cinemedia, who knows who; Tasmanian State Archive. They will then collect the material they want and they will be charged a price. They will put it into their documentary, there will be a budget for these archival resources.

A number of the archives they go to will be purely commercial operations. For instance, in that case, a prominent will be Film World, a commercial private company that has the commercial private rights to the newsreels which are ultimately owned by a company called Cinesound and Movietone Productions which in turn is owned by, on the one side Fox and Murdoch, and on the other side Greater Union and Alan Rydge. When they look at what material to include, the price is obviously a factor that they will consider. If we were to charge on the marginal cost or the incremental cost of providing that material it would be relatively low because most of the Menzies material is in high demand. We've already got duplicating videos. It's a matter of whipping the video out, making a copy at broadcast quality - a pretty low cost.

On the other hand, if they have to go to Film World, the cost will be quite high. There will be pretty hefty charges for access to the copyright. It's a supply and demand situation. Good Menzies footage is worth a fair bit of money. That would mean therefore that we are going to essentially create a significant distortion in the allocation of resources because the companies will come to us in preference to the

private sector. There are competitive neutrality issues here. There are also issues about a misallocation of resources because essentially the investment that we've made into the film and that isn't a marginal cost, isn't able to be recovered in the marginal cost formulas; whereas in the private sector company they will logically reflect the full cost of supply over the expected life and use of the materials and so on.

I think that there needs to be scope to accommodate those sort of complexities. In the case I've used there's a competitive neutrality issue. In other cases, the only other archives that will have the material will be other government archives. We aren't constrained by competitive neutrality issues where there are other government archives and often state government archives and therefore not necessarily within the ambit of the guidelines that will come from this commission - will not be constrained by those sorts of cost-driven restrictions; will set their prices according to what the market will bear and again lead to the risk of a misallocation of resources where people will dip into our archive because it's cheaper.

You can see there's a problem there. There's an alternative argument which says, "Well, the misallocation of resources is not serious because the marginal cost has been fully covered. There is no significant diversion of resources that aren't fully paid for." But that works only if you look at it as a short-term one-off transaction, rather than if you look at the long-term impact on the demand on our organisation and therefore the demand for creating and duplicating materials, the range of duplicating materials, the amount of film we've got to copy and so on.

So that's one part of it. The other part of it, without rehearsing it again, is the point I made in here which has to do with the complexity in working out what is the marginal cost for intellectual property. On many occasions it's a very policy-driven decision. In that regard I would refer to a volume that was produced some years ago called *The Economics of Film and Television* which talked about the issues, about how pricing of, for instance, television programs occurs. It was put out jointly by the AFC and the department and its publication was largely driven by me and one of the then officers of the AFC, because we were concerned about what we saw as some relatively naive preconceptions about the application of traditional pricing models to intellectual property - and particularly film and television programs where notions of, for instance, dumping are standard trade concept - can't be translated into film because the price of the film doesn't actually reflect the full cost of the film in any circumstances. You can't base it on the unit cost of the extra - - -

PROF SLOAN: Well, you've got to (indistinct) costs by marginal costs.

MR BRENT: Exactly.

PROF SLOAN: Charge marginal costs, you'll lose. I mean, it's not just television; things like pipelines.

MR BRENT: Yes.

PROF SLOAN: If you regard the capital costs as sunk then you should charge virtually nothing. Who in their right mind wants to build a pipeline there.

MR BRENT: Exactly. So to translate those into information agencies, where inherently virtually every piece of information suffers from those problems, does mean that the cost equation becomes very complex. So for a range of circumstances there I guess I would be arguing that the use of a cost-driven model is perhaps fraught with a number of risks to the consumer in terms of how the costs are derived and calculated, or risks to the organisation or risks to the allocation of resources and therefore the greater public good and the broader economic principles involved; whereas a supply and demand driven model where you can price materials, for instance, on some form of market equivalence which is exactly what we do in our circumstances, makes more logical sense, is more easily understood by the consumer, is more justifiable in the mind of the consumer and in the mind of the general observer, and in many cases provides a better economic outcome in terms of reflecting the correct purchasing decisions that the purchaser will make in terms of the relative value of different products in the marketplace.

