



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

ESTIMATES

(Additional Estimates)

WEDNESDAY, 16 FEBRUARY 2005

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SENATE
ECONOMICS LEGISLATION COMMITTEE
Wednesday, 16 February 2005

Members: Senator Brandis (*Chair*), Senator Stephens (*Deputy Chair*), Senators Chapman, Murray, Watson and Webber

Senators in attendance: Senators Bartlett, Brandis, George Campbell, Chapman, Conroy, Eggleston, Fifield, Harradine, Lundy, O'Brien, Sherry, Stephens, Watson and Webber

Committee met at 9.03 a.m.

INDUSTRY, TOURISM AND RESOURCES PORTFOLIO

In Attendance

Senator Minchin, Minister for Finance and Administration

Department of Industry, Tourism and Resources

Executive

Mr Mark Paterson, Secretary
Mr John Ryan, Deputy Secretary
Ms Patricia Kelly, Deputy Secretary
Mr Tim Mackey, Deputy Secretary

Outcomes and Outputs

Mr Drew Baker, General Manager, ICT Services Branch, e-Business Division
Ms Tricia Berman, General Manager, Innovation Policy Branch, Innovation Division
Ms Yvonne Best, Manager National Marketing, AusIndustry
Ms Vicki Brown, General Manager, International Energy Branch, Energy and Environment Division
Mr Don Brunker, General Manager, Industry Analysis Branch, Industry Policy Division
Ms Chris Butler, General Manager, Business Development, AusIndustry
Mr Peter Chesworth, General Manager, Strategy, Office of Small Business
Mr Drew Clarke, Head of Division, Energy and Environment Division
Mr Peter Clarke, General Manager, Automotive and Engineering Branch, Manufacturing, Engineering and Construction Division
Ms Michelle Clement, Acting Manager, Venture Capital Programs, AusIndustry
Ms Sarah Clough, General Manager, Policy, Office of Small Business
Ms Tania Constable, General Manager, Resources Development Branch, Resources Division
Mr Craig Cormick, Manager, Public Awareness Section, Biotechnology Australia
Mr Chris Dainer, Chief Financial Officer
Mr Ivan Donaldson, Executive Director, Australian Building Codes Board
Ms Robyn Foster, General Manager, Business Services Group, Corporate Division
Dr Michael Green, General Manager, Advanced Manufacturing and Space Licensing Branch, Manufacturing, Engineering and Construction Division

Mr Paul Griffin, General Manager, Business Entry Point Branch, e-Business Division
Mr John Griffiths, General Manager, Offshore Resources Branch, Resources Division
Ms Kerri Hartland, Head of Division, Innovation Division
Mr John Hartwell, Head of Division, Resources Division
Dr Barry Inglis, Chief Executive and Chief Metrologist, National Measurement Institute
Ms Beryl Janz, General Manager, Ministerial and Communications Group, Corporate Division
Ms Marie Johnson, Head of Division, e-Business Division
Mr Barry Jones, Executive General Manager, Invest Australia
Ms Merryn Kennedy, Manager, Commercial Ready Program, AusIndustry
Ms Wendy Launder, Manager, Low Emission Technology Demonstration Fund, AusIndustry
Mr Mike Lawson, General Manager, Aerospace and Defence Industries Branch, Manufacturing, Engineering and Construction Division
Mr David McCarthy, General Manager, TCF and Construction Branch, Manufacturing, Engineering and Construction Division
Mr Rob McKeon, General Manager, Industry Collaboration Group, Manufacturing, Engineering and Construction Division
Ms Terese Middleton-Wood, Assistant Chief Financial Officer
Mr Ken Miley, Acting Head of Division, Industry Policy Division
Mr Brendan Morling, General Manager, Industry Policy Branch, Industry Policy Division
Mr Peter Morris, General Manager, Tourism Market Access, Tourism Division
Ms Janet Murphy, Head of Division, Tourism Division
Mr Kevin Noonan, General Manager, On-Line Systems Branch, e-Business Division
Mr Philip Noonan, Head of Division, Corporate Division
Mr Kevin O'Brien, General Manager, National Energy Market Branch, Energy and Environment Division
Mr Steve Payne, General Manager, Minerals and Fuels Branch, Resources Division
Mr Bill Peel, Executive General Manager, AusIndustry
Mr Craig Pennifold, General Manager, Pharmaceuticals and Biotechnology Branch, Innovation Division
Mr Ken Pettifer, Head of Division, Manufacturing, Engineering and Construction Division
Ms Karen Powell, General Manager, ICT Operations Branch, e-Business Division
Ms Di Redwood, Manager, Tourism Programs, AusIndustry
Ms Kerry Rooney, General Manager, Business Development Group, Tourism Division
Mr Paul Ross, Manager, Biotechnology Australia
Mr Les Rymer, General Manager, Small Business and Industry Programs
Mr Paul Sexton, General Manager, Customer Services, AusIndustry
Ms Margaret Sewell, General Manager, Safety Taxation and Projects Branch, Resources Division
Dr Terry Spencer, Acting General Manager, Chemical and Biological Metrology Branch, National Measurement Institute
Mr Garry Wall, General Manager, Energy Futures Branch, Energy and Environment Division

Ms Sue Weston, Head of Division, Office of Small Business

Mr Bruce Wilson, General Manager, Environment Branch, Energy and Environment Division

Ms Margaret Wilson, Manager, Small Business Assistance Programs, AusIndustry

Ms Judi Zielke, General Manager, Innovation Programs, AusIndustry

Portfolio Agencies

IP Australia

Dr Ian Heath, Director-General

Geoscience Australia

Dr Neil Williams Chief Executive Officer

Dr Trevor Powell, Deputy Chief Executive Officer and Chief of Information Sciences

Dr Phil McFadden, Chief Scientist and Chief of Geohazards Division

Mr Tony Robinson, General Manager Corporate

Tourism Australia

Mr Scott Morrison, Managing Director

Mr John Hopwood, Executive General Manager, Corporate Services

Mr Geoff Buckley, Director, Strategy and Research

National Offshore Petroleum Safety Authority

Mr John Clegg, Chief Executive Officer

Mr Phil Palmer, Corporate Manager & Chief Financial Officer

Department of the Treasury

Australian Securities and Investment Commission

Mr Jeffrey Lucy, Chairman

Mr Jeremy Cooper, Deputy Chairman

Ms Berna Collier, Commissioner

Australian Prudential Regulation Authority

Dr John Laker, Chairman

Mr Ross Jones, Deputy Chairman

Mr Stephen Somogyi, Member

Mr Tom Karp, Executive General Manager, Supervisory Support

Mr Brandon Khoo, Executive General Manager, Specialised Institutions

Mr Charles Littrell, Executive General Manager, Policy, Research and Statistics

CHAIR—Good morning, ladies and gentlemen. I call to order this public hearing of the Senate Economics Legislation Committee. On Thursday, 10 February 2005, the Senate referred to this committee the particulars of proposed additional expenditure in respect of the year ending on 30 June 2005 for the portfolio areas of the Treasury, and Industry, Tourism and Resources. The committee will consider proposed expenditure for departments and agencies in the order in which they appear on the circulated agenda which was agreed to by the committee last week. The order of today's program will commence with the Industry, Tourism and Resources portfolio. It is the intention of the committee to examine the proposed expenditure of the portfolio until the dinner break at 6.30 p.m. After the dinner adjournment the committee will move on to the consideration of proposed expenditure in the Treasury portfolio beginning with the Australian Securities and Investments Commission followed by the Australian Prudential Regulation Authority.

The committee has authorised the recording and rebroadcasting of its public proceedings in accordance with the rules contained in an order of the Senate of 31 August 1999 concerning the broadcasting of committee hearings. I have been requested to remind everyone present that mobile phones should be turned off or to silent operation while in the hearing room. When officers are called upon to answer a question for the first time, I ask them to state their full name and the capacity in which they appear. Please speak clearly and directly into the microphones to assist the parliamentary reporting staff with the recording of the proceedings.

I remind all officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament expressly provides otherwise. I also direct witnesses to the resolutions agreed to by the Senate on 25 February 1988 concerning the conduct of Senate committees. In particular, I refer to resolutions 9 and 10. Resolution 9 reads:

A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the chairman on this matter, the committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.

Resolution 10 provides:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken. Unless the committee determines immediately that the question should not be pressed, the committee shall then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination and the reasons for the determination, and shall be required to answer the question only in private session unless the committee determines that it is essential to the committee's inquiry that the question be answered in public session. Where a witness declines to answer a question to which a committee has required an answer, the committee shall report the facts to the Senate.

I also remind officers and senators that an officer shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to the minister. Witnesses should note that the evidence given to the committee is protected by parliamentary privilege. I remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

At the conclusion of the hearings, the committee will set a date for the receipt of written responses to questions taken on notice. The committee will prepare a report on its examination of estimates which will be tabled on or before 15 March 2005.

[9.09 a.m.]

Department of Industry, Tourism and Resources

CHAIR—I welcome to the table Senator the Hon. Nick Minchin, Minister for Finance and Administration, representing the Minister for Industry, Tourism and Resources; Mr Paterson,

the head of the Department of Industry, Tourism and Resources; and other officers of the department and associated agencies. Minister and Mr Paterson, do you have an opening statement?

Senator Minchin—No, thank you.

Mr Paterson—No.

CHAIR—Mr Paterson, you have asked whether we could bring forward the examination of officers concerned in the tourism area of the portfolio. I have had an inquiry made of Senator O'Brien, the Labor spokesman. He can be available in about 10 minutes, so we will be able to meet that request then. Until that happens, we will commence with general cross-portfolio questions.

Senator LUNDY—Can you go to the additional portfolio budget statements and highlight any major changes to portfolio budgeting contained in these statements relating to outcome 1.

Mr Paterson—I will get the chief financial officer to take you through that.

Mr Dainer—Would you like me to give you an overview of the changes that have impacted on the department?

Senator LUNDY—Yes, please, and if you could take me to the page numbers that would be helpful.

Mr Dainer—Overall, there has been an increase, as a result of additional estimates, of \$245.7 million since the 2004 budget. That is an increase of 12.1 per cent. That is on page 17 of the summary. On the departmental side there has been an increase in total departmental resources of \$7 million—or up two per cent. That includes, on the departmental expense appropriation side, an increase of \$9.585 million. That includes measures totalling \$10.526 million—they are on page 25 at table 1.1—offset by other variations, a negative 0.941—that is on page 23 and 24—to give a revised departmental expense appropriation for this year of \$278.541 million.

Independent source revenue has decreased by \$4.3 million. That is on page 30 of the PAES in table 1.6. Departmental capital appropriations have increased by \$1.831 million to \$8.233 million. That is on page 28 of the PAES in table 1.3. On the administered side, there has been an overall increase of 14 per cent, going from \$1.71 billion to \$1.95 billion. That is made up of a reduction in the administered annual expense appropriations from \$555 million to \$518 million. The revised figure is on page 17. That has been impacted by measures totalling \$44.3 million—page 25. Rephasings, which are listed on pages 23 and 24, total \$66.9 million and other variations are negative at \$14.9 million. Again, they are on pages 23 and 24. On administered special appropriations—essentially a change in the estimate—not impacting annual expense appropriations there has been an increase from \$504 million to \$654 million. That is on page 17 of the PAES. Most of that has been driven out of the offshore petroleum royalties, which are about \$140 million of the increase. Administered capital appropriations have increased by \$74.5 million to \$163.8 million. That is on page 28 of the PAES. Overall, in terms of appropriations, there has been a 16 per cent increase from \$1.149 billion to \$1.336 billion. Non-cash expenses have also increased from \$561 million to \$613 million. That is on page 20 of the PAES. There has also been an increase in administered revenue, which has

gone from \$1.186 billion to \$1.49 billion—a variation of \$303 million. Again, that is related to the offshore petroleum royalties.

Senator LUNDY—Thank you for that summary. I think it is reasonable to characterise the changes as quite substantial within the portfolio. What about any restructuring of the way that portfolio outcomes and programs are organised—has there been any restructuring within the outcomes and outputs?

Mr Dainer—No.

Mr Paterson—No.

Senator GEORGE CAMPBELL—I do not know if you are the one who should be answering the questions on those figures, Mr Dainer; however, can you explain to me the \$84 million for payment associated with a loan guarantee for the AMC?

Mr Dainer—Yes. When the loan guarantee was recognised it actually had to be called in. We recognised the expense last year; we booked a liability and paid that out this year from our administered funds.

Senator GEORGE CAMPBELL—So that is a payment from the department to whom?

Mr Dainer—That was to the ANZ bank.

Senator GEORGE CAMPBELL—To the AMC?

Mr Dainer—To the ANZ bank.

Senator GEORGE CAMPBELL—The ANZ bank.

Mr Paterson—It was loan guarantee, which was revoked—it was then called in.

Senator GEORGE CAMPBELL—Weren't there also royalties outstanding from this to the CSIRO—or should we ask them about that?

Mr Dainer—That was a different transaction. That was between the CSIRO and AMC.

Senator GEORGE CAMPBELL—So that is what it has cost the Commonwealth to guarantee that loan to the AMC—the \$85 million. Mr Hartwell, do you know what the total cost of the AMC project has been to the Commonwealth?

Mr Hartwell—Yes. As Mr Dainer has outlined—and it was referred to last year—we made the payment earlier this fiscal year, in July. The amount is set out in the PAES there. The net cost to the Commonwealth of course is balanced by the fact that AMC have returned money that they held in escrow and as well there is some realisation of assets within AMC that are no longer required for the ongoing business there. So we would estimate—and there is no final figure at this point in time—that the net cost to the Commonwealth will be somewhere between \$55 million and \$58 million.

Senator GEORGE CAMPBELL—That is a substantial cost for a failed project. What is the \$20 million for a measure where the decision has been taken but details are yet to be announced? This is a novel way of doing PBSs.

Mr Paterson—I understand that it is not a novel way. It is not that uncommon. Where a decision has been taken and there is a potential liability to the Commonwealth, it is recorded as a measure. The particular item that you refer to is dependent upon a commitment by a state

government, and that commitment has not yet been made. So it is not announced, because it requires a decision by a state government before the Commonwealth's commitment is realised.

Senator GEORGE CAMPBELL—So it may never proceed?

Mr Paterson—Correct. But the Commonwealth has taken the decision, and that is why it appears in these papers.

Senator GEORGE CAMPBELL—Are you able to give us any indications about what area this is in?

Mr Paterson—It is an investment incentive, but I cannot go into further details.

Senator GEORGE CAMPBELL—Is it an incentive to attract investment?

Mr Paterson—Correct.

Senator GEORGE CAMPBELL—The \$37 million moved from 2004-05 to the out years for Commercial Ready—is that an indication that the program is not getting off the ground as fast as it should?

Mr Peel—Typically, the R&D Start program, which the Commercial Ready program now subsumes, has experienced about 20 per cent slippage per annum in its expenditure. Largely that comes about because companies are generally overly optimistic about the progress of their R&D projects and therefore overestimate the expenditure they will require each year. That is one element of the \$37 million rephasing. Another issue that has arisen in recent times is that the quality of applications that we have been receiving has not been as high as it has been in the past, so there has been a lower level of approvals of applications in recent times. Those things together caused us to decide to seek the government's approval to rephase \$37 million into the future years. The money is not lost to the program; it is still there and available to companies. It is just available in future years.

Senator GEORGE CAMPBELL—Why do you think, Mr Peel, that the applications are declining in quality?

Mr Peel—I think it is probably just a temporary thing. There was a rush of applications when the R&D Start program closed, and the R&D Start program is funded from the same bucket of money. I think, in the rush of people to get their applications in, they probably did not pay as much attention to them or work on their projects as well as they might have. We expect to see a turnaround in those numbers over the next few months as people get used to R&D Start not being there any more and get used to the Commercial Ready program coming into operation. So I think the changeover has probably had something to do with that.

Senator GEORGE CAMPBELL—We will come back to those.

Mr Paterson—Mr Chairman, before we start on the tourism issues, we have a significant number of officers waiting in anticipation.

CHAIR—I was waiting for Senator O'Brien to arrive before we did this housekeeping. How long do you think you will be with the tourism area of the portfolio?

Senator O'BRIEN—An hour and a half.

CHAIR—In that case, we will resume as per the program and go through if that suits opposition senators. How long do we think we need for outcome 1?

Senator GEORGE CAMPBELL—It is hard to tell; it depends on the answers. I have several issues to raise.

CHAIR—Can we send IP Australia and Geoscience Australia away until some specified time later in the day?

Senator GEORGE CAMPBELL—Yes.

CHAIR—Can we send them away until teatime this afternoon?

Senator GEORGE CAMPBELL—We can look at it at lunchtime.

CHAIR—We can excuse officers concerned from IP Australia and from Geoscience Australia until at least after the luncheon adjournment. If when we break for lunch it appears that they will not be required until some later time in the afternoon, I will arrange to have a telephone message sent to them. In relation to other officers concerned in outcomes 1 and 2, Senator O'Brien thinks that he will be about an hour and a half with Tourism Australia. Those officers will not be required until after morning tea but I am not sure how helpful that is.

Mr Paterson—It might be helpful if we could identify whether there were any areas that senators did not intend to address or if we could identify the areas you anticipate might be focused on as we could then relieve some officers.

CHAIR—Are senators able to give some indication in that regard?

Senator GEORGE CAMPBELL—I think we will pretty much be covering the field.

CHAIR—Senator Lundy, can you isolate any area from your range of questions?

Senator LUNDY—Obviously I have a focus on manufacturing but I also have questions for the Office of Small Business.

CHAIR—Senator O'Brien, can you isolate any area?

Senator O'BRIEN—Basically I will be asking questions relating to the resources and tourism portfolios.

CHAIR—So it is not possible to narrow it down any further.

Mr Paterson—Thank you, Chair.

Senator O'BRIEN—I want first to ask questions about Tourism Australia. I understand it came into being in July last year. What is the organisation's budget? Can I get a breakdown between its operational spending and internal costs?

Mr Hopwood—If I can refer to the portfolio additional estimates pages 103 onwards, you can see that the total funding is \$167 million. Of that \$167 million, to give a rough idea in relation to the proportion that I call marketing, which you would probably call operational, our prime activity is marketing operation around the world, and the proportion that relates to that is approximately 77 per cent. The non-marketing activities which include rental costs, overheads et cetera are just under 25 per cent.

Senator O'BRIEN—Do the marketing costs include the cost of officers based overseas?

Mr Hopwood—No, they are what I call non-marketing costs.

Senator O'BRIEN—Can you tell me where its staff are located and how many staff are in each area?

Mr Hopwood—Do you want me to go through every country overseas or shall I just call Asia?

Senator O'BRIEN—I would prefer the countries.

Mr Hopwood—I will have to come back to you in relation to the specific countries. A summary of the Asian level shows we are roughly talking about 39 staff in total; in Japan, 14; in the Americas, 18; and in UK-Europe, 36. In relation to the balance between that and 272, they are all in Australia. I have missed out New Zealand, which is five. All those, less the difference between 272, are in Australia.

Senator O'BRIEN—I know a number of people have moved across to the organisation from the public sector. What employment instrument, or instruments, operates for Tourism Australia?

Mr Hopwood—Within Australia the prime employment instrument is an enterprise bargaining agreement we have with the former staff of the Australian Tourist Commission, who were moved through to Tourism Australia. There are some staff from the former BTR area who are on their own AWA agreements, but they are a minority in number compared with former Australian ATC staff.

Senator O'BRIEN—What about overseas?

Mr Hopwood—All the staff are employed under the normal local terms and conditions. So it is whatever happens to be in each of the locations. It is on a one-on-one contractual basis.

Senator O'BRIEN—Is it possible to get a breakdown of the staffing levels—the number per level—for those under the EBA?

Mr Hopwood—It is approximately 100—I can give you that.

Senator O'BRIEN—And which salary level they fit into.

Mr Hopwood—By banding?

Senator O'BRIEN—Yes.

Mr Hopwood—I cannot give it to you now but I can take it on notice.

Senator O'BRIEN—On the categories of employment, would it be fair to describe the operations as administrative and marketing of the organisational staff?

Mr Hopwood—Marketing is a very broad term, so our prime activity is marketing. And, yes, the majority of our staff are marketing staff, and those which are not marketing are the support staff in the finance and technology area. So, as a very broad statement, yes, that would be correct.

Senator O'BRIEN—How does the staffing of Tourism Australia compare to its predecessor, the Australian Tourist Commission?

Mr Hopwood—Again, I refer to page 107. The 220 was a figure that related to the Australian Tourist Commission, so the increase of 52 on that page relates to the new activities taken on by Tourism Australia relating to domestic tourism, tourism research and the enactment of additional funding for the white paper. That enactment requires additional staff in various areas.

Senator O'BRIEN—How many staff did BTR have?

Mr Hopwood—In BTR we currently have allocated around 25 to 26.

Senator O'BRIEN—But they now sit in Tourism Australia?

Mr Hopwood—Correct.

Senator O'BRIEN—Are they included in the 272?

Mr Hopwood—Yes—correct.

Senator O'BRIEN—Going to the department, since the establishment of Tourism Australia, is any tourism policy planning or program work still being undertaken within the department? If so, what is it?

Ms Murphy—There is a significant amount of tourism policy and planning work still being undertaken by the department. The department is very heavily focused on implementing aspects of the white paper that fall in its area of responsibility. If you would like, I can outline some of those areas for you.

Senator O'BRIEN—Yes, please.

Ms Murphy—The areas include the business ready program for Indigenous tourism; tourism and conservation initiatives; the Australian Tourism Development Program; the tourism white paper intergovernmental agreement; supporting a number of consultative groups, including the Industry Implementation Advisory Group; managing the World Tourism Organisation membership issues; tourism and aviation issues, particularly through the National Tourism and Aviation Advisory Committee; issues around tourism, training and skills; general business and industry development issues; some niche policy issues; and a range of other issues such as implementing many of the election commitments which have project funding. It is probably fair to describe the very broad differences as being that the department is focused more strongly on supply-side sorts of issues, and Tourism Australia is focused more strongly on the demand-side sorts of issues. But of course there are areas where these interconnect.

Senator O'BRIEN—What is the staffing component of the tourism division?

Ms Murphy—The division has an ASL of around 60. We are expecting to come in on staffing of around 55 at the end of this financial year.

Senator O'BRIEN—How will that be achieved? Are people leaving and not being replaced?

Ms Murphy—People leave. We have turnover. People leave and then it takes a while to recruit behind them.

Senator O'BRIEN—But the target is to go down to 55.

Ms Murphy—The target is around 55. Fifty-five is an indicative number. What really drives how many people we can employ is our salary budget for the year.

Senator O'BRIEN—Is there a breakdown within the division that matches activity? You have given us a range of activities the division is engaged on. Is there a breakdown within the division that sorts people within those areas of work activity?

Ms Murphy—There is. We have sections in the division that focus on particular aspects of work. Each section has a notional staffing level, but it is fairly fluid depending on where the demands are. I can provide you with a breakdown. I do not think I have it section by section, but I can certainly provide that on notice.

Senator O'BRIEN—I would appreciate perhaps even graphically a description of how the division is structured, with some understanding of the staffing allocation within that structure.

Ms Murphy—Certainly.

Senator O'BRIEN—In terms of the activities of Tourism Australia, what campaigns are currently being run by Tourism Australia?

Mr Morrison—Our campaigns are currently focusing principally on our markets in the United Kingdom, the United States, Germany, Singapore and Hong Kong. Later this financial year we will be moving more strongly into Japan and Korea. We will be launching our new brand or our refreshed brand. The type of activity that is engaged in in those markets ranges from straight out brand advertising in terms of Destination Australia through to brand cooperative arrangements with our industry partners and extending more broadly into the areas of trade relationships, facilitation of visiting media programs to drive the PR for the organisation and trade events.

Senator O'BRIEN—This is the continuation of the Brand Australia program, is it?

Mr Morrison—This is the continuation of our annual program of marketing activity, which is a full spectrum of activity from the more traditional TVC advertising through to trade work.

Senator O'BRIEN—Brand Australia was launched with a pretty big fanfare—a \$275,000 launch, for starters, but a whole lot more expenditure in this country and expenditure in other countries. What is the budget for each of the markets for the coming financial year?

Mr Morrison—Running through our consumer marketing, the budget for the Middle East is \$195,000—this is direct consumer marketing activity, PR promotions and visiting journalist programs. There is \$1.35 million for the United States, \$201,000 for Canada, \$7.5 million for the United Kingdom, \$27,000 for Ireland, \$1.3 million for Italy, \$565,000 for France, \$2.25 million for Germany, \$173,000 for the Netherlands, \$108,000 for Switzerland—

Senator O'BRIEN—Can you slow down a bit? I am trying to keep up with you. Have you got a document you could table for us?

Senator Minchin—I am sure we can give you a copy.

Mr Morrison—We can table the document.

Senator O'BRIEN—Can I get that now?

Mr Morrison—I have some scribbles on the bottom. If you do not mind my scribbles, you can have this one.

Senator O'BRIEN—I am sure we can get a copy of it and give you back your original to assist you.

Mr Morrison—I am happy to do that.

Senator O'BRIEN—I will come back to that. Is it fair to still describe the overall campaign as the Brand Australia campaign?

Mr Morrison—The brand is the basis for all of our marketing activities. It is the fundamental pillar on which all of our marketing campaigns are based. It is what talks about Destination Australia.

Senator O'BRIEN—What is the spend over the current and the next three out years expected to be?

Mr Morrison—Our current marketing spend in terms of strict marketing dollars out of Tourism Australia, not including our marketing partners, is \$91 million for the current year. Our budget process for the forthcoming years will be largely around that figure in accordance with our appropriation.

Senator O'BRIEN—Presumably, as I understand the operation, Tourism Australia will apply that flexibly on the basis of judgment and need. Can you describe to me the process that Tourism Australia will use to make those judgments?

Mr Morrison—Certainly. The process we use is setting a priority of markets around the world. I should also stress that that now also includes Australia as an important market in terms of our broader responsibilities now in Tourism Australia for marketing. In addition to the Australian domestic campaign, we are looking at our seven primary markets. Our seven primary markets account for 63 per cent of total visitor spend coming into Australia, so they obviously represent an important part of our overseas marketing. They are the base of our total visitor spend into the country. Beyond that there are markets which are experiencing quite significant growth. China fits into the first category now: China sits within our top five markets in terms of total visitor spend. A second tier, as I said, deals with consolidating and encouraging growth. This includes markets like India and Canada but also markets that have experienced growth in the past, like Singapore and Malaysia.

We then look in particular, as our act requires us to do, in terms of the dispersal of those visitors, particularly their spend across the country. There are a range of markets which in particular assist us with that goal. They are particularly European markets, such as Switzerland and the Netherlands. Germany is an important market for ensuring a spread of spend. There is Italy and France. We analysed where we can target our resources in order to get that dispersal of spend, particularly into regional Australia. But, as with any marketing activity, it requires weight and depth in order to get impact and to get cut through. We have developed tools to service a wide range of other markets through things such as the Aussie Enthusiasts program, working with travel agents in other countries where they do not deliver those countries significant amounts of visitor spend to the country but do require a level of servicing.

Senator O'BRIEN—The New Zealand market is particularly important to us, is it not? We do not seem to have focused heavily on that marketing in promotional terms. Is there a reason for that?

Mr Morrison—I would say that we actually do focus really heavily on New Zealand. One of our key offices overseas is based in New Zealand. Last year for the first time we eclipsed one million visitors coming into Australia from New Zealand. It is a market which, while not having the same average spend per visitor, has a very strong volume largely driven by its access and close proximity to Australia and, as a result, the level of awareness and the level of intention to visit Australia is a lot higher in New Zealand than it is, say, in the United States, the United Kingdom or other longer haul markets. So it is more the type of marketing effort that you need to apply in New Zealand in order to drive the business. There are a different set of marketing challenges in New Zealand which, helpfully, are not as expensive as the marketing challenges we face in very significant markets where it is a challenge to get a share of voice.

Senator O'BRIEN—So it is a more effective and easily accessed market for us?

Mr Morrison—There is a much higher level of awareness of Australia as a tourism destination and a more of a propensity in New Zealand to visit Australia than there is in our longer haul markets.

Senator O'BRIEN—There is a fairly high level of spend on brand public relations promotions. I am not sure what VJP stands for. What does that stand for?

Mr Morrison—VJP stands for Visiting Journalist Program.

Senator O'BRIEN—On the Australian market there is a bit over 20 per cent of the total spend. Can you explain that to me?

Mr Morrison—That is our domestic campaign. The large majority of our domestic campaign is focused on a different marketing challenge to what we would be doing overseas. The whole purpose of our domestic campaign is to lift the level of preference for Australia, because there is over \$1 billion spent by various state tourism organisations and industry players promoting specific product across Australia to Australians. Where the market failure exists and where we are able to add value is to get into the discussion with consumers about a choice of an Australian holiday over an overseas holiday, as well as growing—

Senator O'BRIEN—Where is the market failure in Australia?

Mr Morrison—We already have a high level of advertising going into the marketplace for overseas holidays to Australians, and it is a direct interest of our product within Australia to be promoting their specific product, which largely brings those products into a positioning around price and access and direct propositions about coming to a particular place for a particular time and for a particular amount. Where there has not been marketing is in a generic pitching of the Destination Australia brand to Australians, because it is in no-one's specific interest to put money into such a generic campaign as is the case overseas. That is where we see the failure existing and why we need to operate in that space as opposed to the more product-end space, the price space, which the industry and state tourism organisations have covered.

Senator O'BRIEN—But don't the states operate their own campaigns for their own regions, not specifically about product but about their regions?

Mr Morrison—The states deal with the issues of choosing one state over another and particular destinations over another, but that still leaves a question unanswered in the consumer's mind, which is: 'Should I holiday in Australia, and therefore consider a state, or should I go overseas?' So we believe there is a high-level discussion we need to have with consumers in Australia about choosing Australia as something that provides that opportunity that matches the experiences they are looking for, and the states and the rest of the industry are very good at then taking that through to the next level.

Senator O'BRIEN—Who has the advertising contract for Australia at the moment?

Mr Morrison—George Patterson Bates.

Senator O'BRIEN—What about the overseas work?

Mr Morrison—We have a range of agencies around the world.

Senator O'BRIEN—Could you supply that on notice.

Mr Morrison—We can, yes.

Senator O'BRIEN—What activities have been conducted since the launch of Brand Australia to continue its domestic profile? I am not talking about the generic advertising campaigns that you were just talking about; I am talking about promoting the concept of Brand Australia with the industry here in Australia.

Mr Morrison—Since the launch of Brand Australia by the former Australian Tourist Commission, as we have worked through the current financial year, it has been a matter of constant engagement with the trade and with the industry here in Australia. We have staff whose job is simply to talk to the industry on a daily basis to explain to them what we are doing, how we are doing it and how they can become involved. Particularly when they are going offshore and into markets, we facilitate their access into those markets. We set up meetings with trade. We are constantly in a process of explaining to them what we are doing. Right now we are in the middle of our series of market briefings, which are a roadshow moving around Australia—inviting industry to attend seminars. Yesterday I was at the Gold Coast doing exactly this—explaining where Brand Australia is, where we are going forward with that program and how they can get involved. It is really a constant process of communication to the industry.

Senator O'BRIEN—Is that activity contained within that figure \$9.724 million on the budget by country document that I got?

Mr Hopwood—Do you mean the costs of the travel and the costs of the airfares—

Senator O'BRIEN—The cost of the activity, I presume.

Mr Hopwood—It is contained in several columns. One would be management operations. That includes Scott's time and travel costs et cetera. And there would be other areas there which would relate to corporate affairs, which would relate to the corporate strategy area.

Mr Morrison—And information services.

Mr Hopwood—And information services in particular.

Senator O'BRIEN—It is zero there.

Mr Hopwood—It depends on the breakdown. If you break down the costs into the various components, pure travel is under the travel area, for example.

Senator O'BRIEN—I am trying to get a feel for what the ongoing budget is within this country to maintain awareness of the concept that underpins the whole strategy. That is what Brand Australia is, isn't it?

Mr Morrison—Do you mean with the tourism industry or with Australian consumers and the public?

Senator O'BRIEN—Generally. I do not know if you are having events like the launch regularly or if you are having something different. That is what I am trying to find out.

Mr Morrison—These initiatives really are a matter of keeping the industry constantly engaged. It is the industry that particularly is required in order for this to work—to align themselves with what we are doing and what we are saying as a marketing organisation because we are the prime carriers of promoting Destination Australia. As I indicated before, it is a constant process of communication to align them with that. That ranges from literally sitting down not only with Australian trade and industry here but also with overseas trade and talking to them about what our programs are and accessing that with information through web sites and industry web sites. Each fortnight, we publish *essentials*, which is an email newsletter which goes into the details of where these activities are currently running—currently we have major campaigns running in Germany, in the United States and in the United Kingdom—and provides feedback on those and upcoming events. The tourism industry has a large number of events on a regular basis. In terms of other sectors of the industry, there is speaking at conferences and events. Our director of Australasian activities, Andrew McEvoy, and I recently were at the caravanning Australia conference. The minister also presented there. We were outlining these very initiatives. It really is a constant process.

Senator O'BRIEN—Can you give me some sort of breakdown of the cost of that domestic activity that we have just been describing—on notice?

Mr Morrison—Are you asking about the public relations cost of us communicating to the industry about what we are doing?

Senator O'BRIEN—I am looking for that as a component of your work. Obviously it is an important component and I am trying to understand within your overall budget how much of the budget it takes up.

Mr Morrison—We could attempt to put a figure on that, if I understand the question correctly.

Senator O'BRIEN—I am not going to hold you to precise dollars and cents, but some sort of reasonably indicative figure would be useful. I am not asking you to do a precise costing by hour of everyone's time, but if you could give us an indicative figure that would be useful. Without wanting to hold you to absolute precision, if you could give a figure that would be a good guide to what is being spent, that would be good.

Mr Morrison—I would be happy to provide that. I am just outlining that it is an activity that all staff are involved in. ATE, our major event, which will be held this year in Perth, is another enormous opportunity for us to continue telling the story. But in terms of launches and events like this, we have no events planned of that nature in Australia.

Senator O'Brien—Are those sorts of events taking place internationally now?

Mr Morrison—No. I am saying that the big event launches of brands, the roll-out stage of the process, have happened. It is now a process of telling the story as we go, using the events that are already in the calendar and the opportunities we have to communicate with industry.

Senator O'Brien—There are a couple of aspects of the Brand Australia campaign I want to touch on. An article that appeared in the *Daily Telegraph* on 24 September last year revealed that a number of TV ads produced out of Brand Australia funding needed to be recut. Can you explain to the committee what happened with these ads?

Mr Morrison—As with any marketing campaign, all of these campaigns needed to be tailored—as was always the intention—and finetuned to the specific markets, be it due to language issues or with our cooperative partners. It is true that Australia is what Australia is, but it is seen through culturally different eyes. It is a matter of tailoring those executions, particularly print executions, of the campaign to those markets. This is a process which our predecessor organisation had embarked on since 1967, and it is a practice which we will obviously need to continue.

Senator O'Brien—It was suggested at the time that the reason for that additional cost of shooting more footage was that, whilst the ads were visually present, they did not display icons which provided overseas markets with a tag, an iconic image, that they could grab onto and identify with Australia.

Mr Morrison—The creative footage which was used in these campaigns is, I would say, the best that the organisation and its predecessor organisation had put together over its long history. It is an absolutely marvellous library of footage which we can now use to edit and in our campaigns. It should sustain us for quite a period. The revisions to the executions were a matter of finetuning and tailoring.

Senator O'Brien—That was a criticism that was raised. Are you saying that that is not the case and that the ads did not need to be restructured to display more of the iconic images?

Mr Morrison—For the television commercials—which I should stress are only one part of an overall campaign; issues like public relations, print media and various other things are also very significant in the campaign—it was a process of tailoring and finetuning, which is normal for any marketing campaign and certainly every campaign I have been involved with.

Senator O'Brien—What sort of images needed to be reshot?

Mr Morrison—As I understand it, it was more about issues to do with language and with selection of particular footage—for example, whether close-ups were required or whether a broader shot was required, particularly of key personalities such as Delta Goodrem. In markets where she is very well known, we could actually use quite a close-up shot of her eyes, but in other markets we used more of a broad pan shot so you could get the full image of her face. This had to do with recognition levels in various markets. As I said, there were not

significant cost factors in the alterations. They were really adjustments at the margin to tailor and finetune for effectiveness in response to consumers.

Senator O'BRIEN—So what did shooting the different images and reproducing the ads cost the organisation?

Mr Morrison—In response to the question from the previous estimates, I understand a total figure for the entire campaign was \$2.8 million. That was advised in the written response to the question. That is the total cost of the campaign's creative production.

Senator O'BRIEN—I am asking about the extra work.

Mr Morrison—I can get you the figure, but the vast majority was done in the original filming, which predominantly accounted for the \$2.8 million.

Senator O'BRIEN—I am given to understand that there was an offer from the New South Wales minister, Sandra Nori, to share costs of some advertising imagery between Tourism Australia and the New South Wales government. Could you outline for the committee what correspondence and discussions took place with the New South Wales government minister or department in relation to sharing the costs of producing imagery?

Mr Morrison—I am happy to table any correspondence that we have as a follow-up. In terms of discussions I personally have had with both the head of Tourism New South Wales and Minister Nori in recent times since being appointed to the position, they have made that offer to us to share that footage should we need to do that. I think it is a generous offer. If we can take that opportunity up, should it fit with the creative strategy that we are following as an organisation and our marketing program, then it is a generous offer. Equally, in relation to Tourism New South Wales we are happy to extend the same sorts of offers to Tourism New South Wales to assist their marketing effort. The state tourism organisations and Tourism Australia—and its predecessor organisation, ATC—over a long time have had a great relationship on these issues. I look forward to that continuing.

Senator O'BRIEN—The New South Wales government is running ads at the moment. Have we missed the boat for a time?

Mr Morrison—No, because currently we are running our campaigns around the world, particularly, in most recent times, in markets in Germany and the UK. We are getting a strong response to those. There is no need to make further alterations, we believe, at this precise point in time. But should we require to go down the track in response to consumer feedback and monitoring of these campaigns, we welcome the offer. I should stress that, as I understand it, those New South Wales campaigns are only running within Australia.

Senator O'BRIEN—Yes.

Mr Morrison—Not overseas. Our campaign is the one that is running overseas.

Senator O'BRIEN—The objects of Tourism Australia are:

- (a) to influence people to travel to Australia, including for events; and
- (b) to influence people travelling to Australia to also travel throughout Australia; and
- (c) to influence Australians to travel throughout Australia, including for events; and
- (d) to help foster a sustainable tourism industry in Australia; and

(e) to help increase the economic benefits to Australia from tourism.

Are these objectives benchmarked for performance? For example, what percentages or numbers of travellers are prescribed for (b) and (c)?

Mr Morrison—I will ask my director of research and corporate strategy to address elements of that question. In terms of the overall performance of the organisation—or should I stress the target to which we seek to work with industry to achieve—that is predominantly a function of total visitor spend, which is a function of many things. It is a function of visitor arrivals, which is a function of average spend per visitor and length of stay—all of these sorts of things. These are all measures that we track to understand the overall performance of the industry. Tourism Australia's activities as an organisation are one of a broader marketing matrix. We are one player in that matrix which delivers that outcome. In terms of our own measures of our effectiveness, that largely relates to the effectiveness of our relationships with trade, the direct responses to our campaigns, our brand tracking studies which monitor changes in levels of awareness of consideration of preference, take-outs of key messages and recall of advertising. As you would understand, marketing campaigns look for a response in the short term and the long term. In particular, brand campaigns tend to build impressions over time. They are the mix of activities, but—

Senator O'BRIEN—So visitor numbers and visitor spend are key benchmarks?

Mr Morrison—The key performance of the industry benchmark, I would stress, would be total visitor spend and the dispersal of that spend around Australia. That is ultimately the target that we would be working with industry to achieve, because that is what delivers jobs.

Senator O'BRIEN—You have a spend in Japan of \$6.275 million for promotion this year. Do you benchmark your spend against outcome compared to previous years?

Mr Morrison—The key measure for tracking the effectiveness of that spend would be the performance of the individual campaigns. In our brand tracking research, we would be looking for movements in key factors such as—as I said—awareness, consideration and preference to visit intention.

Senator O'BRIEN—But awareness does not necessarily mean you get the backsides on the seats and the jumbos arriving on the east coast of Australia. Isn't that a key benchmark?

Mr Morrison—Ultimately for the industry, it is, and it is important for Tourism Australia to understand its role, which is to play a part in the overall marketing matrix which delivers that ultimate outcome. We look at the customer and how we seek to speak to the customer along a cycle. It ranges from awareness right through to intention to visit and actually booking that trip. In our research, be it from our segmentation research or our brand tracking, we are tracking their path along that cycle. It is our job to move people along that cycle. Ultimately, at the end of the day, they are going to book with an independent operator. We do not own any hotels or run any airlines. That is where the ultimate booking will be made and that is where the conversion will take place.

Senator O'BRIEN—I do not think there is a serious debate about whether there is a need for international spend. There might be debates about other aspects, but I do not think there is a serious debate about whether there is a market failure in that area and whether there is a need to spend. What I am asking is this. In the process of assessing the decision making

process—the decision to spend in particular markets, to prioritise, to promote the continuation of a particular market, to try to develop a market, to try to develop new markets—the benchmarks that are used to assess the campaign are important. I have heard the argument that we look at people's intentions or perceptions and thoughts that they might like to travel to Australia as a key benchmark. What I am putting to you is that the key benchmark is a combination of arrivals and spend.

Mr Morrison—I would not disagree with that. But I would go further to say that the primary goal at the end of the day for the industry that we are seeking to facilitate is that spend and dispersal of that spend as it is set out in our act. You are correct that, as we sit down and evaluate these markets, they, together with the things that make up those outcomes—the average length of stay, average spend per visitor and so on—is what drives our decisions on what markets we focus on. To that extent, I totally agree, as does our entire organisation.

Senator O'BRIEN—What has happened with the research and statistics function with the establishment of Tourism Australia? What enhancements have taken place as a result of the encompassing of that function in the new organisation?

Mr Morrison—I will ask our director of research to respond.

Mr Buckley—Since the enactment of Tourism Australia, the Bureau of Tourism Research has been brought within Tourism Australia and renamed Tourism Research Australia. In that process, the primary areas of change or enhancement have been around enabling many of the enhancements spelled out under the tourism white paper. The primary areas of further development have been in the two major surveys that are undertaken—the national visitor survey and the international visitor survey. Obviously, their names indicate what they are focused on. The national visitor survey is surveying Australians and their travel patterns. As part of the enhancement process, we have moved to increase the sample size—the number of interviews that are undertaken within that survey—from 80,000 to 120,000. That is now taking place. We have just re-tendered and stepped up the sample size as of 1 January this year. That will feed through progressively over the coming years.

Senator O'BRIEN—So you have outsourced the survey work?

Mr Buckley—Absolutely.

Senator O'BRIEN—Who does that?

Mr Buckley—Newton Wayman Chong is the new market research company that undertakes that for us. For the other one, it is ACNielsen. So the IVS is Newton Wayman Chong and the NVS is ACNielsen. They are both outsourced. Both have had sample size increases. Again, a request from the states, particularly in the marketing and development of their regions, was to increase the sample size to provide more data in smaller area statistics and better information for regional marketing and development, and both of those actions have taken place.

Senator O'BRIEN—How has the budget for research changed with the move to Tourism Australia?

Mr Hopwood—With the white paper initiative, \$3.9 million, or just under \$4 million, a year has been added to the former BTR budget.

Senator O'BRIEN—How much of that has gone to the outsourced work and how much remains in house?

Mr Buckley—\$9.3 million over four years.

Senator O'BRIEN—That is not really an answer to the question I asked: how much of the increase has gone to the outsourced work?

Mr Morrison—The total amount going to outsource over those four years is \$9.3 million.

Senator O'BRIEN—And what was it before?

Mr Morrison—It was \$2.5 million.

Senator O'BRIEN—So more than the increase has gone to that outsourced work?

Mr Buckley—Yes, to pay for the increase in the sample size.

Senator O'BRIEN—I am not being critical in asking the question.

Mr Buckley—It is about matching to the increased sample size.

Mr Morrison—I should also stress that both the NVS and the IVS were also formerly contracted out.

Senator O'BRIEN—I suspected that that was the case, and I took it from the answers that more money was being spent. I am trying to get an understanding of how that fits with the expanded budget overall, and what you are telling me is that the budget has expanded by about \$4 million and the price for the outsourced work has expanded by about \$7 million. Do I have that number right?

Mr Morrison—No. The question, as I understood it, was how much of the work is outsourced, and that was the answer to the question.

Senator O'BRIEN—It was not quite the question.

Mr Morrison—Are you asking how much of the extra \$4 million is being outsourced?

