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SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Reference: Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005

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SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Thursday, 22 June 2006

Members: Senator Humphries *(Chair)*, Senator Moore *(Deputy Chair)*, Senators Adams, Barnett, Nettle and Polley

Substitute members: Senator Stott Despoja for Senator Nettle

Participating members: Senators Abetz, Allison, Bartlett, Bernardi, Mark Bishop, Boswell, Bob Brown, Carol Brown, George Campbell, Carr, Chapman, Colbeck, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fielding, Forshaw, Heffernan, Hogg, Hurley, Joyce, Lightfoot, Ludwig, Lundy, McEwen, McGauran, McLucas, Milne, Nash, Nettle, O'Brien, Parry, Patterson, Payne, Robert Ray, Siewert, Stephens, Stott Despoja, Watson, Webber, Wong and Wortley

Senators in attendance: Senators Adams, Barnett, Carol Brown, Stott Despoja, Fielding, Humphries, Moore, Nettle, Polley and Webber

Terms of reference for the inquiry:

Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005

WITNESSES

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ROOTS, Mrs Margaret, Director, Family Services and Network Support, Catholic Social Services Australia 31

SMITH, Ms Carolyn Margaret, Assistant Secretary, Targeted Prevention Programs Branch, Department of Health and Ageing 1

STUART, Mr Andrew, First Assistant Secretary, Population Health, Department of Health and Ageing 1

Committee met at 3.41 pm

ECCLES, Mr Richard, First Assistant Secretary, Primary Care Division, Department of Health and Ageing

HANNON, Ms Wynne, General Counsel, Department of Health and Ageing

MURNANE, Ms Mary, Deputy Secretary, Department of Health and Ageing

SMITH, Ms Carolyn Margaret, Assistant Secretary, Targeted Prevention Programs Branch, Department of Health and Ageing

STUART, Mr Andrew, First Assistant Secretary, Population Health, Department of Health and Ageing

CHAIR (Senator Humphries)—I declare open this public hearing by the Community Affairs Legislation Committee in its inquiry into the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005. I particularly welcome officers of the Department of Health and Ageing to this afternoon's hearing; your names and faces are very familiar to us all from only a few weeks ago.

Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee prefers evidence to be taken in public but evidence can be taken in camera if you consider it to be of a confidential nature. The Senate has resolved that you should not be asked to give opinions on matters of policy. However, this resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

We do not have the submission from you but we understand you may wish to make an opening statement. Is there any opening statement?

Ms Murnane—No, there is not.

CHAIR—That is fine. I think senators are ready to plunge straight into questions and I invite them to do so.

Senator MOORE—Ms Murnane, you know that we asked some questions, I think particularly of Mr Stuart and Mr Eccles, during the Senate estimates process. Following up on those, what is the current state of the tender for the telephone service?

Ms Murnane—There is as yet no advance. The minister has now made decisions about the expert committee. But we are not able to give you the names of that committee yet, because not all of the people who he has appointed have been notified. We expect that that will be done by about the middle of next week and then we will provide you with the names. Following that we will have a meeting with the expert committee around the form of the request for tender and we will proceed from there to the publication of a calling for tenders in relation to the RFT.

Senator MOORE—Is that a similar time frame to that which, during the estimates process, you were hoping for?

Ms Murnane—Yes, there is no delay in the time frame.

Senator MOORE—So that ministerial response fits into what, at estimates, you were hoping was going to happen?

Ms Murnane—Yes.

Senator STOTT DESPOJA—I know that in the estimates process there was some discussion about the definition of non-directive counselling in relation to pregnancy counselling. Could the department provide a definition for the purposes of this inquiry of what constitutes non-directive pregnancy counselling in the eyes of the department?

Ms Murnane—We are not at the stage, and I do not know if we will be at the stage, where we have a dictionary type definition. Rather, what we have is an approach. That approach is characterised by the counselling being in the way of a support to decision making and not a direction to decision making, in the context of that process providing support, eliciting views from the person counselled and, if that person wants, making available to them information on all the available services.

Senator STOTT DESPOJA—Thank you. When you talk about all available services in relation to pregnancy counselling, my understanding is that there are three and, presumably, that constitutes the department's definition, for lack of a better term. I am trying to address the bill very specifically today in the most objective way that I can. Does the department have a view of, a comment on or advice for the committee on the definition that has been used in the legislation, specifically in relation to 'non-directive pregnancy counselling service' meaning 'a service that offers counselling, information services, referrals and support on all three pregnancy options—(a) raising the child, (b) adoption or (c) termination—

Ms Murnane—We are just reminding ourselves of it.