MRS OWENS: I'm not sure what you're saying is entirely inconsistent with what we're saying, actually, because we've basically classified things into three groups. There's the things you don't charge for which we call the core, and I know you've got problems with that terminology. There were the things that you may charge for at incremental or marginal cost and then we've said there's going to be other commercial products that we would say you charge the market price and it gets into this supply and demand model. In that middle group, if the marginal cost is very small you'd probably say, "Well, why bother?" Which is probably where you've come out there, "why bother" and but if you are actually engaged in commercial activity, you do have a competitive neutrality issues to deal with. So I'm not exactly sure whether we've too far apart on this.

DR STEWARDSON: But doesn't he have a problem, or we have problem, or we all do with category 1, where Screen sound discriminates between customers on the basis of their ability to pay for category 1 type products. Is that correct?

MR BRENT: That's in part true, and that's part of my problem, that's precisely, I guess, part of my concern, because we look at the supply side of the function but we also look at the demand side. We look at the what customers are able to pay, prepared to pay, the market place in which they operate, as distinct from the one we operate in. But also, while I acknowledge I think you've got the three categories, I think the way the three categories are presented does cause concern, partly because of my problem with the core and non-core and how it's defined and the fact that from our circumstance, not only is there a hazy boarder between the two, but in some in cases a product can be core for this customer and non-core for that customer in terms of the way the current definition works and some of the examples I was talking about before we came in, and off the record that I will repeat. Examples such as, film repair for a customer, commercial customer, maybe closely related to our core activities, if, for instance, we want a copy of the material for our collection, then it's core activity. It's a way a acquiring heritage. If the material is of slightly less

heritage value, but allows us to develop an association with an important depositor, and in turn have that depositor provide materials for the archive, it's, in some ways, a core activity. In some way the actual activity, the repair of this piece of non-heritage film is not a core activity, where does it fall?

PROF SLOAN: Yes, I hear what Robin's saying but I think when we get a slightly more fully fledged model, it would probably - I mean because it's not really - to charge according to the identity of the customer, I mean, that's just a kind of index for you - - -

MR BRENT: Yes.

PROF SLOAN: - - - of assessing the extent to which the mix of public and private goods.

MR BRENT: You're right in the sense - - -

PROF SLOAN: You see. We've got other agencies who have a deliberate policy of not charging differently, according you know, to the identity of the users. So they wouldn't charge Kerry Packer anymore than they would charge Mrs Bloggs, right. But in a sense, the identity of the user is to use the index of the extent to which there are private capturable benefits as opposed to public benefits.

MR BRENT: To some degree that's certainly true but in fact I'm using a shorthand, which perhaps if stretched out into precise economic terms, is a consideration for us about the direct and indirect public benefits that can be derived from a particular transaction and the consequential benefits for the organisation that can flow and therefore be a public benefit even though they are not part of the immediate or direct transaction. And so, if we were to reduce it very precisely, yes, we could bring it back to those economic terms. You're dead right.

PROF SLOAN: But, you know if Kerry Packer came along to you with a whole lot of family snaps of his boyhood on Sydney harbour et cetera, et cetera. He's then in that public benefit kind of category of customer, for that purpose, isn't he. Because you probably would be interested in that collection.

MR BRENT: Exactly right, and indeed we've had that situation not with Kerry Packer, but with a couple of very prominent individuals and there is a clear distinction between their professional role and the circumstances that surround that. So yes, you're right, I think if I was more precise I would be - I ought to be talking in terms of much more complex assessments about the balance between the public good and the capturable private good and the way therefore, we translate that into the pricing model.

MRS OWENS: I still come back to my point. I still feel that there is a degree of consistency, because I'd say within that core group - I mean, a lot of these examples fit in there as being virtually no charge if there is a public benefit.