Senator O'BRIEN—Yes, as a proportion, if that is the increase in the budget. I thought what you said was that \$9.3 million was being spent on the outsourced work, compared with \$2.5 million before the function was taken over by Tourism Australia. Did I misunderstand that?

Mr Morrison—No. As I understand it, you have that right.

Senator O'BRIEN—So a \$6.8 million increase in the cost of outsourced work?

Mr Buckley—No.

Senator O'BRIEN—That is how the numbers add up, so somewhere along the line we have our wires crossed.

Mr Buckley—Let me build up the pyramid again: \$16 million came in for research; \$9.3 is being paid over the next four years to underwrite the cost, and that is outsourced; and over the last few years it has been approximately \$2.5 million per year. So, if you went back over the last four years, approximately \$10 million would have been paid out.

Senator O'BRIEN—So the \$9.3 is a four-year figure?

Mr Buckley—Correct.

Senator O'BRIEN—So that is a reduction?

Mr Morrison—For outsourced work, yes.

Mr Buckley—We have made some savings.

Ms Murphy—I am happy to provide a broad overview of the budget breakdown for the white paper research and statistics budget as a whole.

Senator O'BRIEN—I am happy for you to provide that on notice. I think we have a limited amount of time.

Ms Murphy—Okay.

Senator O'BRIEN—Some of the major events that are coming are APEC and the Commonwealth Games. Who would be doing an assessment on the likely impact of those events on the Australian tourism market? Would it be Tourism Australia or the department?

Mr Morrison—Under our events role, under our research role and under our marketing role there is a range of activities that Tourism Australia will seek to engage in from each of those perspectives to understand what our opportunity is. The Australian government has a major commitment to the Commonwealth Games and to supporting that. Tourism Australia has a role to play in issues such as visiting journalists' programs, baton relays, signage on stadiums and working with Tourism Victoria and the games organising group. So there will be a range of activities we will be engaged in. We will be looking, obviously, to track the performance of that through our various other surveys.

APEC is a tremendously exciting event from a branding point of view in that it brings some of the world's peak media to our shores and provides marvellous opportunities to showcase Australia. It is very difficult to quantify an event such as APEC as opposed to an event such as the Commonwealth Games, which attracts visitors and which gives a longer period of time to sustain presence. You can see the impact of that through tracking and various other surveys. If there is a need or a request for us to undertake some research as part of TRA's activities to evaluate either of those, it is certainly a role and function TRA could perform.

Senator O'BRIEN—I take it these activities are part of the normal activities and there is no supplementation for any special programs to do with these significant events? I am talking about from outside of Tourism Australia, not from within its budget. You are not getting any extra money?

Mr Morrison—No.

Senator O'BRIEN—On 15 November, ATEC put out a media release suggesting that visitor numbers to Australia had increased by three per cent. My assessment of those figures is that if you take out New Zealand visitors there has actually been a decline in visitor numbers. Can you provide the committee with your analysis of the actual?

Mr Morrison—I would be happy to. Now or would you like us to do that on notice?

Senator O'BRIEN—Perhaps you can give me a brief outline, if you can, of whether that is a correct assessment.

Mr Morrison—In terms of context, I think it would be more helpful to provide the direct analysis of the numbers from year on year. I am happy to do this.

Mr Buckley—There was a 10 per cent growth in visitor numbers for 2004 over 2003, at the end of the year.

Mr Morrison—And the forecast for this year is 5.9 per cent. What we have seen in 2004 is a recovery, with some pent-up demand from previous years, which were very difficult years for the industry. So there was some good, strong catch-up growth last year. Our tourism forecasts see that levelling off this year but getting back to a more reliable pattern of growth, notwithstanding other external shocks.

Senator O'BRIEN—I understand there was some recovery in the Japanese market but not the US market, at least in parts of Australia. That is the view of operators in parts of regional Australia that I visited.

Mr Morrison—I do not understand the question.

Senator O'BRIEN—What I am suggesting is that the Japanese market may have recovered but the US market did not quite recover. Is that a fair assessment?

Mr Morrison—No, we have actually had growth out of each of those markets in the past 12 months. There have been various outcomes in terms of spend, part of which can be explained by exchange rate movements, particularly out of the US. Each of these markets continue to present very real challenges. One of the things we are noticing is that the marketplace, particularly from a destination point of view, is getting increasingly competitive. In Los Angeles alone there are 60 national tourist organisations out there promoting destinations. We are one of those 60. So the competition is fierce.

Senator O'BRIEN—You mention Los Angeles. How important is the frequency of service and competition on that route to our market?

Mr Morrison—It is a matter of policy which does not fall within my responsibilities.

Senator O'BRIEN—Surely the tourism organisation develops a view on what will better drive our market, and you do have a role—or perhaps it is the department that has a role—in considering that.

Mr Morrison—You are asking me for an opinion on policy. That is not a matter that falls—

Senator O'BRIEN—I am not asking for an opinion on policy at all. I am asking for a view on the drivers for the US market. The number of services on the US route and the cost of airfares must be considerations, mustn't they?

Mr Morrison—As I said, I believe it is a matter of policy. I can only defer to the officials who deal with the department of transport.

Senator O'BRIEN—I am happy for the department to answer it if you cannot answer it.

CHAIR—I think Senator O'Brien is entitled to ask for your opinion about a matter of fact about what causes something. I do not think that is a matter of policy.

Senator Minchin—I think the managing director has appropriately refrained. I think it would better if the department were to comment on that. We know where this is going.

CHAIR—I am simply indicating that, as I understand it, this is not a policy issue. It may be, as you say, that there is a more appropriate respondent to the question.

Ms Murphy—The north Pacific route is clearly an important route between Australia and the US market, as is the kangaroo route between Australia and the UK market. There are currently primarily two operators servicing the route. The matter is really one for the minister with responsibility for transport. The air services agreement between Australia and the US has provision for other carriers to enter the route if they so wish. There is capacity there for other carriers to come onto the route. The two carriers who service the route are servicing it in a way that meets their commercial interests.

Senator O'BRIEN—With respect to the level of discounting on that route, I see you have a tourism and aviation function within the department. What work do you do on issues such as the impact of air fare discounting and competition on market access for Australia from particular markets?

Ms Murphy—That committee has met once, on 2 December last year. It is unique in that it does bring together around the same table key tourism interests and key airline, airport and other aviation interests. One of the priorities over the next couple of months with the committee is to set out its work program. Certainly, when it last met the issue of the US route was one amongst a number of routes that was raised as being one that committee members were interested in pursuing. The sorts of issues that you mention would no doubt form part of those considerations.

Senator O'BRIEN—Mr Morrison, in formulating the marketing plans for particular markets, what cognisance does Tourism Australia take of access issues—the very sorts of issues that were raised in my earlier question that you thought was a policy question?

Mr Morrison—When we look at our allocations and prioritisation of markets we look at a number of things. We look at issues of dispersal and spend, as I said before; we look at the segments that are available in those markets for us to pursue in relation to those sorts of targets; and we look at issues of cost of marketing. In that overall mix we look at factors such as access to the Australian market and weigh those up in our considerations. The other things we look at are issues of cost of marketing; how expensive it is to advertise in particular places, the levels of awareness, preference and intention across the marketplace, based on our surveys—a whole range of factors such as those. It is one of many items.

Senator O'BRIEN—So you have made an assessment of access issues for the US market in the context of our promotional spend.

Mr Morrison—We will remain heavily committed to our destination promotion in the US market based on those considerations.

Senator O'BRIEN—Irrespective of access issues—is that what you are saying?

Mr Morrison—No, I am saying that we have considered the access issues and we believe that justifies us continuing to maintain a very strong presence in the US market. There is the capacity in what is available to meet the demand that we are currently seeking to stimulate.

Senator O'BRIEN—So the current capacity is sufficient to meet the market demand we are seeking to stimulate?

Mr Morrison—As of today, that is our understanding of the matter. We have seen an increase in the capacity on that route in the last 12 months. There is also a new entrant; Hawaiian Airlines is also flying that route.

Senator O'BRIEN—So there has been an increase in available seats?

Mr Morrison—There has been an increase in available seating capacity on that route in the last 12 months.

Senator O'BRIEN—Have you observed any change in seat availability air fares fitting in with your campaign to drive additional visitors? It is a cause and effect thing that I am seeking to chase down.

Mr Morrison—Absolutely. It is obviously a function of demand and supply. We are doing our campaign, in a brand cooperative sense, with Qantas. We are jointly marketing. The brand proposition of Australia comprises, particularly in the television commercial but also in print, 80 per cent to 85 per cent of the balance of the communication. The balance of 15 is focused on a specific air pass product, which is a \$999 fare out of Los Angeles, including two other destinations, and this is a highly competitive fare which we have had record responses to as a result of the campaign over the last few weeks. So we are seeing movements on price and access.

Senator O'BRIEN—Which is more important, the campaign or the fare?

Mr Morrison—I think the two work together; that is what it is about. We are about driving demand and ensuring that that demand can be facilitated. We are seeing that facilitation presently on that route.

Senator O'BRIEN—It is an interesting debate, which I think we will continue at another time.

Ms Murphy—The agreement between the US and Australia provides for automatic increases in capacity if the demand is there to trigger it. So the framework is there already.

Senator O'BRIEN—Demand can often be a function of price as well. Price is often driven by competition, and competition means the existing operators are probably happier if there are no competitors, because their yield per seat will increase. As I said, it is an ongoing debate that we can have but it is not a simple one either. It is almost self-evident that, if the price on that route is very competitive, we are going to do a lot better and our spend on marketing will be much more effective than if we are advertising a product that people think is nice but too dear.

Mr Morrison—This is why I think this \$999 air pass product addresses a lot of the issues coming out of the US market: price, access and dispersal. Going back to an earlier question, the figures for visitor arrivals out of 2004 are: United States, up three per cent; New Zealand, up 23 per cent; United Kingdom, up one per cent; China, up 42 per cent; Japan, up 13 per cent, and Germany, up one per cent. It is a mixed bag, but they are all increases.

Senator O'BRIEN—Looking at those percentages, the size of the base is critical. New Zealand is very significant—23 per cent.

Mr Morrison—New Zealand is significant, there is no doubt about that. Just on the last point, the introduction of A380s onto the Pacific route, without one change in slots, automatically brings in a fairly significant increase in capacity. Those A380s, as we have been advised, will be applied to that route.

Senator O'BRIEN—If another carrier were to put a few more on it would be even better, wouldn't it.

Mr Morrison—The demand is there.

Senator O'BRIEN—The demand is there?

Mr Morrison—It is our job with the industry to stimulate the demand, and the demand is there. We are seeing the capacity move to match the demand.

Senator O'BRIEN—On Tourism Australia's web site there is reference to the issue of Ecotourism Australia and Green Globe certification. How many products and organisations in Australia have ecotourism accreditation and Green Globe certification? You will probably need to take that on notice.

Mr Morrison—I will probably need to refer it to the department also.

Senator O'BRIEN—I thought it was on Tourism Australia's web site, but they may have done the statistics.

Mr Morrison—It is an information provision. I will refer to my departmental colleagues.

Ms Murphy—We would have to take that question on notice, too.

Senator O'BRIEN—Okay. In terms of the national ecotourism accreditation program, there have been some criticisms raised about our accreditation process. Certain publications have used terms such as 'the jury is still out on the success of Australia's accreditation process', 'there appears to be a significant need to demonstrate the value of certified products over non-accredited products' and 'in Australia there is no independent on-site auditing of accredited and non-accredited ecotourism products'. Is there evidence that the department or Tourism Australia can point to that ecotourism accredited products and their respective companies actually comply with accreditation criteria?

Ms Murphy—That is an issue for the department. Without being able to refer to ecotourism specifically, I think it is true to say that there are some variations in standards and implementation amongst the many accreditation programs which currently exist. Some businesses have joined up with those programs and found commercial advantages, and others have taken the decision that for them it is not necessarily a good cost-benefit response.

Senator O'BRIEN—But the fundamentals seem to be being challenged in the sense that accreditation does not necessarily mean the quality product that you would expect from accreditation. That is what a number of critics have said in published works.

Ms Murphy—The accreditation framework, as it is currently set up, starts off with a strong focus on good business practice. The ecotourism program does have an element on quality and quality product. But there is certainly a perception that not all the accreditation

programs have a strong enough emphasis on quality from the customer perspective. I cannot talk specifically for eco.

Senator O'BRIEN—Self-accreditation is part of the process, isn't it?

Ms Murphy—It is industry led. The assessment is undertaken by industry bodies and also by external auditors.

Senator O'BRIEN—Has the national tourism accreditation scheme been established?

Ms Murphy—There was already a framework for the national tourism accreditation scheme prior to the white paper. There is a board which is overseeing the further development of that scheme, but it has not been fully implemented.

Senator O'BRIEN—Will that be publicly funded?

Ms Murphy—The government has provided some funding so far towards the development of the framework. There is still a decision to be reached on how all the funding will be allocated.

Senator O'BRIEN—Will it be required to report to the government?

Ms Murphy—It has been set up as a company limited by guarantee, but certainly when the government funds any organisation it has reporting requirements about use of those funds, and there are milestones and targets set. So, yes, there will be reporting against those.

Senator O'BRIEN—Can you tell us who is on the board?

Ms Murphy—Yes. Do you want the names of the individuals?

Senator O'BRIEN—Yes, please.

Ms Murphy—They are: Michael Dilettoso, from the South Australian Tourism Accreditation Board; Clare McFarlane, from Ecotourism Australia; Jeff Floyd, as an alternate for Clare McFarlane, from AAA Tourism; Daniel Gschwind, from the Queensland Tourism Industry Council, he chairs the board; Nick Hunt, from Tourism Alliance Victoria; Dennis Winchester, from the National Tourism Alliance; Matt Hingerty, from the Australian Tourism Export Council; David Etherton, from the Western Australia Tourism Commission; Rowan Sproule, from Tourism Tasmania as an alternate director for David Etherton; me, and Kerry Rooney as my alternate, from the department; Karen Rees, from Naturally Tasmania Tours; Ian Spicer, from the Joint Accreditation System for Australia and New Zealand; and Anthony Fraser, from the Australian Franchisees Association Incorporated.

Senator O'BRIEN—Has a charter for the body been formally established?

Ms Murphy—The body has a constitution.

Senator O'BRIEN—Is that publicly available?

Ms Murphy—I would have to take that on notice.

Senator O'BRIEN—And can we have a copy if it is not?

Ms Murphy—Yes.

Senator O'BRIEN—In terms of the implementation of the tourism white paper, how much has been spent on its implementation from the department's point of view?

Ms Murphy—About \$100,000.

Senator O'BRIEN—Was that all in this financial year or was some in the previous?

Ms Murphy—That is in this financial year.

Senator O'BRIEN—Was there some in the previous financial year?

Ms Murphy—Not last financial year.

Ms Rooney—There was some funding from the department in terms of the set-up work for the accreditation body.

Senator O'BRIEN—I am talking generally rather than just about the accreditation scheme.

Ms Rooney—For the tourism white paper overall?

Senator O'BRIEN—Yes.

Ms Murphy—Sorry, I must have missed that question.

Senator O'BRIEN—That is okay, it may not have been as clear as it could have been. I want to get an update on the implementation of the tourism white paper and how much has been spent on this implementation.

Ms Murphy—I can help you there. I will talk from the department's budget perspective. Would you like last financial year as well as this financial year?

Senator O'BRIEN—Yes, please.

Ms Murphy—In 2003-04 the department spent in the order of \$1.8 million on white paper related initiatives. I can break those down if you wish.

Senator O'BRIEN—Perhaps you could do that on notice.

Ms Murphy—Yes. From July 2004 to the end of December 2004 around \$3.1 million has been spent on white paper implementation.

Senator O'BRIEN—How much is expected to be spent for the remainder of the financial year?

Ms Murphy—I will have to take that on notice. I would expect it to be more than \$3 million for the remainder of the financial year.

Senator O'BRIEN—Are we able to get similar figures from Tourism Australia?

Mr Morrison—As at the end of December, \$7.2 million had been spent on white paper initiatives. I should stress that that includes things like our international marketing and additional funds that were provided for those specific markets. The balance of \$37 million out of the white paper funding for those activities will be spent from January to June.

Senator O'BRIEN—Is there any way I can find out what ATC spent prior to TA's creation? Perhaps the department could take that on notice. Someone must know. They were involved at some point prior to the establishment of Tourism Australia, weren't they?

Ms Murphy—Previously they had some role there, yes.

Mr Paterson—Given the change in legal status, I will take the question on notice from the department's perspective. We will work with TA to present you with the information for the previous financial year from ATC's perspective.

Senator O'BRIEN—Thank you. Does the budget by country document you have given me include all the activities of Tourism Australia—tourism events and the like—or are there other figures that we can see?

Mr Morrison—Senator, can you repeat the specific 'for instance' you mentioned just so I understand the question?

Senator O'BRIEN—I am just trying to understand the document that you have given me.

Mr Morrison—That is our full budget. There is other money expended, but that is money expended by our partners with us in cooperative activity.

Senator O'BRIEN—Okay.

Mr Morrison—It does not include sponsorships and various other things.

Senator O'BRIEN—That document probably covers a multitude of sins, so I do not need to ask a couple of other questions. What are the costs associated with Australia being a member of the World Tourism Organisation—another WTO?

Ms Murphy—We have spent \$255,686 on the World Tourism Organisation to 31 December last year.

Senator O'BRIEN—For this financial year?

Ms Murphy—For this financial year.

Senator O'BRIEN—This was the first year of affiliation?

Ms Murphy—This was the first year. I can certainly break that down a little further for you. The cost of membership alone—we rejoined in October—through to July is \$231,000. That equates to €314—and the cost is in euros rather than in Australian dollars so we have to convert at the time. That included a one-off payment made to the WTO's working capital fund, which you have to contribute to when you join. The annual membership fee for joining is currently €169,086, which equates to around \$A250,000.

Senator O'BRIEN—So we will expect that annually from this point?

Ms Murphy—That is right.

Senator O'BRIEN—Is there any role for area consultative committees in the distribution of tourism program funding?

Ms Murphy—We have had a number of discussions with our colleagues in the Department of Transport and Regional Services on this issue. We have quite a different arrangement for recommending and considering program grants than that which occurs under that portfolio. While we would be happy to consult with them, their role would be quite different from the procedures that take place within this department's programs.

Mr Peel—AusIndustry has a program called the Small Business Answers program, which is essentially there to provide information to businesses, particularly in regional Australia, about the programs that the government has available to assist them. A number of those Small

Business Answers officers are based in ACCs. We use those people to publicise the programs to make people aware of the programs, but they do not actually deliver the programs on the ground; they simply raise awareness of them.

Senator O'BRIEN—But is there any particular role for ACCs to interface with the tourism division?

Mr Peel—We have a couple of tourism programs that we are responsible for in AusIndustry, and we use the Small Business Answers officers to connect with tourism businesses out there in regional Australia that might benefit from the programs.

Senator O'BRIEN—Is there any role for this department or the tourism division in assessing applications for funding for tourism related projects under other programs such as the Regional Partnerships program?

Mr Peel—No. We have a program of our own that supports tourism and for which we assess applications.

Senator O'BRIEN—So there was no consultation mechanism about tourism related projects with the department in relation to Regional Partnerships program applications.

Mr Rymer—Applicants under the ATTP can and are encouraged to approach the ACCs for comment on their applications. So the ACCs can provide input through that mechanism.

Senator O'BRIEN—That is not a required input; they are able to do that. Is that what you are saying?

Mr Rymer—They are able to do that to demonstrate the consistency of their project with the regional strategies.

Senator O'BRIEN—Have we recovered from the impacts of SARS, the Ansett collapse and September 11 on Australia's tourism industry?

Mr Morrison—Those sorts of events always leave a legacy of some nature within the market. I think last year, as I indicated before, was a very good catch-up year for tourism in Australia. Certainly, the mood around the industry is far more buoyant. There are some strong plans for where we go from here, and the prognosis is positive, but external shocks are things that you cannot predict. We are still seeing, particularly out of the United States, a propensity for Americans to stay at home. Whether that is a long-term or a short-term factor, we still have to see. One of the reasons that we are so active in the US market is to try to continue to get that market strongly back online. There was a three per cent growth in arrivals last year, but we are hoping to see an improvement in that in the years ahead. The prognosis is positive.

Senator O'BRIEN—Does the department or Tourism Australia have a view on the potential impact on our domestic tourism industry of the proposed takeover of Virgin Blue?

Mr Morrison—No.

Senator O'BRIEN—Has any work been done on the impact on the domestic market of a contraction of discount air fare availability? Given the comments by Mr Corrigan about the level of discounting being too high, and in the light of our previous discussion, if air fares are going up, I would have thought that would have some impact on the marketing of travel within Australia to international visitors.

Mr Morrison—The only comment I would make is that these things, when they are fairly hypothetical, can be highly speculative. At the end of the day, what we are about as an organisation is trying to grow total spend. If our market is going to be wholly and solely wedded to issues of price, that really goes to issues of sustainability. We are about spend.

Senator O'BRIEN—There are two edges to the air fare price argument. I can see that. But the volume of travel will affect regional Australia, where we are apparently trying to spread some of the market.

Mr Morrison—It is a question of whether these shifts are structural or just short-term fluctuations. That is ultimately what sends price signals into the market. I honestly think it is just too soon to tell in any definitive way.

Ms Murphy—We can certainly tell you that we are advised that the nine busiest months ever for domestic aviation traffic in Australia occurred between September 2003 and October last year.

Senator O'BRIEN—That was probably me!

Ms Murphy—The domestic market is booming.

Senator O'BRIEN—Are there any consultative or joint funding mechanisms operating between the Commonwealth, through Tourism Australia, and department and industry groups?

Ms Murphy—Any joint consultative arrangements?

Senator O'BRIEN—Joint funding mechanisms is perhaps a better way of putting it. Perhaps I will put that question on notice. I think the answer will be fairly complex. There are a number of areas that Mr Morrison has already alluded to where that takes place.

Mr Morrison—I would just provide a general comment to try to deal with it now, and that is that the almost exclusive arrangements in terms of funding that we go into with industry are based with marketing partners, be they trade, airlines or various others. It would be a very rare event in a marketing sense for us to get involved in a cooperative sense with industry bodies. However, from an industry communication and engagement point of view, from time to time we will engage with bodies such as ATEC, Tourism Training Australia or other industry bodies in some of the events and functions they operate. For example, we are a sponsor of the Australian tourism awards, which are an important industry event—an important profiling event—for Tourism Australia within Australia, and we intend to be in the years ahead. It would be more of a sponsorship arrangement, not a cooperative marketing arrangement.

Senator O'BRIEN—To explore this area might take more time than we have. I might refine a question and put it on notice. How has Tourism Australia addressed concerns raised last year about the overlap with the states in domestic marketing as a result of the See Australia program?

Mr Morrison—The See Australia program terminated on 30 June. In relation to our responsibilities on domestic matters that we have discussed, a key part of our domestic strategy is to engage both industry and state tourism organisations. Basically we want to work in a different space from them, so that we are adding value. We have engaged all of the STO chief executives. I met those chief executives just last Friday in Alice Springs. We are

involved in discussing the creative components directly with their marketing directors—we are holding a conference on that in the next few weeks—as well as sitting down with industry bodies and explaining what we are doing. There has been a very high level of consultation in what we are doing on domestic tourism. We are not seeking to get into cooperative funding arrangements with the states on that; it is more an alignment of activities. We are sharing our media plans, where we will be and what we will be saying at particular times so that the state tourism organisations and industry themselves can align their media plans to those activities to drive to the conversion overall.

Senator O'BRIEN—On notice, could the department supply me with the tourism projects announced by the government during the course of the election campaign, their cost and which programs these projects will be funded from?

Ms Murphy—Yes.

Senator O'BRIEN—Is the department undertaking any activities in relation to skills development in the tourism sector?

Ms Murphy—The department is certainly working very closely with the Department of Education, Science and Training on skills related issues for the tourism sector. It has been working very closely with the restaurant and catering industry to identify skill shortages in that sector and look at how to take them forward. It has also been involved in working with the Department of Immigration and Multicultural and Indigenous Affairs on looking at ways to plug skill gaps in the short term through various visa arrangements.

Senator O'BRIEN—Is that work in any state of completeness?

Ms Murphy—No. I think it is probably fair to describe it as ongoing work.

Senator O'BRIEN—What initial areas of skill shortages have been identified by the department in the sector?

Ms Murphy—In the restaurant and catering area, one of the biggest skill shortages is chefs. More generally there are certainly skill shortages in terms of guides. There are always shortages of guides for particular markets at particularly busy times of the year. There are fairly general shortages in the hospitality sector.

Senator O'BRIEN—In the May estimates, I asked questions about the establishment of the aviation forum. At that time, I was told that the time line for its establishment had not been achieved but that Minister Anderson had agreed to establish the body and there had been a discussion with the Department of Transport and Regional Services to agree to likely terms of reference and *modus operandi* for the new body. It was hoped that it would be in place by last July. Is it?

Ms Murphy—It is in place. It first met on 2 December last year.

Senator O'BRIEN—Who are the members?

Ms Murphy—It is currently co-chaired by this department and the Department of Transport and Regional Services. There are a lot of members. I am happy to provide you with the list on notice, if you would prefer. It is a long list.

Senator O'BRIEN—That would be good. What are the terms of reference? You can provide that on notice if it is easier.

Ms Murphy—I will provide that on notice too.

Senator O'BRIEN—Does it have a budget?

Ms Murphy—Not a specific budget. It is just funded from within the department's existing resources.

Senator O'BRIEN—Does it meet in Canberra?

Ms Murphy—The last meeting was in Canberra.

Senator O'BRIEN—Is it expected that future meetings will be in Canberra?

Ms Murphy—It is likely that most future meetings will be in Canberra, but we have discussed the option of meeting in some other capital cities as well.

Senator O'BRIEN—Mr Morrison, I want to ask some questions about your appointment as chief executive. There was some public discussion about it and certainly some discussion within the industry. I am not sure if you are the right person to ask the questions of, because I want to ask about the process.

Mr Paterson—You might put those questions to me.

Senator O'BRIEN—I am happy to do that. Can you tell me what the process was and who undertook the process in relation to the selection of Mr Morrison and the consideration of other candidates?

Mr Paterson—The board engaged what is colloquially referred to as a headhunting firm to undertake the task. It both advertised and made direct contact with persons known to that firm. The firm that was engaged at the time was Korn Ferry, part of an international practice. The consultants provided a short list of recommended candidates for consideration and interviews. They were at first undertaken by a subcommittee of the board. Then the final candidates for consideration were interviewed by the whole board.

Senator O'BRIEN—This was a decision the subject of recommendations by Korn Ferry?

Mr Paterson—They prepared the short list of applicants in discussion with the subcommittee of the board that was established. Then, as I said, the final candidates were interviewed by the whole board.

Senator O'BRIEN—That is the final candidate from the short list? Were a number of the people on the short list interviewed by the board?

Mr Paterson—The final short list was interviewed by the board. This is an iterative process, and sometimes there are conversations that take place with prospective candidates that may be on a short list or may be suggested for consideration. However, it was a stock standard process, if I can call it that, that you would normally expect when seeking to recruit a person of this stature.

Senator O'BRIEN—Who was on the subcommittee of the board?

Ms Kelly—The subcommittee consisted of the board deputy chairman, Tony Clarke; the chairman, Tim Fischer; Andrew Burnes and me.

Senator O'BRIEN—How many candidates were on the short list?

Mr Paterson—I am not prepared to go to that level of detail. These are confidential recruitment processes.

Senator O'BRIEN—I am not asking for names; I just asked for a number. What is wrong with supplying a number?

Mr Paterson—It was an iterative process. As I said, a number of lists that were provided which were worked through both by the subcommittee and the board. The board ended up interviewing the final list of candidates.

Senator O'BRIEN—Why can't we know how many there were?

Mr Paterson—Because all recruitment processes are confidential. Undertakings are given to individuals about confidentiality on the way through. If I identify a number, then you and others may well draw inferences as to who the individuals concerned may have been.

Senator O'BRIEN—They could do that now.

Mr Paterson—You could do that now.

Senator O'BRIEN—So what is the difference in providing a number? I just want to know how many were short listed.

Mr Paterson—I have indicated that I am not prepared to respond to that. It is a public forum, and confidentiality in recruitment exercises is an important element of those recruitment exercises.

Senator O'BRIEN—This is a position that is subject, effectively, to public funding. It is not a position on a private company board.

Mr Paterson—It is a position in a statutory authority, but any recruitment process, be it a publicly funded statutory authority, a public sector organisation or a private organisation has processes of confidentiality when discussions are held with prospective candidates.

Senator O'BRIEN—I could understand your response if I were asking who you spoke to or what the connections were to particular candidates, but I am asking for the number of people on the short list. That is all.

Mr Paterson—And I have given you my answer.

Senator O'BRIEN—I do not understand how you can withhold that information on the basis of some confidentiality provision.

Mr Paterson—I have given you the reason for my withholding it.

Senator O'BRIEN—I would suggest to you that that invites more comment than actually providing the answer. I suspect it will.

CHAIR—You don't have to respond to those sorts of remarks. Strictly speaking, senators should confine themselves to questions but remarks are not unknown here. But it is just a remark. Senator O'Brien, have you finished now?

Senator O'BRIEN—Yes, in the context of that answer. I have heard much longer remarks than those.

CHAIR—So have I.

Senator O'BRIEN—I will put some questions on notice.

CHAIR—That concludes the examination of tourism.

Proceedings suspended from 10.58 a.m. to 11.17 a.m.

CHAIR—Order! The hearing is resumed. We will return to questions to the department. Senator Lundy wants to commence with the Office of Small Business.

Senator LUNDY—In the Ballarat newspaper *The Courier* recently there was a story reporting on the fact that Senator McGauran had established an office in the Ballarat small business incubator. Can you provide to the committee an outline or perhaps the specifics of the criteria used to determine eligible tenants within the Ballarat small business incubator?

Mr Peel—Business incubators are primarily established to provide accommodation for small businesses in development. There is no reason, however, why they cannot accommodate other tenants either as anchor tenants to ensure their financial viability or in space which would otherwise be unoccupied and therefore affect their finances. The guidelines for the Small Business Incubator Program and the contract signed by the Ballarat business incubator preclude accommodation for political organisations.

Senator LUNDY—So why was Senator McGauran given a lease for an office in the Ballarat small business incubator?

Mr Peel—That is a question you would need to raise with the Ballarat small business incubator. My understanding, however, is that Senator McGauran is no longer taking up office occupation in the incubator.

Senator LUNDY—According to a statement provided by Fran Bailey in the chamber yesterday, it is correct that he has now terminated the lease. What I am interested in knowing is how we got to the situation where we had a National Party tenant in a government funded small business incubator.

Mr Peel—As I said, that is really a question you would have to raise with the management of the incubator. We require them to report to us six-monthly, including providing us with the details of the tenants that occupy particular incubators. The last report we got from that incubator was in December 2004. Obviously Senator McGauran was not in the incubator at that time. We did not know that Senator McGauran had taken up occupation until that fact became public. We do not approve every tenancy that an incubator carries out.

Senator LUNDY—No, but I would like to go back to my original question—which is, what are the criteria that are included in the contract with small business incubators when they receive funding? I think this one received close to half a million dollars.

Mr Peel—The criterion is that they are established to provide mentoring and advisory services for small businesses in development. That is what we expect their primary activity to be. So we would expect their tenants to, by and large, be small businesses that are in an incubation period.

Senator LUNDY—Given that Senator McGauran's tenancy there was a direct breach of those guidelines, what action can you now take with respect to the Ballarat small business incubator as a result of that breach?

Mr Peel—Senator McGauran, as the minister has announced, has decided to vacate the premises so we do not have to take any action on that front. We will, however, be asking the management of the incubator why that event occurred and will be checking on all the other tenancies in the incubator to ensure that they are appropriate and proper.

Senator LUNDY—Can you describe the processes for approving an application for tenancy within that incubator, or indeed more generally within the small business incubators?

Mr Peel—It is not a process that we are involved in at all; it is up to the incubator to attract and secure tenants itself. It does not require any approval from the Commonwealth.

Senator LUNDY—But they do receive taxpayers' money so there is obviously an accountability chain—

Mr Peel—There is.

Senator LUNDY—back to the department and ultimately back to the minister. I am hoping that you are able to provide more information than what you have provided so far.

Mr Peel—They are provided with taxpayers' money. As part of the accountability for that they are required to provide the department with regular reports on their activities. We also have a compliance arrangement in place where we visit 10 per cent sense of incubators annually to ensure that they are operating appropriately.

Mr Rymer—The Ballarat business incubator has a set of entry criteria for tenants which were developed by the incubator itself consistent with the program guidelines and requirements. There are five selection criteria for the Ballarat incubator: the projected viability of the business, the ability of the business to pay for rent and space, the compatibility of the business to incubator objectives, the completion of an application package, and, finally, the projected growth potential of the business. Those relate specifically to the incubator tenants.

Senator LUNDY—Are those eligibility criteria something that the department would have signed off on or approved as part of the incubator's application for public funding?

Mr Rymer—The department does not sign off on these, but they have to be consistent with the contractual arrangements that we have with the incubator.

Senator LUNDY—So would those criteria have been made available to the department prior to this incident?

Mr Rymer—I am not sure about that.

Senator LUNDY—Can you take it on notice as to when you were made aware of the incubator's tenant criteria eligibility guidelines. Are you able to advise the committee what you now know about the tenancy of Senator McGauran—for example, what the weekly rental arrangements were with his office and indeed what the weekly rental arrangements are for other businesses within the Ballarat small business incubator?

Mr Peel—Yes. On the information available to us it would appear that Senator McGauran entered into an initial short-term arrangement with the incubator for a period of four weeks pending his establishment there for a longer period. The rents charged at the incubator were advised by the manager of the incubator and are consistent with market rates in the Ballarat area. We have taken out some independent checks to verify that.

Senator LUNDY—You have undertaken that?

Mr Peel—We have checked, as best we can, the market rates in Ballarat to verify that they are consistent with what incubator was charging.

Senator LUNDY—So what was the incubator charging?

Mr Peel—We were advised that they were charging Senator McGauran a rent of \$8 per square metre per week plus GST. We understand he occupied 10 square metres in the incubator.

Senator LUNDY—What was that for four weeks?

Mr Peel—Ten square metres is \$80 per week, and \$80 a week for four weeks is \$320 plus GST.

Senator LUNDY—What did your investigations into market rent for office space in Ballarat show?

Mr Peel—It was not as easy as trying to establish a market rent in Sydney, Melbourne or major capital cities. We looked at what AusIndustry is paying in Ballarat. We have an office in Ballarat.

Senator LUNDY—What are you paying per square metre?

Mr Peel—We are paying about \$7.50 or so per metre, plus our outgoings—garbage collection and that sort of thing. Our office in Melbourne contacted a couple of their real estate agents in the Ballarat area, and the advice they got from them would indicate that the rate being charged was fairly consistent with market rates there.

Senator LUNDY—Are there any other commercial tenants or non-incubatee tenants within the Ballarat incubator?

Mr Peel—There are two: the Australian Industry Group and the local Area Consultative Committee are accommodated in the building. I do not know precisely what rent they are paying.

Senator LUNDY—Can you take that on notice. Do you understand it is in the same price range, or is there a difference? Why haven't you been able to get that information?

Mr Peel—The information that we have is that Senator McGauran is being charged \$8 per square metre, which I mentioned to you. There are three rates of rental within the incubators: \$8 a square metre, \$10 a square metre and \$12 a square metre. We are also told that where organisations take larger amounts of space—for the example, the ACC—the landlord might negotiate a particular rate with those sorts of tenants.

Senator LUNDY—A lower rate?

Mr Peel—Probably a lower rate for bulk space.

Senator LUNDY—So, if there are three lots of rents, who would be paying the higher rates of rent? I presume it would not be the incubatee company.

Mr Peel—The advice that we have is that, as the incubators progress in their development, the rental level can be increased from \$8 to \$10 and then to \$12.

Senator LUNDY—So the incubatees do pay \$8 per metre?

Mr Peel—That is correct.

Senator LUNDY—So Senator McGauran is paying the same rate as the incubatee companies?

Mr Peel—The advice that we have from the manager of the incubator is that he charges all of the tenants in the incubator a commercial rate.

Senator LUNDY—So why was he not able to advise you who he was charging \$10 and \$12 a metre?

Mr Peel—We did not ask him.

Senator LUNDY—Can I suggest that you do and provide those answers to the committee. I still find it astounding that Senator McGauran is perhaps paying at least the same, if not less, than an incubatee company.

Mr Peel—We were advised that he was paying a rate commensurate with the market. We were also advised by the incubator manager that his accommodation was of a lower standard within the building compared with other areas of the building.

Senator LUNDY—Yes, I am sure they hastily advised you of that. If that is the case, if the \$8 is market rent, have you made any observations on the incubators charging \$10 and \$12 per metre for incubatee companies—if not now, then potentially?

Mr Peel—Yes, we are going to have a review of the Ballarat business incubator to look at all those issues.

Senator LUNDY—What is the governance structure of the Ballarat incubator?

Mr Peel—As I understand it, the Ballarat incubator has a board and a manager who manages the day-to-day affairs of the incubator. I think he has two staff reporting to him.

Senator LUNDY—Who is on the board of that incubator?

Mr Peel—The board members are the local business people from Ballarat. The chairman is a Mr Brian Bennett, who we are told occupies a senior management position in Telstra. The secretary is Mr Brian Kiley, who is an ex-CEO of the local shire. The treasurer is Mr Ian Howes, who is a senior financial controller with the Ballarat University. Other members are Mr Tim Browne, a partner in BJT Legal; Paul Jenkins, ex-parliamentarian and electrical contractor; Belinda Phillips, a project officer with the Department of Industry and Regional Development; and Fiona Davey a project officer with Business Ballarat, in the City of Ballarat.

Senator LUNDY—What would be the approval process for an application for tenancy within the business incubator?

Mr Peel—That would be a matter for the incubators. It is their own internal arrangement. As I said, we do not vet applications for tenancy. We do not approve them, and we do not have a role in it.

Senator LUNDY—No, but I would expect a level of awareness of their processes, given the funding you provide.

Mr Peel—I would imagine that they would do the same thing that anyone else would do that has space to rent in a building. They would make people aware that it is available, discuss with them a level of rental, sign a lease arrangement and go through those sorts of normal processes.

Senator LUNDY—Do you know whether board approval was required?

Mr Rymer—The incubator managers do interview the tenants in particular to assess their businesses and their intention to grow and develop as an incubatee.

Senator LUNDY—Do you know whether board approval is required for tenants?

Mr Peel—No.

Senator LUNDY—You do not know, or it is not?

Mr Peel—I do not know

Senator LUNDY—Can you take that on notice. It seems that Senator McGauran has at least alluded in public comments that he was paying commercial rates. We have clearly established that, whilst they may be commercial, they are certainly not more expensive than other tenants in the incubator. I have a copy of a press release here from Senator Julian McGauran, dated 4 February 2005, announcing that he opened an electorate office in the City of Ballarat. Can you advise me specifically when the lease started?

Mr Peel—No, I cannot. Senator McGauran issued a press release on 2 February indicating that he was establishing an office in Ballarat. Some other advice that I have received is that he may have actually occupied the building or his office may have been set up in the building from about 17 January, but I do not have any sort of corroborating formal advice about that.

Senator LUNDY—The press release I have is dated 4 February, which is in the past tense. Do you have another statement dated 2 February?

Mr Peel—I had a look at his web site and there was a press release on there. I think it indicated that he established an electorate office on 2 February.

Senator LUNDY—Have you been able to ascertain from the incubator how long the office was open or functioning prior to that?

Mr Peel—The advice that I have received from the manager of the incubator is that Senator McGauran has never occupied the space in the incubator.

Senator LUNDY—The press release from Senator McGauran says:

... the purpose of the office will be to reinstate a Coalition Government presence in the Federal seat of Ballarat.

Perhaps I should ask the minister if this particular office of Senator McGauran is to reinstate a formal coalition government presence in the federal seat of Ballarat, as he implies, as opposed to an electorate office, which is what most of us have.

Senator Minchin—I am not across the detail of this particular arrangement, but as I understand it he was paying for that himself.

Senator LUNDY—That is correct. That is according to the statement that has been made so far.

Senator Minchin—It is not unique for a member or senator to pay for an additional office. He is perfectly within the law and his rights to do so. As I understand it, he is now not proceeding with that particular office in any event.

Senator LUNDY—Because of the specific point that it is in breach of the incubator guidelines.

Senator Minchin—Sure.

Senator LUNDY—Has he been counselled?

Senator Minchin—Not by me. I have no idea.

Senator LUNDY—Does it concern you at all that a member of the coalition government has decided to use a taxpayer funded facility to try to further the political cause of the National Party?

Senator Minchin—As I say, members and senators are free to use their own private resources to establish additional facilities and to engage with relevant operators of premises with a view to establishing those premises. If there has been fault on the side of the operator of these premises, that is a matter for them; it is no reflection whatsoever on Senator McGauran. If they have breached their own guidelines, the fault lies there. That has been identified and Senator McGauran has done the right thing. There is no fault on his part that has been identified in any way at all.

Senator LUNDY—There is certainly an acceptance that the guidelines were breached.

Senator Minchin—But that is not a matter for him; that is a matter for the—

Senator LUNDY—That represents a big problem for the government because you have a program in place whose guidelines are so wishy-washy that this oversight or mistake was allowed to be made without any check or balance. If it were not for Senator McGauran's promoting his subsidised rent, in effect, in the incubator, who knows how long it could have gone on?

Senator Minchin—But that is a matter for those responsible for leasing out the premises. The fault has been identified at that level and been corrected. It does not imply anything about Senator McGauran. He has done the right thing all along.

Senator LUNDY—Except for the lack of accountability on behalf of the funding body, which is the department, in ensuring that these incubators are complying with the rules.

Senator Minchin—That responsibility was delegated, as I understand it, to this board. They have made a mistake in not strictly applying the criteria for the leasing of the premises. That has been identified and corrected.

Senator LUNDY—We have heard that there will be some sort of inquiry into the nature of other tenants in this particular incubator, including the fact that there is an industry group tenant and a local area consultative council tenant. Perhaps I could ask the department whether or not it is reviewing the tenancy criteria for all of the small business incubators and whether those types of tenants are seen as eligible or suitable. How do you know they are not displacing potential incubatee companies which these incubators are designed to support?

Mr Peel—We are not undertaking a review of the tenancy rules for incubators. We are looking at the current tenancy arrangements for the Ballarat incubator to ensure that it meets the requirements. As I said earlier, there is no specific preclusion from them accommodating other people within the incubator if it would contribute to the financial viability of the incubator. However, we would not expect them to do that at the exclusion of small business incubators.

Senator LUNDY—But how would you know? Given that you are providing the funds for a specific purpose, how will you know if you do not check?

Mr Peel—As I have already mentioned, we have a compliance arrangement in place that we follow. We require the incubators to provide us with regular reports on their activities. We visit 10 per cent of the incubators each year to check on their operations. We do not, however—and we could not—approve each and every transaction that each and every incubator undertakes.

Senator LUNDY—Would the fact that Senator McGauran had established an office at potentially lower rent than incubatees come to your attention through your compliance checks?

Mr Peel—The incubator would provide us with a list of tenants at its next report. The report would have shown that Senator McGauran was a tenant if he still was at that time, and that would have loomed large in our thinking when we got that report.

ACTING CHAIR (Senator Watson)—Were there other vacant suites at the time? Were they trying to fill up the building?

Mr Peel—Yes, I think there are a range of vacant offices in the building at the present time.

Senator LUNDY—How long has this incubator been established?

Mr Rymer—I think it has been operating since 2001.

Senator LUNDY—From my understanding the original grant was some \$300,000 in 2001, but in 2003 it got another \$198,000.

Mr Peel—That is right.

Senator LUNDY—Why did it get additional funding if it could not even fill up its existing accommodation, established at the taxpayers' expense?

Mr Peel—It could fill up its existing accommodation. It got additional funding to refurbish other accommodation in the building to expand its operations.

Senator LUNDY—Obviously not for incubatee companies but for National Party senators, the Australian Industry Group and the local Area Consultative Committee.

Mr Peel—As I said, we are checking out the details of the tenancy arrangements. As far as we can ascertain at this stage, the vast majority of tenants in the building, apart from the Australian Industry Group and the Area Consultative Committee, are all small businesses.

Senator LUNDY—With the additional \$198,000, are you able to advise the committee what the justification was for that additional funding?

Mr Peel—As I mentioned, the incubator would have put a case to us that there was demand within the area that could be met if it increased the size of its operations in Ballarat. It would have had to have documented that and demonstrated that to us. That would have been considered within the department and a grant ultimately approved.

Senator LUNDY—What has been your assessment of the incubator's performance since February 2003?