Senator STOTT DESPOJA—That is okay. I will keep reading it for the benefit of others:

... and will provide referrals to terminations of pregnancy services where requested.

Obviously, that is a definition that I came to as a result of consultation and information available from agencies and other sources. I am aware through other submissions that have been presented of the criticisms that have been made of this definition. I am obviously open to advice and discussion. I am wondering if that is a reasonable definition for the purposes of non-directive counselling.

Ms Murnane—I think we would have some problems with the last two lines that state:

... and will provide referrals to terminations of pregnancy services where requested.

During the hearing, I think we said that referrals were something that we regarded as being provided by a doctor. In terms of a specific referral to a termination service, that would not be provided. But in terms of that option coming up in the context of all available services, using services in the broad, yes, that is part of it.

Senator STOTT DESPOJA—Using that definition of non-directive up to (c) but not referring to a referral for termination, does that mean therefore, according to the department's criteria and/or definition, that pregnancy counselling services that refuse to or are not willing to provide—

Ms Murnane—I think that we would write it differently. You also use referrals in your preliminary part and you use support on all three pregnancy options. 'Support' is in itself an ambiguous word and it runs along a continuum. I think we would prefer that we did not have referrals there. We would have canvassing of all available options and the support is towards the person making a decision, not support in respect of a particular option.

Senator STOTT DESPOJA—I just want to follow that point very specifically. According to your comments then and the department's definition and/or criteria, therefore a pregnancy counselling service that refuses to provide referrals still satisfies your criteria or definition as to what constitutes nondirective.

Ms Murnane—In itself, 'referrals' is not an unambiguous word. We are taking referrals to mean the sort of referral you get from a GP to a specialist. We are saying that we do not expect these services to provide referrals to specific services. We think there would be a whole lot of enormous issues around that.

Senator STOTT DESPOJA—You do not expect that there will be—

Ms Murnane—We do not expect them to make specific referrals to specific service outlets.

Senator STOTT DESPOJA—'Specific referrals to specific service outlets.' We are talking specifically about referrals for the purposes of a termination?

Ms Murnane—Yes. That is what you raised.

Senator STOTT DESPOJA—'Service outlets' started to sound a bit broad.

Ms Murnane—Sorry, to a termination service. We are not expecting them to provide specific referrals to specific termination services. We think it would be very difficult for any telephone counselling service to be in a position to do that, and that is not required. That is not encompassed by the minister's commitment that the counselling service will provide information on all available services.

Senator STOTT DESPOJA—I understand that goes to the heart of government policy and perspective, in particular the help line, which is not my specific concern with the bill. This is a general bill designed to deal with issues of misleading and deceptive advertising in situations where obviously non-profit organisations are not subject to the same conditions as, say, businesses in relation to the ACCC or the Trade Practices Act. Are you worried about or is the department aware of cases where the law falls short because organisations—be they pregnancy counselling services or otherwise—are not subject to any restrictions, curtailment or regulatory framework around how they advertise their services?

Ms Murnane—We went through this at estimates in some detail, as you will recall. We said then that we had not had any complaints about the service that you were asking us about then. We talked about their charter; we talked about their contract with us. In relation to that service, we can tell you now that they are revising the constitution to make it consistent with our charter. The secretary said at that hearing, and I will repeat it: if there are any complaints, we will of course look at them. But we had none before and we have had none since the hearing.

Senator STOTT DESPOJA—Through the chair, I place on record that I acknowledge that some of these questions have been canvassed in detail, primarily by me and a number of other senators on the committee. Because this is the first day of inquiry into this bill and this issue specifically, I do not feel that it is inappropriate to ask questions that may rely on an update.

Ms Murnane—No, that is fine.

Senator STOTT DESPOJA—I have acknowledged a number of times the role of the department in responding with, in many cases, alacrity to the questions I have asked. The last issue raised, though, is one of interest. When do you expect that constitutional revision to take place and how did it come about?

Ms Smith—I am not sure of the exact time frame. I am aware that revisions—

CHAIR—Before you answer that question, would Senator Stott Despoja clarify what she means by 'constitutional revision'? Do you mean review of the constitutions of organisations receiving funding?