MR BRENT: Yes, I think you're right. I think my concern is perhaps that given that we've drawn three quite clear divisions and the third division, the commercial stuff, you have used the terminology of GBE's and I think what I want to do is simply make sure that that is extended to non-GBE's undertaking purely commercial transactions, for which there is a logic, and I believe a strong benefit to the organisation and to the best administration of the resources that we've got. So that if we can have a share of that exception, I think that deals with one of my concerns and the other one, if we can look more carefully at the core non-core distinction and phrase it in a way that allows us to make the judgements in less absolute terms, I think that would also be of benefit and acknowledged. This is the point that Professor Sloan was making earlier about the grey in between. Where there is a merging of core and non-core, there needs to be the capacity to make judgements about pricing that reflect those two different sets of circumstances.

MRS OWENS: I think we still have agencies tripping up on the words, "core and non-core" because they seem to think we are implying "core" means important and "non-core" is just all the rest and I don't think that that's not the idea we are trying to get across. We're really saying the core is the bit you don't charge for and how you decide what those bits are is something you need to think of up front. That's when you are doing your cost recovery impact statement. You say, "Well, these are the justifications. In these sorts of situations we wouldn't charge. If we were going to take a copy of whatever we've repaired, there maybe a potential public benefit, there's a "no charge." You could actually set that up in that way.

MR BRENT: Yes, I agree with that. I think that says it well. That what we need to do is to ensure that in defining "core and non-core" we can accommodate the sorts of considerations that I haven't spelt out, I think, specifically enough here. Which are considerations about the balance between public benefits, benefits that might not be easily quantifiable but often are, and private benefits, and those things that can be clearly captured and those things that can't be clearly captured.

MRS OWENS: So I think there's a way around it.

MR BRENT: Yes, I'd agree with that.

MRS OWENS: I don't think that any of us are trying to stop you giving the digger that we talked about last time, the film. You know, I think there are some worthwhile activities which I'd say is probably part of your raison d'etre, you know, part of your core activities.

MR BRENT: Yes.

MRS OWENS: It's the way you define yourself and what you are there to do.

MR BRENT: Yes, and again to perhaps rephrase that slightly. My concern is probably better expressed by the fact that there maybe two activities that, on their face, appear very similar and should both, on their face perhaps, be described as "core or non-core." But when carefully analysed, in fact are quite distinguishable on

the basis that they have elements about them that are both "core and non-core" and the balance between is quite different for the two customers even though the service, in fact on its face, is a very similar service.

MRS OWENS: I think there would be a lot of situations where it's not black and white and applying our guidelines is going to be an element of judgement and we're not trying to beat that prescriptive, it's a matter of, so long as you go through the thought process, which you are obviously going through anyway. I think that is what is important so long as you can justify it to somebody that that's the thought process and that's why you've done what you've done.

MR BRENT: Yes, exactly. I'd endorse that very strongly, yes.

MRS OWENS: Okay, I think we're done. So thank you very much. Is there anything else that you'd like to say?

MR BRENT: No, I think that we've focused well on the things that concern me and I think the discussion has actually, not only answered some of my concerns, but actually focused the analysis that I provided into slightly better language. Into language that I think would be easier to explain to the public.

MRS OWENS: Good.

MR BRENT: Thank you.

MRS OWENS: Thank you very much and thanks for coming, again. We'll just break for a minute.

MRS OWENS: Okay, we'll now resume. The next participant this afternoon is the Council of Small Business Organisations of Australia. Could you please give your name and your position with the council for the transcript.

MR BASTIAN: Thank you. My name is Robert Bastian. I'm the chief executive of the Council of Small Business Organisations of Australia, and I may refer to that as COSBOA in the text.

MRS OWENS: Good, thank you, and thanks for coming again to talk to us. I presume you have a copy of our draft report. I don't know if you've read it all in great detail but we would very much welcome any comments you would like to have and we can have a bit of a discussion about it.