Mr Peel—We do not have any particular concerns with the incubator. There are approximately 37 small businesses in there at the moment. We have had no reason for concern apart from this recent event.

Senator LUNDY—Can you provide the committee with all of the reports or compliance checks that have been performed by the department on the Ballarat small business incubator since its establishment in October 2001?

Mr Peel—We will take that on notice.

Senator GEORGE CAMPBELL—Mr Peel, you have may answered this question before. What was the rental that the Area Consultative Council and the AIG were being charged in comparison with Senator McGauran?

Mr Peel—I do not know.

Senator GEORGE CAMPBELL—Can you take that on notice.

Mr Peel—I think I already have.

Senator LUNDY—What is the definition of a small business under the Small Business Incubator Program?

Mr Peel—The program aims to assist with the establishment costs of small business incubators that assist start-up and development of new businesses by providing shared premises and business services as well as intensive business advice and support. The objective of the program is to support small business incubators that foster small business growth and to assist small businesses to establish, operative, grow, graduate and create wealth.

Senator LUNDY—Can you point me to any documentation the industry department may have which makes it clear that tenants other than small businesses fitting that description can be invited as tenants?

Mr Peel—I can check that out for you. I will take it on notice.

Senator LUNDY—I can tell you that my research has not shown up anything. That is why I asked that question.

Mr Peel—Subject to checking, I doubt whether it is explicit. It is probably more that, if they cannot get other tenants, then it is quite appropriate that they fill vacant space with alternatives to ensure their viability.

Senator LUNDY—So the criteria does not describe an alternative other than an eligible small business?

Mr Peel—It would talk about them as commercial tenants, I would think.

Senator LUNDY—You think it refers to commercial tenants?

Mr Peel—I think so. But as I said I will have to check.

Senator LUNDY—If that is the case, would other property owners in these regional centres be concerned at all that you were offering commercial rates in a subsidised government facility? Has that problem ever crossed your mind or your desk?

Mr Peel—I am not sure that I understand the question.

Senator LUNDY—If hosting commercial tenants in these incubators is okay—which is what you have said—have you ever consulted with property owners in regional centres about the impact on their businesses of government effectively offering subsidised rates or subsidised facilities to compete with them?

Mr Peel—Commercial tenants would be charged commercial rates; they would not be charged subsidised rates. No, we have not consulted with property owners on this.

Senator LUNDY—We have not established that yet because we do not know what the other tenants were paying.

Mr Peel—If you are now talking about the Ballarat incubator, I said earlier—

Senator LUNDY—I am talking generally. We do not know what other incubators are charging.

Mr Peel—They would charge commercial rates to non-incubation tenants to augment their income for the vacant space.

Senator LUNDY—How do you know that?

Mr Peel—That is a practice they undertake. We would have to go and check every single incubator and every single tenant to be absolutely sure.

Senator LUNDY—I think that might be a good idea, so could you take that on notice. I would like you to provide all the details of all the tenants in all the incubators and their rent. As a general procedure, I understand the department approves the applications for funding for the small business incubator operators. What are the processes that the department insists upon for approving a small business incubatee application?

Mr Peel—There are certain criteria, such as the ones Mr Rymer just mentioned for the Ballarat business incubator, that the small business would have to comply with to be able to be accommodated in the incubator.

Senator LUNDY—Unless they are a commercial tenant.

Mr Peel—We have said that, if they have vacant space that they cannot attract incubatee tenants to, there is no reason why they cannot lease that out to others.

Senator LUNDY—What if an incubatee came along whilst the commercial lease was in place? What is the government's policy for the removal of the commercial lessee to allow the business incubatee to move in? Do you have one?

Mr Peel—We do not get involved in the arrangements to that extent. We have an expectation that facilities would be available to small business incubatees within the particular incubator and that they would be given priority for accommodation. As I say, we do not vet every tenancy arrangement as it takes place, but we have compliance arrangements in place to assure ourselves that the incubator is operating properly.

Senator LUNDY—How can you be sure that sorts of the nature of Senator McGauran's lease are not taking place in all of the incubators? Do you have any way of checking that, given that you do not know the rents, you do not know how people have applied, you do not know how incubatee companies or commercial tenants are assessed and you certainly do not know anything about the finances within the incubators? Where is the accountability?

Mr Peel—I have already explained that we have compliance arrangements in place. We require regular reports from the incubators. We require audited financial statements each year. We visit 10 per cent of the incubators annually to satisfy ourselves. Those are the compliance arrangements we have in place. It is just not possible for us to be on the ground at every incubator approving or assessing every activity that they want to undertake; there needs to be a bit of risk management involved.

Senator LUNDY—Have the federal government or the Audit Office ever audited the compliance program for the Small Business Incubator Program or the program itself?

Mr Peel—I believe that the Audit Office undertook an audit of the program a few years ago when it was with the Department of Workplace Relations and Small Business. I will double-check on that. They certainly have not done one since we have been managing the program. Yes, the program was audited by the Audit Office in October 2001.

Senator LUNDY—What was the initial pool of funds distributed to the incubators when it was first established, and how many incubators were established?

Mr Peel—I do not have the information. That was many years ago when the program was managed by another department. I do have figures back to 1994-95. In 1994-95, there was \$1.9 million available to the program; in 1995-96, \$4.9 million; in 1996-97, \$12.8 million; in 1997-98, \$5 million; in 1998-99, \$3.2 million; in 1999-2000, \$2.2 million; in 2000-01, \$4.4 million; in 2001-02, \$4.5 million; in 2002-03, \$2.6 million; and in 2003-04, \$3.3 million. They are the expenditure figures for each year.

Senator LUNDY—Can you take on notice dating back to the year 2000 each of the small business incubators and their funding allocations, identifying if they were in increments, which is what we have seen with the Ballarat incubator.

Mr Peel—So you want a list of all the incubators and details of their individual funding arrangements?

Senator LUNDY—Yes and, as I said previously, I want to know the tenants, the duration of the tenancies and their rent. I think I have established this but the department does not make any effort to get involved in any setting of rents, conditions or criteria of leases. You leave that up to the incubators?

Mr Peel—That is not a matter that we get involved in, no.

Mr Rymer—The guidelines for the program are an expectation that a tenant would be there for around three years and would be graduated after three years.

Senator LUNDY—Can you tell me overall number of incubatory companies within the Small Business Incubator Program?

Mr Peel—There are currently 84 incubators—76 in operation and eight under construction.

Mr Rymer—They house about 1,200 incubatory companies.

Senator LUNDY—Do you know exactly how many incubatory companies?

Mr Rymer—No. It is about 1,200.

Senator LUNDY—How come you do not know exactly?

Mr Peel—We do know exactly. We just do not have it with us today. It is approximately 1,200.

Senator LUNDY—Would you know of that number how many were not incubatory companies and how many were commercial tenants?

Mr Peel—We would have to take that on notice.

Senator LUNDY—Do you have figures on the occupancy rate of small businesses within the incubators?

Mr Peel—We would have to take that on notice. We do not have that here.

Senator LUNDY—If you could take that on notice as well as the occupancy rate for each incubator—so break it down. I have a series of questions which you will need to take on notice. Could you include in the data how long each tenant has been in the incubator—specifically if any federal government or quasi-government agencies or any bodies receiving federal government funding are tenants in any of these incubators—and of course their rent, for which I have asked for everything. Thank you.

Senator GEORGE CAMPBELL—I have a couple of general questions following on from previous estimates. You have talked about your corporate reporting system and said that you were introducing a new computer system. Is that up and running yet? Is that at a stage where we can identify the companies who are applying to multiple AusIndustry programs?

Mr Peel—I anticipated that you might ask me this question. We are just about there. We have some small business programs—shipbuilding and a TCF program—still to put in the system, but we have run a report on that which tells us that from 1996 until about the middle of this year there were 17,705 companies that accessed the programs. Of those, five, or 0.03 per cent, accessed five programs; 32, or 0.18 per cent, accessed four programs; 298, or 1.68 per cent, accessed three programs; 1,797, or 10.15 per cent, accessed two programs; and the remainder accessed just one. The information is showing us largely that the hook to accessing

more programs, if I can put it that way, seems to be the R&D tax concession. There seems to be a common theme that companies accessing the R&D tax concession are most likely to access other programs that are operating in that innovation space. They might access the tax concession and maybe the R&D Start Program or some other similar program.

Senator GEORGE CAMPBELL—Is it fair to say that the R&D tax concession program is common across all the companies?

Mr Peel—Yes, it is reasonable to say that. Not every company accesses it but it is a fairly common feature of those that access more than one program.

Senator GEORGE CAMPBELL—What about the other programs that have compatibility in them, such as Commercial Ready? Setting aside the R&D tax concession programs, there seem to be a lot of companies that have taken up single programs in the main but are not looking across the suite of programs.

Mr Peel—It is more within the innovation area that they are accessing more than one program. A lot of our programs are designed for specific industry sectors, such as TCF, and companies would just access that suite of programs. It seems that it is more when companies are in the innovation area, looking at new products and undertaking R&D and so on, that they branch out into these other programs.

Senator GEORGE CAMPBELL—Will the statistical analysis that you are doing be available on the department's web site?

Mr Peel—We have not thought of doing that. We are still in the early days, and we still have some more programs to put up. There would be no reason why we could not put it on the web site. It is not confidential information and we are not naming particular companies; we are just using facts and figures. We can certainly make it publicly available. We just have not determined at this stage whether we would put it on the web site.

Senator GEORGE CAMPBELL—When you do, let us know because some of us are interested in the relationships. What is the status of your database with respect to the state and territory assistance programs?

Mr Peel—There has not been much progress since last time. As I think I mentioned to you last time, we were having a bit of difficulty getting the various state government agencies to provide us with information. We do have some information that we make available and we continue to encourage them to provide us with information on their particular programs, but we cannot compel them to do that.

Senator GEORGE CAMPBELL—Is the information you do have of any value?

Mr Peel—Yes, it is. It identifies a number of programs that other levels of government have available that businesses might be interested in. It just does not identify the whole suite of programs that might be available. There are other web sites that businesses can access, such as the Business Entry Point and GrantsLINK, where they may be able to source that sort of information as well.

Senator GEORGE CAMPBELL—But at this point you are not able to identify where companies are accessing federal programs and state programs?

Mr Peel—No, we do not have information on state programs unless they happen to tell us when they make an application to us.

Senator GEORGE CAMPBELL—During the last estimates hearing you said you were not proposing any staff reductions relating to Commercial Ready. I think you used the phrase ‘at this point’. But I notice in the additional PBS that there has been a reduction of 22 staff; I think it is on page 28.

Mr Dainer—That was the overall number for the department, not related to Commercial Ready specifically.

Senator GEORGE CAMPBELL—How many of the 22 are in the Commercial Ready program or in the innovation area?

Mr Peel—We have not reduced staff at all within Commercial Ready or the innovation programs. The only changes to our staff numbers would be people coming and going. We have not taken any decision to reduce staff in those areas. In fact, those areas are very busy.

Senator GEORGE CAMPBELL—What is the reason for the overall reduction of 22?

Mr Dainer—There is a combination of factors. The transfer of the BTR staff to Tourism Australia and the Tourism Forecasting Committee was about 23 ASL. I think there have also been some adjustments to staffing numbers across most of the divisions—very marginal but mainly down. There has also been an increase of about 19 from new measures coming in, so there is a whole range of factors going on. We end up with about 20 less overall.

Senator GEORGE CAMPBELL—I will go to the TCF programs now. Can you provide us with an update as to the process of implementation of the Strategic Investment Program?

Mr Peel—Public consultations in relation to the detailed program design get under way this week. I think they start on Friday, 18 February and go through to 28 February. They were being managed by another division in the department, so perhaps Mr Pettifer or others could comment on that.

Mr Pettifer—Probably the best person to talk to this is David McCarthy.

Mr McCarthy—Parliament passed the TCF legislative package in December and we issued draft guidelines for the various components of the package for public comment. We have taken public comment on those, and we are having consultations with interested parties beginning this week in the various capital cities to get their views on those draft guidelines. Then we will provide advice to the minister so that they can be finalised.

Senator GEORGE CAMPBELL—You said that you have taken public comment and you are now starting the process of consultation.

Mr McCarthy—That is right.

Senator GEORGE CAMPBELL—What is the difference between the two?

Mr McCarthy—We invited submissions on the draft guidelines that were published on 24 December.

Senator GEORGE CAMPBELL—Was that selective? Did that go out to people identified or picked by the department, or was that a general invitation to the community?

Mr McCarthy—A general invitation as well as specific invitations to SIP recipients.

Senator GEORGE CAMPBELL—How was that general invitation done?

Mr McCarthy—Through the press.

Senator GEORGE CAMPBELL—Newspapers?

Mr McCarthy—Newspaper advertisements in the *Australian* and the *Canberra Times* is my understanding.

Senator GEORGE CAMPBELL—The *Canberra Times*? There is not much TCF industry around Canberra is there?

Mr McCarthy—There are industry associations here.

Senator Minchin—All the lobbyists.

Mr McCarthy—The consultations which have been scheduled were publicly advertised.

Senator GEORGE CAMPBELL—That is between 9 February and 20 February in all capital cities. What about regional areas like Bendigo and Ballarat?

Mr McCarthy—Not in regional centres, in all capital cities except Darwin and Canberra.

Senator GEORGE CAMPBELL—Whereabouts in Tasmania?

Mr McCarthy—Hobart.

Senator GEORGE CAMPBELL—Hobart as opposed to Launceston?

Mr McCarthy—Hobart.

Senator GEORGE CAMPBELL—How were the areas for the consultation selected?

Mr McCarthy—On the basis of previous consultations that we held about this time last year when we first went out on the post-2005 arrangements. Even in the smaller capital cities we get a very small number of people. Many of the companies that in regional Australia have head offices in the capital cities, so in that way they access the consultation process.

Senator GEORGE CAMPBELL—Do you have a list of the companies and organisations that will be attending the first consultation?

Mr McCarthy—No, but we will be doing that at the consultations. So, when we have completed those, we will have a list of people who attended each of the consultations.

Senator GEORGE CAMPBELL—Have the unions been invited?

Mr McCarthy—Yes, they were invited to have a specific consultation if they wished but they declined that opportunity. However, they have made a submission and they have indicated that they will be in attendance at the Melbourne consultation, which is scheduled for this coming Friday.

Senator GEORGE CAMPBELL—You are pretty confident that that consultation process will pretty much embrace all of the stakeholders within the TCF industry?

Mr McCarthy—I cannot be confident of that, except that I know that we did this last year—this is the second year in a row—and they have that behind them. Last year the consultations were very well attended in both Sydney and Melbourne and, to the extent one

would expect given the size of the industry in the other capitals, that was also the case in the other capitals. We do not get the sense that anybody felt excluded by the process. We advertised in the media, we advertised in the industry association journals and we wrote to all of the industry associations, the unions and every single recipient of financial assistance under the SIP inviting them to these consultations. They were well attended and we expect them to be well attended this time around as well.

Senator GEORGE CAMPBELL—So 28 February is the completion period for their consultations.

Mr McCarthy—It is 28 February, in Brisbane.

Senator GEORGE CAMPBELL—When would you expect to have the strategic investment program finally determined?

Mr McCarthy—We would expect that to be determined by the end of this financial year, ahead of its implementation from 1 July 2005.

Senator GEORGE CAMPBELL—You would expect it to commence from 1 July?

Mr McCarthy—The funding does not start to flow until 1 July 2006, but the eligibility applies from 1 July 2005. We would like to have all of the arrangements in place before then. In fact, some people's eligibility is determined, depending on when they finish their financial year, as early as 1 January of this year. Part of the reason why there was a need to get the legislation passed was to give people certainty. The industry has expressed appreciation that these guidelines were published when they were. They have expressed appreciation about being consulted in the way that they were, and I have a letter to the effect that they are happy with the processes that are in place.

Senator GEORGE CAMPBELL—When would you expect a public announcement to be made about the new arrangements?

Mr McCarthy—That is a matter for the minister as indeed is the date of the finalisation of the scheme. All I can say as an official is that we will consider the submissions. We will take into consideration the views that are expressed to us in the consultations. We will provide advice to the minister and then it will be a matter for him and the government to determine when those arrangements are announced.

Senator GEORGE CAMPBELL—There is nothing in this process on the SIP that requires any budgetary measures, is there?

Mr McCarthy—No. Those budgetary arrangements were passed in the legislative package on 9 December last year.

Senator GEORGE CAMPBELL—So it is not necessary for this announcement to be held over or dealt with in the context of the budget?

Mr McCarthy—No, the budgetary arrangements were already passed in the legislation last December, so it is outside of the budget context. It is a special appropriation being made for this program.

Senator GEORGE CAMPBELL—Can you advise us whether or not you have begun developing the structural assistance package for the industry under the SIP amendment bill?

Mr McCarthy—Program guidelines were issued on 24 December, along with the other elements of the post-2005 package. That has gone out for consultation. Some people have made submissions on that. We will, like with the SIP scheme, be advising the minister on the final shape of that package and its program to be implemented from 1 July 2005.

Senator GEORGE CAMPBELL—When you say it has gone out for consultation, was that same procedure used as was used on the SIP program?

Mr McCarthy—Yes, the whole package—

Senator GEORGE CAMPBELL—The whole lot has been done in the one package?

Mr McCarthy—Yes, it includes SIP, structural adjustment scheme, small business element, product diversification scheme.

Senator GEORGE CAMPBELL—So that is subject to this current round of consultation.

Mr McCarthy—Yes, that is right, the whole package.

Senator GEORGE CAMPBELL—The whole package?

Mr McCarthy—Yes.

Senator GEORGE CAMPBELL—And at this stage you do not know when it will be finalised or when it is likely to go to cabinet?

Mr McCarthy—No, that is a matter for the minister but I would expect that these things should be able to be settled by the end of the financial year.

Senator GEORGE CAMPBELL—Is it possible, Mr McCarthy, to have a list of all the parties that are consulted made available to the committee?

Mr McCarthy—Absolutely. We already have a list of submissions that we can provide to you, and we will be collecting the names of interested parties that turn up at the public consultations as we go through those, so by the time they are completed we will be able to provide you with a complete list.

Senator GEORGE CAMPBELL—I would appreciate it if you could make those available to us.

Mr McCarthy—That is fine.

Senator GEORGE CAMPBELL—The strategic investment coordinator position. Can you tell us where we are up to in terms of the search for the new strategic investment coordinator?

Mr Paterson—You might recall that early this week there were some observations reported in a press article where Minister Macfarlane outlined what the current state of play was in relation to the strategic investment coordinator. There is no person occupying that post at the present time, and it has not been occupied since Fergus Ryan left the position. It is a challenging role to have somebody who has the commercial acumen, the commercial linkages, the understanding of investment attraction and how it interacts with government policy who is not otherwise potentially conflicted by having board directorships or private shareholdings or other interests in potential applicants for that program. There has been no

decision taken not to make an appointment at an appropriate time, if an appropriate candidate was identified, but there is no appointment in prospect at the present time.

Senator GEORGE CAMPBELL—Does that mean that you are actively or passively searching for someone?

Mr Paterson—We are less active than might have been the case at the time of Mr Ryan's departure but, as I said, if an appropriate candidate was identified then it could be considered by government at that point in time. It does not mean that the strategic investment coordination process itself is not being pursued. The guidelines remain publicly available, applications are made from time to time by interested businesses who think they meet the criteria and Invest Australia considers those applications on a case by case basis.

Senator GEORGE CAMPBELL—But you are not putting out advertisements or headhunting or undertaking any of that activity?

Mr Paterson—No, we are not.

Senator GEORGE CAMPBELL—In your opinion, what benefits does the role bring to the department's efforts in this area?

Mr Paterson—I think it could potentially enhance the commercial acumen that might be brought to bear. We undertake a detailed examination of the program proponents, but we do not pretend in all respects to have the depth and breadth of commercial experience that you may get from a senior experienced private sector executive that we have had the benefit of in the previous strategic investment coordinators of them bringing their particular expertise to that role. Their two roles were different at points in time, but Mr Mansfield and Mr Ryan both brought a depth of experience to that task. If we were able to find somebody who was as willing as those two were to undertake what is essentially a public service activity that are not otherwise prevented from doing so by their personal commercial interests, then we would obviously consider it.

Senator GEORGE CAMPBELL—Let me put it the other way to you: how much do you think the department is going to be affected in performing this role without the likes of a Mr Ryan or Mr Mansfield?

Mr Paterson—I do not believe that the consideration by either the department or by government is deleteriously affected by not having a person occupying that post. I think that if there were to be a person, it may well enhance what we can do, but I do not see any particular shortcomings in terms of the process that we go through at the present time that would impact on either the department's consideration or the government's consideration.

Senator GEORGE CAMPBELL—You have not come across any sets of circumstances since Mr Ryan departed where potential investments have been lost as a result of not having someone there with that particular expertise?

Mr Paterson—No, not at all.

Senator GEORGE CAMPBELL—Has the amount of activity in this area increased or fallen off since Mr Ryan departed?

Mr Paterson—Given the nature of the criteria and the projects that we are focused on, it tends to move about a little bit over time. They are projects centred and it depends on where we are in the investment cycle.

Senator GEORGE CAMPBELL—Sure, but is the pattern fairly similar?

Mr Paterson—It is hard to describe a pattern because the very nature of the applications are that they are about footloose investment that is looking at potential viable alternative locations—Australia being one of those potential viable locations with others. You might be able to discern a pattern with the benefit of history, but you would not necessarily say that that was a pattern that would be reflected going forward.

Senator GEORGE CAMPBELL—In the main, these are all pretty substantial investments. The dollar values of them, is it fairly constant?

Mr Paterson—No, and they differ quite significantly.

Senator GEORGE CAMPBELL—I take from what you have said that you do not expect to be filling this position within a relatively short period of time.

Mr Paterson—Correct.

Senator GEORGE CAMPBELL—If at all?

Mr Paterson—As I said, if a person who was willing to undertake the task and who could add value to it, I am sure government would consider it, but there is no active consideration as we speak.

Senator GEORGE CAMPBELL—The portfolio budget statement refers to funding of \$84.8 million over three years to provide for security services and support for the Commonwealth Games in Melbourne. Of this funding, the PBS states that \$56.5 million will be funded from existing resources. What are those existing resources that that will be funded from?

Mr Dainer—Could you point me to the page?

Senator GEORGE CAMPBELL—It is page 46 in the PBS, not in the additional estimates statements.

Mr Dainer—Yes, that is a multi-agency project, and our component of that I do not think was very much at all. I have got it in mind—and it is not this year—perhaps \$100,000 or something like that. The rest of this money is going to other agencies, so it is an across-agency proposal, and the way these measures are put in the budget statements is that you have to show the overall cost of the measure, but I just do not have what our component of that is—but it is very small.

Senator GEORGE CAMPBELL—So you are saying that it is across all departments and agencies?

Mr Dainer—Yes, I presume DCITA would have the lead on that.

Senator GEORGE CAMPBELL—I must say it is very confusing the way in which it is explained within the PBS.

Mr Dainer—Page 31 of the same document refers to our component of that, which is \$200,000 in departmental expense funding next financial year.

Senator GEORGE CAMPBELL—And that is the total amount?

Mr Dainer—Yes, and I understand that is Invest Australia's involvement in the overall package.

Senator GEORGE CAMPBELL—Where is the \$200,000 drawn from?

Mr Dainer—The \$200,000 comes out of the overall package. Here it is talking about something of the order of \$99.6 million, and our component of the 2005-06 amount of \$90.3 million, is \$200,000.

Senator GEORGE CAMPBELL—Yes, where is the \$200,000 out of the department drawn from?

Mr Dainer—That will be supplemented to the department in next year's budget.

Senator GEORGE CAMPBELL—What do they mean by the statement, 'It will be funded from existing resources?'

Mr Dainer—I am sorry, I am not sure whether we have been required to offset it or not. I will have to check that, but that would be the \$200,000, not the rest.

Senator GEORGE CAMPBELL—Yes, but if that money is not provided then it is going to come out of somewhere within the department.

Mr Dainer—We will just have to reorder priorities.

Senator GEORGE CAMPBELL—And at this stage you are aware of where it is coming from?

Mr Dainer—It will come out of the priority-setting process that we go through each year to set the budget for the following year. We will need to wait until we know what is in the budget as well. I will have to check to see whether it is fully absorbed or not.

Mr Paterson—Can we come back to you on that? We will do it during the day, but we will just come back to clarify that.

Senator GEORGE CAMPBELL—Fine, and you might also take on board whether or not it is going to impact upon any of your existing programs over that period.

Mr Dainer—It is out of departmental—it is part of our running costs, so it will be a reordering. I will take it on notice.

Senator GEORGE CAMPBELL—Who can I talk to about the Australia-China free trade agreement? Maybe I will leave that until after lunch as I am told we are breaking for lunch in four minutes.

Mr Paterson—I am sure we can deal with the issue in four minutes!

CHAIR—Senator Campbell, did you want to break now? Is this a convenient time?

Senator GEORGE CAMPBELL—This is convenient, yes.

Senator LUNDY—Can I just ask a couple of questions about the manufacturing action agenda. It will just take a few minutes.

CHAIR—As long as it will only take three or four minutes.

Mr Paterson—Could I just clarify one issue, Chairman. David McCarthy, when responding to Senator Campbell's questions in relation to TCF, talked about two advertisements being placed, he said the *Australian* and the *Canberra Times*; it was the *Australian* and the *Australian Financial Review*. So if that could be clarified for the record.

CHAIR—That is on the record. Thank you, Mr Paterson.

Senator LUNDY—I was just wanting a general update of the advanced manufacturing action agenda that was announced late last year. Can you provide an update on the progress of this agenda, including the consultation processes, including when and with whom?

Dr Green—The action agenda was announced on 25 October last year. We held discussions with a number of stakeholders in various state capitals during November and December. We held discussions in Melbourne, Adelaide, Sydney, Brisbane and the ACT, and we had a teleconference with Western Australians. That was basically aimed at trying to identify the various issues and scope of the action agenda and in order to tease out possible candidates for a leaders group to ensure that we had a diverse range of people from whom to finetune the proposed membership of the leaders group. We have advice to the minister at the moment on who that leaders group should be, and we anticipate having an initial meeting of that leaders group in early March.

Senator LUNDY—Can I also ask whether trade unions were formally consulted as a part of that process?

Dr Green—No, they were not.

Senator LUNDY—Why not?

Dr Green—It is a leaders group for the industry and the main people we have consulted with include state government officials, obviously companies and senior company executives, and industry associations.

Senator LUNDY—If you are consulting with industry associations, do you think it would have been appropriate to consult with the industry trade unions? Why didn't you?

Dr Green—It is not usually done in action agendas.

Senator LUNDY—Why not? They are stakeholders in the industry. They certainly have a lot to say about the future of the manufacturing sector.

Dr Green—I think they will have their opportunity to have a say.

Senator LUNDY—How?

Dr Green—We have consulted with people who are, for example, members of the various state government manufacturing advisory councils. We have looked at those various sector plans and they include trade union representatives. We think their views will be provided.

Senator LUNDY—Is it government policy not to consult with trade unions on action agendas.

CHAIR—That is a question about policy.

Senator LUNDY—Minister?

Senator Minchin—I do not think it is a matter of policy. My recollection from my time there was that, quite properly, these are approached as industry action agendas therefore with the private sector operators in those industries and in the development of action agendas, which essentially are actionable by the private sector entities within that industry, it is those entities with whom one consults. One would expect enlightened private sector industry players to bring to bear the perspective of their companies as a whole, including their employees who are a vital part of their companies. It has not been the practice to consult with unions but to, quite properly, operate on the basis that the interests of the companies reflect the interests of the employees.

Senator LUNDY—Government departments, government agencies and industry associations imply a broader reach than what you just described, and I would have thought it would be reasonable to have included union representatives and union bodies in that consultation process. Would you preclude that if they were interested in getting involved? Would you prevent that from happening?

Senator Minchin—It is not government policy not to. These agendas are a mechanism by which the industry department acts a catalyst for the industry, that is, the key companies in the industry, to get together to develop an industry-wide perspective on the future of their industry. It is really not for the government, one way or the other. If the corporate players and the companies involved felt that the process would be aided and abetted by having the unions per se around the table, I am sure the department would not have any objection to that. But for these things to happen they have to be actioned by, led by, and driven by the corporate players involved, and the department acts as the catalyst for that.

Senator LUNDY—I have noted that with the SIP program with TCF that unions were consulted, so I was wondering what the difference was.

Senator MINCHIN—I have just hinted at the difference. That is a process whereby the government is putting a lot of money on the table to drive a particular outcome. The action agendas are a quite different situation which, by and large, do not involve any government funding. We act as a catalyst to bring the industry together to drive a common set of objectives that have to be owned and driven by the industry, and it is quite a different role from something like SIP.

Senator LUNDY—Thanks.

CHAIR—We excused IP Australia and Geoscience Australia until after lunch. Is there an update on that?

Senator LUNDY—I think we can confidently say after afternoon tea.

CHAIR—Let us say that IP Australia and Geoscience Australia will not be required before four o'clock, and if by 3.30 p.m. it is apparent that they will not be required before dinner we will get a message to them.

Proceedings suspended from 12.33 p.m. to 1.34 p.m.

Senator GEORGE CAMPBELL—Just before lunch I indicated that I had some questions on the Australia-China free trade agreement. It has been announced that there has been a

feasibility study undertaken in respect of the free trade agreement. Can you outline for us the department's role or involvement in that feasibility study?

Mr Miley—The department has taken a very active role in the conduct of the feasibility study. The feasibility study is a joint exercise between Australia and China and on the Australian side is led, naturally, by the Department of Foreign Affairs and Trade, but in the process there have been meetings of a joint working group in which the Chinese and Australian officials come together. Members of the department have attended all of those meetings including two in Beijing. I believe there is to be another meeting shortly in late February but the feasibility study itself is coming to a conclusion. It is intended that it be completed by somewhere around the end of March. In the study itself the department has contributed information for a number of case studies and it has also commented and provided information for the text in some of the chapters. Finally, as part of the feasibility study there has been some modelling commissioned. The department sat on the tender board and has had discussions with the modellers during the course of the modelling.

Senator GEORGE CAMPBELL—What particular areas are the case studies that you referred to looking at?

Mr Miley—I would have to refer back to a draft to be sure that I covered them all but certainly the motor vehicle industry, the textiles, clothing and footwear industry, and the chemicals and plastics industry.

Senator GEORGE CAMPBELL—So you have looked at the potential impact on particular industry sectors?

Mr Miley—Yes. They are small pen pictures of what the implications would be for trade liberalisation in those industries.

Senator GEORGE CAMPBELL—Can you outline to us what the actual modelling is that is taking place?

Mr Miley—It is modelling of a number of scenarios for liberalisation on both sides of tariffs and also liberalisation of the services and investment regimes in the two countries. It is being undertaken on the Australian side by the Centre of Policy Studies at Monash University. They were the successful tenderers. The academics from Monash have collaborated with Chinese modellers and part of that process was to provide some capacity building within China for modelling these sorts of policy changes, which have been much more common in Australia than they have in China. But overall it has been a collaborative effort between the Chinese and Australian modellers. My understanding is that they have not quite completed that modelling yet but there have been some preliminary results provided to the joint working group.

Senator GEORGE CAMPBELL—Is there any work being done on the currency and the state of the Chinese economy?

Mr Miley—There are somewhat broader and probably more immediate issues and that has not been the focus of the study, which is really for the long term. A free trade agreement is for the long term so the modelling itself has that sort of focus. It looks outwards five or more

years to a steady state where most of the barriers have been removed, but the contemporary state of either economy is not a strong ingredient in that.

Senator GEORGE CAMPBELL—Is the state of the Chinese economy—the fact that it is not an open market economy and the implications of that for our economy—not a focus of this current feasibility study?

Mr Miley—The market economy status of China is somewhat of a separate issue. It has much more of a bearing on the effectiveness or implications for Australia's antidumping regime, rather than bearing strongly on the modelling results. The models themselves seek to model the Chinese economy as it is and how it will change over time; that is true. But my understanding of it is that that modelling of the characterisation of the Chinese economy would not have been strongly influenced by the fact that there is a significant state-owned enterprise sector. They would model the behaviour of those enterprises in a fairly conventional way.

Senator GEORGE CAMPBELL—Just to recap. You said, 'The feasibility study is virtually completed; most of the work has been done?'

Mr Miley—Yes, it is expected to be completed towards the end of March.

Senator GEORGE CAMPBELL—What stage is it at? You said you have one more meeting.

Mr Miley—Yes, I believe there is just one.

Senator GEORGE CAMPBELL—And then what, the writing up of the—

Mr Miley—That is what those meetings are about—drafts. Yes, they have been about drafts for quite a long time.

Senator GEORGE CAMPBELL—Has the department made any recommendations with respect to the market economy issues?

Mr Miley—We have been working with the Department of Foreign Affairs and Trade, and we are working towards having some consultations with industry. There have been consultations with industry going back about six months. There was a round of public forums that we attended with Foreign Affairs and Trade. We have been working with them and with Customs to look at those issues and to ensure that—and it is a commonly held objective—the capacity of Australia to take antidumping action within the constraints that are provided by the WTO agreements on antidumping are not compromised by this change, if it occurs.

As you would know, the trade and economic framework that was released when President Hu was here in 2003 contained an effective commitment that if Australia entered into free trade agreement negotiation with China that, at that point, we would recognise them as a market economy on the basis that it would be necessary to negotiate as equals, not to regard one economy as in some way distinct and different from the other. In granting market economy status, if that were to occur, there are implications under the Australian law for where China sits. It currently sits as an economy in transition and it is in that group. Once it is granted market economy status it would be treated as most other countries of the world, and the more general provisions of the law would apply. But in broad terms, given the recent

history of practice under the economies in transition provisions, we do not expect that the treatment of antidumping cases would be significantly altered because of that change.

Senator GEORGE CAMPBELL—In your view, Mr Miley, was that a significant concession made to the Chinese to grant them the market economy status?

Mr Miley—I think that falls into some personal opinion that I would not really—

Mr Paterson—It is a concession that has not been made.

Senator GEORGE CAMPBELL—But it has been made essentially to get the negotiations started.

Mr Miley—It has not yet been made. At the moment, China is treated as an economy in transition under the law. It has not been granted that.

Senator GEORGE CAMPBELL—But I understood you to say it will be—

Mr Miley—Certainly, there is no question.

Senator GEORGE CAMPBELL—if an agreement is entered into.

Mr Miley—If a negotiation is entered into.

Senator GEORGE CAMPBELL—And that will be irrespective of whether it is still an economy in transition or not at the point of an agreement being made.

Mr Miley—An economy in transition is defined under the law simply as an economy that once was a planned economy and has not yet—

Senator GEORGE CAMPBELL—I think we know what it means in practice.

Mr Miley—It is in transition, but the term itself only has any salience in terms of antidumping. It is not a declaration to the world in some other way that China has become fully a market economy. It is simply that for the purposes of antidumping it will be treated as a market economy and it will fall into that category of market economies, like the United States, France and any other developed country, most of the countries of South-East Asia and Asia.

Senator GEORGE CAMPBELL—Wouldn't it have been wiser for us to have waited until the negotiations were completed and agreement reached before we went down that path?

Mr Paterson—You are asking for personal opinion on policy.

Mr Miley—That was the government's policy outcome on this issue.

Senator GEORGE CAMPBELL—But the issue is wider than just dumping. Certainly dumping is an issue but there is a wider issue than just dumping.

Senator LUNDY—Perhaps you could say what the implications for China are with the granting of MES, in your analysis, and why would they have insisted on making it a pre-condition?

Mr Miley—In relation to Australia, it would simply bear on antidumping. In relation to the United States, which take significantly more antidumping actions against China, granting it market economy status would make a substantial difference in the way they address China. When China was acceded to the WTO, there was an accession protocol, and in that accession

protocol there are special conditions for a period of 15 years that apply for determining normal values under the antidumping laws of other WTO members. And for countries that had within their law a definition of a market economy at the time of the accession—which actually does not include Australia—if they ever declared China to be a market economy, their recourse to the special treatment under that protocol would be extinguished. That is the first time this term has been used in WTO documents at all. It is the only place it actually exists. The concept of a market economy otherwise is not there, and it is not there under the general antidumping provisions of the WTO. So it has that resonance, and probably with larger players.

Senator GEORGE CAMPBELL—I think in some of the consultations you have had, and I have certainly seen newspaper articles, organisations like AiG have expressed real concern about the impact on dumping and what they see as a likely increase of antidumping activities. What is the department's view? Do they think that antidumping activities will accelerate as a result of granting market economy status to China under these circumstances?

Mr Miley—No.

Senator GEORGE CAMPBELL—Or have you made any recommendations about looking at other ways of handling the issue of dumping?

Mr Miley—We are looking at what changes we might make to the expression of a law, as it exists, and that is a work in progress. There is not an expectation that there would be a big change in the progress of antidumping cases. Under the current law for economies in transition, in certain circumstances if it is determined or not proven otherwise that market conditions exist—there is a double negative here—it is incumbent on the exporter to establish that market conditions exist in the market for the good that is under examination in their home country. If they fail to do that, then the minister—the minister being the Minister for Justice and Customs—may, but he is not obliged to, have to resort to all relevant information in determining the normal value for the good. All relevant information might include all the ordinary information that is accessed in a particular order, in the ordinary case of an antidumping case anyway. But it allows the minister to immediately have recourse to a wider range of information. In our law there would no longer be that capacity to immediately have reference to all relevant information. Nonetheless, under the current law, and consistent with the general provisions of the WTO, the minister goes through a hierarchy of organisations of facts to determine the normal value.

Firstly, the minister is obliged, if it is a general case, to look at the selling price in the home country. If there is some reason he is not able to get such a price or the price is regarded in some way to be unreliable, then he has recourse to a constructed price. And in constructing the price he will usually start by looking at the cost of production in that country and try to determine a price that reflected a normal rate of return. If that cannot be obtained, then he has recourse to—I think the next in the hierarchy under the WTO—a price from another manufacturer, rather than the one that was under examination, then it would be an export price to a third country. Ultimately, if all of these sources are exhausted, he may resort to looking at the export price from a third country, and this is commonly called a 'surrogate price'.

He goes through that hierarchy, starting with what should be the best source of the normal value, and then goes to second and third best approximations of it. He is obliged to do that under the law for most cases. But, under the EIT provisions, if the first step fails—that is, the market conditions are not proved to exist in the market—he may have recourse to any of those sources at his discretion, and that is the difference. Once it is declared to be a market economy for antidumping purposes the minister will be obliged to go through this normal hierarchy. But, in general practice, Customs and the minister do go through that hierarchy, even in regard to an economy in transition. If there is information available, he has regard to it. So that is why the difference is not necessarily as large as some people perceive it to be.

Senator LUNDY—What legislative change is required to change that process and the treatment of complaints and inquiries in Australia?

Mr Miley—All that will happen is that China will be listed in schedule 1 to the Customs Act, which is a schedule of countries that cannot be regarded as economies in transition. That is all that happens. And that contains most developed countries. It also contains North Korea, because they are not treated as an economy in transition.

Senator GEORGE CAMPBELL—Mr Miley, in terms of the proposed agreement with China, the experience is in respect of the antidumping cases is that they are notoriously difficult to prove, and anyone who has had any experience with them knows that—and that is even with market economies or with regulated economies. Surely, with a country like China that may have economy status but, in effect, is not operating as a true market economy, if we enter a free trade agreement with them aren't our antidumping provisions going to be substantially weakened? Isn't it going to be much more difficult for us to exercise our antidumping provisions in those circumstances?

Mr Miley—We have not come to that conclusion. As I have explained, I think that we would see it to be a continuum. Antidumping cases are difficult to investigate. But, in the recent history of cases with China in the areas where people are concerned and have brought antidumping applications, Customs has been able to find some of what I would call conventional information in China. China does have a significant private sector and as a consequence of accession to the WTO had to improve accounting standards. Also, as I say, their experience has been that the information has been found to be available, and they have not had to resort to surrogate pricing. I think they did in one case but I would have to check that.

Senator GEORGE CAMPBELL—Is it easier, Mr Miley, to go to surrogacy under our current Australian law than if we just use the WTO antidumping arrangement?

Mr Miley—It is easier to go there, but the question remains whether it is appropriate to go there, but antidumping is not intended to be in itself a protective mechanism in the sense you add to the intended protection of the tariff by imposing antidumping duties that are not warranted.

Senator GEORGE CAMPBELL—I presume that a number of the stakeholders that you would have talked to in industry about these issues as part of the consultative process would have raised, and have raised, real concerns in this area. Has the department, or has DFAT, or

has this consultative mechanism endeavoured to look at any other mechanisms that might be available to deal with these issues of concern that have been raised?

Mr Miley—I think it has brought into focus some other mechanisms that have always been there.

Senator GEORGE CAMPBELL—Such as?

Mr Miley—The safeguards provisions that exist under the WTO agreements. Like antidumping, they are not necessarily an easy road to hoe. There has not been a great deal of recourse to them in recent times, but they perhaps match some of the circumstances that people are concerned about. Industry often says that they are concerned that China, because it is so large and some of its industries are growing so fast, have a capacity to, in a very short time, dominate the small Australian market by sending excess production here. It is quite small in terms of their production, but it would still inflict considerable damage on their market share. Those circumstances where there is rapid relative, or absolute, increase in imports, and there is injury that occurs as a consequence of that, are clearly allowed for under the WTO, and the safeguards measures are defined in those terms. If those circumstances exist, then there may be a case for safeguards to be implemented, but, as I say, that has not been the practice. But industry has become more focused on these alternatives because they match perhaps the concerns they have.

Senator GEORGE CAMPBELL—Will the feasibility study, when it is released, canvass these issues?

Mr Miley—No.

Senator GEORGE CAMPBELL—What sorts of issues will be canvassed in the feasibility study when it is released?

Mr Miley—The feasibility study will canvass the issues related to the liberalisation of barriers for trade in goods and services and investment. The issue of market economy status I think will be a separate consideration by the government but clearly closely associated with the consideration of the feasibility study itself. The feasibility study is a joint document and it addresses, I suppose, the issues of concern in common between Australia and China. It is not just Australia's document. Because of that I think those other considerations are on a separate track.

Senator GEORGE CAMPBELL—But these issues that we have been discussing are of significant importance, so presumably the government has to address them at some point in the process either, as you say, in a separate document or in some other form. When that is laid down, will the views of the AIG and Andy Stoller be taken into account in taking these issues under consideration?

Mr Miley—I am sure they are, and they have been.

Senator GEORGE CAMPBELL—They form part of the consideration of the consultative process?

Mr Miley—Yes, and we also expect there will be some further consultations with industry in the near future.

Senator GEORGE CAMPBELL—Has the department been involved in the preparation of the Prime Minister's visit to China in April?

Mr Miley—Not in any—I would have to check; I am not sure.

Senator GEORGE CAMPBELL—Has the department been providing any briefing advice for the Prime Minister?

Mr Miley—Not as yet. The Prime Minister will be going in April, so we would expect that we would be providing some information to his department as part of the overall briefing. I am just not sure whether we have provided anything as yet.

Senator GEORGE CAMPBELL—Would that briefing advice contain the department's views and attitude in relation to these issues we have just been discussing?

Mr Paterson—Whether it did nor not, Senator, is asking for an observation about the advice that might be provided to government.

Senator GEORGE CAMPBELL—I am not asking you about what the advice is. I am asking you whether or not these issues would be part of the briefing, because they are issues of major importance.

Mr Paterson—It depends on what decisions the government has taken up to that point in time, so we cannot answer with any authority your question because we do not know what stage we will be at in terms of the government having—

Senator GEORGE CAMPBELL—But I thought your role, Mr Paterson, was free and fearless advice.

Mr Paterson—Absolutely.

Senator GEORGE CAMPBELL—So irrespective of what decisions the government might have taken up to that point in time.

Mr Paterson—Correct.

Senator GEORGE CAMPBELL—If you had a strong view about these issues, I would expect that you would provide those views to the Prime Minister, and that is, I suppose, the point that I am trying to make.

Mr Paterson—And the point that I am trying to make is that the government may well have taken a decision on these issues prior to that point in time and, therefore, there would be no need for us to include within that briefing.

Senator GEORGE CAMPBELL—But presumably they would have taken the decision based on advice you would have provided to them, even if it is before the trip?

Mr Paterson—Correct.

Senator GEORGE CAMPBELL—So the point is: whatever advice you provide to the Prime Minister between now and his visit to China, there will be consideration of these issues.

Mr Paterson—We would provide advice to his department.

Senator LUNDY—It is worth noting, as I am sure Senator Campbell knows, that the Prime Minister has form on issues relating to free trade agreements, regardless of advice provided by negotiating teams or departments, so I think it is a fair question.

Mr Paterson—That is a statement, not a question, Senator.

Senator LUNDY—I think Senator Campbell's question is a fair question.