Senator STOTT DESPOJA—No, I mean the issues brought up during estimates by myself and others around Pregnancy Help Australia and the constitution to which I referred—a 1985 constitution that dealt specifically with the issue of not providing referrals. My question to the department was whether or not that fulfilled their definition or understanding of non-directive services. I will not speak on behalf of the department, but it seemed surprising to a number of us here that there was a very specific constitution that ruled out those referrals, despite the fact that the department's contract with agencies depends on non-directive counselling services being provided. I understand now that the constitution is being revised.

Ms Smith—Yes, we are aware that the constitution is being revised, but I do not have available to me the exact time frame in which that will be finished.

Senator STOTT DESPOJA—So the organisation has changed its mantra—it will now be providing referrals for terminations?

Ms Smith—That is not what we just said.

Senator STOTT DESPOJA—I am sorry.

Ms Smith—We said that the constitution was being revised. As you would be aware, it was a 1985 document. They are taking the opportunity to update it. Certainly as far as I am aware their position in terms of referrals has not changed.

Senator STOTT DESPOJA—How are they updating it, then? They are removing the specific reference to not providing referrals but in actual fact the policy does not change—is that what you are saying?

Ms Murnane—What we are saying is that the organisation has indicated to Ms Smith that it will make its constitution—it is an old constitution—consistent with the charter that we provided to you on the night of the hearing. I take your point that this is a different hearing. We are happy to go back over the detail of all of that for the record here. Also with our contractual requirements, one of the fundamental points that was made by Ms Smith in the hearing was that it was not the constitution that we used as the reference document; it was our

funding agreement with the service. It is the consistency with the funding agreement and the constitution that we would be interested in, not because we are aware of any breaches whatsoever of our funding agreement, but because that could settle any misapprehensions there were about how the organisation was using our funding.

Senator STOTT DESPOJA—I understand from that, therefore, that the funding agreement was based on presumably the charter or verbal communications or other undertakings that you were given. A constitution is a fairly fundamental document for any organisation—it sets the tone and the foundation for any organisation. So I am curious and quite interested to hear that it is being changed, but being changed in terms of a specific reference to referrals. I will ask other organisations and I ask the department to take on notice: does this mean a policy change for the organisation in order to better comply with the department's funding agreement or criteria?

Ms Murnane—No. I emphasise that many organisations have old constitutions that may not reflect, in particular, either the philosophy or the detail of funding agreements that they may later enter into. We were never aware of any problem that was caused to us in our funding agreement by their still having a 1985 constitution.

Senator STOTT DESPOJA—That was not the issue at hand for me. I am not talking about complaints problems, perceived or otherwise; I am specifically interested in the funding agreement that is reached between the Commonwealth and a specific organisation in the provision of services that are theoretically objective and non-biased and non-directive—that that organisation in this circumstance having a constitution that specifically said that it would not refer for abortions, for terminations.

I understood from the estimates committee process that the department said that that did not breach the funding agreement. I understand that that is view of the department. I also understand the charter. I know it very well. It is interesting now in retrospect to hear that the constitution is being updated—that is obviously the prerogative of any organisation. I will ask that organisation about the reasons for updating the constitution and, in particular, whether the removal of those words reflects a policy change. To me this gets to the heart of the issue of whether people are misleading or deceptive in relation to the pregnancy counselling services they provide.

Ms Murnane—We cannot talk about any words because we have not seen their constitution. We can only refer to a conversation they had with the department. As far as we are aware, they have always acted in good faith regarding the funding agreement they have with us.

Senator STOTT DESPOJA—I am not questioning that funding agreement; I am questioning the basis and the definition of 'non-directive' and whether that constitutional provision fulfilled those objectives. Did you initiate that contact with the organisation or did they contact you after the estimates committee process to advise you of the constitutional revision?

Ms Smith—We are in regular contact with the organisation as part of our funding agreement with them. I would have to check who made the phone call, but we do have regular contact and it came up in the context of that regular contact.

Senator STOTT DESPOJA—Did it come up, Ms Smith, in that the department requested that they review and revise their constitution?

Ms Smith—No. The fact that they were revising it was made known to the department as part of the regular discussions we have with them.

Senator ADAMS—Regarding the constitution, I find it difficult that an organisation can completely change its aims and objectives and still be the same organisation. If the organisation were to be dissolved, all of its assets and money would go to a similar organisation. This whole thing is difficult. I know that you are talking about the funding, but I am trying to look at the future and whether this organisation meets non-directional counselling.