MR BASTIAN: Thank you. Look, I've come along really to show willing. I have not much to add from my earlier submission and I haven't read the report closely. I claim to be diverted by tax a bit. But I would say that your key messages strike a strong chord with what I think would be the small business sector's view, principally the efficiency argument, the complexity of all these charges and the difficulty of I guess controlling them in an economic sense.

We are running I guess similar lines to that at the moment, arguing about the efficiency of transferring government taxes across to small business or government demands across to small business, because in our view they land in a disproportionate fashion inasmuch as small businesses can't achieve the economies of scale for any service or demand that the public sector makes on the business community. Therefore that leads to, in our view, quite major distortions, particularly distortions in the labour market, wherein large firms are I guess shedding to avoid some of the on-costs that governments have imposed, and indeed governments themselves are outsourcing to do much the same thing. So the key messages that you have outlined there I think certainly reflect most of the concerns that I have heard from the sector over the years. That's really all I have to say.

MRS OWENS: Thanks for that. One of the big issues that we have been dealing with in this inquiry is whether there should be differential charges according to the size of the companies involved and whether there should be special deals for small companies - lower prices - in other words, some degree of cross-subsidisation. What was your view on that?

MR BASTIAN: I don't think we've changed. I think I commented on this slightly in a different form before, going to the point that certain goods - like phone rentals - have achieved a social character. Business phones come at a certain price, whereas domestic phones come at a different price. Instinctively, whilst I would mount many arguments to say that small business deserves a hand, I think that COSBOA would be uncomfortable with separate pricing of the same product. That confuses I think the intent of supporting small businesses.

I think that our basic concern is that, in the commercial side of things, like product is actually sold more cheaply to large firms. It's common knowledge that

Coke supplies Woolworths - Coca-Cola - per volume at much, much lower rates than it supplies smaller people in the route trade. That has been the occasion of a number of Senate inquiries.

It's also a major problem that the Hilmer process, taking energy, which is right on my desk at the moment, seems to have gotten us in a situation where, by coming from the top down on the scale of the purchase and not allowing small firms to aggregate the purchase, we had situations where large firms were buying slabs of electricity at 40, 50 per cent off four or five years ago, as energy was being passed out to private sector and as small firms could not aggregate to purchase their electricity, and that is to say, "I couldn't buy in bulk from my membership, they had to buy individually" - they were not able to purchase energy because their usage was not above - I think it was 750 kilowatts or something or other like that.

As a result of that, the larger firms got the distinct price advantage, a huge price advantage in the earlier days when the market was hot, and now the market is cooling down we find that not only are there smaller firms that can now achieve I think sort of - I think it's 750 kilowatts - purchases in some of the markets. Not only can they not get anywhere near the same advantage that larger firms had but indeed the agencies are finding they have rather messed up their figures and small firms are getting - I have a case on my table right now and I just fired it off to Alan Fels, where on 30 July the prices goes up by 202 per cent for the energy. So if that is an example then the problem goes reverse, yes.

MRS OWENS: We're not in this inquiry looking at the activities of the GBEs but there are a whole range of areas where small companies may be affected by what we have done in here, because we have developed guidelines which would relate to the activities of information agencies where - I don't know whether any of your members would use an information agency, but they also apply to regulators. It's a matter of whether your members struggle to afford to get information from agencies like the ABS if they use that agency, whether they are dealing with regulators who are charging them to registrar products or if they're dealing with AQIS if they're importing products and so on.

MR BASTIAN: If I could just - in the previous example I was seeking to demonstrate examples where the price of a common product varied. Our preference would be that the product is charged at the same price, regardless of the user. But having said that, on the matter of information my own organisation, as distinct from small business - that is to say COSBOA - performs much of its function working for government to help it unscramble areas of public policy. I must say, I can't afford much of the ABS's data. So we have a situation where data is collected from small business, stacked up, and government asks me questions because it cannot seem to see the data the same way as we do. They don't have those sorts of skills very often. I can't afford the information to feed back competent answers; nor can my sector afford to do the research in the raw.