CHAIR—I do not think you have to respond to that Mr Paterson.

Senator GEORGE CAMPBELL—I agree with Senator Lundy.

Senator LUNDY—In terms of the time line, originally the feasibility study was flagged to be completed around October 2005. Does the shortening of the time line to March 2005 have any impact on the extent or range of consultations?

Mr Miley—Everyone is aware of that time line, and we have had no complaint about that somehow shortening their capacity to put their views forward.

Senator LUNDY—But was that because of the Prime Minister's visit in April? Is that why the time line was shortened?

Mr Miley—I think the shortening of that timetable just came out of a consideration of the progress in the feasibility study. The Minister for Trade announced it. I would have to check whether the Prime Minister's visit was even timetabled prior to that. That announcement was made some time last year. The progress on the feasibility study has not had to be accelerated. It had a natural pace, and I think there has been adequate time. That is our view and I think it is the view of the other parties to the process.

Senator LUNDY—Just going back to the issue of antidumping and the changes that that may mean for the treatment of Chinese product in the Australian marketplace, is any work being done on anticipating what that changed environment might look like and what sort of remedial action outside the World Trade Organisation provisions might be available to Australia to deal with any problems?

Mr Miley—The WTO agreements place certain disciplines on Australia in terms of what it can do. I am just not quite sure what you are getting at—what sort of measures you might have in mind.

Senator LUNDY—I do not know either. Is there a capacity perhaps in the negotiations with China to define more tightly those terms and conditions relating to antidumping?

Mr Miley—I think that is unlikely.

Senator LUNDY—Are the stakes for Australia around the granting of market economy status all related specifically to those antidumping provisions? Does that tie that issue up once and for all?

Mr Miley—If market economy status is granted, China will be treated as most other countries are—and, to many intents and purposes, as they have been in recent times anyway. The course of antidumping cases could have occurred under either the EIT law or the general law. It would have taken the same course.

Senator LUNDY—Thank you.

Senator O'BRIEN—I want to come back to a couple of energy matters. Firstly, when did Western Mining first request that the government enter into discussions with China about uranium sales to that market?

Mr Hartwell—Certainly the Chinese have approached a number of potential uranium suppliers about the possibilities of selling uranium to China. In that context, because of the arrangements that surround uranium selling, it does require a bilateral safeguards arrangement, which does not at the moment exist with China. Certainly there are some preliminary discussions that have taken place in relation to that particular issue going forward, but really there is nothing of substance on the table at this point in time.

Senator O'BRIEN—What about Western Mining? Have they made an approach to the department of the government about the issue of uranium sales to China?

Mr Hartwell—Certainly they have not made any approach to this department. The issue of bilateral safeguard arrangements is in the hands of the Australian Nuclear Safeguards Office, which is an agency within the Department of Foreign Affairs and Trade.

Senator O'BRIEN—On another easy matter, I want to ask some questions in relation to the recently finalised liquefied natural gas contract with China's Guangdong province. On 14 December last year, the *Australian* said that this deal has finally been sealed—more than two years after it was announced. Can you tell me what brought about the delay in finalising the contract?

Mr Hartwell—There were a number of issues surrounding the final sales and purchasing agreement. These related to delivery schedules, shipping arrangements and a whole range of commercial issues that needed to be sorted out following the announcement of costs which had been made earlier.

Senator O'BRIEN—What role did this department play in the negotiation of the contract?

Mr Hartwell—These were essentially commercial arrangements between the North West Shelf joint venture, ALNG and the buyers in China. We played a small role in that—only to the extent that there may have been government issues involved in terms of some of the issues in relation to the take-up of equity, which is a part of the overall arrangement. The involvement of department was very minimal indeed.

Senator O'BRIEN—Did other departments play a more significant role?

Mr Hartwell—Not really. This was essentially a commercial arrangement.

Senator O'BRIEN—Do you know whether any ancillary contracts were negotiated as part of this contract? For example, were any functions such as shipping, ship repairs, ship provision, crews et cetera to be provided by Australians or by Australian companies?

Mr Hartwell—There are some shipping arrangements, which are a part of the overall commercial arrangements. I cannot give an answer as to the precise details of those. Again, they are really part of the commercial arrangements.

Senator O'BRIEN—I understand that when the Woodside LNG contract with Japan was negotiated some years ago, an Australian shipping component was included as part of that contract. Do you know much about those arrangements?

Mr Hartwell—I cannot really add anything more. Again, these are commercial arrangements which are agreed between the parties involved. The government is not involved in those.

Senator O'BRIEN—If I can summarise, you are saying that the Australian government had very little part in the negotiation and finalisation of the negotiations with China's Guangdong province; it was a commercial matter that was within the control of the company only.

Mr Hartwell—If you are referring to the final signing of the sales and purchase agreement, which, as you rightly pointed out, occurred in December last, yes it is a right supposition to say that the government had little involvement in that—just finalising the commercial details.

Senator O'BRIEN—What about the lead-up to the finalisation? Given that it was announced two years before, what role did the government have in the interim?

Mr Hartwell—As is fairly well documented, certainly as negotiations were ongoing, there was support given in a broad sense by both the Australian government and the Western Australian government, which was underpinning the commercial negotiations that were taking place. Certainly the Chinese placed great store on government-to-government relations. A number of ministers and a number of officials were available to underpin that in terms of providing details on the regulatory frameworks that apply in Australia and broadly how we organise our hydrocarbon industry.

Senator O'BRIEN—A PR role.

Mr Hartwell—PR role is one way to describe it, but generally supportive of Australian companies winning international contracts.

Senator O'BRIEN—In terms of the initial connection, was that a company-to-province arrangement or was the Australian government involved in making the original connection?

Mr Hartwell—The original connection was certainly driven by commercial parties.

Senator O'BRIEN—Thank you.

Senator LUNDY—Can I ask some questions about the proposed Malaysian free trade agreement. Can you outline where that process is at?

Mr Miley—In the case of the possibility of a free trade agreement with Malaysia, there are parallel scoping studies being undertaken by Australia and Malaysia. This process was initiated around the middle of last year when Minister Rafidah and Mr Vaile were in Australia. They decided to have the scoping studies but they are being done separately. Australia is doing a scoping study which is coming to a conclusion very soon, and we understand that Malaysia has completed its scoping study and may be considering that issue soon. It has been a consultative process. Public submissions have been called for and have been provided by interested parties. There have been consultations in most of the capital cities of Australia. Officers of the department have attended those consultations. While there has not been another country involved in the scoping study process, the process at the Australian end has been very similar. We have had the opportunity to comment on drafts. I do not think there

have been any case studies in this instance. It is an order of magnitude smaller than the China exercise and it has been done over a much shorter time frame.

Senator LUNDY—How does the scoping study measure up against the feasibility study with respect to the China free trade agreement?

Mr Miley—How does it measure up?

Senator LUNDY—Yes. What is the difference?

Mr Miley—It covers the same sorts of issues but obviously we are talking about a much smaller economy with which we have more limited trade connections already. I suppose people would say that, in comparison, China has the potential to grow as a trading partner much more than Malaysia, but that is not to say that Malaysia will not grow. It is hard to say how you compare these two things.

Senator LUNDY—In terms of previous free trade agreements, for example with the US and Thailand, were feasibility studies conducted into those agreements?

Mr Miley—For Thailand, yes, but I do not think so for the United States. I would have to check that.

Senator LUNDY—That is my understanding.

Senator GEORGE CAMPBELL—I want to refer to page 32, table 1.2, of the PBS from last year. There is an item listed there entitled, ‘Budget estimates enhanced quality and timeliness’ and an appropriation of \$297,000. Can you advise us whether that funding has been revised? It does not appear in the additional estimates statements.

Mr Dainer—No, it has not been revised.

Senator GEORGE CAMPBELL—What is the purpose of that category?

Mr Dainer—With the budget estimates framework review that was conducted by the Department of Finance and Administration quite significant additional reporting requirements were placed on agencies. There was an ability to seek funding for agencies to boost their resources to meet those requirements and that funding was provided to do that.

Senator GEORGE CAMPBELL—How is this broken down?

Mr Dainer—It is essentially for staff costs.

Senator GEORGE CAMPBELL—Is it purely associated with putting together the budget proposals?

Mr Dainer—No, not just budget proposals. We have a very significant workload in terms of doing monthly reporting, variation reporting at program level. That required additional resources to comply with the requirements.

Senator GEORGE CAMPBELL—Is all of this amount used to fund your interface with the department of finance? Is that what you are saying?

Mr Dainer—It is used to provide the department with the capability—that is, essentially, staff resources—to meet their reporting requirements. The department of finance itself is actually looking to redevelop its financial reporting systems, which we will then interface with, but that project is still ongoing.

Senator GEORGE CAMPBELL—Are any amounts of this money used for training for individuals?

Mr Dainer—We have ongoing access to Department of Finance and Administration training programs. The current estimates system is called AIMS. Many of my people go over and do those AIMS training courses. There are also programs for training going on at the moment with the new replacement of the DOFA finance system.

Senator GEORGE CAMPBELL—Is none of this funding used to equip your officers for appearing in front of estimates committees?

Mr Dainer—No.

Senator GEORGE CAMPBELL—I thought it was to enhance your performance here.

Mr Dainer—I might enhance one of my answers, if I could. You asked about the Melbourne 2006 Commonwealth Games. The department will receive \$200,000 next year. It will be new money. You mentioned before that it was being absorbed. The government has announced a package of \$272 million, of which \$139.8 million will be new funding, and the rest will be absorbed but not by this department.

Senator GEORGE CAMPBELL—Do you have a list, or can you provide us with a list, of all the departments who are contributing to this funding?

Mr Dainer—I think you would find that in the budget measures statement which would have been released around the budget last year.

Senator GEORGE CAMPBELL—That is the general statement?

Mr Dainer—Yes. There is a list of measures. I am pretty certain it has got a break-up by agency.

Senator GEORGE CAMPBELL—Did you say just before that there is a new program being developed by DOFA?

Mr Dainer—They are developing a new finance estimates system. They currently run a system called AIMS, which is the accrual information management system. They are looking to get some of the rough edges out of that system, enhance its reporting capability, get agencies online and bring in some other aspects, such as appropriation management systems et cetera. That was actually announced as a measure, I think, in 2003-04. There was substantial additional funding provided to finance that, both capital and expense.

Senator GEORGE CAMPBELL—Can you tell me offhand what that amount of money was? The minister should be able to tell us; he was the minister at the time.

Mr Dainer—I think it was about \$40 million in capital over a number of years and about \$40 million in expense funding.

Senator GEORGE CAMPBELL—At the estimates on Monday the Department of Transport and Regional Services referred to a review of infrastructure constraints being conducted by the Department of Industry, Tourism and Resources, which specifically focused on the coal industry. Can you provide us with an overview of that survey?

Ms Constable—After complaints from some of our key customers internationally, specifically Taiwan and Japan, the minister announced that a group of senior officials—including the Department of Industry, Tourism and Resources, the Department of Foreign Affairs and Trade, and the Department of Transport and Regional Services—would actually have a look at the infrastructure issue in relation to the coal industry, specifically transport infrastructure.

Senator GEORGE CAMPBELL—When did that review commence?

Ms Constable—It commenced in June last year.

Senator GEORGE CAMPBELL—Can you provide us with the details of the stakeholders who have been consulted over that?

Ms Constable—Yes. It involved consultation with a wide group of stakeholders, specifically the New South Wales state government; the Queensland state government; a number of corporations, including port authorities, rail owners, operators and land managers in Queensland and New South Wales; the national and state competition authorities in New South Wales and Queensland; coalmine owners, private infrastructure owners, operator and investors; a couple of coal export customers; and industry associations involving the coal industry.

Senator GEORGE CAMPBELL—What involvement has the Department of Transport and Regional Services had in the development of the study?

Ms Constable—The Department of Transport and Regional Services is part of the key senior officials group.

Senator GEORGE CAMPBELL—Is Treasury involved also?

Ms Constable—Not in this particular infrastructure study.

Senator GEORGE CAMPBELL—Are there any other departments involved in it?

Ms Constable—The Department of Foreign Affairs and Trade.

Senator GEORGE CAMPBELL—So it is Foreign Affairs and Trade, Transport and Regional Services, and Industry?

Ms Constable—That is correct.

Senator GEORGE CAMPBELL—Can you tell us when the review is likely to be completed?

Ms Constable—We expect to have a report to the three ministers by about the end of March.

Senator GEORGE CAMPBELL—Are recommendations likely to result from the review?

Ms Constable—That will be a matter for the three ministers—to consider the report and whether they will take on board the specifics of the report.

Senator GEORGE CAMPBELL—Are you able to outline to us in broad terms what the key issues are that have been addressed by the report or that will be addressed by the report?

Ms Constable—I can give you the terms of reference of the study.

Senator GEORGE CAMPBELL—I am more looking at what your findings have been.

Ms Constable—We are still at the information gathering stage. I am not at liberty to share the content of the study at this stage.

Senator GEORGE CAMPBELL—Do any major issues stand out?

Ms Constable—Constraints along the coal supply chain, specifically when we look at the Hunter Valley region, and that has been our focus in the context of the study to date.

Senator O'BRIEN—Is that the only activity of this department relating to dealing with the port and rail bottlenecks associated with constraining coal exports in New South Wales?

Ms Constable—We have focused specifically on the Hunter Valley region and what has been happening—from the coalmine operations through the rail network and down to the port itself in Newcastle.

Senator O'BRIEN—That is still under consideration?

Ms Constable—It is still under consideration.

Senator O'BRIEN—What about Queensland? Is there any work there?

Ms Constable—We have broadly looked at Queensland, but certainly not at the level that we have looked at the Hunter Valley.

Senator O'BRIEN—I am told that, in addition to the transport infrastructure, almost \$40 billion worth of investment is needed in energy infrastructure in those areas over the next couple of decades. Is that how the department sees it?

Ms Constable—We have specifically looked at the coal industry in the context of this particular study.

Senator O'BRIEN—What about any other studies?

Mr Hartwell—It is fair to say that we have under review anything that might affect the development of the Australian resources industry. Certainly we have had some preliminary discussions with the Minerals Council of Australia and with our state and territory counterparts in relation to water. Water is as much an issue for the mining industry and the resources industry going forward as it is for other sectors of the economy.

Senator O'BRIEN—Have you looked at anything else recently?

Mr Hartwell—Skills is something else that you would be aware of and that we have been having a look at. In the context of the Prime Minister's statement, there is a working group looking at the skills issue and the skills challenges for the mining industry going forward. There are a number of issues.

Senator O'BRIEN—They are all under consideration? There is nothing that is on paper at this stage?

Mr Hartwell—There is not a lot on paper at this stage other than the announcements that have been made by ministers in relation to those issues.

Senator GEORGE CAMPBELL—When this survey was an issue, you said there were a number of complaints. Can you identify for us specifically where those complaints came from and what the nature of the complaints about the bottlenecks was?

Ms Constable—They were identified as part of the department's bilateral consultations that we have. Specifically, they came from Taiwan and Japan.

Senator GEORGE CAMPBELL—What was the nature of the complaints? Were they in one or two specific areas or on a broad range of issues?

Ms Constable—Generally in the context of the reliability of supply of coal from Australia.

Senator GEORGE CAMPBELL—Reliability or timing?

Ms Constable—Reliability and timing—the fact that there were a number of ships sitting in queues off the port of Newcastle.

Senator LUNDY—On issues relating to manufacturing, it is reported—indeed, an AIG study has identified—that there are limitations in capacity that have also hindered the export of manufactures. What work is the industry department doing in this area to analyse the negative impact on Australia's capacity to export manufactures?

Mr Pettifer—We have not done any particular work on that issue. We do, however, look at sectoral issues in the context of action agendas and our sectoral strategies. If there are those particular issues in that context, then it is something that we would deal with. But I am struggling to bring anything particular to mind of that nature that has arisen recently.

Senator LUNDY—It is certainly a general observation in the context of the slowing of manufactured exports in Australia. Perhaps we could go back to the bigger issue. What is the Howard government doing about our worsening balance of trade in the manufacturing sector?

Mr Pettifer—The government has a well-developed industry policy which is about providing a strong economic climate, removing impediments to growth and facilitating structural change in various industry sectors. I have mentioned the action agendas as another tool. That is about increasing competitiveness. There is a focus particularly through generic programs on investment, innovation and competitiveness. All of those things are designed to place the industry in a better position to win export markets. Earlier on, of course, we were also talking about the free trade agreement negotiations going on; they are about opening up new market opportunities for the industry. It is a mix of those things.

Mr Paterson—You would also be aware of the activity of Austrade within the Foreign Affairs and Trade portfolio and the management of the Export Market Development Grants Scheme, which provides support, particularly to small and medium-sized exporters, to develop new markets.

Senator LUNDY—I am aware of that, but none of it really seems to be working. As we can see, apart from the odd month, that deficit in manufactured products is steadily worsening over time.

Mr Pettifer—Over the last decade manufactured exports have performed very well. It is true that over the last 12 months or so there has been a levelling off in the value of manufactured exports. The volume of manufactured exports has held up, though. There are

instances of some areas of manufacturing doing very well on the export front. If you look at the car industry, for example, both Toyota and Holden are exporting record numbers of vehicles. I am not sure I would agree with the proposition that it is all negative.

Senator LUNDY—What work has the industry department done on the issue of the skills shortage in the manufacturing sector?

Mr Paterson—It is an area identified in a number of the action agendas. We are engaged with other parts of government in focusing particular attention in areas where skill shortages exist.

Senator LUNDY—How long has the department been aware of the skill shortage in the manufacturing sector?

Mr Pettifer—In the last few years, there has been increased reporting of skill shortages. As Mr Paterson said, we become aware of the problem through the action agenda process. That has been quite a useful vehicle to engage with the training agencies.

Senator LUNDY—You are talking about the action agenda that was announced in October last year?

Mr Pettifer—No, there is a range. There are about 36 action agendas.

Senator LUNDY—I appreciate that. Which action agenda program alerted you to the skill shortage problem in manufacturing?

Mr Pettifer—The issue comes up through a number of the action agendas. Part of the action agenda process is to identify the key constraints to an industry growing. Quite often skills issues come up, and there is a process through the action agenda to engage with ANTA, DEST and the new skills council. That is a way of highlighting the difficulties and hopefully getting some action in areas where we think there is a particular problem.

Senator LUNDY—In terms of those action agendas, when you have numbers like vacancies for skilled tradespersons jumping from 97.1 in November 2001 to 149.4 in November 2004, what scope do you have through those action agendas, if that is the program you use to address it, to actually make a difference?

Mr Pettifer—I am saying that they are a vehicle to help inform the system on where those skill shortages are and, through the VET system, get some changes happening in those particular areas—some increased activity in those areas. That is the process that we go through.

Senator LUNDY—What are the ways in which you communicate with the department of education and so forth about those requirements and those shortages?

Mr Pettifer—A normal action agenda would involve working groups around particular issues. As I say, the skills issue is quite often one of those. They would be on those working groups and working through the issues together with the industry. There is a very direct link into that process.

Senator LUNDY—But nothing operating at a higher level in terms of advice provided by the department to other portfolio areas.

Mr Brunker—The department is represented on the officials group that is run out of DEST and that operates under the National Skills Shortages Strategy along with industry representatives and other departments such as DEWR. That is one of the key mechanisms through which we channel our input to DEST and it is the mechanism through which the action agendas also feed through to DEST formally.

Senator LUNDY—Has the department produced any industry specific reports about the skill shortage—for example, in manufacturing—that you are able to provide to the committee?

Mr Brunker—We have recently produced a submission to the Productivity Commission inquiry into ageing which looked at the issue of age and skills across different industries and how that was developing over time. But that was more a longer-term consideration rather than the current, very short-term issues that we are currently facing. In that regard, we must be aware that, while we are facing constraints now in the labour market in terms of skills—and not just skills but in the labour market generally—it is not uniform. It is very intense in some sectors and not so intense in other sectors. We have come out of a period immediately post 2000 where it would be probably unrepresentative to use that as a comparator for growth. With the labour market then, skill shortages were very low. There was not a problem with high vacancies then. In aggregate, if you look at the DEWR vacancy levels, they are currently—I emphasise in aggregate—about what they have been on average for the last 12 years. Certainly I am not saying that there are not particular areas where it is very intense. That is true.

Senator LUNDY—You cannot point to any specific report on skills shortages in the industries that have been identified?

Mr Brunker—We rely on DEWR for those data—in their public releases.

Senator LUNDY—Thank you.

Senator O'BRIEN—I want to check a couple of issues in relation to infrastructure. One concerns a matter raised by me at the estimates of the Department of Agriculture, Fisheries and Forestry in relation to the proposal for the construction of a pulp mill in Tasmania. They advised me that it was this department that was playing a role—whatever role the Commonwealth was playing—in any initial consultations given that the Prime Minister promised up to \$5 million for a feasibility study shortly before the election last year.

Mr Paterson—Sorry, I missed the reference at the start of your question.

Senator O'BRIEN—A pulp mill in northern Tasmania, a proponent being Gunns Ltd.

Mr Jones—We have had some involvement in those discussions, mainly to act as an intermediary between the Tasmanians and other agencies in the Commonwealth. We do not have primary responsibility for it by any means.

Senator O'BRIEN—Who does?

Mr Jones—Either Prime Minister and Cabinet or Agriculture, Fisheries and Forestry. I am not entirely sure on that.

Senator O'BRIEN—They have pointed me in this department's direction. The buck is circulating. Where does it stop?

Mr Jones—I am not clear on the precise details of what has gone on with this. I know we have had discussions with Gunns and with the Tasmanian government on this issue in our role as facilitating the proposed investment, but my understanding is that the stage of the pulp mill investment is such that it is before the stage at which any money would be forthcoming for it.

Senator O'BRIEN—Given that the Prime Minister made a commitment to provide up to \$5 million towards a feasibility study, given that I understand the Tasmanian government has declared it a project of state significance, given that there is a public debate at the moment about siting and given that feasibility is under way, as I understand it, are you saying that this department has no involvement at this stage in that process?

Mr Jones—I guess I am saying that, as far as the Australian government is concerned, the issue is not yet at a stage where we have any need to hand any money over. We have been in dialogue. The commitment has been made for a Commonwealth commitment at the appropriate time. It is not yet the appropriate time.

Senator O'BRIEN—Would that money come from this department?

Mr Jones—If it does come from this department, it may be that we would go through an appropriation process at the appropriate time. Again, it is a little academic at this stage, because, while the commitment has been made, there is no need to hand over any money at this stage.

Senator O'BRIEN—I am not sure whether there is a need at the moment. I am trying to find out if this department would fund it, given the Prime Minister's commitment.

Mr Paterson—There is no appropriation to this department for that activity at this point in time.

Senator O'BRIEN—For that particular feasibility study?

Mr Paterson—That is correct.

Senator O'BRIEN—Do you fund feasibility studies at all?

Mr Paterson—No.

Mr Jones—There is no fund out of which such money would come—certainly not. It would be new money.

Senator O'BRIEN—From Regional Partnerships again?

Mr Jones—That is not our department.

Senator O'BRIEN—I am trying to find out where the money will come from.

Mr Paterson—There is no appropriation for this department, no, at this point in time.

Senator O'BRIEN—So it would have to be dealt with in the budget for next year if it was going to be from this department?

Mr Paterson—That is a question of timing that we cannot provide an accurate answer on.

Senator O'BRIEN—If there is no appropriation, if it were to come from this department, would it mean it would have to be the subject of the appropriation bills?

Mr Paterson—It will have to be the subject of an appropriation at some point in time.

Senator O'BRIEN—What is the status of the space centre proposal on Christmas Island?

Mr Paterson—The short answer is: the same as it was the last time the question was asked.

Mr Pettifer—The project proponent, David Kwon, is still trying to raise funding for that project. As I think we have said at previous Senate estimates hearings, one of the conditions on the Commonwealth providing funding for it is that he achieve financial close. He needs to demonstrate that he can raise private sector funding for the project. He is still trying to do that.

Senator O'BRIEN—There is a consequent proposed land swap of forest areas and existing reserves to allow for the further development of the phosphate mine on Christmas Island. Is that stalled by the same impasse, if I can put it that way?

Mr Pettifer—Not to my knowledge. I had not heard that. The lease that David Kwon had on Christmas Island for the project has expired, as far as I know.

Senator O'BRIEN—His lease has expired?

Mr Pettifer—Yes. In those circumstances, it is hard to see that it would be an issue.

Mr Lawson—Sorry to do more buck passing, but DOTARS is the responsible department for managing the leases on Christmas Island. Our responsibility goes to the deed for the space centre.

Senator O'BRIEN—They have not escaped; the territories branch is on on Friday. I am sure they will be pleased you put them back in the frame! Is this department involved in the negotiations between Australia and East Timor with respect to the sharing of revenue for the Greater Sunrise field?

Mr Paterson—Yes, we are.

Senator O'BRIEN—Can you tell me what is the status of the negotiations between the Australian and East Timorese governments with respect to the permanent maritime boundary negotiations?

Mr Hartwell—As to your question about whether we were involved in the negotiations with East Timor in relation to revenue issues but other issues in respect of Timor Sea, the answer is yes.

Senator O'BRIEN—What is the status of the negotiations at the present time?

Mr Hartwell—Negotiations in relation to what particular issue? If you are talking about the maritime boundary issues, as you would know from public comments, those discussions continue. There will be a further round of discussions in March. On other issues, we are engaged regularly with our East Timor colleagues in managing the joint petroleum development area. In that context, this portfolio administers the Timor Sea Treaty. That has

enabled some developments to proceed within the joint area, particularly the Bayu Undan project, which has been in operation for some time now.

Senator O'BRIEN—What is the status of the Sunrise field?

Mr Hartwell—As you would appreciate from public announcements by the operator of the Sunrise project, Woodside Petroleum, because of the issues surrounding the settlement of the unitisation agreement, they have suspended work in relation to that project.

Senator O'BRIEN—Has the department been advised of that by Woodside? There are other joint ventures there as well, aren't there, in that project?

Mr Hartwell—We have been advised by Woodside and their joint venture partners, yes.

Senator O'BRIEN—Have these companies met all their obligations under the terms of the titles for Greater Sunrise field and adjacent areas?

Mr Hartwell—I did not precisely hear that. If the question was along the lines 'Have they performed all their obligations?', the answer would be yes. As you would be aware, the Sunrise field straddles the joint petroleum development area, which is jointly managed by Australia and East Timor, and the area that is actually administered by Australia. The only way the development of the Sunrise field could go ahead would be through what is called a unitisation agreement which would enable the field to be developed as a whole. Unfortunately, we just have not been able to reach an agreement with the East Timorese in relation to that. It needs legislation to be passed by both countries.

Senator O'BRIEN—We have passed legislation.

Mr Hartwell—We have passed that legislation, but the East Timor government has not.

Senator O'BRIEN—How does that affect the titles and the renewal for the rights in the Greater Sunrise?

Mr Hartwell—There are four titles which govern the Greater Sunrise field. Two are in Australian jurisdiction and are managed by the Northern Territory government on behalf of the Commonwealth as a part of what we call the joint administration of offshore petroleum. The other two titles refer to production share and contract arrangements, which are in the joint petroleum development area. As you know, that is jointly managed by Australia and East Timor. In essence, for the time being, those titles remain. They are under retention lease arrangements at this time.

Senator O'BRIEN—Do I take it that all work is stalled pending the negotiations?

Mr Hartwell—When I say all work is stalled, yes, certainly work that relates to developing a project development concept has stalled at this time until the legal and administrative arrangements are clarified on behalf of the joint venture. In a sense, that means that East Timor would need to pass their unitisation legislation to bring what is the international unitisation agreement between Australia and East Timor into force.

Senator O'BRIEN—How will this delay affect the rights and titles of the joint venture partners of the Sunrise field?

Mr Hartwell—As I indicated—and I would have to look at the precise dates surrounding all of that—if development cannot proceed, then those joint venture partners are entitled to

apply for a retention lease until they believe the field can be commercialised. That is in relation to the Australian jurisdiction. Within the joint area which is jointly managed by us and East Timor, there are different contractual arrangements applying. That is something that we would have to settle with the East Timorese in due course. We are still working through some overall issues related to that.

Senator O'BRIEN—I take it that, because of the nature of the field it will all be held up because of the part of the field that is in the joint area?

Mr Hartwell—As I indicated, it does depend on an international unitisation agreement, and this does depend on both countries passing legislation to bring that into force. Australia has done that. We are still waiting for the East Timorese to do that.

Senator O'BRIEN—Thank you.

Senator GEORGE CAMPBELL—Can I just follow up Syntroleum with you?

Mr Hartwell—Certainly.

Senator GEORGE CAMPBELL—What is the state of play now? In the last estimates hearing, you said that the department was in negotiations with Syntroleum regarding repayment of interest and the Commonwealth's right to the technology licence. Has an agreement now been reached with Syntroleum detailing exactly what the Commonwealth can and cannot do with the licence?

Mr Hartwell—There have been a number of developments since this committee last met. As you may be aware from the announcements that have been made, a number of arrangements have been made with Syntroleum. Essentially the moneys that had been paid by the Commonwealth but that were held in escrow—that was half of the technology licence, \$15 million, plus the \$20 million on the loan account—have now been repaid to the Commonwealth. They have also paid back some money related to interest and some expenses that had been incurred by the Commonwealth as a result of the breakdown of the arrangements that had been made between the Commonwealth and Syntroleum. At the moment, Syntroleum still have \$15 million in relation to the technology licence fee that was paid over to them, but if Syntroleum do find a commercial application for that particular licence they are obligated to repay the money to the Commonwealth. The Commonwealth has that right. Our outstanding asset on the Commonwealth books, if you want to describe it that way, is the licence fee of \$15 million held by Syntroleum.

Senator GEORGE CAMPBELL—As I understood the position the last time we talked, Syntroleum had an effective veto over how that licence could be used. Has that been removed?

Mr Hartwell—When you say 'a veto', there are restrictions where the licence can be applied in terms of the geographic region. I think that is the issue that information has already been provided on.

Senator GEORGE CAMPBELL—I thought it went beyond just the geographic region. I thought it also went to particular companies also getting access to it.

Mr Hartwell—I would have to check the precise details on that specific issue, but I do not think so. Just checking the precise arrangements as I understand them—and they are not very

specific—there is a restriction about the licence being made to a competitor, but since Syntroleum is a part of the process of trying to commercialise the licence I am not sure why they would want to give it to a competitor anyway. I am not sure that there are any great restrictions there.

Senator GEORGE CAMPBELL—But there is a restriction, is there?

Mr Hartwell—As I said, there is a geographic restriction and there are some restrictions in terms of it being made available to a competitor. We will provide you with some more precise details on that.

Senator GEORGE CAMPBELL—Thank you. Do you have any legal advice as to just what is the status of that licence?

Mr Hartwell—Yes. Certainly, as a part of these negotiations, we have used the services of the Australian Government Solicitor in negotiating the arrangements that I referred to earlier—that is, in a sense, getting back some of the money that had been held in escrow as part of the arrangements that were originally announced. I do not have that legal advice with me, but we will go back and check it and provide the information that you might seek.

Senator GEORGE CAMPBELL—Are you saying that Syntroleum will hold the \$15 million in escrow and that, if the licence is passed on or utilised, they will then pick up the \$15 million?

Mr Hartwell—Syntroleum hold the technology licence. Should they find a commercial application for that licence—and they are actively seeking to do so—the \$15 million that the Commonwealth paid over to Syntroleum as a part of the original arrangements will be repaid to the Commonwealth.

Senator GEORGE CAMPBELL—So they are actually holding the licence?

Mr Hartwell—Yes.

Senator GEORGE CAMPBELL—Syntroleum are holding the licence, not the Commonwealth?

Mr Hartwell—Syntroleum are holding the licence, that is right.

Senator GEORGE CAMPBELL—At the last estimates hearing, I understood that you said that the Commonwealth was holding the licence.

Mr Hartwell—I am not sure I said that. I will go back and check the transcript. I think we said that there were arrangements that had made \$30 million available in relation to the licence. Some \$15 million—and that is the \$15 million we are talking about now—had been paid to Syntroleum; \$15 million, the other half of the technology licence fee, was then in escrow. That money has been repaid to the Commonwealth. I think that is what you might have been referring to.

Senator GEORGE CAMPBELL—I understood our conversation at the last estimates hearing to indicate that we were treating that technology licence as an asset of the Commonwealth.

Mr Hartwell—We are treating it as an asset in the context that, should it be commercialised by Syntroleum, they will pay us back the \$15 million. Whether in legal terms

that can be described as the Commonwealth owning the licence is something that I would have to take advice on. That is a legal question. The arrangement with Syntroleum is that they will actively seek to commercialise the licence, and it is held on the Commonwealth books as an asset. It has been revalued down to \$15 million, and has depreciated as well, but the amount will be repaid should Syntroleum manage to get a commercial application for this licence.

Senator GEORGE CAMPBELL—What if it is never commercialised?

Mr Hartwell—That is an issue that we can just work through. The asset will be depreciated on an annual basis. There are figures in the PAES statement which indicate that.

Senator GEORGE CAMPBELL—And the \$15 million goes up in smoke.

Mr Hartwell—We certainly hope that is not the outcome.

Senator GEORGE CAMPBELL—But that is the end result.

Mr Hartwell—Only time will tell. A judgment is being made that the licence may never be of any commercial value, but Syntroleum certainly have told us that they are working hard with a number of potential commercial applications and with a number of commercial entities to bring value to that licence.

Senator GEORGE CAMPBELL—But the end result is that, if it is not commercialised, they are not successful and they exclude their competitors in this area, which reduces the capacity to be successful, the \$15 million has been burned.

Mr Hartwell—It is a possibility. I am just referring back to the transcript of the last estimates hearing. You asked:

Who actually holds the technology licence on behalf of the Commonwealth?

I answered:

The licence at this point is held by Syntroleum.

That is exactly what I am saying today as well.

Senator O'BRIEN—While we are on the subject, is GTL Resources something that I can ask you about?

Mr Hartwell—It is essentially with my colleague Barry Jones.

Senator O'BRIEN—Moving from Syntroleum to GTL Resources, what is the status of the commitment to GTL Resources outlined in the energy white paper?

Mr Jones—The offer of an investment incentive which was designed to attract GTL Resources to Australia has lapsed.

Senator O'BRIEN—Does that mean that that proposal is at an end?

Mr Jones—It does not mean the proposal is at an end. I believe that GTL Resources are still working with a view to developing a GTL project in Western Australia. But they have not proceeded as quickly as was expected at the time that the offer was made. As a result, essentially the offer has lapsed or been withdrawn. If GTL do proceed with their proposal in Western Australia, they would have to apply again if they wanted a government incentive.

Senator O'BRIEN—Did GTL Resources give the government any undertakings with regard to its proposal and its intentions?

Mr Jones—It is better to say that the government made an offer of an incentive to GTL under certain conditions.

Senator O'BRIEN—What were the conditions?

Mr Jones—Essentially to do with some financing commitments and the project being ready to proceed within a defined time frame. The project has not been ready to proceed within that time frame, so the conditions laid down by the government were not met.

Senator O'BRIEN—Did GTL Resources give any financing commitments?

Mr Jones—My understanding is that GTL have not been able to finalise their financing commitments yet.

Senator O'BRIEN—So no money has passed.

Mr Jones—No money has been given to GTL at all.

Senator O'BRIEN—Where does that leave the white paper in that regard?

Mr Jones—I do not have a copy of the white paper with me, so I do not recall the exact words that were used there, but I think it reflected the government's intention to use an incentive offer to attract a gas-to-liquids project to Western Australia. It is still the government's desire to attract gas-to-liquids projects to Australia. Unfortunately, that particular one has not proceeded as quickly as we had hoped.

Senator O'BRIEN—Again in relation to the white paper, there was an announcement that there would be a \$500 million low emission technology fund. What is the status of this fund?

Mr D Clarke—The \$500 million low emission technology development fund is, in a policy sense, jointly administered by this department and the Australian Greenhouse Office within the Department of the Environment and Heritage. Both ministers have policy responsibility. It will be delivered by my colleagues in AusIndustry within this portfolio. We are currently at the stage of developing the guidelines for that fund. We have been having consultations with a number of parties that have expressed interest in potentially bidding for it and we will be moving through a process of public consultation on the guidelines, calling for expressions of interest and ultimately making decisions and announcements.

Senator O'BRIEN—Do you know yet what the process for allocating funds from this source will be?

Mr D Clarke—I am not sure that I understand the purpose of your question.

Senator O'BRIEN—The purpose of the question is to find out if you have decided how you are going to allocate funds—what the process will be.

Mr D Clarke—It will be a competitive process. Our thinking at this stage is that there will be at least two rounds over the period. You may recall that this is a long-term program. It has a life of 15 years. The actual detail within it is still at the development stage. Initial thinking is that there will be a minimum of two rounds—potentially more. The call for proposals, if you like, will be characterised as a statement of opportunities where the government will make a

statement about the sorts of proposals or areas that it is interested in and then assess accordingly. We would imagine that in many respects it will be a conventional competitive grants process with criteria, proposals, independent assessment and then decision making.

Senator O'BRIEN—Do you have any idea when the first round of funding is likely to be advertised?

Mr Peel—At this stage our planning is to launch the program in June 2005, with the first contracts in place by July 2006.

Senator O'BRIEN—The government claims that the fund will leverage a further \$1 billion or more in investment from industry. Does that mean that for every dollar allocated from this fund, the recipient will be required to spend at least \$2?

Mr Peel—That is the thinking, yes.

Senator O'BRIEN—Are there indications from industry that this sort of funding with this requirement will be taken up? Do you have any indications from industry that they are looking forward to your first notification of a round of applications because they are waiting with bated breath just to get applications in?

Mr D Clarke—Yes, indeed. Since the fund was announced, both this department and our colleagues in the Greenhouse Office have had a number of discussions with a number of parties that are interested in putting up proposals. The leverage that the government anticipated in the announcement of two for one, as you said, has not been an issue of concern in any of those discussions.

Senator O'BRIEN—It has been raised, I take it, by the department.

Mr D Clarke—It is on the public record and proponents have accepted it at face value and factored it into their thinking about potential applications.

Senator O'BRIEN—Can I ask you about biofuel grants?

Mr Peel—You can ask me.

Senator O'BRIEN—What is the status of the Biofuels Capital Grants Program?

Mr Peel—Seven grants have been announced under the biofuels program. We are currently in the process of contract negotiations with the grantees, which we expect to complete over the next couple of months.

Senator O'BRIEN—Does that mean all funding has now been allocated?

Mr Peel—Yes.

Senator O'BRIEN—Can you tell us which projects have received grants?

Mr Peel—Yes. Australian Renewable Fuels, located in Adelaide, about \$7.1 million; Biodiesel Industries, in Rutherford, New South Wales, \$1.28 million; Biodiesel Producers Ltd, in Barnawatha, Victoria, \$9 million; CSR in Sarina, Queensland, \$4.16 million; Lemon Tree Ethanol Pty Ltd, in Millmerran, Queensland, \$5.85 million; Riverina Biofuels Ltd, in Deniliquin, New South Wales, \$7.15 million; and Rocky Point Sugar Mill and Distillery, in Woongoolba, Queensland, \$2.4 million.

Senator O'BRIEN—They are not very familiar placenames, but I am not surprised. In each of those cases you are awaiting the completion of the contract in final form?

Mr Peel—We have recently been in discussions with the companies and been through the contracts with them; they are in the process of finalising the agreements. Once they are all signed, payments will start to be made to the companies.

Senator O'BRIEN—What is the status of projects which have already received grants?

Mr Peel—I am not aware of any other projects that have received grants under the program. These are the first.

Senator O'BRIEN—I was not certain, but you did say the second round of grants was imminent.

Mr Peel—Yes, there were two rounds. We are negotiating the contracts concurrently.

Senator O'BRIEN—So there have been no start-ups?

Mr Peel—No money has changed hands as yet.

Senator O'BRIEN—In terms of the decision to award the grants, what regard has been had for the potential viability of the proposal and the available markets for the product?

Mr Peel—Those decisions were managed by Invest Australia; Barry Jones can answer that question.

Mr Jones—Under both rounds of the program there were eight criteria that had to be met by applicants before they would be considered for funding. Those criteria included that projects were required to demonstrate that they could produce over a three-year period from commissioning a minimum average annual volume of five million litres of biofuels a year. They had to be able to demonstrate that their project would be commercially viable in a post excise relief environment. They had to provide evidence of the prospect of firm contracts for the supply of biofuels. There were a number of other criteria that do not go to the issue that you were alluding to. As part of our consideration of the applications, applicants were required to set out a very detailed business case. We subjected those business cases and the applications to a very detailed assessment in order to convince ourselves of their financial viability.

Senator O'BRIEN—There has been a very significant reduction in the level of production of ethanol. How many of the proposals are specifically to produce ethanol?

Mr Peel—I will have to remind myself.

Mr Jones—Two.

Senator O'BRIEN—Which ones are they?

Mr Jones—From the second round, the proposal from Lemon Tree Ethanol Pty Ltd; and from the first round—

Mr Peel—Correction, there are three. I have checked the figures.

Mr Jones—Yes. From the first round the projects from CSR Distilleries at Sarina and from Rocky Point Sugar Mill.

Senator O'BRIEN—I just recalled that I very recently received an answer to a question on notice that showed that production of ethanol had declined by somewhere in the vicinity of 60 per cent over the last few years. What confidence could these three projects give the department and the government of their viability, given that there must be an excess of capacity, simply by looking at those figures and understanding what the level of production was three years ago?

Mr Jones—As I said, as part of the assessment process they had to convince us that they had the prospects of firm contracts for sale, that their business case was sound and that they were capable of producing at a minimum volume. With the assessments that we undertook, we are confident that they will be able to sell their products into the market.

Senator O'BRIEN—I think the ethanol production subsidy has declined from \$20 million to \$8 million over that period, which is an indication of the amount being produced. What regard did the department have to those statistics in making decisions on viability?

Mr Jones—All available information on market conditions and market prospects was taken into account.

Senator O'BRIEN—So the department took into account the fact that the level of production of ethanol, and by implication its market, has declined by around 60 per cent—don't hold me to the precise figure—over two years.

Mr Jones—As I have said, we did take into account market prospects and market conditions in forming a judgment as to whether they could sell the quantities that they told us they could sell.

Senator O'BRIEN—Are they supposed to produce a minimum of five million litres each per annum?

Mr Jones—That is correct.

Senator O'BRIEN—So there is \$16.75 million for three plants to produce an additional 15 million litres of ethanol in a market that has collapsed by about 60 per cent over the last couple of years. So we are going to effectively subsidise the production of more ethanol into a market where production is declining and capacity is underutilised?

Mr Jones—I am only repeating myself, but all of the successful projects had very strong and sound business cases for how they were going to market their production and they convinced us that they had sound prospects for the sale of their products.

Senator O'BRIEN—Did they deal with that circumstance in the business case—the state of the market for ethanol?

Mr Jones—The kinds of things that had to be outlined in the business case included evidence of the supply of the feedstock they needed to produce, detailed financial models of the project, details of the assumptions used in the financial models, the basis for any assumptions they made, a project development time line, details of who was involved in the project, the technology they used, and the contracts for sale. The business cases were very comprehensive and did outline not only how they were going to produce the amount that they said they were going to produce but how they were going to sell the amount they said they were going to sell.

Senator O'BRIEN—And the department made the assessment of the business case and gave it the tick?

Mr Jones—Yes.

Senator O'BRIEN—It appears that two of those would be producing ethanol from C molasses. I am not sure about the third—the Lemon Tree facility.

Mr Jones—I would have to check the detail. I am not entirely sure where their feedstock is coming from.

Mr Sexton—I can answer that question. The Lemon Tree ethanol feedstock is dry grain.

Senator O'BRIEN—Is it wheat or sorghum?

Mr Sexton—I do not have that information.

Mr Jones—It may be sorghum.

Senator O'BRIEN—I know there were some sorghum proposals. The largest producer produces from wheat and a very small proportion now is produced from C molasses. Am I correct in understanding that the department did not make an assessment of production capacity and the market in assessing these proposals? It seems to follow from what you have said; I just want to be clear.

Mr Jones—That we—

Senator O'BRIEN—Did not assess the state of the production capacity in the industry and the state of the market.

Mr Jones—We did take into account current market conditions as part of assessing the prospects for these projects to sell into the market. We certainly made an assessment of things like the local market conditions—where they were proposing to produce and market. We certainly took into account how their marketing arrangements would operate.

Senator O'BRIEN—Is Rocky Point already producing?

Mr Jones—I am advised that they are.

Mr Sexton—If I could add to that answer, I understand that the ethanol they are producing is generally industrial grade, but they do have the capacity to produce small batches of fuel grade.

Senator O'BRIEN—The answer that I got to question No. 255 from the minister for this department says:

... production of fuel ethanol has fallen over the period—

which was 2002-03 to the present—

largely reflecting a decline in consumer confidence in the fuel ethanol market.