Ms Murnane—The non-directional requirement is in our funding agreement. As we said a few weeks ago, we had no complaints after the hearing that they were not meeting that. In terms of the constitution, we are not saying this is wide-ranging. In the context of a discussion on it they told us that they were revising it, as people do revise their constitutions. I raised that in answer to Senator Stott Despoja because we had had such a discussion on the constitution last time. I raised that in the context of this organisation indicating to us that they were revising it. Any subsequent views we may have on that constitution will have to wait until we see it.

Senator ADAMS—The reason we are asking is if in future this organisation applies for the tender. That is what we are trying to flesh out. I have had a lot to do with constitutions, and I cannot see how an organisation that has one set of aims and objectives which members of that organisation have to abide by—

Ms Murnane—There are a number of ifs in that. First of all, we have to determine the requirements, the criteria, that will be in the RFT. They will follow the principles that have been laid down by the Prime Minister and by the Minister for Health and Ageing, but the detail will be fleshed out by the committee. As we said last time, we will not be proscribing any organisation from applying. If they do apply, they will be assessed against the tender criteria, as is common in any tender and is part of the Commonwealth Procurement Guidelines.

Senator FIELDING—Chair, on a point of order: Senator Adams, you are assuming that a constitutional change has meant a change in their services. It is very hard for the department to answer questions along those lines.

Senator ADAMS—I am trying to put it on the record, Senator Fielding.

CHAIR—Okay, could we move to some questions please. Do you have an answer to your question, Senator Adams?

Senator ADAMS—Yes.

Senator FIELDING—As Senator Stott Despoja said, it is the start of the hearing and there was a fair bit of talk about the constitution. Ms Smith said that counselling is about the process of supporting decision making and ensuring that the counsellor assists the client to explore their feelings on the issue. We have gone through the constitutional issues, and the response at estimates was clear and straightforward. I do not see the sense in going over old

ground unless we want to go through the whole transcript and read all of the issues into this transcript.

The department has made it clear. Mr Stuart last time said that we require them to provide non-directive counselling. We do not require them to provide referral. You are saying that it is for doctors to provide those sorts of referrals. I think it is quite clear. I think we can move on.

CHAIR—We are not here to make statements. We are here to ask questions of the department.

Senator POLLEY—My understanding is that this process will be assessed annually. Can you go through the steps as to how this program is going to be assessed for future funding?

Ms Smith—It will not be an annual process. There will be a tenderer, as Ms Murnane has indicated, and the successful organisation will receive the tender. There will be a contract with that organisation for a period. But it is unlikely to be annual.

Senator MOORE—There is a line in the briefing document we have in the questions and answers talking about how there will be an evaluation of the helpline at the end of the year. I think that is what Senator Polley is referring to. I would certainly hope there would be more evaluation on a regular basis after that, but I think we want to get details at this stage of your expectation.

Ms Smith—This measure was provided with funding over a four-year period. I think the question and answer document indicated there would be an evaluation after the first year. It is also standard practice that in the last year of a measure there is a lapsing program evaluation.

Senator MOORE—We want some details about your understanding of the process of evaluation at the end of the first year. What are you going to be evaluating? It says, 'There will be an evaluation of the helpline at the end of one full year of operation.' We would like to know what you will be evaluating at the end of the first year.

Mr Stuart—Generally after a year you are looking at implementation issues. Then later on you would be looking at outcome issues. So I think at a one-year point we would be looking at implementation issues, but I do have to say that we have not drafted an evaluation plan yet. We are in the throes of trying to establish a policy. That is keeping my people very fully occupied, along with processes such as this. So we will be doing some thinking on that and providing advice about that over the next few months.

Senator POLLEY—Have you got a time line? You said the next few months. Is that three months, or six months?

Mr Stuart—I don't have a timetable.

Senator MOORE—We have an expectation—and it has been highly publicised—that there is going to be a tender for a telephone hotline. We were advised earlier in today's hearing that we are hoping that will be out imminently. Will the evaluation process be mentioned in the tender document? If I wanted to tender—which I do not, for this particular job—would I have an understanding when I tender what the evaluation process is going to be, what I will be being assessed on?

Mr Stuart—We always include in contracts with funded organisations the expectation that there will be cooperation in an evaluation process. I do not think we would be going to detail on evaluation in a tender process.