So yes, I think there is an issue there. I actually think certain services and areas - communications, information and air - should be as free as is possible, certainly in a

rapidly moving and complex society such as we're becoming. I think information and particularly data - particularly government data and particularly data the central purpose of which is to enrich public debate - has a different character to data which is purely commercial. It is difficult to even find out how many small businesses there are the country. That's how fundamental it is. As I say, data which enriches public debate I think certainly has a character which I would like to see some movement on.

MRS OWENS: Has it become a bigger problem for you over the years, as ABS has charged for more things, or is it getting easier?

MR BASTIAN: No, it hasn't got easier. No, it hasn't got easier at all. In fact during the course of the taxation debate, data has been extremely scarce. Data on the GST I would have paid almost any price to get - became very, very difficult to obtain.

I think if I could just come back - no, the answer to that question is most emphatically no, it has not got easier to come by. I carry a lot of data in my head obviously, because I have been here for a long time, but I think over and over again, for small business as a sector as distinct from a business entity, to continue to I guess develop and become better understood, the question of data is crucial to us, absolutely. Sorry if that's roundabout but I think you can see where - - -

MRS OWENS: No, that's fine. What about your regulation and regulators? Has that been an issue that any of your members have talked to you about - the money they're paying out to be regulated?

MR BASTIAN: Heavens, I'm sorry, that's a sort of fundamental - that's what the Bell report was all about, front to back. I was in Tasmania two weeks ago and a small food retailer I think produced - and I could submit it, I'm sure - about 23 licences that were required to run a relatively simple food shop.

MRS OWENS: Some of those would be state government and local government licences.

MR BASTIAN: Absolutely, yes. For most small businesses I think it's fair to say that government is a great grey wall and they don't differentiate too much between which part of government, and of course that's the core of much of the recommendations you've made here; that most businesses see huge inconsistencies between the way these rules are applied and so it goes.

I don't want this to turn into a big whinge but the notions and the image of one-stop shop and one-stop government and all that sort of stuff don't seem to be removing much of the regulatory background. Taking the BAS as a classic example, the BAS is a collecting document for a whole pile of taxes and processes which by and large have not themselves altered. Much of the one-stop shop approach at the state and local government seems to have the same problem. You put forward an agency which collects a range of papers and a range of licences, but the licences

themselves don't seem to disappear. We still have a lot of overlap. Unfortunately I can't be more quantified than that.

MRS OWENS: One of the issues we're interested in is the whole issue of consultation with industry. You just talked about all the licences that have to be bought by your members, or particular ones. Do you ever get consulted on these issues of charging and - - -

MR BASTIAN: Yes. I think that this could be a little bright light on your report. I think that governments certainly are reaching to small business. There's no question about that. 99.99 per cent recurring of my effort is directed towards governments. Governments are asking questions all the time. In the last four or five, maybe seven years, my activities have moved very solidly from trying to explain to governments what small business is about, across to them literally coming to me and begging me to unscramble it for them. The will is there. There's no question about that.

I think the fundamental understanding is not there really. People don't see the difference between industry associations and professional associations and small business associations. They don't see the vertical manner of industry groups, the complex relationship of employer-employee that is in a professional body and the lateral nature of a small business, a size dimensional specialist such as myself. But no, I think we're making great strides there. I think there's a lot of will - even too much to cope with - and that's why information and access to it, for me particularly, is so important. We're being killed with kindness at the moment.

Change doesn't move at the same speed but at least the inquiry is there, even to the point where I would say that - a little bit - small business is doing better even in the public's eyes than big business at the moment. I think that small business has to some extent won the image of being a major employer or the major employer. Some of the downsides of concentrating markets and large corporations have hit the public eye. I would say all of that is evidence of good dialogue with governments. It's just that the job is so huge.

MRS OWENS: I suppose one of your - you were talking before we started about all the work you have been doing, like, on the GST and so on. What we're dealing with is a whole lot of other government charges which potentially for small business could add up to being, you know, very significant. A lot of the attention has been focused on BAS and GST and, as far as I can see, less attention on this, maybe because the charges are all disbursed and maybe they don't sort of sit down and say, "What does this all add up to for me," because they're so small.