I guess we have gone over this, but were there no alarm bells ringing in the department about providing grants to increase production capacity for fuel ethanol in that circumstance?

Mr Jones—I think we addressed that in the assessment process we went through. Essentially the process we undertook for all of the applications was to firstly assess whether or not they met each of the eight criteria and then examine the risk, essentially, against each of

the criteria. The degree of risk associated with things like their ability to market their product varied between the applications. Our assessment was that the applications which have been successful have low market risk. That is not to say that there is no risk or that we ignored the risk; it is just that our judgment is that the risk is low and we are confident that they can meet their plans.

Senator O'BRIEN—On production figures made available to me by the department, I have total production figures for a period of 2½ years of 95,700,000-odd litres, yet we are going to add 37.5 million litres with these three proposals over a comparable period. It is something approaching a 40 per cent increase in production. For 2002-03 the ethanol subsidy cost \$21.6 million; in 2003-04, it went down to \$10.8 million; and for the first half of the financial year ended 30 December it has gone down to just under \$4 million. Assuming it stayed the same, it has gone down from \$21.6 million in subsidy in 2003-03 to \$8 million in subsidy, and that is a reflection of what I categorise as probably a more than 60 per cent reduction in the market. At the same time, we are subsidising the adding of somewhere in the vicinity of 40 per cent to production capacity.

Mr Jones—The policy intent of the biofuels capital grants program was to increase the availability of biofuels for the domestic transport market. The intention was to fund new or expanded capacity for biofuels. Despite trends in recent years, as you have outlined, the expectation is that each of the projects that have been funded will be successful in selling their product into an expanded market. Each of the project proponents will be undertaking marketing plans in conjunction with the people who are taking their product.

Senator O'BRIEN—Some might say that they would say that, wouldn't they, and that it is the department's job to make a judgment as to whether there is commercial reality in that claim.

Mr Jones—And, as I have indicated, our judgment is that there is commercial reality in that claim.

Senator O'BRIEN—And the government is happy with this, Minister?

Senator Minchin—The department's job is to provide the criteria determined as a consequence of the government's policy announcement, and that is what they are doing—remembering that yes, there is a government subsidy involved, but the private proponents are also putting their money at risk, so by definition they have confidence. I would remind you that it is certainly the view of the Deputy Prime Minister that it is the activities of people in the Labor Party that have caused a temporary reduction in demand for ethanol. I think most see recent market conditions as temporary. Certainly with the current price of a barrel of oil and what that is likely to do in future, there is a future for ethanol as part of Australia's fuel mix and private capital being put at risk to meet expected future demand. It is government policy to assist, and that is what we are doing. The department is strictly applying criteria which certainly I, as part of the cabinet decision making process, was keen to ensure were based on strict business principles and good business cases.

Senator O'BRIEN—Did cabinet approve these projects or just the guidelines?

Senator Minchin—Cabinet outlined criteria, one of which was a very good business case and financial viability. That was something that I personally was very keen to ensure was part

of the criteria. The department's job was to apply that, and I am sure they are doing that rigorously. You could say that there are only three, and not 33, because of the strict criteria and, as you say, the market conditions et cetera. Yes, it is a tough market.

Senator O'BRIEN—Thirty-three would be absolutely ridiculous in the market conditions.

Senator Minchin—I am just saying that for the sake of argument. There are only three that have gone through on the ethanol front—not six, nine or whatever. And your Labor Premier in Queensland is out there promoting this industry like gangbusters.

Senator O'BRIEN—Good luck to him. He needs to.

Senator Minchin—He is trying to encourage everybody to—

Senator O'BRIEN—He needs to.

Senator Minchin—Rather than talking it down, you might talk to Mr Beattie about why it should be encouraged.

CHAIR—We will adjourn for 15 minutes for afternoon tea.

Proceedings suspended from 3.31 p.m. to 3.56 p.m.

ACTING CHAIR (Senator Watson)—The hearing will resume.

Senator O'BRIEN—I have some questions about the government's energy white paper, particularly with regard to the \$75 million Solar Cities fund announcement. What is the status of this fund?

Mr D Clarke—The \$75 million appropriation for the Solar Cities program that you mentioned will go to the Department of the Environment and Heritage. However, it is a program where both the Minister for the Environment and Heritage and the Minister for Industry, Tourism and Resources have joint policy responsibility. I am happy to tell you what I can in that sense. A paper was released publicly before Christmas canvassing the design, characteristics, intent et cetera of Solar Cities. That followed some initial consultations. We have now had written responses to that consultation paper that are currently being processed. Our expectation is that the program will be formally opened for proposals some time in the next few months, with successful consortia selected and announced by the end of this calendar year.

Senator O'BRIEN—Who will be responsible to allocate funds from this source—the Department of the Environment and Heritage or this department or will it be a joint responsibility?

Mr D Clarke—DEH will have the formal legal responsibility. The appropriation will be to that portfolio. However, the two ministers have agreed that they will jointly have responsibility for signing off on the policy parameters and the program guidelines and for the final decision making.

Senator O'BRIEN—The final decision making on applications?

Mr D Clarke—Correct.

Senator O'BRIEN—At what stage is the development of criteria for the applicants?

Mr D Clarke—The paper that was released in December canvasses the criteria that will be applied. The literal answer to your question is that it is at the public consultation stage.

Senator O'BRIEN—Is it intended that the fund will be open to private sector, public sector and community groups?

Mr D Clarke—Our expectation is that successful applicants for this program will be a consortia of all the above. With regard to the sort of, if you like, nominal profile of a solar city, noting that it is a demonstration site, we would expect that that is going to involve interest at the local government level, certainly from energy, electricity and gas retail and distribution companies and from commercial interests in the renewable sector, energy efficiency and other aspects such as energy market signals and real time metering of energy usage et cetera. So we would see consortia that could involve public, private and research interests.

Senator O'BRIEN—And you say it is intended that the initial applications will be approved by the end of the year?

Mr D Clarke—We are processing the comments on the consultation paper now. Once they have been dealt with, ministers will then be asked to sign off on the formal program guidelines. They will be issued. Ministers, we expect, will choose to appoint an expert panel to assist them in the decision making process. That would be announced and then, ultimately, the final decisions on successful consortia by the end of this calendar year.

Senator O'BRIEN—It is intended that there will be a number of rounds or just one?

Mr D Clarke—Just one. The open question is just how many sites or consortia might be selected, and that could really be determined only when we see what the proposals are on the table in front of us.

Senator O'BRIEN—Is it intended that there will be a cap on the size of grants to particular projects?

Mr D Clarke—That has not been determined, at this stage. Again, it will depend on the profile of the applications. In canvassing the parameters of the program, people have talked about the order of magnitude of two, three, four or, perhaps, even five sites to be selected, but it is going to be within that band. It does not follow that they would all be of the same size or of the same character. If you like, you could look at it as a portfolio of demonstration sites, so there will be judgments to be made about the balance of the Solar Cities program overall.

Senator O'BRIEN—Thanks for that. I want to ask about LPG, CNG and changes to diesel excise. Over the last couple of years the LPG, CNG and ethanol industries have suffered some severe setbacks as a result of uncertainties surrounding excise changes, and, in the energy white paper, the government extended the diesel fuel rebate, placing further market pressure on these fuels. I want to know whether, in making these changes as announced in the white paper, the government considered the negative impacts on these other industries which employ well over 10,000 people and serve well over one million customers throughout Australia.

Mr Payne—The government did consider the issue to which you are referring in development of the white paper, but policy responsibility for excise policy rests with the Treasury, and I think your questions would be better directed to that portfolio.

Senator O'BRIEN—What role did this department have in preparing advice about the issues of the effect on the various sectors?

Mr Payne—Our department was a member of the Energy Task Force, which was formed to produce the advice to the government which led to the white paper.

Senator O'BRIEN—Was consideration given to the issues of impact on these industries?

Mr Payne—Yes, I believe it was.

Senator O'BRIEN—Are any steps being considered to address the issue of the disadvantage these industries have suffered?

Mr Payne—Yes, there are issues under consideration between portfolios at the moment.

Senator O'BRIEN—What sorts of issues?

Mr Payne—The issues to which you referred in your initial question about the impact on those alternative fuels that you mentioned which the changes to excise policy could bring.

Senator O'BRIEN—What steps is the government taking to ensure that gas and renewables are not disadvantaged compared with diesel in new power generation, particularly with reference to regional and remote areas?

Mr D Clarke—I am advised that the program that addresses the question you have raised is the rural and remote power generation program that is administered by AGO within the Department of the Environment and Heritage. I am unable with confidence to give you an answer to your specific question. I refer you to that department and that program.

Senator O'BRIEN—So that is not an issue which is being addressed by this department?

Mr D Clarke—Correct.

Senator O'BRIEN—I want to turn now to sales of LNG to the US west coast. Last year the Gorgon joint venture and the Sunrise joint venture announced that they had entered memorandums of understanding with customers on the US west coast to supply LNG to that market. Can you tell me the status of those memorandums?

Mr Hartwell—My understanding is that those arrangements are still in vogue and in place. As you would be aware, there are a number of proposals to establish offshore and onshore LNG-receiving terminals on the west coast of the United States and also off Mexico. Certainly, the Gorgon joint venture is looking at supplying gas to that market.

Senator O'BRIEN—When does the government expect the Gorgon joint venture will firm up its marketing arrangements?

Mr Hartwell—That is something that is in the hands of the Gorgon joint venture and its discussions with customers. We understand and have been advised that they still believe those discussions are going very constructively.

Senator O'BRIEN—But you have no idea when they might firm up the marketing arrangements?

Mr Hartwell—Not at this point.

Senator O'BRIEN—Has the Gorgon joint venture met the terms and conditions that applied to its last retention lease renewal for the Gorgon field?

Mr Hartwell—In our view the Gorgon joint venture are working to meet the requirements in relation to the retention lease. As you know, those requirements are that they do their utmost to commercialise the resource. In the work going on in relation to both project development concept and marketing, we would reach the broad assessment that they are meeting the terms of the retention lease.

Senator O'BRIEN—Do they have a time by which they need to commercialise the project?

Mr Hartwell—The gas reserves that apply to the Gorgon joint venture are covered by a number of leases. I cannot precisely tell you all the time lines on those, but we could certainly provide you with that information.

Senator O'BRIEN—I would appreciate it if you could do that. Does that mean there has been no variation to any of the terms and conditions of those leases with regard to renewal?

Mr Hartwell—As I indicated, for those leases which are held under a retention lease, there is a requirement to demonstrate that they have made efforts to commercialise the resource. That includes marketing, as I referred to. As I understand it, that will be subject to review, but as I indicated to you—and you would be aware of some of the activity, given the questions you have asked—we believe that a number of activities are taking place which would appear to demonstrate that they are abiding by the requirements of the retention lease.

Senator O'BRIEN—So there have been no variations of those terms.

Mr Hartwell—I would have to take that on notice, but I am not aware at this point that there have been any significant variations.

Senator O'BRIEN—At what stage exactly is the Gorgon development?

Mr Hartwell—The joint venture partners within Gorgon are at the moment looking towards what might be their final project concept—the joint venturers being Chevron, Texaco, ExxonMobil and Shell. We understand that there may be an announcement in the near future about the project going forward.

Senator O'BRIEN—It is a little indefinite when you say that the joint venture partners in Gorgon are looking to what might be the final project concept. They are thinking about it—is that right?

Mr Hartwell—As you would probably be aware, there is enough public knowledge out there to indicate that they are looking at a subsea application of extracting hydrocarbons in the Gorgon gas leases, transporting that by pipeline to Barrow Island and doing the gas processing on Barrow Island, looking towards the LNG market. But the specifics around that are still under discussion.

Senator O'BRIEN—So we do not know when the government might expect a final investment decision on the project?

Mr Hartwell—On previous occasions Gorgon have indicated that they hope to reach a final investment decision mid this year. They have indicated that from time to time in discussions with a number of people, which have included investment bankers and people of that nature.

Senator O'BRIEN—Is the firming up of marketing arrangements the only issue holding up the development?

Mr Hartwell—I think there are a whole range of other issues; certainly, marketing is an important one. There are issues related to finalising the nature and specific details of the project. There would be issues in relation to the environmental obligations that will be attached to the Gorgon project. So there are a whole range of issues with a project of such a nature.

Senator O'BRIEN—Is the government providing or considering any investment assistance under any program from this department, or from others to your knowledge, for the Gorgon project?

Mr Hartwell—We have had no formal approach from the Gorgon joint venture for fiscal assistance.

Senator O'BRIEN—Does that mean you have had an informal approach?

Mr Hartwell—No.

Senator O'BRIEN—So there has been no approach, full stop?

Mr Hartwell—There has been no approach, full stop.

Senator O'BRIEN—What is the status of the proposed Scarborough development?

Mr Hartwell—As you would be aware, that is a joint venture between BHP Billiton and ExxonMobil. Our understanding is that the two members of that joint venture are under discussion about how they might take that project forward.

Senator O'BRIEN—Have any approaches been made to the government about issues relating to the project in the context of those discussions?

Mr Hartwell—No, other than the well-known fact that BHP Billiton are also proposing to build an LNG receiving terminal off the west coast of the United States, off California, called Cabrillo Port. As the operator of that project BHP Billiton may feel that Scarborough would be a possible source of gas.

Senator O'BRIEN—The LNG receivable terminal in California is under consideration only at this stage? It has not gone past that stage?

Mr Hartwell—No, they have certainly made an application to the authorities in California and also to the appropriate federal authorities in the United States. This includes the Federal Energy Regulatory Commission, FERC, and also the US Coast Guard. They are going through the approvals process in relation to that LNG receivable terminal.

Senator O'BRIEN—Are there any impediments to that process, other than the bureaucratic process?

Mr Hartwell—There certainly is debate about LNG as a source of energy for California. There is certainly a whole range of issues attached to safety, security and environment that need to be worked through as part of that process. There are public hearings in relation to that.

Senator O'BRIEN—Is this department providing any assistance to BHP Billiton in dealing with those issues?

Mr Hartwell—The department, through the minister, supports the development of Australian gas resources and, where appropriate, will provide assistance in enabling Australian companies to operate in a commercial sense in recipient countries or other countries which might be interested in purchasing gas. It really depends on circumstances as to how much the government would become involved; it depends on the market and on whether the government can play a role. But the government is certainly interested in supporting gas development in Australia. Should that require some assistance in relation to helping companies understand the obligations they might need to meet in dealing with foreign governments, then if there is a role for the government it will assist if it can.

Senator O'BRIEN—What is the status of the two proposals by Chevron Texaco and Shell to develop LNG receivable terminals in Baja California in Mexico?

Mr Hartwell—There are two proposals, as you point out. The Shell-Sempra terminal has received all the approvals for it to go ahead. Our understanding is the construction on that should commence this year. The other terminal, which is being handled in United States, still has a way to go to get the approvals in place.

Senator O'BRIEN—Where did you say it was?

Mr Paterson—It is near Tijuana in Baja California.

Senator O'BRIEN—No, you said the United States.

Mr Hartwell—Sorry, that was a slip.

Mr Paterson—There are two in Baja California, a Shell-Sempra one where earthworks have commenced and a concept developed by Chevron Texaco that has gone through some of the approval phases of the Mexican government. That is near Tijuana.

Senator O'BRIEN—What about Woodside's proposal to develop an LNG receivable terminal on the US West Coast?

Mr Paterson—I think that is proceeding a bit in step with the BHP Billiton proposal. They are separate proposals at different locations with different concepts. They are going through the regulatory steps for consideration for the creation of an offshore facility. That is being considered. I do not think the formal application for Woodside has been considered yet by the Coast Guard, which is the initial approving—

Senator O'BRIEN—It is lodged but has not been considered, is that what you mean?

Mr Paterson—It is part way through that process.

Mr Hartwell—I think Woodside have announced that project but I am not sure they have proceeded too far.

Senator O'BRIEN—Has the department played any role in the Mexican developments that I just referred to? You know about them, clearly.

Mr Hartwell—Are we talking about—

Senator O'BRIEN—Assisting the companies.

Mr Hartwell—The offshore Camp Pendleton and Baja California?

Senator O'BRIEN—Yes.

Mr Hartwell—The department has played a role in the context of making contact with the Mexican authorities where appropriate, but largely the project proponents have taken that role. As I have indicated, the department and government generally—and that includes our diplomatic representatives—would assist where it is considered appropriate and where our companies consider it appropriate. There are occasions where governments can play a facilitating role in exposing companies to the appropriate procedures and certainly just dealing with some of the people that they need to deal with. Largely it is the project proponents who carry these projects forward.

Senator O'BRIEN—Is the role different for Mexican proposals as compared to US proposals in dealing with their regulatory environments? Is it easier in Mexico?

Mr Hartwell—That is a judgment, not being on the ground, that it is pretty difficult for me to make. Certainly in terms of the approvals process there are some similarities but there are some differences.

Mr Paterson—It is fair to say that the two Baja California proposals, those in Mexico, are further down the approval process than the Californian proposals.

Senator O'BRIEN—Is that an indication of the difficulty in dealing with proposals? Were they lodged around the same time?

Mr Paterson—They are at different stages but I do not think it is reasonable yet to reach a conclusion in relation to the approval process. They are different sorts of projects. Each of the projects has a different conceptual approach to delivering LNG to those markets.

Senator O'BRIEN—Thank you for that. I want to ask about the oilcode. The reform of the retail petrol market has been stalled for some time. What is the status of the proposed introduction of the oilcode for oil companies, distributors and retailers?

Mr Hartwell—On 7 December last year the minister announced his intention to proceed with reform of the retail petroleum sector by repealing the Petroleum Retail Marketing Sites Act and the Petroleum Retail Marketing Franchise Act and introducing an industry code, which has become known as the oilcode, under the Trade Practices Act. In relation to that, he has begun a process of consultation with all stakeholders against that broad objective.

Senator O'BRIEN—When was that process commenced?

Mr Payne—The minister's announcement was on 7 December. The department had meetings with all the relevant stakeholders in the week following that, and the minister has had his own meetings and has invited all the key stakeholders to a roundtable to discuss the issues on 17 March.

Senator O'BRIEN—What is the oil industry's view of the code as advised to the department?

Mr Payne—The four oil majors, the refiners, are in favour of the code's introduction.

Senator O'BRIEN—Have there been any changes made to date to the original draft that was circulated?

Mr Payne—The version of the code which the minister is taking forward at the moment is the same as the previous draft which was discussed by parties towards the end of 2003.

Senator O'BRIEN—Could you just take me through the legislative steps required? There are repeals and enactments involved, I take it.

Mr Payne—There would be legislation required to repeal the Petroleum Retail Marketing Sites Act and the Petroleum Retail Marketing Franchise Act, and regulations would need to be introduced into the Trade Practices Act to set the oilcode in place.

Senator O'BRIEN—So the oilcode can sit comfortably under the Trade Practices Act?

Mr Payne—Yes.

Senator O'BRIEN—Is there a notional timetable to those parliamentary processes?

Mr Payne—In his media release of 7 December the minister said that he intended to seek repeal of the sites and franchise acts during the winter sittings of parliament and mandate the oilcode so that it would become operative from the third quarter of this year.

Senator O'BRIEN—Thanks very much for that.

Mr Paterson—Mr Chairman, while Senator O'Brien is still in the room. Senator O'Brien raised some questions with me this morning in relation to the appointment of the managing director of Tourism Australia. I am aware that there is a press report around that suggests that, because I was properly seeking to protect the confidentiality of applicants who may have been considered during that process, I was somehow stonewalling this committee and refusing to answer questions. It is asserted in that news report that there was political interference in the process of selection of the managing director of Tourism Australia. I was not stonewalling this committee. I was seeking to properly protect the interests of those who may have been applicants or people who were approached for consideration in relation to that role. I want to go on the record as absolutely rejecting any assertion of political interference in the process of selection. It was an arms-length selection made by the board of Tourism Australia and there was no political interference in that process whatsoever. Any inference I or others were influenced in that selection is wrong.

CHAIR—Thank you, Mr Paterson.

Senator O'BRIEN—I have overlooked some questions regarding the National Offshore Petroleum Safety Authority. Shall I ask them here or put them on notice?

Mr Paterson—You can, but we were advised that the officers from the National Offshore Petroleum Safety Authority did not need to be here.

Senator O'BRIEN—I am happy to put them on notice to that authority.

Mr Paterson—If there are questions we can deal with today, Mr Hartwell has policy responsibility for that. But the NOPSA officers themselves are not here.

Senator O'BRIEN—I apologise about that and we will try to fix it in the future.

Mr Hartwell—We can try to answer them if they are broader policy issues rather than operational ones.

Senator O'BRIEN—I wanted some detailed information about the role and function of the organisation and its budget.

Mr Hartwell—The role and function of the organisation we can broadly provide for you. In essence, it has taken over the role of regulating safety offshore on all petroleum facilities from the low watermark out. Previously, safety was the responsibility of the Commonwealth minister and the appropriate state or territory minister under our joint management of offshore of petroleum installations. On a day-to-day basis safety was regulated by the appropriate state or territory department. It became difficult to get the right people. Given that it requires a certain amount of expertise and the people are in great demand in the sector itself—by private companies and by the people who are actually operating these installations—it was decided by the then minister that the best way to approach this was to establish the National Offshore Petroleum Safety Authority, which would regulate petroleum safety in the totality of offshore Australia without having six separate state and territory departments regulating it. Essentially, that was what the establishment of NOPSA was all about.

Senator O'BRIEN—Is it funded by levies imposed on industry or off budget?

Mr Hartwell—It will be funded by levies imposed on industry.

Senator O'BRIEN—Where will its legislative powers be sourced? Can you refer me to the legislation?

Mr Hartwell—Its powers are sourced by amendments to the Petroleum (Submerged Lands) Act in the Commonwealth, and changes were also made to the appropriate state and territory legislation.

Senator O'BRIEN—So it is exercising state and federal powers.

Mr Hartwell—It is essentially exercising the responsibilities for offshore petroleum safety, both in state coastal waters and in Commonwealth waters.

Senator O'BRIEN—What is its staffing level?

Mr Hartwell—I cannot answer that precisely. That is one we will have to take on notice.

Senator O'BRIEN—Where is it located?

Mr Hartwell—The head office is in Perth, but it has an office in Melbourne, and there is also a representative who will be located in Darwin on a part-time basis. The department of business and industry resources up there will provide an office.

Senator O'BRIEN—Have there been any legislative changes that came into effect in the last year? Perhaps they were the amendments to the Petroleum (Submerged Lands) Act that you were talking about.

Mr Hartwell—The issue you might be referring to is this. When I said that the state and territory governments had passed the appropriate legislation to give the legislative backing for the establishment of NOPSA, unfortunately, because of a number of issues, not least the Western Australian election, the Western Australians did not get their legislation through. That is just a timing problem, as we understand it. There are some arrangements that have been put in place between NOPSA and the Western Australian government to get over that temporary arrangement.

Senator O'BRIEN—How will they do that?

Mr Hartwell—Basically, NOPSA will perform some of the safety functions that, up to 1 January 2005, have been done by the state department. They will receive a fee from the Western Australian government for that. There are some functions which in due course will be done by NOPSA and will remain with the Western Australian department until the legislative changes are brought into effect.

Senator O'BRIEN—Has there been industry and union inclusion or consultation in terms of the process of establishing NOPSA and how it will operate?

Mr Hartwell—Yes, that has certainly been the case. It has been a collaborative exercise involving not only the Commonwealth, state and territory governments but also the work force health and safety representatives, union representatives and industry.

Senator O'BRIEN—Does it have a role in terms of administering any of the government's national security objectives?

Mr Hartwell—No.

Senator O'BRIEN—Can you provide us with a list of facilities covered under the NOPSA regime?

Mr Hartwell—We can do that.

Senator O'BRIEN—Can you tell us what the relationship is between NOPSA and other government agencies with a role in maritime security and safety such as the Office of Transport Security and AMSA?

Mr Hartwell—NOPSA intends to work collaboratively with those organisations as appropriate. At the moment NOPSA is in the process of drawing up memorandums of understanding with those agencies so that their roles and responsibilities are precisely defined and so that, when you may get blurring, they have a working arrangement.

Senator O'BRIEN—Would we expect that to be completed shortly?

Mr Hartwell—I would need to take some advice on this, but I think most of those memorandums of understanding have already been completed.

Senator O'BRIEN—Are they publicly available? Could the committee be supplied with copies of those?

Mr Hartwell—I would need to take that on advice. Obviously, there are two parties involved, so if they were to be made public it would not only be NOPSA who would have to approve it but the other party as well.

Senator O'BRIEN—Finally, will NOPSA have a role in implementing the findings of the Prime Minister's task force established in July 2004 to look at security issues relating to the offshore oil and gas facilities?

Mr Hartwell—No, we do not see NOPSA having a role in that.

Senator O'BRIEN—Thank you very much for fielding those questions.

CHAIR—Senator Campbell, are you able to indicate which officers are no longer required, if any?

Senator GEORGE CAMPBELL—Most of what I have left relates to AusIndustry, innovation and so forth—also pharmaceuticals.

CHAIR—Anything else?

Senator GEORGE CAMPBELL—That is all I want.

CHAIR—Senator O'Brien, do you have any more?

Senator O'BRIEN—I have concluded mine.

Mr Paterson—An arrangement was made with Senator Lundy that Geoscience people would come back at five o'clock. That arrangement has been put in place.

CHAIR—Do we still need IP Australia?

Senator GEORGE CAMPBELL—I thought Senator Lundy had questions for IP Australia.

CHAIR—We will adjourn briefly while the secretariat inquires as to what arrangements Senator Lundy, Senator Bartlett and Senator Harradine need.

Proceedings suspended from 4.37 p.m. to 4.42 p.m.

CHAIR—Ladies and gentlemen, the secretariat is still making inquiries with the offices of Senator Lundy and Senator Bartlett. We will start with Senator Campbell's questions. We should know within the next 15 minutes what Senator Lundy's and Senator Bartlett's requirements are, if any, so we will mention the program again at five o'clock.

Senator GEORGE CAMPBELL—Can one of you summarise for us what is exactly the government's 12.5 per cent pricing measure for the Pharmaceutical Benefits Scheme.

Mr Pennifold—The government's decision on the 12.5 per cent policy is that which is described in the health minister's press statement of 7 February.

Senator GEORGE CAMPBELL—How is that different from what was announced on 1 October?

Mr Pennifold—The policy is really a matter for the health department. What has occurred here is that the statement from the minister identifies that the price reduction will flow on to other brands of the same drug, but that will only occur once within that group.

Senator GEORGE CAMPBELL—Is that different from what was announced on 1 October?

Mr Pennifold—Again, you will really need to direct that to the health department. It is their policy.

Senator GEORGE CAMPBELL—Does that mean you are not in a position to tell me, or you would prefer not to tell me? There are a number of consequential issues that arise for industry out of this. It is not a trick question. I am just trying to get a clearer understanding of the starting point.

Senator Minchin—Maybe I could help, given I was involved. You are right to raise the industry implications. But the policy is a health policy. The announcement during the election campaign remains silent on the question of whether the 12.5 per cent would apply once off or in a cascading effect to every drug that came on—so it is silent on that question. The cabinet, in confirming the policy, clarified that it would have a one-off effect. It would not have the cascading effect which the industry was concerned was left open by the original announcement. So it is not different, but the policy announced last week, or whatever it was, by the minister clarifies that it will have a one-off effect in each case. It will not cascade, which is what the industry was concerned about.

Senator GEORGE CAMPBELL—Thank you. That is a decent starting point. What is the generic industry's view of this measure?

Mr Pennifold—I know the Generic Medicines Industry Association brought out a press release a day or so after that released by Minister Abbott. Within that they put their view, which in essence was that they wanted to talk further with government to better understand the measure and how it applied.

Senator GEORGE CAMPBELL—Have you talked to them?

Mr Pennifold—They would not be talking with us. This is the health department's policy, so the discussions they would be undertaking—all of industry—would be with the health department.

Senator GEORGE CAMPBELL—Do you know exactly what the generic industry's concerns are about the measure?

Mr Pennifold—I know that they made some submissions to the health department in their consultation process, and I have sighted some of those documents. But in essence the dialogue has been between the health department and with the Generic Medicines Industry Association.

Senator GEORGE CAMPBELL—Has the department of industry or the government received any representations or information from industry on how this measure will affect the industry's future in things like R&D, innovation, exports and the development of the generics industry?

Mr Pennifold—The department, to my knowledge, has not received those representations. I understand there have been some letters written to the minister.

Senator GEORGE CAMPBELL—Some letters to the minister? From what sections of the industry? Across the board, or just the generics?

Mr Pennifold—I am basing this on memory, but I think this is across the board.

Senator GEORGE CAMPBELL—Has the department done any analysis about the potential impact of this decision on the industry?

Mr Pennifold—We have not done any independent modelling.

Senator GEORGE CAMPBELL—Do you intend to?

Mr Pennifold—We do not have any plans to do so at the moment.

Senator GEORGE CAMPBELL—Given that this the third largest export industry in this country, according to your web site, aren't you concerned about any potential negative measures that this policy position might have on the industry?

Mr Pennifold—We have been very interested in those issues and have been briefing our minister on those points.

Senator GEORGE CAMPBELL—On what basis have you been briefing your minister if you have not been doing any analysis or research on the issue?

Mr Pennifold—We have seen the papers which the industry has developed, and that includes modelling work.

Senator GEORGE CAMPBELL—But you presumably do not accept everything that the industry tells you.

Mr Pennifold—We have at least two models that different parts of the industry have put together so we have been carefully reading those assessments.

Senator GEORGE CAMPBELL—And have you come to a conclusion what the impact of this policy will be on the industry and its future?

Mr Pennifold—Any advice that we have developed has been the advice that we have developed for the minister.

Senator GEORGE CAMPBELL—I did not ask you what the advice was; I asked if you had come to any conclusions about what the impact will be. Will it be negative or positive?

Mr Pennifold—Again, the conclusions, comments and analyses are those which we provided to the minister.

Senator GEORGE CAMPBELL—Have you come to a conclusion on what the likely impact will be on the levels of R&D and investment in the pharmaceutical industry by both Australian and foreign owned companies?

Mr Pennifold—As I said, we have not done any independent modelling on that.

Senator GEORGE CAMPBELL—But you just said that you have provided advice to the minister. I am asking if you have come to any conclusions on these particular issues. You have accepted whatever modelling or advice the industry has put forward.

Mr Pennifold—We have evaluated the advice and models that industry has developed. We have not necessarily accepted them. The conclusions and decisions that we have reached are those which have been conveyed to the minister.

Senator GEORGE CAMPBELL—So you have not necessarily accepted their advice. Does that mean that you do not necessarily agree with the advice that they have been giving in their papers?

Mr Pennifold—I have seen two submissions from two different bits of the industry and the advice is slightly different in both. We have taken all of that information on board in preparing advice for our minister.

Senator GEORGE CAMPBELL—And you have made your own judgment about it?

Mr Pennifold—We have provided advice and we have made judgments in delivering that advice.

Senator GEORGE CAMPBELL—You must have made your own judgments about it. You said you have not necessarily put forward what the industry has been saying.

Mr Pennifold—Where we have made those judgments, it has been embodied in the advice that we have passed on to the minister.

CHAIR—Senator Campbell, please forgive me if I interrupt your line of questions for a moment. It appears that Senator Bartlett is not coming back. The only senators who continue to be interested in areas of the portfolio are Senators Campbell, Webber, Lundy and Harradine. Senator Harradine wants to talk about Biotechnology Australia. Senator Webber has questions for Geoscience Australia. Senator Lundy has questions for IP Australia.

Senator LUNDY—I think I could place those on notice.

CHAIR—Senator Campbell, what remaining topics do you want to cover?

Senator GEORGE CAMPBELL—I have this subject, although I am not getting very far with it. I want to consider the Commercial Ready program; the IAP issue; ICIP and a number of issues relating to COMET and other innovation issues. I can put some of them on notice.

CHAIR—When you come to the end of your current bracket of questions, can we interpose sequentially Senators Webber, Lundy and Harradine to dispose of those three agencies and then return to you, Senator Campbell? We could then let those officers go.

Senator GEORGE CAMPBELL—You are effectively telling me that I will put my questions on notice.

CHAIR—It all depends how long the others are going to be. We have an hour and three-quarters left.

Senator GEORGE CAMPBELL—But that is what you are effectively saying. We have an hour and a half left.

CHAIR—How long will you be with IP Australia, Senator Lundy?

Senator LUNDY—I expected that there would be ample time today to ask IP Australia some general questions. Given that there isn't, I will place them on notice and I am sorry for keeping the IP Australia people here today.

CHAIR—So can IP Australia go?

Senator LUNDY—Yes they can. I would rather have had them before the committee, but this is in the interests of time.

CHAIR—I understand that. IP Australia are excused. Senator Webber, how long are you going to be with Geoscience Australia?

Senator WEBBER—Half an hour at the most, but I will keep it as brief as I can.

CHAIR—Senator Harradine, how long are you going to be with Biotechnology Australia?

Senator HARRADINE—It depends on the answers, but probably about 20 or 25 minutes.

CHAIR—Senator Campbell, how long will you be with the balance of your questions?

Senator GEORGE CAMPBELL—I could certainly take more than the hour and a half that is still remaining for this session, well and truly.

CHAIR—I think I should give Senator Harradine a go. It is a matter for opposition senators to negotiate the balance of the time between the two of you. Let us start with Senator Harradine who has not had an opportunity to ask questions yet today. While he is asking his questions, which should take 25 minutes or less, you and Senator Webber can decide how the balance of the remaining hour or hour and 15 minutes will be used. Is that fair?

Senator GEORGE CAMPBELL—I do not know whether it is necessarily fair but I am happy to give Senator Harradine the time to ask his questions. However, I make the point that I made to you privately that I think it would be advisable to break up future estimates by this committee into three segments—that is, industry, tourism and resources as three separate groupings—because we have been crisscrossing over each other all day, and it makes it very difficult to get consistency through the questions.

CHAIR—I think that is fair enough—though, as I pointed out to you, we have done that at least in relation to tourism being taken as pretty much a discrete area. When we devise the programs for the May estimates we will take that further. I think that most people would seem to agree with that.

Senator HARRADINE—In answers to question on notice from last year, the department provided copies of material presented at conferences by Biotechnology Australia's Mr Craig Cormick. I am concerned that Mr Cormick is not only not acting as a disinterested public servant but in fact engaged in public debate over biotechnology, and especially the ethically contentious matters. At the Australian Stem Cell Centre's conference on 23 November last year, Mr Cormick was co-presenter of a paper which said in relation to embryonic stem cell research and cloning that laypeople are ignorant about scientific facts, that ethical concerns are often driven by a lack of understanding of the issues and that more active promotion of the technology is needed. Could I indicate to the department that I regard that as an outrageous abuse of the department's position, and I want to know what the department is going to do about that.

Ms Hartland—In the presentation that you refer to, Mr Cormick was actually raising a series of questions about what people commonly suggest might be some of the issues to do with the debate on stem cell research. He was certainly not saying that these are the issues. In fact, what he was doing was saying that these are some of the assertions around, to generate some debate on those.

CHAIR—Senator Harradine, before you go on, can I just indicate that Geoscience Australia will be required, and we will be dealing with them next, at the end of Senator Harradine's bracket of questions.

Senator HARRADINE—So the department is prepared to state that ethical concerns are often driven by a lack of understanding of the issues?

Ms Hartland—No. Mr Cormick was saying that they are some of the assertions that are made, and then there was debate on that. I think it is quite hard sometimes to see, in the

context of a PowerPoint presentation, how some of those issues are put, but you will notice that it says, 'The problem??? Is it?' and then tries to suggest that there are some differences between perception and reality. That just formed the basis for generating discussion.

Senator HARRADINE—Generating the discussion for what? What purpose are we talking about? Generating discussion and support for cloning?

Ms Hartland—No. The mandate of Biotechnology Australia is about raising public awareness and not taking sides one way or the other, pro or con, but saying, 'These are some of the issues that people need to understand when people are trying to make judgments and decisions about these issues.'

Senator HARRADINE—But this was about cloning. And this departmental officer was promoting the cause of cloning. In that same paper, Mr Cormick ridiculed those with ethical concerns about cloning with an overhead saying 'Cloning is bad = spooky science' and complained that 'the ethical debate is media driven and is causing delays'. Is Biotechnology Australia supporting that view?

Ms Hartland—A lot of this is based on research from focus groups and others where people said this. Mr Cormick was presenting what others were saying, not presenting the view of Biotechnology Australia.

Senator HARRADINE—I am sorry; we are talking about a situation where cloning is banned by the parliament.

Ms Hartland—That is correct.

Senator HARRADINE—Why should Mr Cormick be going around the place lobbying for a position against what the legislation says?

Ms Hartland—I do not believe he was doing that.

Mr Paterson—In fact, I am confident that he was not doing that.

Senator HARRADINE—Could I have a copy of all of the address? Could the committee have the notes for the address?

Ms Hartland—I do not know whether there were actual notes, and part of this presentation—as I think was also said in the answers to you on the questions on notice—was also presented in tandem with a number of people. So I think that some of this presentation was also presented by other people.

Senator HARRADINE—I noted that.

Ms Hartland—We can go back and see whether there are notes to go with it. I think we have already said that, in terms of the part of the presentation that Craig gave, there were no notes attached to it, so he spoke to the PowerPoint presentation without them.

Senator HARRADINE—Is Biotechnology Australia, and this officer, acting as a lobbyist? Have you had discussions with those in the scientific field who are promoting the idea of human cloning?

Ms Hartland—Certainly the officer in question and none of the officers are out there promoting cloning.

Senator HARRADINE—How can you support that sort of statement? So you oppose the statement that ethical concerns are driven by a lack of understanding of the issues. Is that true or not?

Ms Hartland—We are just saying that those are some of the assertions that are being made. It is to generate discussion on whether in fact these are the issues. I think you will find that Mr Cormick, through the presentation, is saying that in fact none of these are entirely true and that there is a range of issues to be taken into account when people make judgments about ethical issues.

Senator HARRADINE—On one of the overheads there was a complaint that ethical debate is media driven and is causing delays. Delays in what?

Mr Paterson—Ms Hartland has indicated that these are propositions that have been put. The officer was identifying those propositions. They are not propositions of Biotechnology Australia, they are not propositions of the officer and they are not propositions of this department.

Senator HARRADINE—But he has put these in a PowerPoint display as statements—

Mr Paterson—As examples of the assertions that some people make in public.

Senator HARRADINE—Where does it say that?

Ms Hartland—This is where, as you have rightly pointed out, it is quite tricky to see a PowerPoint presentation without the material behind it and without hearing what the officer had to say around it. They are not put down as being facts.

Senator HARRADINE—But you would oppose it under those circumstances. You are saying that other people are saying this and that the officer has included that in the PowerPoint presentation. You are saying that you would reject the concept that ethical concerns are often driven by a lack of understanding of the issues?

Ms Hartland—It is not for me to accept or reject.

Senator HARRADINE—I am sorry; it is your officer.

CHAIR—You must let the witness finish her answer. What were you saying, Ms Hartland?

Ms Hartland—It is not up to me to accept or reject the assertions. The role of Biotechnology Australia is to raise awareness of issues to do with biotechnology and not to take a pro or con line. These are assertions that are made by people. We run focus groups and we do surveys, and this was largely presenting the results of surveys. Other people had said these things, and the presentation was to focus attention on some of the things that people are saying and then to test whether these things are right or wrong and how you might then address some of those issues.

Senator HARRADINE—Do you support all of the statements made that I have read to you?

Ms Hartland—These are the assertions of other people; they are not my assertions.

Senator HARRADINE—So you would oppose them?

Ms Hartland—They are not my assertions.

Senator HARRADINE—The department and Biotechnology Australia would oppose the presentation if it included support for cloning?

Ms Hartland—It is not about support for cloning. We are not supporting cloning.

Senator HARRADINE—So you do not support cloning. You have not had discussions with your minister about that?

Ms Hartland—It is not for me to say whether I do or do not. I have had no discussions with my minister about that, no.

Senator HARRADINE—You have not had any discussions with your minister on the issue of cloning; am I to understand that?

Mr Paterson—I do not want to be accused of stonewalling, but the reality is that conversations that we have in providing advice to ministers are not matters about which officers are asked to respond in these hearings. It is quite clear, from what has already been said, that the assertions that are in that PowerPoint presentation are not the assertions of the department, they are not the assertions of Biotechnology Australia and they are not the assertions of the officers that are appearing before you. They are issues that others within the community have raised in debate on this issue. Asking officers whether they accept or reject these views is not appropriate; they are not our views. We do not assert those views.

Senator HARRADINE—Why are you asserting them at these conferences?

Mr Paterson—We are not asserting them; we are identifying them as issues that have been raised by others in focus groups, in questionnaires, in surveys.

Senator HARRADINE—To briefly go to the question of the various slides: slide 2 says that the public demand a zero risk and that it is not reasonable. This is a statement. This is going to the question of human cloning.

Ms Hartland—Again, Senator, all those points that you are referring to are the sorts of assertions that are made by others, and this is just reflected in the slide presentation.

Senator HARRADINE—Could you provide the committee with the source upon which Mr Cormick made those statements?

Ms Hartland—Yes, Senator, we can provide the background to that.

Senator HARRADINE—So you will provide me with the details of all the sources in respect of all the statements that were made by Mr Cormick in his presentation?

Ms Hartland—Yes, we can do that.

Senator HARRADINE—We are going to the question of zero risk in ethics. Isn't it a fact that zero risk in ethics is totally acceptable and wise? There is no harm to the rights of any human being that can be tolerated.

Ms Hartland—I am not sure what you are referring to. Are you still talking about the same slide, Senator?

Senator HARRADINE—I am talking about slide No. 2, which says that the public demands zero risk and that this is not reasonable.

Ms Hartland—The answer is the same to all your questions about the slides. We will provide you with the background as to where those assertions have come from.

Senator HARRADINE—So you are saying that the department does not make that assertion at all?

Ms Hartland—Again, the slides are based on assertions from focus groups and others. They are not the assertions of officers in the department.

Senator HARRADINE—Slide 8 addresses the public reluctance to accept cloning and says that any attempt by propaganda to change public opinion needs to be viewed with extreme caution—from a public servant. Did the public servant concerned have regard to that particular fact?

Ms Hartland—Did you say slide 8?

Senator HARRADINE—Yes, slide 8.

Ms Hartland—Slide 8 is about the moral acceptability of human stem cell situations; that is the information I have.

Senator HARRADINE—Yes.

Ms Hartland—It is a graph; is that correct?

Senator HARRADINE—Yes. What I am proposing to you is that any attempt to change public opinion needs to be viewed with extreme caution.

Ms Hartland—Sorry, are you asking me a question?

Senator HARRADINE—Yes. Could you provide me with an evaluation of the outcomes of this particular address?

Mr Paterson—We are missing the nature of the question, Senator.

CHAIR—Could you put that question again, Senator Harradine? Obviously the witnesses did not follow it, and nor did I.

Senator HARRADINE—Are you denying that any of these statements are views held by officers of the department and Biotechnology Australia?

CHAIR—Senator Harradine, I do not think that is a fair question. You cannot ask a witness to deny that a particular proposition might not be an opinion held by a third party, which it seems to me is what you are asking. I am going to ask you to approach it in a different way. These people cannot be expected to know that.

Senator HARRADINE—I will go to the penultimate point. Slide 15 puts religious views as ‘anti-intellectual’. Is that not an offensive and false statement?

Ms Hartland—This is a slide as it is sourced from the 2004 *Australian Journal of Emerging Technologies in Society*. It is referencing, showing that this is a view that is being put in some areas. Again, it is not anything that the officer involved is saying are his views or the views of the organisation. It is from another source.

Senator HARRADINE—So the outcome of these discussions in this presentation can in no way be said to lobby for cloning?

Ms Hartland—That is correct.

Senator HARRADINE—And can in no way be regarded as opening the door for human cloning in Australia?

Ms Hartland—Yes, it is merely providing information from work that we have done in this area and that others have done and bringing it together in a conference.

Senator HARRADINE—Could the officers provide the committee with the basis and the particular sources of all that is in this particular program?

Ms Hartland—Yes, I think we have already agreed that we can do that.

Senator HARRADINE—Thank you. What work is the Australian Stem Cell Centre now doing with human embryonic stem cells?

CHAIR—Before you ask that, Senator Harradine, would you yield to Senator Watson, who wants to ask a question on that last topic?

Senator HARRADINE—Yes.

Senator WATSON—Following the thrust of Senator Harradine's questions, wouldn't you suggest that those slides are putting the concept of cloning in a very favourable light? Where were the counterarguments?

Ms Hartland—I do not believe so. Senator Harradine was talking about, predominantly, a first slide that raised a number of assertions that had been made. Following that were a whole range of slides that were based on survey information. I would argue that it was merely showing what the community is saying so that people were aware of that. As I said, our mandate is not pro or con; it is purely to provide factual information and let people make up their own minds.