Senator MOORE—Senator Stott Despoja asked a number of questions about non-directive counselling and also the term 'referral'. It is clear that the word 'referral' has value added to it in terms of the process. In the information document, which is the only public document we have at the moment on the proposed new services, it says:

Information will be provided on all available options and the services available to support pregnant women.

That is a neat sentence. If there will not be a formal referral—I actually understand the point that in medical terminology 'referral' suggests a kind of latent process—how will full information on all services available in a region or other locality be maintained, given the expectation that whoever would be providing the service would be open about sharing information on all options available on request?

Mr Stuart—I think we were starting to go into this at the last hearing.

Senator MOORE—Yes.

Mr Stuart—There is still a need to have a discussion with the advisory group on this issue and then to have a look at the budget for the measure. There are different ways of providing information pathways for people to find their way to particular services once non-directive counselling has helped them to make up their mind about what it is that they are seeking. There is obviously a sort of cost-information trade-off. It is a quite expensive thing to keep a national directory of services of all kinds and to keep it up to date. So we will be asking the advisory committee about how they see that issue and then we will be thinking hard about that in the context of the tender, as well as looking to the budget.

Ms Murnane—You can provide information about services in general without having an obligation to provide information about services in particular. Let us look at the three possibilities that Senator Stott Despoja put: the woman to go through the pregnancy and keep the baby; the woman to go through the pregnancy and opt for adoption; and the woman to terminate the pregnancy. In each of those areas there are broad service categories that could then provide further information to specific services if that is what the woman wanted. I do not think it is practical for a telephone counselling service to have access to that sort of specific information and to keep it up to date. That was never really the intention.

Senator MOORE—But the intention is to provide full information on any or all of the options available, depending on the discussion with the person?

Ms Murnane—Yes.

Senator CAROL BROWN—And the helpline will direct people to organisations?

Ms Murnane—No. That goes to what we are saying. If you are talking about some sort of more general organisation like a general adoption service or another general counselling service or a state department of health, it is yes. But if you are referring to something specific—and what has been raised this morning is a specific organisation that provides

termination of pregnancies located in a particular street and a particular suburb—no, it is not our intention that this will be provided.

Senator MOORE—So what will it be underneath that heading, Ms Murnane? If I am a client, I have got information from the person—and I am sure people have questions about 'fully trained' and all that stuff—I ring the 1800 number, or whatever the number is, and, in the discussion with the person, it comes up that I do want to know what services are available that I could access to get information about termination, what would you be expecting a counselling service to provide?

Ms Murnane—I do not really want to speak off the top of my head—and I think, as Mr Stuart has said, that we have to have a discussion about this with the committee. However, one of the obvious things is that the woman does go through the non-directive counselling—and that might be more than one telephone conversation—she makes her decision, and I think the scenario that you are painting is that that decision is termination, and then she says, 'What can I do?'

Senator MOORE—Yes.

Ms Murnane—She could go to her GP, for example. She might want to contact family planning in her state; that is another possibility. There might well be more possibilities. As I said, I do not want to think aloud but it is about that sort of broad policy, rather than saying, 'In this street in this suburb there is a specific service that we will refer you to.' We do not believe that is the role of a telephone counselling service.

Senator WEBBER—Ms Murnane, how does that fit in with the Prime Minister's statement, where he says:

People will go to the helpline, they will get some counselling, if they want to be referred to an organisation they will be provided with, or directed to a list of organisations and there will be enough information available in relation to those organisations to give an indication of the broad philosophy under which those organisations operate.

How does that fit in with his statement?

Mr Stuart—I think that goes to the matter I was raising about how dense that list is and how detailed it is as to geography. There are issues there about reach versus budget, and we need to further flesh this out in discussion with the committee, as I have said.

Senator WEBBER—He then goes on to say:

And to be very specific if somebody is seeking advice direct to a group or organisation and that person is of absolutely no religious beliefs and wishes to nonetheless obtain counselling from an organisation ... there will be sufficient information available to them ...

So it would seem that we need to get a bit more specific in terms of the information we are going to give people.

Ms Murnane—I think the Prime Minister is referring to belief and transparency of belief. I do not think that what he is referring to there is in a sense a register, a compilation, of organisations that people would be referred to. The issues in relation to that are huge, not only in keeping it up-to-date, but in terms of ensuring that there are appropriate standards and safety. These enormous responsibilities are far too large for a telephone counselling service to

carry. As Mr Stuart said, this does turn a lot on definitions and we are looking at these things in a broader way than getting down to a sort of map-type arrangement where you would say, 'Yes, in this city you can go there.'