MR BASTIAN: Taking that question, the point you make is perfectly valid and huge. Small business by and large regards all public sector imposed demands on their time as taxes. I note on page 183 of the report - that I haven't really read in great detail - how you distinguish between fees and taxes. It's a pretty subtle distinction in the eyes of a small business person.

You are correct to say the focus has been on the GST and the angst has been on

the GST, but the level of response and negativity towards the GST and its paperwork is in my view evidence of a far deeper problem, and you have pointed it out; that is, that we can't measure the quantum of the demand. That's one thing. We don't seem to have any damn will to measure the quantum of demand, to me is a more serious issue. There is a general acceptance that these charges are growing. I note that in figure 1, in the context of cost recovery, they do seem to be growing steadily. I think most small businesses basically feel that all public sector demands are taxes.

Now, it's significant that we supported the GST because we thought these demands would be part of the taxation reform process, and late in the day saw that business tax reviews got flicked to Mr Ralph and even later in the day we had dinner with Mr Ralph and found that - between his first and second report, incidentally - and he said that he agreed with us about the seriousness of the nature of the compliance costs and all these other non-tax taxes, but that as they were not taxes they were not part of his review. So very late in the day we had found that three-quarters of the reasons we supported taxation reform in the first place had been defined out.

I should stress that one dep sec in Treasury when questioned on that matter by myself said he did not understand why Mr Ralph should take that view. So what is a tax is a very slippery subject. Small business most definitely feels that anything that doesn't make a quid is a tax and I subscribe to that view and that's why, as I said earlier, we are mounting a fairly determined effort to try to take responsibility for containing the growth of paperwork outside the public sector. I think there is a general sense in the small business community, certainly through COSBOA, that suggests there's a conflict of interest in public sector agencies about honestly identifying compliance costs and about containing the transfer of public sector activity across the private sector.

I spoke about this earlier but I'll just repeat it. I think it would be very healthy if small business itself could try to take some ownership of that because small businesses are very lateral and three - all layered government network, whereas most government agencies are fairly isolated and encapsulated and focused. I think we actually have the breadth that government doesn't have.

PROF SLOAN: No, I haven't got any questions. It's an issue - I mean, really this inquiry has been the result of concerns of the impact across recovery on business. That's its genesis and so we're speaking the same language.

MR BASTION: I think we are and despite the sense of resignation in my voice, we are moving forward. I think that we shouldn't - we don't have any naive view as an organisation that if we can get a pot of gold together and do some research it will all go away. It's just that I think we probably have more commitment to containing this sort of thing than governments, that's all. We have a business regulation review unit somewhere in the Productivity Commission, I think. I don't know what it does. I wish to go on record as saying that the small business minister's chief of staff has never heard of it. It seems surprising to me that something as contentious as entities tax legislation should appear in draft without a regulatory impact statement stapled to the back and I wouldn't mind half the fees KPMG got for producing the first BAS

which certainly didn't fly.

So I think there is merit in maybe thinking about externalising a bit the feedback mechanism on paperwork and that's what we're fishing for here. I'm not asking for any handouts from government. I'm simply saying the intent, albeit it might come up under the banner of unpaid tax collectors fighting fund or something or other because that's got a lateral appeal at the moment - the intent is to try to, I guess, properly order the existing information on it on this area and see if we can get some priorities from the small business sector. I see huge parallels between that and what you're doing here.

Sadly, beyond that, in closing down, in reading or even skimming through your report, I can see just how huge the subject is. I was listening to your three basic groups with your previous speaker. I certainly could only applaud the order of them. I'm not qualified to really sort of speak to the merit of them but anything at all you can do to encapsulate this whole thing along the lines of the key messages you've got on page xxvi and then get that out to the small business community would be encouraging to it. It would be folly to leave it lying around in this format. It's just too thick - Mr Bastian held up the book. There's a huge communications issue here.