Senator WATSON—Can you give an assurance to the committee that the slides that were presented on that occasion represented a balanced view rather than a view in favour of cloning? What Senator Harradine has produced to us gives some prima facie evidence of some favour to views favouring cloning.

Ms Hartland—The slides are information that has come from community focus groups and from surveys. That is what is being provided. It is not information that an individual or officers have made up and created.

Senator WATSON—Can you assure the committee that the range of slides that were presented provided a balanced view?

Ms Hartland—The range of slides that were provided by the Biotechnology Australia officer was provided based on the survey information that we had collected and the result of those focus groups.

Senator WATSON—That was not the question. The question I asked was whether the slides, as presented, presented a balanced—

Ms Hartland—I believe they do.

CHAIR—Ms Hartland, just to make this perfectly clear for the record, as I understand your evidence, the propositions recorded on these slides that have been referred to by Senator Harradine are not propositions adopted by your agency or, Mr Paterson, by the department?

Mr Paterson—That is correct.

Ms Hartland—That is correct. Some of the slides that were not referred to in this that were provided in the answers to the questions on notice were actually provided by other people, and we will make that very clear in the answers. But they were not the subject of what Senator Harradine was asking.

Senator HARRADINE—Could you provide us with a copy of what survey groups you are talking about—

Ms Hartland—Certainly, and numbers and who carried that out et cetera—yes.

Senator HARRADINE—and how they were run and so on.

Ms Hartland—Yes, we can do that.

Senator HARRADINE—I ask a question on what work has been done by the Australian Stem Cell Centre with human embryonic stem cells. You can take it on notice if you want to. What proportion of its resources is the Australian Stem Cell Centre devoting to human adult stem cell research and what proportion to human embryonic stem cell research—or total stem cell research on embryos?

Ms Hartland—I can answer that quickly now. My latest information is that \$4.6 million has been committed to research involving adult stem cells, which constitutes 34 per cent of research funds; \$5 million has been committed to research involving mouse embryonic stem cells, which constitutes about 38 per cent of research funds; and \$3.8 million has been committed to research involving human embryonic stem cells, which constitutes about 28 per cent of research funds.

Senator HARRADINE—What is the budget for the future in respect of that? I had your responses which you repeated then.

Ms Hartland—Are you talking about the total funding that has gone to the centre to date?

Senator HARRADINE—Yes. Could you include that which was provided by the ARC as well.

Ms Hartland—As of now, the industry portfolio has paid \$12.5 million to the ASCC and the ARC has paid \$13.45 million.

Senator HARRADINE—I note that last year the ASCC bought some embryonic stem cells from an organisation in the United States. Is the ASCC carrying out, or planning, work to itself extract stem cells from human embryos, thus destroying the human embryos?

Ms Hartland—No, the ASCC is not harvesting any embryos.

Senator HARRADINE—Do you expect a request of the licensing committee for this to occur within the next 12 to 18 months?

Ms Hartland—The Stem Cell Centre has repeatedly said that they will not be harvesting stem cells in the centre, so I do not expect that they will be putting forward a request for a licence.

Senator HARRADINE—Were the American embryonic stem cells found to be problematic?

Ms Hartland—I will have to take that on notice, because I am not sure what you are referring to there.

CHAIR—Thank you. Biotechnology Australia is excused.

[5.25 p.m.]

Geoscience Australia

Senator WEBBER—I will try not to take up too much of the committee's time. You will have to bear with me because I may jump around a bit and I will probably put some of my questions on notice. Let me start with a general question. This is the first time I have spoken to people from Geoscience. It will come as no surprise to you that my interest was first piqued with the tsunami, particularly being someone who lives in Perth. Can you give me an outline of your agency's activities on Boxing Day and how involved you were—or how uninvolved.

Dr Williams—I will start this discussion and then Dr McFadden will probably fill in some of the detail. Geoscience Australia maintains a seismographic network which is essentially designed to locate and estimate the magnitude of significant earthquakes that occur within Australia. Remember that we had the tragedy in December 1989 when 12 people died in Newcastle from the Newcastle earthquake. The system also reports on significant earthquakes in the near neighbourhood region. Our activities on Boxing Day actually started back on Christmas Eve. At 2 a.m. there was a magnitude 8.1 earthquake near Macquarie Island south of Tasmania. As is our protocol and responsibility, we notify Emergency Management Australia when there is an earthquake of significance. At a little after 2 a.m. on Christmas Eve we notified them of this event. It was assessed that possibly an earthquake that large—of that magnitude—might be tsunamigenic and a warning was issued to Tasmanian emergency management authorities. In the event, it was not tsunamigenic, and that went on then to become a news item later in the day on Christmas Eve—that that was the biggest earthquake in the world for 2004. Then, of course, we had the tragic event on Boxing Day. The earthquake was at two minutes to midday Australian summer time. The equipment at GA first detected the earthquake automatically at about seven minutes past 12. That is the time it takes for the seismic shock to travel that distance.

Senator WEBBER—Can I just go back one step. When you say 'Australian summer time', are you talking about—

Dr Williams—Eastern time. Canberra time, just to normalise to that point. The system first detected the earthquake about eight minutes later. Part of the Australian network is also maintained as part of the global network, so the Australian array looks after Australia but some of the seismographs in the Australian array also are part of the global network. It was a seismograph at Marble Bar and another seismograph just south of Perth, at Narrogin, that were the two international seismographs that actually alerted the world monitoring system in Hawaii or the Pacific Ocean system that there had been an event.

The Australian array then collects data. This is all automatic, without any human intervention at this stage. By the time the shock wave had travelled across the Australian continent, the computer had enough information to identify that there had been a significant event. Then an alert is sent by text message to both a pager and a mobile phone from the duty officer. That happened at 12.30. Then at approximately 12.42 he informed Emergency Management Australia that there had been a huge earthquake which the computer estimated at that time was 8.2 magnitude, and the location that the computer calculated put it very close to the Sumatran coast.

Senator WEBBER—What time was that alert roughly?

Dr Williams—That alert went to EMA at 12.42. I understand then that, given its magnitude, we also advised it was likely to cause a lot of damage, that given where the preliminary location had put it, it may not be tsunamigenic, that EMA needed to probably deal with foreign affairs agencies, that this might be an in-country problem. After that, people then tried to understand more what happened and in the middle of all of that the press reports started coming out, and it all compounded. The first hard evidence that the Australian alert system had of this being the sort of tsunami that goes across whole oceans came later, when the actual wave went through Cocos islands, where it was detected by a tidal gauge that the Bureau of Meteorology maintained.

Senator WEBBER—That was about 4½ hours later—that is my understanding.

Dr Williams—But by then the news was well and truly out, so everyone was busy calculating and recalculating and trying to estimate exactly what had happened, given that there was and there is no system for accurately monitoring tsunamigenic events in the Indian Ocean. I might stop at this point and maybe you could follow up. Dr McFadden can give more technical detail if you would like that.

Senator WEBBER—I was having a bit of a discussion with the bureau last evening, and—unfortunately—whilst they have officers on duty 24 hours a day, seven days a week, they had a bit of difficulty getting information from America. Apparently, the first time they rang, the phone was engaged so they did not bother to ring again for about 4½ hours, which is not very helpful. Obviously you have a far more mechanised way, from what you have been saying, of alerting people.

Dr McFadden—In terms of our own seismic network that monitors, yes—we have a mechanised process for it. Our responsibility is to notify EMA. How they go about that is then not our responsibility. In terms of actually monitoring the earthquakes, and having a set-up that then determines whether an earthquake has occurred and how big it is and approximately where it was—yes, that is mechanised.

Senator WEBBER—So is that what you rely on, or did you actually have officers on deck as well? Or did they have to be called in?

Dr McFadden—We have a duty seismology officer. We did not have anybody in the building at the time it happened. The duty seismologist carries alert instruments on him; he carries a pager and a telephone. The computer automatically sent information to him saying ‘There has been an earthquake’, and gave an initial estimate as to its magnitude and its location.

Senator WEBBER—Obviously that system worked this time, but are you comfortable with having it that way, or would it be better if we had officers on call, or at their desks, all around the clock?

Dr McFadden—That depends on the job, Senator. In terms of the job that Geoscience Australia has been required to do in the past, which is earthquake notification centred in Australia, that has been satisfactory. If we were doing a different task and we were involved in early warnings for a tsunami then we would have to look at what to do in order to overcome that.

Senator WEBBER—That introduces one of the next things I wanted to talk about. The government has given a commitment—and I think a very worthwhile commitment—to making it a priority to establish an early warning system for the Indian Ocean. I think it is good, but I am from Western Australia, so of course I am more concerned about what happens in the Indian Ocean than the Pacific. I gather from talking to the bureau that when they did talk to the Americans the information they got was on a tsunami in the Pacific. They did not actually talk about what might happen in the Indian Ocean. So obviously we are a bit let down there. Does your agency envisage being involved in the establishment of an early warning system?

Dr McFadden—Certainly we are involved at the moment in discussions with the Bureau of Meteorology and with Emergency Management Australia about what would be needed to put in place a tsunami early warning system that would not only encompass Australia but also provide some assistance into the Indian Ocean area and into the south-west Pacific.

Senator WEBBER—Do you envisage playing an ongoing role in that or is this purely advisory in the establishment of it?

Dr McFadden—My guess at the moment is that it will probably be an ongoing role.

Senator WEBBER—As part of that ongoing role would you therefore envisage that you would need to have more people on deck all the time? I am doing my best to mount a case for you to get extra money out of the government.

Dr McFadden—Yes. Undoubtedly, if the role becomes tsunami early warning then I have already been putting into my thinking the need for 24/7 service, yes.

Senator WEBBER—Obviously with the Indian Ocean the impact of what happened on Boxing Day was horrific for the people up there. Boats in the port of Geraldton broke their moorings and all sorts of people were swept away at Busselton, which is south of Perth. The wave came through and travelled a fair distance pretty quickly. Obviously it is in our interests to be warned as well as playing a constructive role for our region. As part of that involvement with the establishment of an early warning system, can you perhaps give me an idea of what kind of work Geoscience has done and also let me know whether you will be represented at the upcoming conference in Paris to discuss the establishment of the early warning centre?

Dr McFadden—It is probably easier to answer the second question first. Yes, we will have representation there. One of our officers will be going across to be involved in that. Geoscience Australia has obviously been looking at the process about how one would design an early warning system—we have been deeply involved in that for the past few days as well

as several weeks before that—and determining what would be an appropriate design for an early warning system. There has been a lot of thought go into that. I think we have a reasonably clear view at this stage about what would be an effective system for Australia and allow us to contribute to the Indian Ocean and the south-west Pacific.

Senator WEBBER—Do we have any idea, roughly, of how much a suitable system would cost?

Dr McFadden—If you are asking for what a suitable system would cost, my expectation is that a lot of other countries would have to contribute to this. I have seen a lot of numbers bandied around, but in order to put in place a system that would be effective, in terms of being able to provide warning for Australia and also allow some contribution into the Indian Ocean, we are talking about a few tens of millions of dollars.

Senator WEBBER—Would that establishment system involve upgrading any of your current facilities? There was an article in the *Daily Telegraph* on 9 February this year in which Professor Dietmar Muller claimed that Australia relied on a 32-year-old converted fishing boat to survey risks. Do you want to comment on whether this new system would involve upgrading any of our current facilities and whether that is actually correct?

Dr McFadden—What we rely on is a fairly modern computing system with a network of seismographs around the country.

Senator WEBBER—No 32-year-old fishing boat?

Dr McFadden—No, I am afraid we do not have any 32-year-old fishing boats that are involved in this. I am afraid not.

Senator LUNDY—They sold it a few years ago.

Senator WEBBER—You sold it a few years ago?

Dr McFadden—Yes.

Senator WEBBER—So the *Daily Telegraph* of 9 February this year was wrong.

Senator LUNDY—Now they rent it.

Senator WEBBER—You rent it instead, Senator Lundy tells me.

Dr McFadden—We do not make use of that boat in terms of Geoscience Australia at all. The Bureau of Meteorology also has some tide gauges that provide information.

Senator WEBBER—Yes, I learnt about them last night.

Dr McFadden—I am sure. There is a range of that stuff in place. In terms of your question about whether it would have to be upgraded in any sense, then, as with your question about 24/7, the answer is yes, obviously there would have to be significant upgrades. It is a different game when you are playing notification and when you are playing alert. There is no question that one would have to increase a lot of robustness in the system. This will require some upgrading to computing and installation of new seismographs and installation of more tide gauges—and possibly the installation of some DART buoys around. If I could respond to the question of the boat, I think you are probably referring to the *Southern Surveyor*. Professor

Muller has a particular view about how that might be used in a research capacity rather than in an actual alert or warning system.

Dr Williams—Just to clarify that, the *Southern Surveyor* is an Australian research vessel which Geoscience Australia uses occasionally for its research—but not in this area of tsunami risk assessment and definitely not for early warning. I think two different issues are being mixed up in that *Daily Telegraph* article.

Senator WEBBER—If Geoscience Australia was to stay involved, it would obviously involve more work on risk assessment rather than the alert service that you provide at the moment. Would that involve any changes? Obviously it would involve extra resources, and we have discussed that, but what other changes would Geoscience Australia need to make to move more into risk assessment?

Dr McFadden—We are of the view that one would add significant value to an alert system—to a warning system—by undertaking risk assessments and being able to provide decision makers with options as to what they should do to have the best possible planning processes in place beforehand to ensure a reduction in loss of life and loss of infrastructure. It would require extra resources in order to be able to undertake that. But we also have a risk research group and we are looking at ways to restructure and reallocate how people are doing things in such a way that we can provide a better focus on the risk assessment.

Senator WEBBER—So you could do some of that change or additional role within your existing resources as well?

Dr McFadden—We are looking at ways to bring a better focus to that, yes. Although this is a nascent group that has been developing over the past few years, there is a significant capacity there in risk assessment.

Senator WEBBER—Are you working on a proposal to put to government about your involvement with the early warning centre or will government approach you and ask you to be involved?

Dr Williams—We, Geoscience Australia, along with the other two agencies involved, EMA and the Bureau of Meteorology, have been approached collectively and asked to put together a proposal or a range of proposals on how we can play a part both nationally and internationally to improve our capabilities for the Indian Ocean. Minister Downer and the Prime Minister have both made statements to that effect.

Senator WEBBER—When is it envisaged that that proposal will be ready to go? I note from the prime ministerial statement that he envisages that core elements of the early warning system will be up and running by mid-2006.

Dr McFadden—We are currently working hard on it.

Senator WEBBER—I am sure you are working very hard. I have no doubt.

Dr McFadden—As I said, we currently have a fairly good idea of what would be an appropriate system to be able to deal with this. Within the next few weeks, we will have in place a clear understanding of costs et cetera which we will then be putting forward.

Senator WEBBER—Thank you for that. I will leave it there, bearing in mind the pressure we are under for time, but if your proposal is up and running by May then I am sure there will be an allocation for you. I will come back to it then. Thank you for your time.

CHAIR—The officers of Geoscience Australia are excused and we will go back to the department.

Senator GEORGE CAMPBELL—Mr Pennifold has disappeared. I do not know if it was him with a phone message or not.

Mr Paterson—I am sure he will be back momentarily if you want him.

Senator GEORGE CAMPBELL—I do; not that I am getting much out of him. Mr Pennifold, I noted in one of the newspaper articles I read that the generics industry are suggesting that some of their members may not survive as a result of this new policy position. Does the department share that view, or are they being pessimistic?

Mr Pennifold—We have not made an assessment of what the situation would be for individual companies and the GMIA has not approached the department, to my knowledge, directly on that point.

Senator GEORGE CAMPBELL—If that is the case then you have not provided any advice to the minister on what the likelihood of this would be on the generics industry. Is that the conclusion I can draw from what you have just said?

Mr Pennifold—Not on an individual company basis, we have not.

Senator GEORGE CAMPBELL—I did not ask you that; I asked you if you shared the view that some of the industry may not survive? This is what they are saying. I am talking about individual companies; some will and some will not survive. They are expecting this decision to have an impact on the industry generally. Do you share their view or are they being pessimistic that some of them will not survive?

Mr Pennifold—I do not know which companies would or would not survive as a result of this measure or any other changes in the market.

Senator GEORGE CAMPBELL—You have provided no advice to the minister about what the potential impact is on the generics industry?

Mr Pennifold—We have provided advice to the minister about this measure.

Senator GEORGE CAMPBELL—But you just said you do not know what the impact will be.

Mr Pennifold—We do not on individual companies.

Senator GEORGE CAMPBELL—What about on the generics industry? The generics industry are saying that some of their members may not survive as a result of this measure. Have you been able to provide any advice to the minister about that statement?

Mr Paterson—To the best of my knowledge, neither GMIA nor any individual company has made that assertion to us.

Senator GEORGE CAMPBELL—They have not made it to you, but they have made that assertion in the media.

Mr Paterson—They may have done.

Senator GEORGE CAMPBELL—They may have done. All I am asking—

Mr Paterson—There is a press report out today about something that I may have said. It was not right. The fact that something is in the media does not mean it is a statement of fact. What we are saying is that neither the GMIA nor any individual company—

Senator GEORGE CAMPBELL—That is a truism we can agree on, but the point I am making is that there is a media report saying that the generics industry view of the impact of this policy is that some of their members may not survive. Has the department tested whether or not that is their view?

Mr Paterson—They have not expressed that view to us.

Senator GEORGE CAMPBELL—But someone in your department would have read that article. Wouldn't you have contacted them to ask: why are you expressing this view? What are the reasons behind making this assertion?

Mr Pennifold—I have not contacted the GMIA to ask them and nor have I contacted individual companies.

Senator GEORGE CAMPBELL—Have the GMIA contacted you?

Mr Pennifold—No.

Senator GEORGE CAMPBELL—They have not spoken to you?

Mr Pennifold—Not on that point.

Senator GEORGE CAMPBELL—Have individual companies spoken to you about the impact of this policy?

Mr Pennifold—I just said that no individual company or the GMIA has contacted me.

Senator GEORGE CAMPBELL—You said that you had not.

Mr Pennifold—Neither have I contacted them nor they contacted me.

Senator GEORGE CAMPBELL—And you did not read the media article?

Mr Pennifold—I do not recall that specific article.

Senator GEORGE CAMPBELL—What has been the reaction of the global headquarters of the pharmaceutical companies to this new policy announcement?

Mr Pennifold—I suppose the answer is that I have not contacted global headquarters nor have they contacted me.

Senator GEORGE CAMPBELL—So you are not aware of what the reaction of the pharmaceutical industry globally is to this policy announcement?

Mr Pennifold—Not specifically. I have not had any direct contact with them. I did mention earlier that Australian companies, some of whom have headquarters overseas, have written to the minister.

Senator GEORGE CAMPBELL—If you have not spoken to the generics industry, you are not aware of what the global headquarters of the pharmaceutical companies are doing and you have not had any discussions locally then what advice have you provided to the minister?

Mr Pennifold—I cannot really answer that. That is the advice that we have provided to the minister.

Senator GEORGE CAMPBELL—It seems to me that you could not have provided him with much more advice than ‘take a Bex and have a good lie down’.

CHAIR—Come on, Senator Campbell. That is not a question.

Senator GEORGE CAMPBELL—It is a reasonable assumption based on the officer’s answers.

CHAIR—Senator Campbell, the occasional rhetorical flourish lightens the day, but let us move on to the next question, please.

Senator GEORGE CAMPBELL—It is a reasonable assessment based on the officer’s answers. Was there any consultation with the industry before the measure was announced?

Mr Pennifold—Do you mean before the 7 February announcement by the minister for health?

Senator GEORGE CAMPBELL—Either that or the one from 1 or 2 October.

Mr Pennifold—Certainly in advance of 7 February, and I think it is referred to in Minister Abbott’s press statement, there were a series of consultations held between the department of health, the industry and other players with an interest in this particular measure.

Senator GEORGE CAMPBELL—Was the department of industry involved in those discussions?

Mr Pennifold—Yes, there were officers from my branch who attended most of those consultations.

Senator GEORGE CAMPBELL—So you would have been familiar then with what the attitudes were of the industry?

Mr Pennifold—I said earlier that we had seen the submissions that those organisations—Medicines Australia and GMIA—had made to that consultation process which was being run by the department of health.

Senator GEORGE CAMPBELL—But you just said that officers from your department were involved in those consultations.

Mr Pennifold—They attended those consultations, yes.

Senator GEORGE CAMPBELL—So they would have been familiar with the views being expressed by the industry?

Mr Pennifold—Yes.

Mr Paterson—It might be useful to clarify that our responses where we said that there had been no contact made—us to them or them to us—were in response to your specific question about the generics having said that a company may not remain.

Senator GEORGE CAMPBELL—I understand.

Mr Paterson—I think there is some confusion between the two elements.

Senator GEORGE CAMPBELL—But Mr Pennifold has been giving the impression that the department has been virtually at arms-length from the industry with respect to this policy announcement. Earlier on in his evidence he did not give any evidence that people had attended these consultations; he said he had seen some of the written submissions from the GMIA and whatever the other group was.

Ms Hartland—Earlier what Mr Pennifold was saying was that basically we had based advice on the submissions, and the submissions reflected the results of those consultations. So I do not think there was much difference between what was said in the consultations and what was in the submissions. That then was the basis for advice.

Senator GEORGE CAMPBELL—But there was a significant difference, because I did ask: was the department involved? The impression I was given by Mr Pennifold was no, that you had based submissions to the minister on written submissions that these organisations had placed before the consultation process. Is anyone indicating that there were actually officers there participating in the process?

Mr Pennifold—What I have attempted to do is to answer the questions that you have put to me. The situation is that the department of health ran a series of consultations. Officers from my branch attended those. I am not sure if they actively participated in them, in that it was a presentation from the department of health with companies and industry associations. A wide range of issues was discussed. As a result of that process, submissions were made to the department of health. Those submissions I was referring to earlier formed the basis of the advice we had developed and passed to our minister in that those submissions seemed to represent the industry views and their assessment of this measure.

Senator GEORGE CAMPBELL—I understand that, but I assume that your view of those submissions would have been reinforced by the report you got back from your officers who attended the consultations.

Mr Pennifold—Yes—the issues that were raised in the submissions were those, as I understand it, that were raised in the consultations as well. But those submissions were written after those consultations, or towards the end of that consultation period, and therefore contained what I would expect was the considered view of the people who had participated in them and the opinions of the industry associations.

Senator GEORGE CAMPBELL—You would well understand, Mr Pennifold—you have been around a long time—that quite often after those sorts of consultations people's views of issues get refined as a result of the argie-bargie that goes on across the table.

Mr Pennifold—I would expect, as a result of a consultation process like that, that people would be open-minded and their views would be developed and refined.

Senator GEORGE CAMPBELL—How does all this change sit with the pharmaceuticals industry's action agenda?

Mr Pennifold—The pharmaceuticals industry's action agenda specifically did not include issues relating to the operation of the PBS but does look at the PBS as one of those factors that affect the investment environment relating to the pharmaceuticals industry.

Senator GEORGE CAMPBELL—Has any analysis been done by the department or in association with the industry as to the impact of this policy on the action agenda, and whether or not the goals set out in that action agenda will be varied as a result of this policy position being adopted?

Mr Pennifold—Nothing that has been put to me. At the moment the industry associations are still in the process of consultations with the department of health to fully understand this measure so that they can then make an informed assessment of what the impact will be. We have not had a meeting of what we call the leaders group or the implementation group of the action agenda, but we do have one coming up in a few weeks time, and I would expect we would be getting some feedback at that point.

Senator GEORGE CAMPBELL—Have you done any assessment of the likely impact on the Pharmaceuticals Partnerships Program?

Mr Pennifold—We have not done any individual assessment of the impact of this measure on that program.

Senator GEORGE CAMPBELL—Is it correct that around 30 per cent of the Pharmaceutical Benefits Scheme is spent on wholesalers and pharmacies?

Mr Pennifold—You would need to put that matter to the health department. I do not have those figures.

Senator GEORGE CAMPBELL—I suggest to you that those figures are correct. Does the department have the costs of distribution in other industries, on average, and how this figure sits in comparison with other industries?

Mr Paterson—Not that I am aware of, and I do not think you would be able to draw any meaningful conclusion from any such set of numbers.

Senator GEORGE CAMPBELL—I think you could draw a very significant conclusion about the level of overservicing by pharmacies. Can I ask you to take that on notice?

Mr Paterson—I do not know what you are asking us to take on notice. Do we have the numbers? The answer is no.

Senator GEORGE CAMPBELL—I am asking you to take on notice any analyses of the costs of distribution in other industries.

Mr Paterson—If my assumption is correct and the answer remains no?

Senator GEORGE CAMPBELL—If your assumption is correct and the answer remains no, then there will be no response.

Mr Paterson—Correct.

Senator GEORGE CAMPBELL—Mr Peel, can you take us through the Commercial Ready consultation process from its inception through to the program's October launch?

Mr Peel—The department undertook industry consultations and talked to organisations about the potential design of Commercial Ready. In May and June 2004, we had workshops in 11 major centres around Australia. These were attended by over 630 people, including representatives from industry, universities, peak bodies, state and territory governments and consultants. We also received over 100 written submissions. Commercial Ready was subsequently launched on 1 October 2004, and at that time we also held a number of public information sessions at 12 centres around Australia, attended by over 1,400 people, to explain to them in detail the design of the new program and the application process that they would need to follow.

Senator GEORGE CAMPBELL—Were industry groups and industry associations involved in these consultations?

Mr Peel—They were.

Senator GEORGE CAMPBELL—Across the range of industries?

Mr Peel—Yes, they were all invited.

Senator GEORGE CAMPBELL—I presume you were happy with the consultation process?

Mr Peel—Yes, we thought it was very successful.

Senator GEORGE CAMPBELL—Were companies invited that had previously received grants under the component parts of Commercial Ready?

Mr Peel—There were a number of companies there that had received grants under the R&D Start program previously.

Senator GEORGE CAMPBELL—What percentage would they represent of the groups that were consulted?

Mr Peel—I do not think we have any figures on that.

Senator GEORGE CAMPBELL—Do you have a rough idea? Would it be a significant proportion?

Mr Peel—It would just be a guess but I would say 25 per cent or 30 per cent, based on my attendance at a session. I could see whether we have any figures and let you know, but I am not sure we kept it to that level of detail.

Senator GEORGE CAMPBELL—What do you think was the most important thing that came out of the process, from the department's point of view?

Mr Peel—That is a hard question to answer. From an AusIndustry perspective, the most important thing that came out of the process was that we were able to design a program taking into account the issues raised by the people whom we consulted with, which appears, so far at least, to have been very well received.

Senator GEORGE CAMPBELL—Were there any criticisms of the program?

Mr Peel—There have not been any real criticisms of any significance to date, but it is still very early days. The R&D board only considered the first round of applications in December. They are currently looking at the latest round of applications. In March we are going to have a

meeting of the chairs of the various board committees that look at the applications to do a bit of a post-mortem as to how things have travelled since the program has been launched. So, by about that time, after we have had a bit more experience of the program operating, I might be able to provide you with some advice in relation to those issues.

Senator GEORGE CAMPBELL—Were there any significant changes to the program made as a result of the consultation process? Were there any ideas?

Mr Peel—I guess I could answer that by saying we had not designed a program when we went out to consultations, so there was nothing to change, in a sense. We were basing our consultations, in many ways, around what we already had, which was the R&D Start program, the BIF program and the Innovation Access Program. So the consultations were all about saying, ‘There is a new program which encapsulates all of those,’ and asking what did we like or what was good about the old programs that we could incorporate into the new. It was more that sort of a process than putting up a design and asking people to constructively criticise it.

Senator GEORGE CAMPBELL—I suppose that is what I mean: there were ideas?

Mr Peel—Yes. We put out a range of questions. We released a discussion paper for people to comment on which asked questions like: What should the size of the grants be? How long should the grant term be? We put that on our web site. If you want to have a look at that at some stage you will see the sorts of issues that we put forward.

Senator GEORGE CAMPBELL—In the overview section of the discussion paper it says that the program is expected to assist around 1,700 SMEs become more commercially successful. How was that figure reached?

Ms Zielke—The 1,700 figure is reached using an estimate of an average grant size that was previously funded under R&D Start, BIF and IAP of around the \$800,000 mark. As a result, we worked it out to be approximately 1,700 companies to be funded under the program.

Senator GEORGE CAMPBELL—So you divided the total funding by \$100,000?

Ms Zielke—Yes.

Senator GEORGE CAMPBELL—I suppose that is as good a way as any of getting a figure.

Mr Peel—And we have supported about that number—slightly more—under the R&D Start program, so we had some past history to base that on.

Senator GEORGE CAMPBELL—The funding is based on a dollar for dollar contribution?

Mr Peel—Correct.

Senator GEORGE CAMPBELL—Is there any provision made for exceptional circumstances in this process for companies who may have particularly unique features about them, but cannot afford to raise the dollar for dollar contribution?

Mr Peel—No. One of the criteria of the program, which is strictly enforced, is that they have to produce matching funding. There are no exceptions to that.

Senator GEORGE CAMPBELL—It does not cover the sort of circumstances that surrounded the company in Lismore that developed the energy and braking system? It was sold to the US army, but they had to go around the shopping centre with a begging bowl to raise the money to get the R&D Start grant.

Mr Peel—Without commenting on that particular case, the program requires that applicants have matching funding. If they do not have matching funding they do not meet one of the essential eligibility criteria for the program and their application would not be able to be considered. There are no exceptions to that.

Senator GEORGE CAMPBELL—Are there any other programs in the department that encompass such circumstances?

Mr Peel—No. Most of them in the innovation area require some degree of matching funding. Well, all of them do.

Ms Zielke—The COMET program does not require matching funding; it requires 80 per cent funding. We provide an 80 per cent grant and companies provide 20 per cent of the funding under that program.

Senator GEORGE CAMPBELL—That would mean the COMET program would have helped this company.

Ms Berman—As you would be aware, the tax offset is an example of where you do not have to bring anything matching. It is not a grant program but it is the equivalent in that you get cash in hand by participating.

Senator GEORGE CAMPBELL—But for a company that has not started up and only has an idea, that does not help them.

Ms Berman—I appreciate that.

Senator GEORGE CAMPBELL—I am really looking at those companies that have a unique product, which this one did. It seems to me that there is still a gap in the innovation area when companies of that nature still struggle to get off the ground.

Ms Berman—Yes, and that issue was raised in the consultation period for the Commercial Ready program. We lowered the size of grants to a smaller level than they had ever been before to help compensate for those really small firms who wanted tens of thousands instead of hundreds of thousands. That was a major change and I think it was received very well in the consultations that took place after the program was announced.

Senator GEORGE CAMPBELL—So in the consultations there was no-one that really took strong exception to the dollar for dollar arrangement.

Ms Zielke—No.

Senator GEORGE CAMPBELL—Mr Peel, one of the objects behind the development of the CR program, as I understand it, was to streamline the process of accessing federal funding in this area to make it easier. When you look at the CR customer information guide it is hard to see how it is actually streamlined. I think there is a nine-step application process; a 53-page customer guide, complete with eight appendices; and post approval requirements, including quarterly progress reports, annual reports et cetera.

Mr Peel—The streamlining really refers to the fact that companies can now apply for a single grant to cover a range of activities across a period of time, whereas previously they may have needed to submit separate grant applications for different elements of their projects. Ms Zielke may be able to add to that.

Ms Zielke—I was going to make the same point. We had a series of documents for our previous programs and customers provided us with feedback that they found it difficult dealing with a number of different documents, so under Commercial Ready we have tried to make sure that everything is within the one document for them to deal with.

Senator GEORGE CAMPBELL—I think the issue that has come across consistently from applicants is the complexity of dealing with the government in making applications for grants. I do not know whether that goes to the fact that it is 50 pages long or that you need a certificate in genius to be able to fill out the questions.

Mr Peel—When I visit companies I make a point of asking them how they find the application process. I suppose their view is flavoured by whether they were successful or not. Nonetheless, most companies I speak to say that they have found the application process helpful because it allows them to focus on their business and their projects and to ask themselves the sorts of questions they might not otherwise have asked themselves about that. There is certainly a range of customers who find the process helpful. We also undertake customer satisfaction surveys on a regular basis of both successful and unsuccessful customers for our programs. The R&D Start program, which was the predecessor program to this one, actually recorded very high levels of customer satisfaction from both successful and unsuccessful applicants. So, while people say that, that is not necessarily the case that is borne out through our relationships with our customers and the independent surveys we take of their interactions with the program.

Senator GEORGE CAMPBELL—Maybe we are visiting different companies. Certainly I have had favourable comments about the programs—I make that point—but a number of companies I have been to have been very unfavourable in terms of their views about government generally but AusIndustry in particular and the torment that they have felt they have had to go through to try and get a grant. But I know a number of them have proceeded with their projects at the end of the day without it and have been successful anyway.

Mr Peel—I guess the other issue—and we have to maintain a balance in all of this—is that, yes, we are here to provide assistance to industry through our programs, but of course we also have a responsibility to the taxpayer to ensure that those funds are spent appropriately. So there is a certain amount of rigour that we have to follow and there are certain processes that we have to put in place to assure ourselves that those funds are spent appropriately. It is partly for that reason that we ask the sorts of questions that we ask and seek the regular reporting that we seek. If we did not do that, I am sure I would be here trying to explain to you why \$X of taxpayers' money was seemingly wasted without proper processes to check on that expenditure.

Senator GEORGE CAMPBELL—I understand that, and I accept that. I suppose, at the end of the day, on balance, when these programs are being drawn up it is a question of whether you put more onus on the individual making the application to provide all the

detailed information or you put the onus on the department to do a bit of searching itself for some of the information.

Mr Peel—Perhaps I should say as well that—

Senator GEORGE CAMPBELL—It is an on-balance issue.

Mr Peel—it is not a static process; we do take on board comments that we get from applicants. The meeting that I mentioned earlier of the chairs of the various R&D board committees is to look at the processes that we have followed so far in Commercial Ready and to see whether or not we can change those for the benefit of both the board that has to consider the applications and also the people making applications to the program. So we do actually keep that under review, but there will always be forms to fill out, either electronically or manually, if you want to get some money at the end of the day.

Senator GEORGE CAMPBELL—In your discussion paper, you talk about the possibility of establishing a network of expert advisers. Has that option been taken up?

Ms Zielke—No, that option was not taken up as part of the program.

Senator GEORGE CAMPBELL—What avenues of appeal exist for the unsuccessful applicants to the CR program?

Mr Peel—There is no formal avenue of appeal—for example, to the Administrative Appeals Tribunal or any such body. Unsuccessful applicants are briefed on why their application was unsuccessful and provided with advice as to how they might look at their application again if there is a possibility of it getting funding under the program. And, if they have new information that the R&D board did not have at the time that it considered their application, they are given the opportunity to resubmit the application. But there is no formal appeals mechanism as such. Of course, if they are dissatisfied with the process that we put them through or the treatment they have received from AusIndustry in that application process, our customer service charter outlines the complaints mechanism that they can follow, which ultimately would direct them to the Commonwealth Ombudsman if they had concerns about how they were treated.

Senator GEORGE CAMPBELL—That would be based more on procedure—

Mr Peel—That is right.

Senator GEORGE CAMPBELL—rather than the substance of the application.

Mr Peel—Essentially, yes: how they were treated or how their application was treated, rather than necessarily the end result of the decision-making process.

Senator GEORGE CAMPBELL—In appendix 3 of the guide, it notes that if you receive assistance under CR it will affect your ability to receive financial assistance under the R&D tax concession. Why is that the case?

Mr Peel—It is essentially a double-dipping issue. You cannot receive assistance for a grant under Commercial Ready and also claim the same R&D under the tax concession; otherwise you would be getting the benefit twice. So I think it is just pointing out to customers that it is not appropriate to claim under both programs.

Senator GEORGE CAMPBELL—But it is, as I understand it—I might be reading it wrong—possible to get a grant under Commercial Ready that does not go to R&D Start?

Mr Peel—That does not go to the tax concession?

Senator GEORGE CAMPBELL—Yes.

Mr Peel—Yes, you can certainly apply for the tax concession for other things, but not for the grant that you have received under Commercial Ready.

Senator GEORGE CAMPBELL—Yes, I understand, but it is possible to apply for a grant under Commercial Ready that is not related to the R&D tax concession?

Mr Peel—Correct.

Senator GEORGE CAMPBELL—So it is possible to apply for both. Isn't that information misleading? Does that need clarification?

Ms Zielke—I do not know that it is misleading. It does direct customers to therefore seek further advice in relation to those issues. I will just note that, where a company has spent on a particular project more than their 50 per cent share of the costs of that project, they can claim whatever the balance is through the tax concession as well. As it is related to the tax act—the tax concession—they need to seek advice in relation to what it is that they can claim under the tax concession both for that project and for other projects.

Senator GEORGE CAMPBELL—I must say, Ms Zielke, that, on reading that appendix 3, it seemed to me to be giving an absolute. If I was taking just a normal reading of that, I would be taking the view that, 'I can't get it.'

Mr Peel—As I said, we are going to review the documentation. We will take your comment on board and see if we can make that more comprehensive in the terms of the advice that we give to applicants.

Senator GEORGE CAMPBELL—Good. I also think that the R&D tax concession utilises a different definition of R&D from that used by Commercial Ready. Is that deliberate?

Ms Zielke—Yes it does. They are two different definitions.

Senator GEORGE CAMPBELL—What is the difference?

Ms Zielke—There are differences in some of the wording. The R&D tax concession, of course, is a legislated program and has legal precedents in relation to it. Hence the wording is fairly exact. The Commercial Ready program is a competitive, merit based program, so we are able to use a definition that is a more common language definition.

Senator GEORGE CAMPBELL—But we have a precise definition of what R&D consists of. Were using two different sets of terminology. It seems to me to be, again, creating a confusion there.

Mr Peel—I do not believe we have had any feedback to that effect. What Ms Zielke is saying is that what we have tried to do with Commercial Ready—and it goes back to your other point about the difficulty of getting through the documentation—is to try to put an explanation in plainer English than you would find in an act of the parliament necessarily. The definitions are in fact consistent; they are just worded differently.

Senator GEORGE CAMPBELL—They are consistent but the wording is different?

Ms Zielke—There are slight changes to the wording for the definition for R&D in Commercial Ready to the R&D tax concession, yes. It is also trying to make clear to some of our customers that use both that there are differences in the way in which it is interpreted as well.

Senator GEORGE CAMPBELL—Okay. I hope it does not burn you. As I understand it, Mr Peel, previously applicants to the BIF program were exempt from the requirement that matching funds should not be acquired through other Australian government or state government programs. This has not been translated into the Commercial Ready program. Do you anticipate biotechnology companies applying for Commercial Ready having any problem meeting this requirement?

Ms Zielke—No, I have not had any companies saying that it is an issue. It was part of the discussion paper in relation to Commercial Ready. Some of our discussions with our state government colleagues went to that effect, but not with customers.

Ms Hartland—I would like to add that the majority of the states were in favour of that change so that they could better direct their programs into other areas of market development. So there was pretty broad agreement on that.

Senator GEORGE CAMPBELL—So you have liaised with other states?

Ms Hartland—Yes, definitely.

Senator GEORGE CAMPBELL—Have you started approving any companies for grants under the program, yet?

Mr Peel—Yes, in the first round, which was in December, we had eight applications, and four of those have been approved. We currently have 44 applications on hand, which just about now are being considered by the R&D board.

Senator GEORGE CAMPBELL—Are the rephasings in the PBS to do with the timing?

Mr Peel—There are a couple of things—and I think I went through it with you this morning. These grants are, of course, multiyear grants, so companies come to us with projects that they want to undertake over a number of years. They have to give us estimates as to how much they will spend each year. R&D projects, in particular, are unpredictable, and it is often the case that they do not spend at the rate at which they say they will spend. We find that, usually, they are overly optimistic about their expenditure patterns. So that is one aspect. The other aspect is that in recent times we have noticed a bit of a drop in the quality of applications we have been receiving, so we have not been putting as much money out of the door, so to speak. Therefore, we have looked at the program, looked at the funding we have this year and got the agreement of the department of finance to move \$37 million out of this year into future years of the program to meet what we can best judge to be the spending profiles of our customers. So, while we have moved \$37 million out of this year, it has not been lost to the program; it is still available there for businesses in the future.

Senator GEORGE CAMPBELL—I can put the rest of these questions on notice.

CHAIR—That concludes the examination of officers from the Department of Industry, Tourism and Resources and agencies within the portfolio. I thank you, Mr Paterson, and officers for attending. The committee has not actually set the date yet for the receipt of questions upon notice, but I foreshadow that I expect we will probably set the date for 4 April, and, unless you receive advice to the contrary, you should plan to have answers to questions taken upon notice to the secretariat by Monday, 4 April.

Proceedings suspended from 6.28 p.m. to 7.35 p.m.

TREASURY PORTFOLIO**In Attendance**

Senator Minchin, Minister for Finance and Administration

Department of the Treasury**Australian Securities and Investment Commission**

Mr Jeffrey Lucy, Chairman

Mr Jeremy Cooper, Deputy Chairman

Professor Berna Collier, Commissioner

Australian Prudential Regulation Authority

Dr John Laker, Chairman

Mr Ross Jones, Deputy Chairman

Mr Stephen Somogyi, Member

Mr Tom Karp, Executive General Manager, Supervisory Support

Mr Brandon Khoo, Executive General Manager, Policy Research and Statistics

Mr Charles Littrell, Executive General Manager, Policy, Research and Statistics

Australian Securities and Investments Commission

CHAIR—I call to order this public hearing of the Senate Economics Legislation Committee. This evening the committee will commence its examination of the Treasury portfolio. The committee will consider proposed expenditure for the department and agencies in the order in which they appear on the circulated agenda, beginning with the Australian Securities and Investments Commission.

The committee has authorised the recording and rebroadcasting of its public proceedings, in accordance with the rules contained in the order of the Senate of 31 August 1999 concerning the broadcasting of committee hearings. I have also been requested to remind everyone present that mobile phones should be turned off or to silent operation while in the hearing.

I welcome Senator the Hon. Nick Minchin, who is representing the Treasurer, and officers of the Australian Securities and Investments Commission. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. I also direct to the attention of witnesses the resolutions agreed to by the Senate on 23 February 1988 concerning the conduct of Senate committees; in particular, resolution No. 9, which reads:

A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the chairman on this matter, the committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.

Resolution No. 10 provides:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall

be invited to state the ground upon which objection to answering the question is taken. Unless the committee determines immediately that the question should not be pressed, the committee shall then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry, the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination and the reasons for the determination and shall be required to answer the question only in private session, unless the committee determines that it is essential to the committee's inquiry that the question be answered in public session. Where a witness declines to answer a question to which a committee has required an answer, the committee shall report that fact to the Senate.

I also remind officers that an officer shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. Witnesses should note that the evidence given to the committee is protected by parliamentary privilege. I also remind you that giving false or misleading evidence to the committee may constitute a contempt of the Senate.

At the conclusion of the hearings, the committee will set a date for the receipt of written responses. The committee will prepare a report on the examination of estimates, which will be tabled on or before 15 March 2005. Mr Lucy, do you have an opening statement?

Mr Lucy—I do. Thank you for the opportunity to give you a brief overview of some key aspects facing ASIC in the coming year. ASIC has chosen to appear tonight as the full three-member commission. Thus, I am accompanied by my fellow commissioners, Jeremy Cooper and Berna Collier. Commissioner Collier is well known to most senators, having previously attended Senate estimates, but I would like to take the opportunity to introduce the new deputy chairman Jeremy Cooper, who joined ASIC in July 2004.

I would like to give a quick summary of some of the activities which we have achieved during 2003-04. In the 2003-04 financial year ASIC registered almost 1.36 million companies across Australia, a rise of more than 50,000 over the previous year. We had a litigation success rate of 93 per cent, as well as shutting down over 60 illegal investment schemes involving 5,000 investors and totalling \$110 million. ASIC also raised \$100 million in recoveries, compensation and fines. In addition, through its traditional source of fees and charges, ASIC raised a total of \$457 million for the Commonwealth in that financial year and in this financial year is on track to increase that figure to \$536 million. Further, ASIC had more than 1.2 million site visitations to our consumer information web site and distributed over 650,000 educational publications, a rise of 153 per cent on the previous year.

We currently have 168 matters before the courts against 397 people or companies, and this year we expect to see the combination of a number of significant enforcement projects. We will see the results of some very large and complex investigations; in particular, James Hardie, One.Tel and HIH.

ASIC established a special task force to investigate the circumstances surrounding James Hardie's creation of a fund to compensate victims of asbestos related illnesses in September 2004. As I do not want to prejudice any action ASIC may take as a result of its investigation, I am constrained by what I can say but I would like to make two points. Firstly, our

investigation is not limited to what Mr Jackson QC examined during the special commission of inquiry and, secondly, we expect to conclude our investigations this year.