Senator WEBBER—He says you will be provided with lists of organisations. I live in the inner northern suburbs of Perth but I do not expect the helpline to necessarily refer me to my closest and most local service, no matter what option I choose. A list is more than one option.

Ms Murnane—It might be GPs, Family Planning or public hospitals—all of those sorts of organisations could provide further pathways to a specific service.

Senator POLLEY—Can I just clarify that the service that will be expected to be delivered by these helplines will be the same to all comers? If I were to come along as a client wanting advice and support, having a pregnancy and deciding 'Yes, I want to keep this baby but I do not know where I'm going to go', would the same sort of information be available to me—as somebody who wants to keep my baby—or to someone who wants to adopt as to those who make the choice to terminate? Is that information going to be the same for all of those circumstances?

Ms Murnane—Yes, there will be general information available on types of services and then on some occasions there may be hubs—I mentioned Family Planning in relation to termination and also in relation to keeping the baby—that may be able to provide further follow-on advice on specifics.

CHAIR—We will have to move on. Could I ask a couple of questions about the way in which the bill would operate? I assume that this department would be responsible for this legislation if it were passed by the parliament?

Mr Stuart—We think that is likely.

CHAIR—I assume you have looked at the bill and so have some idea of how it might operate if it were under your jurisdiction?

Mr Stuart—Yes, we have had a look at and a think about the bill.

CHAIR—Some of the provisions puzzle me, and I thought you might be able to provide some guidance to the committee. Clause 10(b) of the bill says:

A pregnancy counselling service is ineligible to receive a payment or a grant of financial assistance from the Commonwealth …

(b) the Minister reports the information obtained in accordance with paragraph (a) in the annual report required by section 9.

What do you understand that to mean? It does not make any sense.

Mr Stuart—We have been looking at this and also wondering what it means. There are three clauses where we have concerns about implementation. Clauses 8, 5, 9 and 10 are somewhat related. I will talk about clause 9 and then how it may relate to clause 10. We make general payments to the states for population health purposes. The agreements we have are called population health outcome funding agreements. We provide funding to the states which they use for a range of issues, such as alcohol and tobacco, breast screening, cervical screening. Amongst other things, those grants are used for payments to the family planning

associations, and the family planning associations would appear to us to be caught by the bill. We wonder whether the impact of clause 8 will be that, if there is a default against the bill, we then will be required to cease paying a grant to the state until that default is remedied.

CHAIR—So, where a state is receiving general purpose health grants—if I can put it that way—which potentially amount to tens or even hundreds of millions of dollars, the effect of that clause would be that, if even a very small proportion of that money were directed to a particular service which breached a provision of this legislation, all of that financial assistance would be in jeopardy for that particular state.

Mr Stuart—When looking at clause 8 it is unclear whether the financial assistance would be the entire payment, the part of the payment which goes to the particular service which has committed the offence or the part of the payment to the service which is for pregnancy counselling. We think it probably means the entire payment. That could be tens of millions of dollars—for example, to New South Wales for a quarter. So those other activities, such as breast screening and cervical screening, which are conducted under that payment to the state could be in some jeopardy.

CHAIR—As a lawyer I would read that clause that way as well.

Senator STOTT DESPOJA—Does the department have some legal advice on that? It would have been worth while, as you can imagine. You can probably presuppose that is not the intent of the legislation. We have had conflicting legal advice with the drawing up of bills. The idea of the committee process is to work on the bill so that we perfect it to a point where the intention—not what you think might be an unintended consequence—is carried out. So any legal advice the department has would be greatly appreciated by the committee because it may make it clearer whether the committee needs to propose some amendments. That is the point of referring this bill to a committee. If that legal advice could be tabled, that would be helpful.

Ms Murnane—We have not considered the legal position per se. We have had to look at this bill in terms of what implementation ease or difficulties it might present to us. In doing that, we have obviously consulted with legal people and we have some preliminary advice, but nothing at this stage that we could present. It was helping us look at what might come up for us if we had to implement it and administer it.

Senator STOTT DESPOJA—Sure. Any of that preliminary information would assist us and the clerks.