MRS OWENS: We understand that. It is a doorstopper. We have to carry this each time we come to Canberra from Melbourne and so I know what it's like but I think you said before that you felt that most of these things are just viewed as being taxed by small business but that classification we were talking about before is really saying that there is a legitimate role for some government charging but in certain circumstances should be defined. Would your members be happier knowing what those circumstances were and knowing that they were defined in a particular way so if an agency is actually undertaking a commercial service for example it's quite legitimate for that agency to charge for that commercial service rather than compete unfairly with somebody else.

MR BASTIAN: Competitive neutrality is an issue which seemed to have been popular when the states were signing off on it and we had Hilmer running around the place but it seems to be on - more in the breach. There isn't, I don't think, a great deal of trust or understanding in the principles of competitive neutrality. I think that it perhaps would help if agencies charging had a competitive neutrality badge of approval signed off by someone whose life was on the line. The principles of competitive neutrality seem to have been signed off by the premiers and they're reasonably understood, they're not complicated. But I would have to say that the feeling on the ground is that they're more in the breach. So yes, that's about all I can say there.

MRS OWENS: Do they know about the competitive neutrality complaints unit?
Also - - -

MR BASTIAN: Well, I don't know about it so I daresay they don't.

MRS OWENS: It's also under the roof of the Productivity Commission.

MR BASTIAN: Small business is huge and churning, right. Communications with small business is a major - educating small business is just massive. We spent half a billion dollars with the GST and didn't scratch the surface so I think there is an issue there that would bear some, I guess almost testing or probing to find out exactly how far down the pipeline or down the food chain awareness of these things actually happens. For example - and I don't mean any disrespect - you change a minister, you change their staff, I've got to go up and remind them there was a Beddle report, there was a Bell report, there was a Ferguson report. Each time they change around up the hill we start the process over again and each time you change a small firm the same thing occurs. They've got this incredible learning curve to go through and they don't know of these agencies and even if they knew of them, their capacity to actually use them is pretty limited.

So I come back to it. I think we are inching forward and I'm not certainly here to complain about anything. I'm simply saying that there are practical limitations as to what a one or two-man firm in Woop Woop can do through this agency.

MRS OWENS: Yes, we understand that.

MR BASTIAN: Yes, and we'll help where we can. You asked on one earlier occasion I think, be it either here or as a visit to my office, that running back to the issue of public information I think I mentioned to you that I had made an EPAC submission about wages not being actually a measure of labour costs any more with a raft of on-costs about rent has given way to an undefinable occupancy costs and shadowy deals and no longer measures the real cost of commercial tenancies. Taxes have become confused by a wide range of government cost recovery mechanisms and public sector entries into commerce. They no longer reflect the real price of the public sector. Interest is confused by entry and exit costs and a plethora of socially motivated types of money and funding. The point I guess I'm making there is that this area of debate is similarly confused to small business and I don't know that we're even capable of engaging it properly. I think I actually tabled that one before.

MRS OWENS: I think you did, yes. Thank you for that. I mean, it's a challenge for you I think in your role and it's a challenge for us in just about every inquiry that we do to engage that sector when relevant because it's so disbursed and they're so small.

MR BASTIAN: The purpose of that last discourse was less to do with the sector and more to do with the item - wages, rent, interest, taxes. They themselves to have public debate have got to have clean edges and they certainly don't have clean edges at the moment and I don't think they ever will have again but anything you can do to I guess package and enrich public debate - and I should close on this one - and bring people into a state of awareness, will ease - there's a lot of angst out there at the moment. People feel disenfranchised, disempowered from a government process or the processes of government and I think anything we can do to encourage them to think that you're at least thinking down the lines that you are about getting it better will have a social benefit.

MRS OWENS: Thank you and thank you for coming. This concludes today's scheduled hearings and I'm adjourning the proceedings until tomorrow and we resume I think at 9.30.

AT 5.10 PM THE INQUIRY WAS ADJOURNED UNTIL
FRIDAY, 15 JUNE 2001

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