In 2005 we should also see the completion of our investigation into the collapse of HIH. We have already achieved significant results, including the sentencing of Mr William Howard, the committals of Messrs Cooper, Mainprize, Wilkie, Burroughs and Abbott and the guilty plea of Mr Ray Williams to three charges arising from his management of the HIH group of companies. That matter returns to court on 18 March for a sentence hearing. Over the last year ASIC has had an increasing number of defendants who, like Mr Williams, have come forward and indicated that they will plead guilty to our charges before our criminal case commences in the court.

For the committee's information, I would like to report a major breakthrough that has arisen in the last 24 hours following investigations by ASIC's HIH task force, which was established following the collapse of HIH. Mr Rodney Adler, one of HIH's former directors, has decided to plead guilty to four serious criminal charges initiated by ASIC and prosecuted by the Commonwealth Director of Public Prosecutions. In pleading guilty, Mr Adler has acknowledged his serious wrongdoing and the illegality of his conduct. From our point of view, this announcement represents a significant result, in that it is the second time in three months that a former CEO of a listed public company has pleaded guilty to serious charges laid by ASIC. Further, it is now the third occasion arising from our HIH investigation on which a defendant has pleaded guilty.

International Financial Reporting Standards, or IFRS, will be a major focus for ASIC in 2005, with its implementation from 1 January. ASIC undertook a review of approximately 1,150 listed entities and found that there was a high level of awareness about the need to manage the transition to IFRS. We found that the vast majority of entities had turned their minds to the issue of transitioning and, while the level of preparedness differed between companies, our review suggested that most listed entities expected to be able to manage the transition. ASIC's role in relation to IFRS for 2005 will be substantially about bedding down the reforms and ensuring that the IFRS implementation goes to plan and certainly, at this stage, the early signs are that that is the case.

The introduction of superannuation choice will be a major part of ASIC's focus for this year. It should be remembered when discussing this subject that there are around \$600 billion in superannuation assets in Australia, representing 26 million member accounts. Millions of dollars of fees, charges and commissions are also paid to industry. The superannuation industry will, for its part, have a major responsibility to make sure that consumers' rights to choose are not abused. For our part, we will be monitoring switching advice to ensure that this is given in accordance with the FSR regime. ASIC is working closely with other agencies on a whole-of-government approach to the implementation of super choice; in particular, the Australian Taxation Office and APRA.

CHAIR—Thank you, Mr Lucy.

Senator LUNDY—Having been involved in Senate estimates committees all day, I have not seen any news. Is what you have just reported about Rodney Adler public or are you making it public now?

Mr Lucy—It is public. He appeared before both the Magistrates Court and the Supreme Court of New South Wales this morning. Therefore, it is now a matter of fact and has been widely reported upon.

Senator LUNDY—Thank you for that. My colleague Senator Sherry will be following up with those issues but I would like to turn to the issue of property spruiking. When did ASIC first become aware of the issue that some property spruikers may be operating legally via a convenient loophole in Australian law.

Mr Lucy—Chairman, with your permission Commissioner Collier will deal with matters that are substantially to do with consumer protection issues.

CHAIR—Certainly.

Prof. Collier—Senator, the so-called property spruiker issue has been something of which ASIC has been aware for some time. In 2000 ASIC produced a report in relation to investment of real estate. It is something which we have been aware of at least since that time.

Senator LUNDY—Since identifying the issue and that report, what steps have ASIC made to close up the loophole in the regulation that allows some property spruikers to continue to operate and rip off Australian consumers?

Prof. Collier—Some of the activities of property spruikers fall within our jurisdiction and they are the activities which we target in our enforcement and other action. We work closely with the Australian Competition and Consumer Commission in relation to matters which may fall within either or both of our jurisdictions. We have undertaken quite a number of enforcement actions—and I could go through nine or 10—within the last 12 to 24 months, where we have taken action to close down or address various concerns in relation to property spruiking activities.

Senator LUNDY—I think we are all concerned about that, so we will work through it.

Prof. Collier—We also are participating in a ministerial council working group which is looking at this particular matter.

Senator LUNDY—I will come to that as well. What became of that report that you referred to?

Prof. Collier—My understanding is that the report, which was undertaken at the request of the government in response to a recommendation, was made public.

Senator LUNDY—My understanding is it suggested a nationally consistent approach to regulating property spruikers.

Prof. Collier—That is correct.

Senator LUNDY—Did ASIC support that view? Did you circulate that view? What was ASIC's approach?

Prof. Collier—ASIC has always had the view which was in that report, and which we maintain, that advice which is provided in a real estate context by property spruikers or otherwise should be treated in a similar manner to advice provided by financial advisers.

Senator LUNDY—Therefore under your jurisdiction.

Prof. Collier—How that is to be regulated is a matter which is being considered by the ministerial council. It is also something which a parliamentary joint committee is looking at.

Senator LUNDY—Why was a second investigation entered into if the issue had already been covered in that first report?

Prof. Collier—I am sorry, a second—

Senator LUNDY—That was brushed under the carpet in 2003.

Prof. Collier—I am sorry, I do not know what you are talking about, Senator.

Senator LUNDY—Was there a second investigation into the issue, conducted by ASIC following that 2000 report?

Prof. Collier—We constantly look at the issue of property spruiking. We have, as I said, undertaken quite a number of enforcement actions. We have done some surveillance in relation to this matter. I am not sure what you are talking about—any report being brushed under the table.

Senator LUNDY—Was a draft report prepared?

Prof. Collier—A draft report was prepared by people in our financial services regulation directorate. However, that report, which was reviewed by the commission, was not proceeded with for various reasons which were discussed at length.

Senator LUNDY—That is the report I am referring to. Regardless of the status of that report—you are saying it was never finalised and formally released—why was that second investigation at least started by the commission following the 2000 report?

Prof. Collier—We had some surveillance activities which were undertaken. As I think I said at the last estimates, a number of things overtook the report, including the commencement of a ministerial council inquiry into this particular area, so it was overtaken by events. We are participating fully in that ministerial council.

Senator LUNDY—In terms of the work that was done on that draft report, how did it vary from the first report? Was there a new type of terms of reference? Was it more issues or more of the same type of problem emerging?

Prof. Collier—I am sorry, I do not have that document in front of me.

Senator LUNDY—I know you went through this at length with Senator Conroy but I am trying to develop an understanding around why a second report was at least initiated and whether the issues had changed since the original report.

Prof. Collier—Again I do not have the report in front of me, so I can only speculate. It was some time ago.

Senator LUNDY—In terms of the participation in the Ministerial Council on Consumer Affairs working group, what has been the nature of ASIC's involvement?

Prof. Collier—We are represented on that committee. ASIC staff, sometimes including me, will attend working group meetings.

Senator LUNDY—A number of state ministers have made their views clear that federal intervention is needed on the issue of regulation of property spruikers. Have you formally

presented ASIC's view that a nationally consistent approach would be desirable at the ministerial council?

Prof. Collier—We have reiterated our view, which was in that report in 2000, that a nationally coherent approach to property spruiking advice is desirable. How that is achieved is something which will be developed by that particular body.

Mr Lucy—It is very much a matter for both federal and state government policies. It is a question of whether or not the states and territories wish to work towards a national and consistent methodology or whether or not the federal government has an interest. We have played our part by putting forward our views. Now it is with the various governments.

Senator LUNDY—Bear with me with a hypothetical. If the ministerial council and parliamentary committee inquiries concur with that view, is ASIC the best place to take control of such a scheme to regulate property spruikers?

Mr Lucy—That really is hypothetical because at the end of the day—

Senator LUNDY—I knew it was. I was wondering if you had a view.

Mr Lucy—I do. It is a very complex area. It is a question of: if you were to intervene into property, at what point would you intervene? For example, the entire spectrum of property is extraordinarily complex and any form of regulation over it would be a massive undertaking, be it state based or federally based. It is really a question of where you intercept. ASIC has the experience of the financial service regulation. Therefore, we have the background of the licensing approach, the education approach, working with stakeholders and so on. Now we are in the phase of surveillance and potential enforcement. Real estate is a different market altogether. On the one hand we would be a natural alternative but we certainly would not be the only alternative. That would only be if the federal government had an appetite to pick it up on that basis.

Prof. Collier—An analogy I draw is the concurrent working parties ministerial council which is looking at mortgage brokers. I understand a discussion paper presented by that particular body has suggested that it be state based regulation, consistent nationally. It could very well be that at the end of the day such a recommendation is made in relation to property spruiking advice but this remains to be seen.

Senator LUNDY—Minister, do you have a view on the appropriateness of ASIC to be the body to take control, were it to be decided that a federal scheme was the best option?

Senator Minchin—I do not have a view.

Senator LUNDY—I did not think you would.

Senator Minchin—That is a matter that would have to be considered.

Senator LUNDY—It was worth asking, though.

Senator Minchin—I do not think I should say anything here.

Senator LUNDY—It has been a long time since this issue was initially discussed by ASIC in that 1999-2000 report. As yet there is no change, no additional protection for consumers. How confident is ASIC that there will be a resolution to this soon?

Mr Lucy—It is in the hands of the state, territory and federal governments. It is not a matter for us. We do not have any control over that agenda.

Senator LUNDY—One of the issues you spoke to in your opening statement was action against the get-rich-quick schemes and you mentioned the 60 illegal investment schemes shut down. How many of those were specifically property spruikers?

Prof. Collier—I am sorry, I do not have that specific information, so I will have to take that question on notice.

Senator LUNDY—Were at least some of them?

Mr Lucy—There is some grey in these areas as well because some of the spruikers weave a very close web as to whether they are selling real estate or whether they are selling financing for real estate. Where there is jurisdiction—for example, I can think of Henry Kaye which would be a name perhaps known to this floor—real estate is intrinsically involved. The way that we got involved in that initially was the fact that he was claiming that his processes were supported by ASIC. It was through that medium that we got in, notwithstanding the fact that real estate was at the background of what he was spruiking. We could certainly take on notice and provide you advice as to where real estate was a factor. But whether or not it was the significant factor in us becoming involved would require some teasing out.

Senator LUNDY—That is an interesting point, to see what the basis was for your intervention in the first instance, because that seems to highlight the lack of powers that you are forced to rely on to take action against some of these rip-off merchants. Could you take on notice providing a list with the detail of that nature to the best of your ability?

Mr Lucy—Yes, certainly.

Senator LUNDY—Thank you, and I have to say I congratulate you on achieving something with relatively little policy support from the Howard government.

Senator Minchin—No need to damn us with faint praise, but I concur in your congratulations to ASIC on their achievements.

Senator LUNDY—In preparing the May report, ASIC evaluated eight property spruikers. Is it correct—and I think you said this—that they took over \$60 million in fees alone from some 80,000 unsuspecting Australians?

Mr Lucy—My notes refer to 60 illegal schemes involving 5,000 investors and \$110 million.

Senator LUNDY—Okay. Perhaps I have more detail than you. In terms of the number of dodgy property spruikers that were shut down last year and their value, it seems a drop in the ocean to the actual money that they extract from unsuspecting consumers. From what you say, it seems that ASIC is in need of more powers to effectively legislate to put a stop to these dodgy dealings. Would it have been possible for the loophole to have been sealed in the financial services reforms that were dealt with last March?

Mr Lucy—Certainly that legislation could have been extended but again that is a matter for government policy and it is for the government and the parliament to determine how that is pursued.

Senator LUNDY—But there was not another reason why it could not have been amended?

Mr Lucy—It is fundamentally a state issue currently. Therefore that would need to be determined before it even got into the area of discussion for the federal government and parliament, I would imagine.

Senator LUNDY—Are you aware of Queensland minister for fair trading Margaret Keech stating that the federal government could give ASIC jurisdiction over property investment advisers. Perhaps this is one for you, Minister. Doesn't that imply that there is a view in at least one state that it would be desirable that the federal government regulated property spruikers?

Senator Minchin—One minister from one jurisdiction has made that comment. It does not mean that it is necessarily right. We note what she says and that would be taken into account in any consideration of this matter.

Senator LUNDY—Is there any reason that you can provide as to why the government has not been willing to take this on and sort it out and engage with the states far earlier than now to resolve it to protect consumers?

Senator Minchin—I am not across the detail of this or in a position to comment on the record in here on this matter.

Senator LUNDY—Do you agree that it is a problem?

Senator Minchin—That is acknowledged but it has been the longstanding position in this country that this is a matter for states and territories. While the federal government has identified some areas of federal government activity that may be better managed nationally, it remains our view that this matter is better handled at the state and territory level where it always has been.

Senator LUNDY—I cannot help but observe that on consumer related issues that seems to be the case but on other matters—for example, industrial relations—the government takes the opposite view. Why is it the consumers keep getting the raw end of the deal?

Senator Minchin—We are not a government that believes that the Commonwealth should take over every activity of the states and territories. That may be the Labor Party view but it is certainly not ours.

Senator LUNDY—The point is that you are very selective.

Senator Minchin—There are some areas where states and territories, albeit all run by Labor parties now, are failing badly. That does not ipso facto mean that they should be taken over by the Commonwealth. There are a range of areas where states and territories should have these responsibilities and should take them much more seriously. I suggest to you that this is one of them.

Senator LUNDY—Until the time the government makes a policy decision about which way to proceed, what other legislative protections are available for consumers in relation to property spruikers?

Prof. Collier—ASIC has jurisdiction in relation to such matters as where a property spruiker gives advice which is financial advice or, as has happened, where a property spruiker,

for example, will say that ASIC has endorsed a product when we have not. We have taken action, as I said, in such cases. The ACCC will have jurisdiction where somebody has engaged action in a manner which is misleading and deceptive, which is not in the financial advice sphere. We are working very closely with the ACCC in relation to these matters.

Senator SHERRY—Just on that issue in respect of property spruikers it is not uncommon, indeed it is very common, for people to sell real estate as a retirement investment. It is commonly advertised and it is financial advice.

Prof. Collier—In circumstances where something is sold as a retirement investment if it is financial advice or falls within the definition of financial advice, then ASIC will clearly have jurisdiction if financial advice is provided in such a way that a licence is not necessary or there is misleading and deceptive conduct in the provision of such advice.

Senator LUNDY—What is the test?

Prof. Collier—The test is whether or not the legislation is satisfied and we have jurisdiction.

Senator LUNDY—Can you give an example of how the advice would have to be presented to fall within your definition of financial advice?

Prof. Collier—One example would be where a property spruiker compares the nature of an investment in real estate with the nature of an investment in something like shares. That is an example of where our jurisdiction would be introduced.

Senator LUNDY—So if they mentioned shares in that way, that would fall under your jurisdiction?

Prof. Collier—If there is, for example, a comparison; if the property spruiker said, ‘You can make X dollars by following my suggestions in relation to investment in property compared with investing in the stock market,’ ASIC’s jurisdiction is invoked.

Senator LUNDY—Are these provisions, both the scope you have and the law administered by the ACCC, enough to prevent consumers being ripped off?

Prof. Collier—We engage in a variety of activities to assist consumers in this area. We have significant educative activities in relation to property spruiking on our FIDO web site on the asic.gov.au web site. We have quite a lot of information warning consumers about property spruikers. We also ensure that we have media blitzes, in the sense of having interviews in the press; senior staffers of ASIC will talk about property spruiking and the dangers of falling for scams. As was pointed out before, we also have quite a lot of enforcement activity, and if there is an activity such as property spruiking where we can take action then we will take action—and we have taken action. We have recently signed a refreshed memorandum of understanding with the ACCC, where we have undertaken to cooperate and collaborate in matters which would include property spruiking.

Senator LUNDY—Can you explain how that agreement will help tighten the loophole. Could you provide some detail about the agreement.

Prof. Collier—Of course. The memorandum of understanding which we signed with the ACCC requires the two agencies to work together in a way which would involve sharing

information; perhaps delegating, in certain cases, to each other powers as appropriate; and cooperating and collaborating as necessary.

Senator LUNDY—So, between you, you are hoping to tighten—

Prof. Collier—Yes. We collaborate on all levels, from commissioner down to officer level, with the ACCC.

Senator LUNDY—Will it be enough?

Prof. Collier—It is difficult to answer that question. As I said, we are continuing to participate in the Ministerial Council—

Senator LUNDY—It is not ASIC's fault if you do not have the appropriate powers; it is not the ACCC's fault if they do not have the appropriate powers.

Mr Lucy—But if the states do have the appropriate powers then it is up to them, and it is in the area of fair trade that indeed most of the responsibilities lie. Certainly our observations are that the states are engaged. The states, ASIC and the ACCC liaise on a regular basis but the states do not have the same breadth of focus that perhaps the Commonwealth agencies do.

Senator LUNDY—And we are back to the issue of the nationally consistent approach.

Mr Lucy—Yes, but then of course the states can choose to have a nationally consistent approach. It does not need to be taken over by the federal government. The states working in concert can agree to an approach which is mirrored around the country. It is their choice. As I understand it, this is very much work in progress at the moment. The states have previously declared an attitude that they would like it to be taken over by the federal government; therefore it is between the states, territories and the federal government. But the federal government have been consistent in saying that they think it should be dealt with by the states, so I guess it is back in their court.

Senator LUNDY—And in the meantime it is the poor old consumer that gets left out.

Senator Minchin—Only to the extent that state Labor governments have failed to properly protect their citizens.

Senator LUNDY—Equally the same could be said about the federal government. I think that is very clear.

Senator Minchin—They have the legislative inspection authority to properly protect them. You have eight Labor governments. How come they can't work together to fix it, instead of always asking us to come in?

Senator LUNDY—I think the same could be said for the federal government's approach. You have, for whatever reason, taken a policy stance of not resolving this, when you are in a position to resolve it.

Senator Minchin—But it is the proper responsibility of the states to look after their citizens and protect them from these people.

Senator LUNDY—Indeed, and not the federal government's?

Senator Minchin—We have many other responsibilities that we endeavour to enact, like protecting this nation and providing social security to it. If you believe in federalism, then you believe the states have got to undertake some roles, and this is one of them.

Senator LUNDY—One of the problems facing the states, Minister, is the fact that many of these operators operate in more than one jurisdiction, so there is a place for federal legislation.

Senator Minchin—No, there is not. There is a place for the states to talk to each other to ensure that they have arrangements in place that can operate on an interstate basis. They can have a uniform approach without having to resort to us. They cannot keep running to us all the time.

Senator LUNDY—If your own agency has formed the view that a nationally consistent approach would be useful and there is a role for the federal government—

Senator Minchin—They can do that without us.

Senator LUNDY—I think we are just going round in circles here.

CHAIR—Nobody has ever heard of the Companies Act, Senator Minchin?

Senator Minchin—Exactly, Mr Chairman.

Senator LUNDY—I would like to ask some questions in relation to unfair fees and the report by the Consumer Law Centre Victoria into penalty fees charged by banks.

Mr Lucy—I beg your pardon, Chairman, we did not hear that.

Senator LUNDY—I am sorry. I would like to ask some questions about the response to the Consumer Law Centre Victoria's report titled *Unfair Fees: a report into penalty fees charged by Australian banks*.

Mr Lucy—I think we are at a disadvantage. I am not sure that we have seen that report.

Senator LUNDY—It certainly had a bit of media coverage.

Senator SHERRY—You may not have, and that would be understandable. Are there any officers here who would?

Mr Lucy—No, Senator. We chose to attend as a commission.

Senator SHERRY—Why?

Mr Lucy—Because we felt that that was providing the greatest level of respect to the Senate estimates.

Senator SHERRY—The greatest level of respect—and I think this may be reflected in other questions that you will be asked to respond to—is to ensure one or three of you are here, plus officers who are able to go into detail. In this instance, you cannot, and I frankly would not expect you to. This may be a point later on, but we will get to that shortly.

Senator Minchin—With respect, Mr Chairman, that could have been dealt with presumably by giving some notice to the commission that you wanted to raise matters of this kind so that they could have come better prepared.

Senator SHERRY—It depends on the circumstances, Minister.

Senator Minchin—If you knew you were going to raise this subject, you could have alerted the commission. They could then come properly prepared.

Mr Cooper—There is a threshold question, of course, as to whether the imposition of fees by banks is actually within our scope and jurisdiction at all.

Senator LUNDY—If I had an opportunity to ask some of your officers about it, we could ascertain that.

Mr Cooper—I guess I am putting the position. In the absence of other information, I would say that it is probably not within our bailiwick.

Senator LUNDY—Perhaps I could ask you general questions about the findings of the report, which are that fees can be described as penalties and thus are unenforceable by law if the sum of the penalty is out of proportion to the cost or loss suffered by the banking institution.

Mr Cooper—In fairness, I reiterate the point that we do not regulate lending, but we can certainly take that question on notice and remit the appropriate answer to the secretary.

Senator LUNDY—I have a series of questions about this, all related to the findings of this report and whether or not ASIC has a particular view and, if so, what that view is and what it is doing about it.

CHAIR—Why don't you put them on notice, Senator Lundy?

Senator LUNDY—I shall. It is worth, for the sake of completeness, just describing the problem. For example—

CHAIR—No, it is not. Order, Senator Lundy. It is not worth describing the problem because that is not the function of this committee. The function of this committee is to enable senators, including you, to ask questions, not to give speeches.

Senator LUNDY—I will read all my questions into *Hansard* then.

CHAIR—Please do not waste our time, Senator Lundy. The officers have told you (a) that they are not familiar with the report and (b) that they do not consider the matter to be within their jurisdiction in any event. If you want to put the questions on notice, you are at liberty to. I am not going to have the committee's time and everybody's time wasted with questions being read onto the record unnecessarily, when you already know what the answer is.

Senator LUNDY—Can I ask the general question: does ASIC believe the principle that financial penalties applied to consumers should be relative to their costs or comparable to their costs to the institution—as a principle?

Mr Lucy—I think we will take that on notice, too, Senator.

Senator LUNDY—Okay. I will place the rest of my questions on that issue on notice.

Senator SHERRY—Just going to your opening statement, Mr Lucy, I do not want to be pedantic, but my understanding is that there is around \$650 billion in super. It might be a typographical error but the last APRA super figure I looked at was approaching \$650 billion.

Mr Lucy—I would not disagree with you, Senator. It is certainly a very significant amount of money.

Senator SHERRY—It certainly is. I have discussed the issue of the monitoring and reporting of fees, charges and commissions a couple of times with both APRA and ASIC. In terms of superannuation, what is the latest on this? Who is collecting the data on the fees and charges—ASIC or APRA? If it is APRA, by all means I will go to them when they appear. What is your understanding of this at the moment?

Mr Cooper—My understanding is that that is something that APRA is looking at. We are working on how fees are disclosed to consumers.

Senator SHERRY—I understand that. I am not going to disclosure; I am going to the collection of the data on fees, charges and commissions that are paid.

Mr Cooper—I understand that is not our role.

Senator SHERRY—APRA?

Mr Cooper—APRA.

Senator SHERRY—As you rightly say in your opening remarks, Mr Lucy, about choice of superannuation:

For our part, ASIC will be monitoring ‘switching advice’ ...

How are you monitoring that? Have there been specific officers who have been requested to monitor that? Is there a specific project? Can you give me a bit of an overview about what you are precisely doing?

Mr Lucy—Again, Chairman, with your permission, Jeremy Cooper will deal with FSR related issues.

CHAIR—Whoever is the commissioner responsible should feel free to take the question.

Prof. Collier—, Senator. I am actually going to speak to this particular matter. We currently have a campaign looking at superannuation choice and switching. Indeed, for the record, the campaign announcement may be found in information release 04-63. This particular campaign was announced on 6 December 2004. It is a surveillance campaign which assesses how financial advisers are currently complying with new legal obligations relating to advice to switch financial products. We are not yet in a position to announce any results on that.

Senator SHERRY—No, I am not after results. We will get to that. I did not expect that you would have a great deal to say. What is happening, though? Are there additional resources? How many staff are there? Is there a project? Who is in charge of the project? Could you give me information of that type?

Prof. Collier—I do not have details on how many of our staff are engaged in this project. I can tell you that it is a project which is sponsored by our Financial Services Directorate, and we have staff who are engaged in surveillance activities.

Senator SHERRY—That is not telling me anything new from the announcements or the press clippings that I have seen.

Prof. Collier—I have no further detail than that.

Senator SHERRY—Why not?

Prof. Collier—The only information I have is that we have this particular campaign.

Senator SHERRY—I know that is the only information you have; you have told me that. But Mr Lucy comes along and, in his opening remarks—and I quite understand—he points out the importance of it, and yet you cannot give us any details on it.

Mr Lucy—I can perhaps provide further information in relation to the additional estimates. We sought additional funding from the Commonwealth in relation to super choice and received specific funding for the years 2005, 2006-07 and 2007-08.

Senator SHERRY—I am aware of that, too, because I can read the estimates papers. This is the big daddy of the deregulation of superannuation. I think you understand that.

Mr Lucy—We certainly understand it.

Senator SHERRY—It involves hundreds of thousands of employers and over five million workers, with significant potential, in some areas at least, for things to go wrong. I am surprised, as I alluded to earlier, that there are not at least some officers here who can give us a bit more detail on what is being reported in the media on your announcements.

Prof. Collier—Senator, if I may say something: earlier you were asking specifically about our activities in relation to switching. I want to make the point that this particular campaign is just one aspect of a much greater campaign, which Mr Lucy has already referred to as receiving government funding and which is part of a whole-of-government approach to the super choice initiative.

Senator SHERRY—Yes. I actually quoted from Mr Lucy's opening comments about switching advice.

Mr Lucy—If we could provide a bit of background to what we are doing in relation to super choice, looking at it more generally: the first area is in the educational area. We are working with the Australian Taxation Office to bring forward a campaign, which will be a very heavily advertised campaign in the media, addressing in the first instance the responsibility of employers. That is fundamentally the tax area. Our area is dealing with education for consumers. We expect a very vigorous advertising campaign for the purpose of educating consumers and employers.

Senator SHERRY—What will be your share of the cost of that campaign, if any?

Mr Lucy—The cost is being borne essentially through the tax office. We are negotiating with the tax office as to what ingredients we want; firstly, for advertising that will provide a joint message and then, separately, messages which will be specifically directed to consumers for the purpose of their education.

Senator SHERRY—I was going to get to the education because you refer to that in the last sentence of your paragraph. I really want to come back to the inspection and possible enforcement activity that ASIC may be involved in. I will put a case to you. My understanding is that a planner can only recommend a product from their list, an authorised list. Is that correct?

Mr Lucy—Yes.

Senator SHERRY—Let us look at the issue of switching. If a consumer who is in superannuation fund A, which might have quite reasonable fees and charges, goes to a planner and asks for advice on a fund—whether or not they should remain in current fund A, with very reasonable fees and charges—then the planner can only legally recommend from their own product list. I understand why that is the case, but isn't it true that the planner can only recommend from that list? There is nothing to prevent the planner from quite legally saying to the consumer, 'Look, you're in plan A, but I'm recommending from the list. Plan A is not on the list.' That would be encouraging a switch, because they can only recommend from their list of authorised products—in this case, superannuation products. That is my understanding of it.

Mr Cooper—I think the list that you are referring to is perhaps where the planner might get his or her remuneration from in terms of commission.

Senator SHERRY—Yes.

Mr Cooper—Certainly from a legal duty point of view, one of the very key messages that we are delivering to the marketplace is that the first port of call that a planner needs to go to is the existing fund. They need to understand exactly what that is and, in particular, they need to understand issues like whether it has a life insurance component attached to it. Only then, when they are fully informed about what fund you are in, can they look at what might be a good switch.

Senator SHERRY—The point I am getting to is this: with the issue of switching, what is to legally prevent—and what is enforceable—the planner recommending from the product list and recommending a switch from plan A, which quite commonly will not be on their list and in fact is probably not on their list? There is nothing to stop that legally, is there?

Mr Cooper—I must admit that I do not agree with that view. The planner, as I said before, has to understand the client, and that particularly means what the existing investment is. In a lot of cases, we think good advice might end up being that you should stay in the fund that you are in.

Senator SHERRY—You are saying—and I am pleased you are saying it, because I will be interested to see you in action, or at least your people in action, trying to enforce this—that a planner must, in law, compare the existing fund that the person is in and, if they come to a conclusion that it is a reasonable plan—the lowest fees et cetera—cannot recommend a product from their product list?

Mr Cooper—They certainly should not, and that is exactly where we will be going in our enforcement campaigns. We will be going into planners' offices, asking to see the file on John Doe, and we will say, 'He was in this particular fund. What was the basis upon which you came to the conclusion that he needed to be in this other fund?' If it does not stack up, that is where we will be heading.

Senator SHERRY—Let us take the following case. Let us assume that fund A, which the consumer is in, does not have a commission based sell advice attached to it. Where does the planner get their money? A fee for service, in that case?

Mr Cooper—That would be an option for them, but that is one of the conflicts that we say planners now have to manage. They have to have a system in place to manage that conflict.

Senator SHERRY—They would have no option, would they?

Mr Cooper—That is right.

Senator SHERRY—It would have to be a fee for service in that case. Have you communicated this to the planning industry?

Mr Cooper—Indeed.

Senator SHERRY—How many thousands of planners are there? Five or six thousand?

Mr Cooper—It might even be more.

Senator SHERRY—I do not know what the latest figure is.

Mr Cooper—It is a large number.

Senator SHERRY—It is around that number, yes. In the area of superannuation, given that number, there must be literally hundreds of thousands of super advices in a year. It might not just be about the choice of a super fund. We have choice of super fund in some areas at the moment anyway, and presumably it will go up on 1 July. That is my assumption. How many planners will you be visiting? You must have some idea about how many of these advices you will be checking and how many planners you will be visiting to see what is going on.

Mr Cooper—We do. In building up the numbers for our estimates in this area, a very significant amount of the money goes towards enforcement, because if we can deliver the message that we are calling on planners—that we are turning up and asking to look at the analysis as to why advice was given—that will send a message right through the industry very quickly.

Senator SHERRY—I understand that, but that is not the answer to my question. You may not know and, if you do not, then tell me. You might want to take it on notice. You must have some idea of the number of planners you will be visiting and the number of advices that you will be inspecting in this area.

Mr Cooper—I will have to take that on notice, but I know that we did forecast those numbers to build up the figures that we came to. We can get you that data, and I will take that on notice.

Senator SHERRY—Presumably, you will be devoting significant additional money resources and increasing the number of inspections of these advices in this area post 1 July.

Mr Cooper—Yes.

Senator SHERRY—You might give me some information on that. What about accountants who give advice on superannuation?

Mr Cooper—They will certainly be a key target for us in communicating the message.

Senator SHERRY—But aren't they carved out from FSR?

Mr Cooper—Certainly, from a licensing aspect. We still have powers in that area, but you are right in the sense that they can give certain advice without the licence requirement.

Mr Lucy—But not product advice.

Senator SHERRY—Let us say a consumer is in superannuation fund A and they go to their accountant, who does not have an authorised product list in the same way that a planner has. The accountant says, ‘Why don’t you look at DIY, do it yourself?’ That is very common at the moment. Have you issued the same sort of warning to accountants as you have issued to financial planners: ‘You should be comparing the fund the person is in to the DIY fund that you are suggesting that they should enter into, with comparisons on fees and all the appropriate information.’ Have you done the same with accountants?

Mr Cooper—Given that the accounting fraternity are not licence holders, I would have to take that on notice.

Senator SHERRY—I would suggest you cannot.

Mr Lucy—I think the short answer is no.

Senator SHERRY—That is right. There has been a lot of talk about DIY super funds—

Mr Lucy—There has.

Senator SHERRY—and what their advantages and disadvantages are, but I am not going to go into that. Don’t you see that it is going to be a bit of a problem?

Mr Lucy—We certainly see the potential for the overselling of DIY, particularly where an asset threshold really needs to exist to justify DIY, for no reason other than to offset the maintenance costs.

Senator SHERRY—That is spot on, Mr Lucy, but there is no requirement to that effect in regulation or law at the present time. For example, there are no minimum assets required to be placed into a DIY fund, are there?

Mr Lucy—No, there are not.

Senator SHERRY—We do not even have the same requirement that Mr Cooper outlined in respect of planners and the inspections that will be carried out there.

Mr Cooper—We would certainly use the consumer power we have against misleading or deceptive conduct in that area, if we could find it.

Senator SHERRY—Exactly! There are the words: ‘if you can find it’. I am suggesting, at the moment at least, that you cannot find it or that it is very much more limited compared to the situation with planners, otherwise you would have issued the same or a similar type of warning to accountants in respect of DIY as you have in respect of financial planners.

Mr Cooper—Having a licensing regime gives you more power to turn up and ask questions and so on. There is no question about that.

Senator SHERRY—Yet DIY super, certainly in terms of assets and numbers, is by far the most quickly growing area, and I expect that to continue. DIY super is allowed under the choice of super fund policy, as I recall, from 1 July.

Mr Cooper—Yes.

Mr Lucy—As long as they are approved funds. As you know, there are some very significant requirements for a super fund to be approved. The point that you raise is clearly

appropriate, as it relates to accountants being able to establish a super fund. The point is that, once established, you immediately then work into the question: ‘What are you going to do with the money?’ Either the accountant needs to be licensed to give advice—because he is then stepping into product advice—or there is a licensed adviser to give product advice. It is rare for an accountant to provide advice to move into a self-managed fund and for it to stop there.

Senator SHERRY—I understand that.

Mr Lucy—We get involved in the next step, when there are assets actually acquired.

Senator SHERRY—The point I am asking about—and I think you and Mr Cooper seem to be at least conceding this—is the gatekeeping, if you like. There is not the same regulation or inspection required for accountants as there is for planners at the gatekeeper point in DIY super.

Mr Lucy—That was a deliberate decision by the government and the parliament.

Senator SHERRY—I understand that, but you accept the point that there is not the same requirement.

Mr Lucy—Yes.

Senator SHERRY—Where you find misleading conduct—churning, misselling—what are your powers in respect of financial restitution or compensation?

Prof. Collier—In respect of licensees who give such advice, there are existing external dispute resolution schemes which can order restitution and other compensation, and I could easily name a number of them which govern many of the licensees that we regulate.

Senator SHERRY—Full compensation?

Prof. Collier—As Mr Lucy has just pointed out to me, there is compulsory insurance as well. Full compensation would depend upon the orders of the particular EDR scheme. My understanding is that it would depend upon the nature of the loss but that often full compensation would be ordered.

Senator SHERRY—Do you see a conflict in the situation of a planner that is employed, let us say, directly by a financial institution? A significant number are; a significant number are not and work for their own planning firms or as individuals. What work are you doing in respect of, say, planners who work for banks where it is a condition of their employment—and, indeed, there are a range of financial incentives, as I understand it—to sell the bank product? How can that possibly be independent?

Mr Cooper—The legislative model that was delivered to us was a disclosure based one, so it did not ban that conduct.

Senator SHERRY—No, I understand that.

Mr Cooper—It said it has to be fully disclosed. We are seeking to assist the industry. From 1 January this year, they have an active duty to install a system to manage conflicts. We are opening the eyes of the financial services industry to these conflicts, where they exist, and imposing a requirement that they have a system to manage them, and then we will conduct surveillance to see that they are properly managing those systems.

Senator SHERRY—How would you go about surveillance in that case? Let us take a planner that works for a bank. I am aware that the planner is required to meet certain sales targets. They would not have a job if they did not, say, recommend bank A's particular financial product. That is their job. How do you deal with misselling in those circumstances?

Prof. Collier—I presume this is a hypothetical question. My answer would be that in such a case we would review the files. Reviewing the files to see if there has been misselling is a clear way, under a campaign, to ascertain whether there has been misselling in such a case.

Senator SHERRY—What if that bank only has its own products on the authorised list?

Prof. Collier—There are still obligations of financial planners and other advisers to know the client and to give appropriate advice to the client. That is not abrogated by any arrangement between the planner and its employer.

Senator SHERRY—But if the planner only has—and it would be understandable—bank A's products on its list, they cannot do otherwise but recommend that particular product. How is that competitive?

Prof. Collier—There is always a recommendation to go somewhere else, at the end of the day.

Senator SHERRY—In reality?

Prof. Collier—That exists as an option.

Senator SHERRY—But is it a real option?

Prof. Collier—I would hope that it would be a real option.

Senator SHERRY—We are not hoping. Consumer behaviour is not always based on total rationality or total knowledge, particularly in this area.

Prof. Collier—Indeed. We are talking at the moment hypothetically.

Senator SHERRY—It happens at the moment.

Prof. Collier—The reality is that advisers are required to know their client and to give appropriate advice. The bottom line is that, if the appropriate advice is not to buy the relevant products, then the planner would be bound, as a matter of law and practice, by that fact. In such a case as you have described, if it were clear that a planner had recommended that a consumer purchase a product which is wholly inappropriate, that is a matter which would be of interest to us.

Senator SHERRY—Obviously there is a certain level of inspection, and you will give me the details of that. There was a shadow shopping exercise carried out 18 months ago. Will you be carrying out another shadow shopping exercise at some time in the future?

Prof. Collier—Yes, we will. You are talking about the shadow shopping exercise in relation to quality of financial advice?

Senator SHERRY—Yes. When are you likely to do that? I am not asking for the exact date but is it in the next six months or year?

Prof. Collier—I cannot give you that date. My understanding is it will not be this year. We have enough on our plate in relation to super choice issues. Having said that, it is a matter

which is of importance to ASIC and we will be doing another shadow shopping inquiry in the future.

Senator SHERRY—Isn't some of this at least subjective? Let us say there are two funds with similar or identical fees. Can't a planner argue that fund A has 50 investment choices. Life insurance is the same; fees are the same or might be slightly higher. It seems to me it is within the law that they can sell a particular fund, at least to some extent, with a fee difference based on available investment choice options. That would be perfectly legitimate.

Prof. Collier—Planners are dealing with clients. One of the issues here is that the client should be fully informed of the relevant issues. Depending on the nature of the fees and the nature of the product itself and the options which are available, provided there is full disclosure to the client, it may well be that they could do as you have said. Again, this is a disclosure based regime.

Senator SHERRY—I understand it is a disclosure based regime. The disclosure documents in the case of superannuation that are being prepared, you have been presumably looking at these documents as they are put into draft form?

Mr Cooper—Yes. There has been a lot of active consultation in relation to the format of fee table disclosures and so on. The choice regime is still gearing up for implementation on 1 July but there has been a lot of consultation with industry bodies, particularly around fees.

Senator SHERRY—I understand the fees issue but are they giving you draft documents? I would have thought it pretty smart to do that.

Mr Cooper—In relation to superannuation specifically?

Senator SHERRY—Yes.

Mr Cooper—I am not sure. We certainly get a massive number of product disclosure statements in the system. Given again that choice does not come in until 1 July, certainly there is no obligation to lodge those documents.

Senator SHERRY—I am not suggesting there is. What is the typical size of these disclosure documents: 50, 60, 70 pages?

Mr Cooper—There has been some tendency across the industry for documents that are too long. We have been firm on that and we are prepared to get even firmer because we believe the spirit of the regime is for much shorter documents. We are working hard on that.

Senator SHERRY—Yes, but at the end of the day, how can you require a document of two or three pages versus a document of 40, 50, 60 pages, which I have seen. They seem to be common.

Mr Cooper—The core requirement for these documents is that they be clear, concise and effective. In one case at least, we have issued a stop order in relation to a disclosure document that was just too long and complicated. We actually used our stop order power in that area. We have considered a wider application of that principle, but at the moment we are in an education phase where Commissioner Collier and others have made public statements about the fact that we are not getting cooperation from the industry on the length of documents. That is how we do it: the clear, concise and effective power.

Senator SHERRY—For a consumer to at least get to stage 1 of understanding and being informed, consumer surveys I have seen and consumer documentation that I have seen shows that length of documents is one of the critical factors, isn't it?

Mr Cooper—I can speak personally. I find long documents hard to use. There is no doubt about that.

Senator SHERRY—All the consumer surveys I have seen on this show anything more than two or three pages and it gets difficult for consumers, if they want to read them, to understand them.

Mr Lucy—Several of the major banks have undertaken in-depth research about the documents and the attitude for consumers as to the conciseness and the relevance et cetera. Overwhelmingly we understand the statistics support the level of documents that are being provided by the banks to the consumers at the moment. There are some, believe it or not, that suggested there should be perhaps more data provided as distinct from less, but that is only about three per cent. Generally there is an overwhelming level of support for the extent of the documentation.

Senator SHERRY—Finally on the super choice stuff, there is one last issue I wanted to raise. We will be dealing with this for some years to come. The federal legislation on super choice allows choice to be overridden in certain circumstances: Australian workplace agreements and registered industrial agreements. The fees have to be disclosed, obviously, but how would you prevent a commission based fee being applied in those circumstances where the employee is bound, effectively has no choice? The fee might be disclosed, but they have no choice.

Mr Lucy—We will take that on notice.

Senator SHERRY—I have written to you, giving you an example of a quite blatant commission based selling product using an AWA, which I think is outrageous. I will wait till you get the details and you can respond to me in due course.

Mr Lucy—Thank you.

Senator SHERRY—Briefly, Mr Lucy, I notice that in *Business Sunday*, 28 November, you indicated ASIC needed further funds to investigate Hardie. The Treasurer, Mr Costello, made a commitment via a spokesperson on 28 November. On Tuesday 15 February—yesterday—you announced a broad-ranging investigation of James Hardie but you did not state—it might have been an oversight or inappropriate—the additional funds that had been made available.

Mr Lucy—They are part of the additional estimates.

Senator SHERRY—That is the 6.887?

Mr Lucy—That is part of that. Indeed, the 6.887 is for additional funds for Offset Alpine, One.Tel—which are two specific matters of litigation that are ongoing investigation—and the overwhelming majority is for the James Hardie Task Force.

Senator SHERRY—Shouldn't you have an ongoing appropriation to handle matters of this type, rather than have to request additional funds?

Mr Lucy—We do receive a substantial annual allocation from the government of approximately \$200 million. In the last year, particularly with James Hardie, that was one where, when we bid for moneys through the NPP process, we did not have any expectation of a task force of that magnitude. Because it was not anticipated and it was significant, we sought additional estimate funding which was supported.

Senator SHERRY—The \$6.887 million, is any of that for HIH?

Mr Lucy—No.

Senator SHERRY—That is separate from the \$6.5 million relating to the HIH task force?

Mr Lucy—Totally separate.

Senator SHERRY—Looking at the annual report on page 71, you administer cash flows for Banking Act unclaimed moneys, which increased substantially from \$21 million to \$31.4 million. What is the reason for such a substantial increase in unclaimed moneys from banks? Are people too afraid to go to them and collect their money? It is a big jump.

Mr Lucy—I think it is simply a coincidence. As you know, we get the money on a cyclical basis every seven years. There is no particular pattern as to why the banks would have a particular increase or decrease.

Senator SHERRY—It is just insurance companies and Life Insurance Act. Did you have a look at why it has gone up from \$21 million to \$31.4 million. It seems to be an unusually significant rise.

Mr Lucy—The money we receive is essentially backed in by the money which we pay out. The money we pay out is frequently adjusted by campaigns which we have.

Senator SHERRY—But you are only administering this. This is not a form of income for the—

Mr Lucy—Absolutely correct, except that during the 2003-04 year we ran a very strong campaign alerting Australians to the fact that there were quite substantial moneys held in unclaimed money accounts. We provided them a reference so that they could introduce their own name for the web site and that would identify whether or not there were unclaimed moneys held on their behalf. That has had the impact of increasing quite significantly the level of call.

Senator SHERRY—They are coming to you for that? That is your campaign.

Mr Lucy—Yes.

Senator SHERRY—Thanks. That is it.

CHAIR—Thank you very much, Mr Lucy, Mr Cooper and Professor Collier.

[8.52 p.m.]

Australian Prudential Regulation Authority

CHAIR—I welcome to the table Dr Laker, the chairman, and officers of the Australian Prudential Regulation Authority. Dr Laker, do you have an opening statement?

Dr Laker—Thank you, Mr Chairman; a brief one. In my previous opening statements, I shared with this committee the supervisory priorities of APRA's new executive group and the main initiatives that APRA is pursuing. A detailed accounting of our stewardship with APRA was provided in our 2004 annual report, which was tabled in parliament on 8 November, so my opening remarks tonight can be brief. I would like to draw out three themes from our annual report.

Firstly, our financial system continues to enjoy good health. Authorised deposit taking institutions have remained major beneficiaries of the robust economic fundamentals and the strong, though slowing, demand for household credit in Australia. Our insurance and superannuation sectors have been supported, amongst other things, by the strength of global and domestic share markets. In good times such as these, the challenge for the prudential regulator is to ensure that our regulated institutions do not lower their guard in risk management. Hence the cautions we have expressed: to the authorised deposit-taking sector, not to allow complacency to set in to lending practices, particularly if moving into new types of business; to the general insurance sector, not to relax underwriting standards in pursuit of fleeting gains in market share; and to all financial institutions, not to be tempted into reducing their investment in risk management capabilities in their eagerness to reduce costs and boost short-term profits.