CHAIR—I take up Senator Stott Despoja's point about the intent behind clause 10. I do not think clause 10, with respect, makes any sense. I assume it meant to say that a service is ineligible to receive a payment from the Commonwealth if the minister fails to report information that he or she obtains under clause 9, and that has to be provided in a particular time period between 30 June and 30 September in any given year. Presumably if a minister failed to put on the table information that had been provided to the department, perhaps through a mix-up of some sort, then within that time frame the service concerned would be ineligible to receive funding for the ensuing nine months because of that error.

Mr Stuart—We have been asking ourselves whether that is what it means, and whether that is the practical impact. As to whether it has that practical impact on that payment to the

state, I do not think we have arrived at a clear answer on that. There certainly seems to be that implication in the bill.

Ms Hannan—In relation to your point about paragraph (b) of section 10 you are right—there is no link between the requirement for the minister to report to the parliament and any consequence of non-reporting, because there is no link between paragraph (b) in the start of that section. It sits alone, so you cannot say what happens. As Mr Stuart was saying, it is hard to work out what might happen if you are trying to give that section meaning, because the payment would have already been made. Does it affect future payments, which is something quite different? The whole tenor of that section is in relation to payments that have already been made, and reporting on payments that have already been made.

Senator NETTLE—Ms Smith was talking about the issue of who made contact with the group that is changing its constitution. I just want to check if you took it on notice to find out whether that contact came from the department to them, or from them to us. I just want to check that that had been taken on notice.

Ms Murnane—It might be hard, because we have regular discussions with services. Sometimes we will initiate them; sometimes they will initiate them. But we will have a look at this and see how specific we are able to be.

Senator NETTLE—It was in answer to the question that was asked previously about how you found out that they were changing their constitution.

Ms Murnane—It was in conversation with them. That is the answer.

Senator NETTLE—Was that through information they offered up to you in response to the estimates process, or did it come out of—

Ms Smith—I went on to say that we are in a regular contact with that organisation. In the process of a discussion as part of regular contact with that organisation we found out that they were updating their constitution.

Senator NETTLE—It is just about understanding how it works, whether we talk about it at estimates, or you contact them to say you would not comply unless they changed their constitution, or they saw it and they thought, 'We wouldn't comply unless we changed the constitution.' We are trying to understand, while neither of them might be exactly accurate, which of those more accurately reflects the situation.

Ms Smith—As far as I understand it, this issue with the constitution was not in response to anything that happened at estimates. This was a process that was happening anyway, that we have subsequently, since the estimates hearing, discovered was happening.

Senator NETTLE—Do you provide advice to them on what changes they would need to make to their constitution in order to make themselves fit within the charter you were outlining before?

Ms Murnane—No. I think the charter was their charter. What we have with them is an agreement. I know that in some ways constitutions are mantle type documents that sit over an organisation. As we made clear at the hearing and as I have made clear again today, in our funding agreement our interest is in whether they operate for this particular part of their operation consistent with our funding arrangement.

Senator NETTLE—That was what I meant. Did you provide advice to them about whether their constitution as it currently stands would make them not compliant with your funding agreement?

Ms Murnane—No, we did not.

Senator NETTLE—You said in estimates and again today that you have not received complaints in relation to that particular organisation. Do you have any processes for independent verification of whether they are complying with the funding agreements? I have read all of the information and I have heard your previous answers that the way you assess them is by what information they give you about whether they are complying with their funding agreement. But my question is whether there is any independent verification other than what they provide you with.

Ms Murnane—It would be very hard to do that without invading the privacy of the people who called. So, to an extent, with organisations like this you rely on the evidence that work is done. You rely on evidence of financial probity. But I think there would be huge issues if we were to go in and follow up with people who have rung them. So, to a very large extent, we would be relying on a complaints based system and, if there were a complaint that they were not acting within our funding agreement, we would, as the secretary said, follow that up vigorously.

Senator NETTLE—So the two avenues would be either through information that they give you about what they are doing in complying with the funding agreement or through complaints?

Ms Murnane—Evidence to the contrary, yes.

Senator NETTLE—Do you rely on any mechanisms other than through what they provide you with in their evaluation and through complaints?

Ms Murnane—The complaint could be specific. As I said, we would act on a specific complaint. We would ask them about it.

Senator NETTLE—I am trying to find out whether there are other avenues. For example, in aged care there are spot checks of abuse of the elderly. That is another mechanism for assessing that. I am trying to rule out which ones you do and do not use.

Ms Murnane—I think there are differences between a counselling service and 24-hour a day, seven-day a week residential care service. I think there would be extraordinary difficulties with transporting the spot check process from institutional services to counselling services.