Secondly, APRA members, who are with me tonight, believe that we have made good strides in meeting two commitments that we gave to the Australian community on our appointment: that we would work to restore confidence in APRA as a vigilant, vigorous and effective prudential regulator; and that we would ensure that the lessons from the failure of HIH are fully absorbed. We can report continued progress in the upgrading of the supervisory framework in Australia, in the sharpening of APRA's abilities to identify and respond to early warning signals of distress in financial institutions, and in the build-up of APRA's supervisory resources and skills, initiatives supported by government and industry.

We have been actively recruiting for front-line supervisors and for specialist staff with detailed knowledge of specific risk, industry or technical issues. We are making headway despite a very competitive marketplace. Although we cannot share the details, what I can assure the committee is that APRA is now building up a track record of balanced, pre-emptive and effective intervention that has helped steer a number of regulated institutions back onto a more prudent course.

Thirdly, APRA currently has a full prudential policy agenda spanning general insurance reforms, governance and fit and proper matters; the adoption of international financial report standards and the Basel Capital Framework. We have been involved throughout in a very extensive consultation process which is now bearing fruit in the release of a further series of discussion papers. The first of these, outlining our proposals to strengthen the capital framework for lenders mortgage insurance, was released on Monday, and a paper on International Financial Reporting Standards is imminent.

APRA is also, of course, now fully engaged in the implementation of the new superannuation licensing regime. We have had a dedicated licensing team in place since 1 July last year, when the two-year licensing window for existing trustees opened, and we have had a very active industry training and liaison program involving, to date, over 100

presentations to various industry gatherings. For all that, and though a number of trustees have signalled their intention to apply for a licence, we are not being swamped with applications. Many trustees appear to be focusing their attention on the new choice-of-fund regime and will no doubt turn their thoughts to the licensing task after June this year, but they should be well aware that the clock is quickly ticking down. Thank you, Mr Chairman. We would now be happy to take any questions the committee may have.

CHAIR—Thank you, Dr Laker.

Senator SHERRY—Just remind me: what is the deadline? The clock is ticking down, to use your words.

Dr Laker—The two-year window started 1 July 2004 and ends on 30 June 2006.

Senator SHERRY—Just going to the issue of the mortgage insurance in respect to banks, you have stress tested loan portfolios of banks late in 2004, as I understand.

Dr Laker—2003, Senator.

Senator SHERRY—Sorry, 2003, yes. Is the level of mortgage insurance adequate in APRA's view for the banks?

Dr Laker—The stress test was to look at how the portfolios of a lending institution would cope with a sharp drop in housing prices and an increase in mortgage defaults—

Senator SHERRY—And presumably an increase in interest rates is part of that.

Dr Laker—We did not ask how it might happen. We just said, 'if that were to happen', and we looked at the portfolios and the characteristics of the lenders; how old were the loans; were they mortgage insured; how much equity had been contributed by the borrower. We looked at all those various characteristics and then had a look at how portfolios would respond to an increase in defaults. We did not ask the question whether the amount of lenders mortgage insurance was adequate. That is the choice that a lender has, whether to seek mortgage insurance—

Senator SHERRY—But many of them do.

Dr Laker—yes, they do—and attract a lower risk weight or whether not to. That is the choice for the lender. What we did, though, in recognition that an important part of risk was being shed from the lender to the mortgage insurer, was then to put the mortgage insurers through a comparable stress test and what we learned from that was that the bar we had set in our standards was not high enough, and that is what has led to the second round of reforms for lenders mortgage insurers, which we announced on Monday.

Senator SHERRY—Yes, that was the next issue I was going to go to. I was going to ask what motivated the change but you have partly answered that already. You were not satisfied with the level, the liquidity of the insurers? What were the issues that worried you about that?

Dr Laker—I will ask Mr Somogyi to expand on my answer. However, what we were not happy about was the standards we had set as the minimum standards, but we were comforted by the reality that the major lenders mortgage insurers were holding capital well above our minimum standards, based on their modelling.

Senator SHERRY—But, sorry, some were not?

Dr Laker—Most were well above our minimum standards.

Senator SHERRY—You are saying most were, but some were not, then?

Mr Somogyi—All of them were, and still are, above our minimum standards as they stand, but some existing lenders mortgage insurers will need to change their capital structure in order to exceed that new standard, which is the subject of this discussion paper and which will in due course become the new standard. It will be a modest change in either additional capital or their reinsurance arrangements to meet that new standard.

Senator SHERRY—Just before we go to that in some detail, what is the indicative date of the new standards? Has it been set?

Mr Somogyi—Yes. We said in our discussion paper that our intention is to introduce the new standards from 1 October this year.

Senator SHERRY—Those where there may be a problem—how do you enforce that in respect to mortgage insurance companies that are based overseas?

Mr Somogyi—That goes to a separate question. We regulate those that are registered as insurers in Australia and therefore we can set minimum capital requirements for them as insurers, and if they do not meet the minimum capital requirements then we have a number of enforcement steps in front of us, including forcing them to accept no more new business and go into run-off, as one example. But it is not the only solution we have available to us.

The other part of our discussion paper that was released on Monday says what happens with the qualifying loans for a deposit-taking institution that insures with a lenders mortgage insurer that does not qualify under our new standard. That is, if they are not regulated by APRA or they are not regulated by a comparable regime overseas, and if those two conditions are not met—it can obviously only be one or the other—then the 50 per cent risk weight concession to the deposit taking institution does not apply and they need to retain a higher capital base in order to meet the risks in that loan portfolio.

Senator SHERRY—That would take a little time to implement if that occurred, would it not?

Mr Somogyi—Not necessarily, because it would be quite clear whether an institution did comply with that requirement because they are either regulated by us or not regulated by us, and the requirements in the discussion paper, albeit yet to be finalised due to the discussion period, would be relatively simple to judge.

Senator SHERRY—Is the reason or motivation for this work because it has been known as a housing boom?

Mr Somogyi—The motivation in that, as Dr Laker pointed out, was that when the original stress testing was done on mortgage portfolios to see what would happen as a result of a fairly strenuous stress test it was clear that, while the deposit taking institutions would remain in reasonably good shape, some of that risk that was being taken by the lenders mortgage insurers and therefore relieving some of the risk to the deposit-taking institutions would not be appropriately addressed by our then minimum capital standards, and that is why we reviewed them and substantially increased them in this discussion paper.

Senator SHERRY—Do you see any increased concern or threats to the mortgage lending sector from bad debts in the next 12 months?

Mr Somogyi—The mortgage lending sector or the lenders mortgage insurance sector?

Senator SHERRY—Both.

Dr Laker—We are not in the forecasting business. We are in the business of saying: ‘What are the major risks that a lender faces?’ When we did the stress test, at the time the housing market was clearly overheating. We needed to really see how robust the capital framework was in Australia if there were to be a shake-out in the housing market. It is the kind of stress test which a prudential regulator should do in those circumstances, because we need to be sure that, if that kind of correction in the housing market—a sharp correction in the housing market—were to take place, our institutions were girded strongly for that correction. So we looked at the question not of whether it might or might not happen but whether, if it did, we have enough capital in the system.

It is obvious from the structure of our system that risk is passing from the lender to the lenders mortgage insurers in Australia, probably more than in any comparable regime. So we have to widen the question and say, ‘If there were to be a substantial correction and the risk passed to the lenders mortgage insurance sector, how strong a reed is that to provide us with comfort?’ That is why we have a sort of two-pronged approach to look at that. We are not really in the business of forecasting what might happen. What we need to do is to make sure that our institutions have robust systems for dealing with the possibility of a correction in the housing market. It is cooling, has been cooling, but the asset quality of our lenders at the moment remains remarkably strong. On the measures that we look at, it is a very robust credit picture.

Mr Somogyi—The good news in terms of lenders mortgage insurers, as both Dr Laker and I said earlier, is that, while our minimum capital requirements needed to be strengthened, that sector of the industry is in fact substantially well capitalised ahead of our current minimum capital requirements and most would be well capitalised ahead of our new minimum capital requirements. Our minimum needed to be strengthened. The industry is reasonably robust and strong, even in comparison with the new minimum standards.

Senator SHERRY—Those that are below the new minimum standard to come in on 1 October—or was it 2 October?

Mr Somogyi—Yes, 1 October this year is the intention.

Senator SHERRY—Those that are below obviously would have a higher cost that they passed onto the lender. That would be logical, wouldn’t it?

Mr Somogyi—It depends on the type of portfolio that they undertake to insure. Some of those increases may be absorbed by a different arrangement with their re-insurer. It is difficult for us to determine whether that would result in any difference in pricing by them. It would be up to them to look at their portfolio, see the balance of risk they have and the balance of re-insurance that they can apply or the possibility of a modest increase in capital structure. Some of those may lead to pricing increases; some may, in fact, require no change in price. So it is difficult for us to determine.

Senator SHERRY—In the case of a price increase, presumably that would then be passed onto the consumer.

Mr Somogyi—That would be up to the lending institution.

Senator SHERRY—I know it is up to the lending institution.

Mr Somogyi—It is the lending institution that takes out the insurance, not the ultimate consumer.

Senator SHERRY—Yes, I understand that. I received an answer to a question on notice. I asked about examination of the defined benefit funds—you had carried out some work on defined benefit funds—and whether they were appropriately funded. The question went to the Manildra Group, and I did get a response—I do not have it in front of me—to the effect that it was appropriately funded. It did not indicate whether the Manildra Group, at a point in time, had been inappropriately funded in terms of in-house investment. It said the situation was okay now but it did not indicate at all whether there had been a problem in the past. Is anyone able to provide me with some information on that?

Mr R Jones—Primarily the issue on that was, with regard to the in-house assets, some of those in-house assets were grandfathered. Consequently, while there may have been the appearance of a breach, there was in fact no breach because those assets had been grandfathered prior to the change in the legislation.

Senator SHERRY—They would have in-house assets in excess of five per cent, is it?

Mr R Jones—Five per cent.

Senator SHERRY—Because part of those assets are grandfathered prior to the change.

Mr R Jones—There could be many funds with that type of circumstance, if they were grandfathered.

Senator SHERRY—I have to say that is not what my understanding of the in-house assets rule means. I thought that the phase-down was to five per cent. There was no grandfathering.

Mr Khoo—No. In-house assets which were acquired prior to 11 August 1999 were grandfathered.

Senator SHERRY—So it is still possible for a defined benefit fund to effectively have in-house assets in excess of five per cent in some circumstances—where those assets were purchased prior to 1999?

Mr Khoo—Yes.

Senator SHERRY—Have you done any work then on what the effective level of in-house assets is, if you include the pre-1999 exemption, or grandfathering?

Mr Khoo—Are you speaking on an industry perspective?

Senator SHERRY—No, looking at defined benefit funds that had grandfathered assets prior to 1999. Have you looked at individual funds to see how many have grandfathered assets and what proportion that represents—20 per cent, 30 per cent? Have you done any work on that?

Mr Khoo—It is an area with which we are very cognisant on an individual fund basis. But if you are questioning us with regard to whether we have actually looked at what level there is on an industry basis, then the answer to that would be no.

Senator SHERRY—No, my question went to individual funds. Have you looked at individual funds where there are grandfathered assets?

Mr Khoo—Yes, we have.

Senator SHERRY—And the results?

Mr Khoo—It would very much depend on a fund to fund basis.

Senator SHERRY—Are there funds with, effectively, more than, say, 25 per cent in-house assets now, because of this grandfathering provision?

Mr Khoo—I believe there would be, yes.

Senator SHERRY—We talked last year about this. How would you describe the position generally of defined benefit funds in terms of the adequacy of their funding at the present time?

Mr R Jones—I would say at the present time their funding is pretty favourable. Going back to the in-house assets issue, we look very seriously at breaches of the in-house assets rule and, in fact, we have conducted almost a dozen examinations in the past 12 months in circumstances where we believe there may have been breaches of the in-house asset rule. As Mr Khoo said, that is in relation to post-1999 grandfathering.

Senator SHERRY—The position overall in terms of funding for DB funds?

Mr R Jones—Given the reasonable performance of share markets over the past 12 months, we have less concern than we would have had, say, three years ago.

Senator SHERRY—Are there any DB funds at the moment that are under some sort of phase-in of additional contributions—despite the share market of the last year or 18 months—where you have had to take corrective action and request that it occur?

Mr Khoo—There would be funds where we have arrangements with them, in terms of trying to restore themselves up to a satisfactory benefit index level. There would also be funds where the markets have taken care of that issue, but there would also likely be ones where the rectification plan was still in place.

Senator SHERRY—What would be the number of funds where there are still rectification plans in place?

Mr Khoo—I do not have that information with me.

Senator SHERRY—If you take that on notice—the number of employees where there is a rectification notice still in place. I assume that where there is a rectification notice in place you may have gone back and varied the rectification notice, because circumstances had changed, or do you just keep it in place, even though the share market has done very well in the last 18 months?

Mr R Jones—Effectively, if the market has improved and if the consequence is that they are no longer in a shortfall position, then we would transfer our resources into looking at other more serious issues.

Senator SHERRY—I can understand that. But presumably you would give them a notice in those circumstances; there would be some sort of formality. Let us say a fund 18 months ago where you said, ‘Look, you’ve got to rectify this. You haven’t got sufficient assets. We require additional contributions,’ and they have been putting in, say, 20 per cent contributions to build the fund back up again. Then because the share market has done very well in the last 18 months, they might come to you and say, ‘Do we need to keep making this level of contribution to rectify the deficit? This is the position with the share market.’ Presumably you would give them something in writing to say, ‘Okay, we will vary the rectification.’

Mr Khoo—I would think so, Senator. Whenever we have issues with institutions, we generally correspond formally with them. What we would agree with each fund would be dependent on the circumstances of each matter. Ultimately, funding is an issue between the trustees and the employer’s sponsor. What we would be looking for would be for the trustee to try to get those arrangements made with the employer sponsor.

Senator SHERRY—I am trying to understand the process where a rectification is no longer required, or no longer required at the current level, that is all. Could you take on notice—I would not expect you to have it here—the number of funds that have pre-1999 grandfathered assets. There is an issue I was not aware of. I thought the phase-down was the solution to the problem of trying to diversify and sell significant amounts of in-house assets. I noticed a press report in a recent article titled ‘Too much of a good thing’ in the industry journal *SuperReview*, where the deputy chair warned fund trustees to stick with the APRA guidelines and ensure a member’s super assets are diversified, with an acceptable trade-off between risk and expected return. How do you enforce that?

Mr R Jones—It is largely moral persuasion, to tell you the truth. There are no formal powers. Nevertheless, there is a recognition on the part of most that diversification is risk-reducing. That was in response to some concerns we had that there may be certain circumstances where there are investment opportunities in fairly narrow asset classes. One of our concerns was that the risk profile may be a little bit awkward.

Senator SHERRY—This is outside DIY?

Mr R Jones—We do not look after DIY.

Senator SHERRY—Such as?

Mr R Jones—Perhaps investment options where you could invest solely in some form of overseas securities that we considered to be particularly risky, for instance. I am giving you a hypothetical example, but let us say—

Senator SHERRY—That is not uncommon.

Mr R Jones—Korean high-tech stocks.

Senator SHERRY—This is part of a menu of choice of investment that is so narrow that it effectively is not diversification at all.

Mr R Jones—That is our concern, yes.

Senator SHERRY—Effectively, you could have a circumstance where you have so many investment choice options within a fund that it is no longer diversified.

Mr R Jones—We rely upon trustees in the first instance. The trustees have a responsibility to ensure that there is an adequate level, and we have a responsibility to make certain that our advice is being considered when the trustees make recommendations to their members.

Senator SHERRY—How do you rectify it if you do not have power to do it?

Mr R Jones—As I said, it is largely persuasion.

Senator SHERRY—Have you been successful in persuasion where these issues have caused you concern?

Mr R Jones—Not always.

Senator SHERRY—You may not have the information at the moment, but could you give some examples of where you have not been successful in persuasion. You have used this high-tech Korean stock, for example. I do not know whether that is a real-life example or not.

Mr R Jones—Neither do I.

Senator SHERRY—I would be interested to know the real-life areas where this has occurred and you have not always been successful. Do they come to mind now?

Mr R Jones—No, they do not. Fortunately, so far, they have been fairly isolated.

Senator SHERRY—Even though they have been fairly isolated, could you take it on notice and let the committee know the areas. I assume you were all next door when I asked ASIC about who had the responsibility for gathering superannuation management commission fee data. They said, squarely, it was APRA's responsibility. I did not want to get caught up in a jurisdictional tussle. As you are aware, choice of superannuation fund starts on 1 July, so the issue is of relevance in that regard. It has always been of relevance. I understand too from our previous discussions you are reformatting or rejigging your APRA data series trends from, I think, 1 July. It is in that context that I ask what will be happening with the gathering of fee data in respect of superannuation and its reporting?

Dr Laker—Before Mr Littrell answers, Senator, I think that was a question you put to us on notice and we did break down for you the new data that was to be collected from 1 July last year.

Senator SHERRY—Yes.

Mr Littrell—As of the year ended 30 June 2004, we commenced a greatly expanded annual collection from all regulated super funds. We also took over the quarterly collection for super funds in excess of \$50 million from the Australian Bureau of Statistics, similarly expanding the dataset there. To simplify it, we collect a full balance sheet, an income statement, a cash flow statement and a fair amount of member information. That collection is not particularly focused on fees in the way that ASIC would be looking at them in prospectus disclosure. We focus more on net returns. We collect the performance data of super funds for our own prudential purposes. It is very useful in figuring out where to focus our supervisory efforts. The series we publish more broadly are industry aggregates.

Senator SHERRY—Obviously, I look at these. For example, it has the fund costs. I do not know if it is referred to as costs. I think it is operational expenses or something of that nature.

Mr Littrell—Yes.

Senator SHERRY—You have a total and you disaggregate down into sectors. Is that going to continue with a new data series?

Mr Littrell—Yes. It is expanding.

Senator SHERRY—Could you explain how it has expanded. Are there additional expenses that you have not been including within that that would now be included and, if so, what?

Mr Littrell—The previous data series did a reasonable job of collecting net returns. Let us say a fund said to us, ‘We earn six per cent.’ They really did earn six per cent, but we did not know if they had a gross investment return of nine per cent and expenses of three per cent or a return of eight per cent and expenses of two.

Senator SHERRY—Yes.

Mr Littrell—We were collecting the direct operational expenses of the funds—their audit fees and things like that—but we were not collecting the larger fees, which are the investment management fees or the financial planning fees. We could tell you how much the super fund member had made but not the composition of the gross return and cost. The new collection considerably expands on that. We now explicitly collect investment expenses, which we did not do before. Reading off the item list, investment management fees—which is the large one—a number of custodian asset consultants and people like that.

We also continue to collect operating expenses—cheques written directly by the trustee around the fund—things like auditor fees, actuary fees, administrator fees and those sorts of matters. I have had a chance to review the annuals and some of the quarterlies although they are not published yet. The quality of our understanding of the income statement of the industry, if you will, and of individual funds is considerably enhanced. Our view is that there are still some things that are showing up in net returns that are probably expenses that we have not quite captured, but the proportion of collection is considerably better than it used to be.

Senator SHERRY—‘Not quite captured’, such as?

Mr Littrell—If a trustee has invested in a property fund, it is hard to distinguish between the investment management fee of the property fund and the leasing agent fees to find tenant in the properties. The net expense shows up. We know how much net the fund member made. Again, aggregating it up to what was the gross yield on the property, less all the little bits and pieces of cost—I am not going to warrant to you that we have all that exactly, but we have it better.

Senator SHERRY—Though it seems to me that you are catching a much greater proportion of fees.

Mr Littrell—To be slightly pedantic, we are capturing the same net return but we are getting closer to a good view of the gap between the gross return on the assets and the bleed-off, if you will, of that and expenses before it gets to the member.

Senator SHERRY—When will this data you have been collecting show up in the data series? From 1 July?

Mr Littrell—We are currently refining our annual reporting on the superannuation industry as of 30 June 2004. The release date on that is uncertain. It is the first time we have collected this data and certainly there is a lot of work.

Senator SHERRY—Yes, I understand.

Mr Littrell—We are hopeful it will be out in the next two months. The quarterly series, for various reasons—a smaller number of funds and they tend to be bigger and more sophisticated—is in better data shape, and we expect also to get that out pretty quickly.

Senator SHERRY—I would not hold you to it, because I do understand it is not easy to do, but the quarterly series, say, as at June or July would have the new updated data on the fees?

Mr Littrell—Yes. There is a current quarterly series that has been running since the mid-nineties that was collected by the ABS and published by us, and that will just essentially switch over with the expanded dataset.

Senator SHERRY—Yes. I look for what are the total fees paid. People make lots of claims, and there are private sector surveys, and the current data that you have has a number of limitations which we have discussed.

Mr Littrell—Yes.

Senator SHERRY—Is there any other independent, comprehensive, at least annual production of the total fees that are paid in respect of superannuation that you are aware of?

Mr Littrell—At the risk of sounding immodest, we have the best data. We are the only comprehensive collector and the only statutory collector. There are some very good private data services but they tend to focus on some aspect of the industry.

Senator SHERRY—Yes, I have seen some of the private data, and it has that limitation.

Mr Littrell—Which is not to say it is flawed; it is just not collecting what we collect. When we put out the annual series, that is going to be your best estimate.

Senator SHERRY—Despite that—and I think it is a huge improvement—there are a couple of areas of fees you will not be able to include in that, aren't there?

Mr Littrell—Yes. The costs to the member that are not costs to the fund will not be collected, remembering that we supervise trustees—

Senator SHERRY—Yes, I understand that.

Mr Littrell—There is the potential for the contribution expenses of financial planners, the trailing commissions and some master trust in or out fees, which may be charged directly to the member on a cash basis, to not necessarily hit our statistics.

Senator SHERRY—Yes, that is what I figured. Would that include where a commission is debited against, for example, the super contribution made by the employer?

Mr Littrell—You are getting beyond my competence of how exactly we collect the data. I would have to take that on notice.

Senator SHERRY—I am interested in the circumstances where a commission would be captured in your data and where it would not. This becomes pretty important.

Mr Littrell—I would prefer to take that on notice. It is a pretty fiddly, technical answer which I would not want to give off the top of my head.

Senator SHERRY—I understand it is a difficult issue and it is fiddly, but it is pretty important.

Mr Littrell—We can produce for you our answer, but I cannot do it tonight on the fly.

Senator SHERRY—I understand. You would not be able to capture entry and exit fees, would you, because they are effectively something that is paid if exit occurs and—

Mr Littrell—Again, I would prefer to take that on notice and give you a more precise answer.

Senator SHERRY—Okay.

Mr Littrell—If a trustee makes a cash charge to a member outside the fund or an associate of the trustee makes a cash charge to a member, it just never shows up. If the fund itself charges it and has a unit adjustment, then in some circumstances we do capture it. It is a simple question but a complicated answer.

Senator SHERRY—Yes, I know. I am interested in to what extent you capture it, because in this super choice debate there will be lots of comments made about fees—that is the way it is—but the importance of knowing to what extent, say, commissions or entry/exit fees are actually captured in your data is, I think, very important in terms of the public debate.

Mr Littrell—We will be happy to give you the answer, but I would prefer to do it on notice.

Senator SHERRY—There was a press report relating to the recent visit of a Mr Tiner, the head of the UK Financial Services Authority. Are you aware of that? I assume he has been to see APRA and ASIC.

Dr Laker—Most certainly.

Senator SHERRY—He indicated that the Australian approach of separating APRA and ASIC is not a preferred model. Are you aware of that comment?

Dr Laker—I would not expect him, of course, to have said anything else when he was out here.

Senator SHERRY—I see a smile on your face!

Dr Laker—We spent some time with John Tiner and we know him well. As you would expect, we have a very good relationship with the FSA. That was a model that the British parliament believed was appropriate in the United Kingdom case, where they brought together what you would have to say was a rather byzantine grouping of regulators, self-

regulatory organisations and others into a single market conduct and prudential regulator. In Australia the view was that a twin peaks model was more appropriate, given the structure that we started with as well.

There are a range of regulatory structures that are changing across the globe. Certainly the model of an integrated regulator is becoming more frequently used in Europe, Asia, across the globe, but not all are single peak and not all are twin peaks. There is quite a mixture of models, depending very much on the historical circumstances of each country. I would have expected Mr Tiner to have said just what he said. I think he also predicted that England was going to win the Ashes, when he made a public appearance at the ASIC summer school. He is pretty brave making either of those statements in front of an Australian audience!

Senator SHERRY—The Ashes remains to be seen. I hope he is wrong! I would be surprised if any head of any regulatory authority said, ‘Break me up,’ or, ‘Break the authority up that I represent.’

Dr Laker—We could have a long discourse about the strengths and the difficulties of different types of models. What the FSA model does is have under one roof the market conduct regulator and the prudential regulator and, where there are potential issues between those two points of view, they can be debated within the FSA behind closed doors and resolved in that way. We have a different framework, where we have two agencies with quite clear and separate mandates which butt against each other in some areas, and that requires a good, productive working relationship, but it is an explicit relationship between two separate agencies; it is not two departments within an agency having an internal debate. It behoves us to work very closely with ASIC, and we do.

Senator SHERRY—I am sure that the discussion we have had in brief is something that has been dealt with in articles. I am assuming that regulators do meet on a reasonably frequent basis internationally and have exchanges. You might be able to refer me—not now obviously—to discussion papers along this theme that I can examine.

Dr Laker—On the choice of regulatory model?

Senator SHERRY—Yes. Just take it on notice. There is no urgency about it.

Dr Laker—I think the most extensive, obviously enough, in debating it publicly was the Wallis report in Australia, which was really a road map that many followed, without necessarily having gone through that extensive inquiry process.

Senator SHERRY—Collecting and/or releasing dataset on the number of loan defaults by Australian borrowers—does APRA collect that data?

Dr Laker—We collect data on impaired assets of authorised deposit-taking institutions, and it is published by the Reserve Bank and we publish cross-sectional data on it; but it is published.

Senator SHERRY—The RBA does that?

Dr Laker—The impaired assets ratio is one of the regular statistical reports of the RBA.

Senator SHERRY—But you said you collected it.

Dr Laker—Yes.

Senator SHERRY—And you pass it to them and they publish it.

Dr Laker—They have long published that sort of data.

Senator SHERRY—I was not aware of that, and the person who gave me the questions obviously was not. Do you have any comments to make about the trends in those figures?

Dr Laker—If we look at the impaired asset ratio for authorised deposit-taking institutions, it is markedly low. The highest it reached was in the early nineties, at about six per cent of on-balance sheet assets. It fell in the late nineties to about 0.6 per cent, so it was a tenfold reduction. That is a very strong figure by anybody's standards and certainly internationally. What is remarkable about the numbers—and it is recognition of the strength of our economy—is that number has fallen more recently to around 0.3 to 0.4 per cent. It is running at what we would call cyclical lows but it has been staying down at those lows for some time. In the last 12 to 18 months it has edged down even more.

Senator SHERRY—The RBA stated a concern about the incident of low doc loans of recent times. Does APRA have any view on low doc loans?

Dr Laker—We have had views about low doc loans that parallel the concerns that the Reserve Bank has expressed. We have tightened our prudential standards to reflect what we were concerned about, which was a deterioration in lending standards. The concession that we talked about in our early discussion on lenders mortgage-insured loans was a concession for traditional mortgage lending in Australia. Under the Basel framework, if you lend to a corporate or you lend to a person, the risk weight is 100 per cent. The view had been taken some years ago now that we had a very benign history of defaults in traditional mortgage lending in Australia and that should be recognised in the risk weight, so the rate was halved for loans that met certain conditions.

Our concern was that that concession was being mechanically picked up by non-standard and non-traditional loans as well, which were clearly of a higher risk characteristic. For that reason we have tightened up the framework, so that concession is not available for non-standard loans unless there is a higher equity contribution by the borrower or unless they are lenders mortgage insured. We have reflected those concerns in tightening the framework that handles them.

Senator SHERRY—What about in respect of mortgage brokers and the way they operate?

Dr Laker—We have surveyed the use of brokers by our lenders. Clearly that usage has increased and it is expected to continue to increase. There are strong competitive reasons why people would not necessarily be troubled by that trend. What it does enable lenders to do is to access a broader geographic reach without necessarily a bricks and mortar presence. It has added a real spur to competition for some of our lenders. The concern APRA has had is that a loan that comes to an institution through the branch front door or through a mortgage broker should be subject to the same rigorous scrutiny. I have signalled this publicly: if we see signs that loans coming through mortgage brokers are not subject to that same degree of scrutiny, we will be sitting down and having a very stern chat with the institution concerned and, if necessary, take any further action.

Senator SHERRY—But not with the brokers, for obvious reasons.

Dr Laker—We have no reach over brokers.

Senator SHERRY—I know, and I do not want to traverse the discussion we had earlier.

Dr Laker—We have signalled a concern, the governor has signalled a concern, where we are aware that an institution is outsourcing some of the credit assessment process to brokers. Brokers are filling in the forms and doing some of the preliminary credit assessment. We have said loud and clearly to institutions that we are not comfortable with that if the institution is not satisfying itself that, at the end of the day, its standards are being met.

Senator SHERRY—In order to do that they would have to satisfy themselves that the broker has gathered accurate information.

Dr Laker—We expect them to survey the work of the brokers, to check it, to sample, to ensure that it is within the guidelines of the institution as if its own staff were carrying out the credit assessment. We do not want to see the different means by which a loan application comes to an institution to be a reason for different credit standards applying to that loan.

Senator SHERRY—Earlier there was a discussion about ASIC's attitude to the national finance broking regulatory impact statement discussion paper that was released. What is your attitude to that discussion paper? I am sure you contributed.

Dr Laker—I am not familiar with that paper. We have enough on our plate without looking more broadly at the role of the brokers. We are dealing with it as those credits are introduced to our lenders themselves.

Senator SHERRY—Does APRA have a view on mortgage broking regulation?

Dr Laker—No. It is not part of our remit to concern ourselves with how that industry is organised.

Senator SHERRY—I know it is not at the moment but indirectly it does have a consequence in terms of banks particularly.

Dr Laker—Yes, but the way we address that is to look at how the banks themselves take on board loans that are put to them by the mortgage broking sector. We deal with that through the treatment of non-standard loans and our assessment of how well our lenders are putting those loans through the traditional hoops of credit assessment.

Senator SHERRY—Thank you, Chair.

Senator WATSON—Following on Senator Sherry's question about impaired assets, given the very low proportion of impaired assets and that it is falling, have you given consideration to re-assessing your risk profile or definition of impaired assets?

Dr Laker—No, Senator. There is a fairly standard international definition that regulators work with that looks at the characteristics of loans; whether they are past due or whether interest is being accrued or not. We have not seen reason to change that definition. We do track that series very closely because it is one of the key prudential indicators.

Senator WATSON—Does the international definition take into account different country risk profiles and market issues?

Dr Laker—No. They really look at the characteristic of the loan and the performance of a loan. ‘Is the repayment past due?’ is a narrower definition. ‘Is interest no longer being accrued on the loan?’

Senator WATSON—What are the rules relating to the establishment of policy committees under superannuation?

Dr Laker—In the sense of APRA policy committees?

Senator WATSON—I understand that if you have more than 50 standard employer sponsored members, it is a government requirement that they establish a policy committee. You look surprised.

Mr Karp—I will have a go. I cannot give you the detail of precisely in which situations the policy committees do have to be established. There are requirements where there are plans which have a number of employer sponsors in the one plan, but there are subplans with different benefits.

Senator WATSON—This is a government requirement that, where you have at least 50 employer sponsored members, it is obligatory to establish a policy committee. Don’t you audit that when you do your surveillance?

Mr Littrell—It is obligatory that the trustee make available the potential for a policy committee.

Senator WATSON—That it establishes a policy committee.

Mr Littrell—It is not obligatory that one be established.

Senator WATSON—It is not obligatory?

Mr Littrell—It is obligatory for the trustee to make the facility available. If there is no interest in a policy committee by those members or the subfund, there is no requirement that one actually exist.

Senator WATSON—My understanding is that if a policy committee does not exist, the employer must give good reasons as to why it does not exist. Is that correct?

Mr Littrell—I would have to check the exact wording of the statute and regulations but that is largely correct.

Senator WATSON—I am surprised that you are finding trouble answering the question.

Mr Littrell—Also, the policy committees have largely fallen into disuse.

Senator WATSON—It is all very well to say they fall into disuse, but if it is a government requirement to establish it, isn’t it your job to assure us that they do not fall into disuse unless the legislation or regulation is changed?

Mr Littrell—Again, the regulation and statute does not require policy committees. It facilitates their creation if there is demand for one. There is no constituency of which I am aware out there of super fund members saying, ‘We want a policy committee and a trustee has refused to facilitate one.’

Senator WATSON—So you cannot have an administrator writing to an employer and saying that you must establish a policy committee and give us a copy of your minutes and all the members of your policy committee?

Mr Littrell—Correct. If I may be permitted to editorialise, it was a facility that was put in the legislation which met with broad disinterest on both sides of the industry. Put more bluntly, no-one seems to care. There are no members that we are aware of who have come to us and complained that they have been prohibited from having a policy committee. There are some in existence, a fair number, but it is not a large feature.

Senator WATSON—What do you say to an employer, administrator or trustee who writes and says, ‘It is mandatory. It is government legislation that you establish a policy committee where you have 50 standard employer sponsored members.’

Mr Littrell—Yes, but if none of those members sign up to be on the policy committee, it lapses. We cannot force super members in these subfunds to establish a policy committee. They have to want to do it.

Senator WATSON—This letter was to ensure that the employer took steps to establish a policy committee, to ensure that the copy of those policy minutes were forwarded to the administrator or the trustee—and you are saying, ‘Well, it was a rule but it’s no longer enforced.’

Mr Littrell—It is enforced in the black letter of the statute but an employer cannot shanghai fund members and force them to sit as a policy committee. There needs to be some interest from the members to establish the policy committees and in many cases that interest does not exist. In those cases, there is not a policy committee.

Senator WATSON—According to your interpretation of the law, a policy committee can only be established if there is a move by the members. It cannot be enforced by the administrator or the employer.

Mr Littrell—I am not going to interpret the law without getting a legal opinion, but I can tell you that if—

Senator WATSON—I am faced with that decision and you tell me you now need a legal opinion. How do I respond to my constituents?

Mr Littrell—If you have constituents who are saying they have not been given the ability to create a policy committee, then that is something we would look at.

Senator WATSON—No, I never prefaced that question. You introduced that concept. I indicated that it either came from the trustee or the administrator to enforce an employer to establish a policy committee and then at the same time to give that body the names of the members of that policy committee and copies of all their minutes.

Mr Littrell—Right. So if there is a policy committee, the trustee might—

Senator WATSON—No. There is no policy committee but they have been told to establish a policy committee. Now you are saying that that is not right or you want to take legal advice.

Mr Littrell—What I am suggesting is that it is incumbent on the trustee.

Senator WATSON—I am quite happy for you to take it on notice.

Mr Littrell—We can take it on notice.

Senator WATSON—As far as I am concerned, I have it settled because we have a dispute.

Mr Littrell—If you want to refer us to a specific dispute, we are happy to look at that; and we will take on notice the more general question too.

Mr R Jones—The only point that we would make is that we have not had a single complaint, that I am aware of, of anybody complaining to APRA that there has been no policy committee.

Senator WATSON—No. I accept that. But that was not my question.

Mr R Jones—I understand that.

Senator WATSON—My question was about a demand on an employer to establish a policy committee.

Mr Littrell—We can take that on notice but it is an issue we have looked at.

Senator WATSON—Can a trustee be both a trustee and an investment manager?

Mr Littrell—The answer is yes, a trustee can manage investments of the fund. A trustee can manage the investments of its own fund. Is that the question you are asking?

Senator WATSON—Actually make the investment decisions?

Mr Littrell—Yes. If you are the trustee of ABC fund, you can actually decide to buy some—

Senator WATSON—You can make direct investments?

Mr Littrell—Yes. That was the traditional model until the last 10 or 20 years.

Senator WATSON—Can the trustee be both a trustee and an administrator?

Mr Littrell—Also yes.

Senator WATSON—Both. Thank you. I refer to a report in the Australian *Financial Review* and other daily papers that appeared on 10 December 2004 concerning industry superannuation funds amassing a \$20 million fighting fund for an advertising campaign in the lead-up to superannuation fund choice from 2005. I have three questions: how is the proposed advertising campaign being funded? Have you looked into this? Is it intended to be funded from contributions from current members' retirement funds?

Secondly, how does the expenditure of such a significant sum on advertising to prospective investors comply with the sole purpose test provided in the Superannuation Industry (Supervision) Act of 1993, which requires that the funds be maintained for the benefit of existing members? Is it appropriate that retirement savings invested for example in industry funds are proposed to be used in a way that is not part of an investment strategy aimed at ensuring that existing members will have sufficient income in their retirement? Isn't this particularly of concern where industry funds claim that all profits are to their members?

Mr Littrell—The first question we should take on notice. We have looked at it but the precise answer is probably better dealt with on notice. On the second and third questions, we have interpreted and published an interpretation of the sole and ancillary purpose test that says

it is permissible for trustees to spend a reasonable sum educating their own members on superannuation matters, because part of the issue of retirement provision is that at some point the members are going to have to make an informed choice on what to do at retirement.

Senator WATSON—Do we distinguish, therefore, between educating in-house members as opposed to going on television saying there are certain competitive advantages in joining the XY fund?

Mr Littrell—We do make a distinction. It is permissible for trustees to use television as a means of communicating with their own members, but the relevant issue there is we do not want to see fund assets being used to market to new members.

Senator WATSON—How do you distinguish between a marketing incentive, such as this, and educating their own members via a medium such as TV?

Mr Littrell—You are making an assumption there, Senator. We need to get back to you on the question on notice. It is not necessarily the case that these organisations are using members' funds for their campaign.

Senator LUNDY—All right. Question number three?

Mr Littrell—Question number three was retirement savings and was this inappropriate use, which is similar to question two.

Senator WATSON—Not part of an investment strategy.

Mr Littrell—But again it is an ancillary purpose and an ancillary purpose need not be part of the investment strategy.

Senator WATSON—Is it satisfactory that the reason in the long run is of net benefit to members?

Mr Littrell—Yes. In terms of the guidance we have published for the industry, in our experience trustees have been reasonably parsimonious and sensible about, 'Okay, we do have seminars for our members about what your choices are at retirement or education about the different investment choices you can make in the fund.'

Senator WATSON—A consequence of this could be to grow the fund—and growing the fund would be of net benefit to the members. How far do you take these sorts of arguments?

Mr Littrell—That is not an argument we have accepted and, in fact, we have commenced enforcement actions against that argument.

Senator WATSON—You have taken enforcement action?

Mr Littrell—The argument that marketing to external people benefits the existing fund members is not one that we accept, and, to the extent that it has been used, I am aware of at least one circumstance where we prohibited that use.

Senator WATSON—You have counselled, have you, in one case where they have used that argument?

Mr Littrell—We would probably have to do more checking. There has been at least one case.

Mr R Jones—Yes, we can provide you with more information, but, as Mr Littrell mentioned, we have looked at these circumstances and we have taken enforcement action.

Mr Littrell—I should note in passing in relation to your first question that the industry fund sector has a number of non-fund affiliates—for example, the administrators—and those people are allowed to spend their money as they see fit. That is not fund money.

Senator WATSON—Do you audit this to ensure that it is not fund money?

Mr Littrell—That is an enforcement question. I would have to defer to—

Senator WATSON—Take it on notice?

Mr Littrell—Okay.

Senator WATSON—I gather you have not done any auditing up till now, but do you intend to audit on this particular issue to ensure that the sole purpose test is met and that it is not fund money?

Mr Littrell—We can come back to you on the question on notice as to where those funds came from and why that is not a problem from APRA's point of view, but that is a fairly precise question and we would prefer not to answer tonight.

Senator WATSON—What is the progress of regulation stipulating minimum levels of insurance and what is the minimum, if any, under the choice regime?

Mr Littrell—There is no minimum insurance. A fund does not have to offer insurance. The rules tend to be more about—if you decide to offer insurance—how much, in what circumstance and who pays for it. I am not quite sure of the context of your question, Senator.

Senator WATSON—The difficulty is that people can be enticed to move from one fund to another on the basis of superior performance, lower fees and a whole range of issues. If the offer does not include insurance, a person with a poor health record may be so much worse off because of the consequence of not being adequately covered in the event of death or injury. How do you intend to ensure that there is proper disclosure in terms of any documentation that may be necessary when a person moves from one fund to another, or are you putting all the onus on the individual member to make those hard decisions?

Mr Littrell—You are asking us an ASIC question. Member disclosure is a part of SIS that is administered by ASIC, not by us.

Senator WATSON—It is member protection, though, isn't it? Isn't that your role?

Mr Littrell—No. Member protection is a different issue. That relates to small fund balances.

Senator WATSON—Member protection, as I see it, also comes under the problem that I have just raised.

Mr Littrell—Yes, but the situation you described of a member moving from one fund to another fund and being disadvantaged in insurance terms as a result, under the law, is something that is dealt with by disclosure to that member, probably through a financial planner.

Senator WATSON—A person may not have taken it into consideration.

Mr R Jones—That is if they did not take it into consideration because they did not have the information. The lack of information is primarily a disclosure issue.

Mr Littrell—That is a disclosure issue and also a financial planner know-your-customer issue. The two aspects of the whole of government approach are the disclosure requirements and the financial planner know-your-customer requirements, both of which are ASIC matters, not APRA matters.

Senator WATSON—In relation to the default fund, the government has stated that it will legislate to exempt employers from choosing a default fund. Where a new employee does not exercise a choice, where does the employer superannuation guarantee go?

Mr Littrell—Every employer must have a default fund. If no choice is made, the contribution goes to that default fund.

Senator WATSON—It is the employer's responsibility to establish a default fund?

Mr Littrell—It does not have to establish one, but it has to choose some default fund. It does not have to be an employer fund. The employee can choose a third party provider.

Senator WATSON—The employer does not have to establish one but it has to choose one?

Mr Littrell—Yes. You could have, for example, 'He goes to insurance company super fund A—'

Senator WATSON—It has to establish one or a number?

Mr Littrell—I would have to take that on notice. My recollection is that it has to establish at least one. In practice, it is unlikely that an employer would establish more than one.

Senator WATSON—I refer to an ambiguity in relation to the interpretation of the interdependency rules as to when the new provisions apply. It has particular relevance to 30 June 2004. Have you advised the government on the need to amend or clarify the regulations where a person, for example, dies before 30 June 2004? I think you would be familiar with those circumstances; the interdependency rules.

Mr Littrell—I do not know the answer to that one. I would have to take that on notice.

Senator WATSON—For example, is it a date before the member dies or when the payment is made? These are the questions the lawyers have raised in relation to problems in the interpretation of the interdependency rules. Will you take that on notice?

Mr Littrell—Yes.

Senator WATSON—Our understanding is that employers will not be required to sign up to a superannuation fund condition under the choice regime where the fund trustees can determine conditions, such as the timing of payments to the fund. Is that right?

Mr Littrell—Again, I am not quite sure of the question you are asking.

Senator WATSON—It generally revolves around the question of a participating employer.

Mr Littrell—The employer must choose a default fund, but the employer cannot impose—

Senator WATSON—No, I am talking about that.

Mr Littrell—It is up to the trustee to come up with the terms and conditions of the trust deed in the fund.

Senator WATSON—Is it obligatory for the employer to put the money in that, where there are conditions attached?

Mr Littrell—We will have to take that on notice.

Senator WATSON—Are there any tax consequences for Australian superannuation funds in adopting international financial reporting standards which came into effect on 1 January 2005?

Mr Littrell—I am not aware of any.

Mr Somogyi—The new international financial reporting standards apply, in our terms, to deposit-taking institutions and insurance companies but not to superannuation funds. There are no new financial reporting standards applying to superannuation funds at this point in time.

Senator WATSON—Is it likely that they will apply to superannuation—

Mr Somogyi—There was a signal by the AASB early last year, when they released the new standards, that they would review the accounting standards applying to superannuation funds, but all of their resources were devoted to implementing international financial reporting standards for deposit taking institutions and insurance companies, in our terms, and obviously all other reporting entities as well.

Senator WATSON—Did you give them any advice as to the tax consequences that could apply if they were brought into that regime?

Mr Somogyi—Tax consequences are outside our limit. Given that there are no changes to the financial reporting standards, that is a question you should ask either the ATO or the AASB, I would suggest.

Senator WATSON—We will do that.

CHAIR—Thank you, gentlemen. That concludes the evidence of the Australian Prudential Regulation Authority.

Committee adjourned at 10.07 p.m.