Senator NETTLE—I do not mean transferring the whole process. In this instance, a spot check might be somebody ringing up. That is a legitimate way of assessing the veracity of the operations of a service provider.

Ms Murnane—Actually, I think it could be deceptive if the department did that. I would not be happy at all about a departmental officer ringing up purporting to be pregnant and seeking advice. I could not condone that.

Senator NETTLE—I am going through the process of finding out which ones are in and which ones are out. So far all I have is what they tell you they are doing or complaints. If you could provide me with any other avenues by which you would assess them, that would be great; otherwise I can keep guessing to see if there are more than two.

Ms Murnane—No, I have told you.

Senator NETTLE—Just those two?

Ms Murnane—Yes.

Senator NETTLE—Senator Webber was talking before about lists of information that might be provided for people in referrals. I note in the explanations given above to the pregnancy support measures—I think it was in there—that there was some discussion of doctors who would be using the PBS item. Would they have a list of counselling services that they would refer to? Would there be any parity between those two things? If you are generating a list to say GPs, 'These are counsellors you can refer people to for pregnancy counselling services,' would that list, if you are going to generate one, be available to the tenderers of the help line?

Mr Eccles—The issue goes to whether or not the pregnancy support line is also going to be a service directory and, if it is going to be a service directory, whether that information will also be available to the GPs who are accessing the Medicare item.

Senator NETTLE—And also whether it would be provided by the department.

Mr Eccles—It is not something we have contemplated at this point, but it is something we would obviously think about.

Senator NETTLE—I interrupted you. Were you going to continue?

Mr Eccles—It is not something that we have contemplated at this point. Most GPs have a pretty good understanding of what is going on in their region in the whole range of service options for a whole range of things. The extent to which it would be viable to keep a local-level service directory up to date and regularly provided to GPs is something we have not contemplated in this context. But I think it is fair to say that most GPs have a pretty good idea of the range of options.

Senator NETTLE—I am not questioning the GPs.

Mr Eccles—It is not something we have contemplated.

Senator NETTLE—I am just thinking that, if the GPs have it, why can't the help line use it as well?

Mr Eccles—I am not sure whether the GPs do have it. Every GP relies on a standard information format for local services.

Ms Murnane—Some have local knowledge; some have more than others.

Mr Eccles—Yes, some rely on their local division for advice, for example.

Senator NETTLE—You would not consider that part of the training that could be provided to GPs would be access to some generic list or how to access a generic list?

Mr Eccles—It is not something we have contemplated. But, when we hold discussions with the profession about how we can give effect to this, those issues may arise.

Ms Murnane—GPs refer patients to specialists. We do not provide them with lists of specialists in their region or lists of specialists in capital cities, and this would be the same. While GPs do refer in the very specific sense we have talked about before, this is a counselling item with the objective, too, of assisting the person to make a decision.

Senator NETTLE—So you would not imagine that the department would be providing any lists of information that could be used by help line operators for referring people to services?

Ms Murnane—I do not envisage that the department would be compiling a regional based, city based or suburb based service directory.

Senator NETTLE—What about a national service directory?

Mr Eccles—The logistics of that are extraordinarily difficult.

Ms Murnane—I think it is beyond us.

Mr Eccles—With a national service directory, where do you draw the line? Opening hours, location? National service directories are—

Ms Murnane—Quality, safety.

Senator NETTLE—That is what I am trying to assess.

Mr Eccles—It is logistically vast to have live service directories.

Senator NETTLE—I am not suggesting it is easy. I am just saying that, in order to understand how the help line might operate, if you are saying you do not envisage the department providing that information, the only option that we are left with is that whoever tenders for the help line would be the provider of that information. If you are not going to provide it and you are leaving it up to the tenderer, when the tenderer creates their list, would you want to look at it or assess it?

Ms Murnane—I do not think we want them to have a list of specific organisations. Remember that the operative word here really is 'counselling'—assisting somebody through supportive, non-directive counselling to reach a decision and, in the course of that, providing them with information about all available services. We have been through that. I have agreed with Senator Stott Despoja on what the three available options are and we have had quite an extensive discussion with Senator Moore and Senator Brown.

Senator NETTLE—Yes, I have read the *Hansard*.

Ms Murnane—This is today. We had a discussion about organisations, and what we mean by that, and services. We are looking in the broad. With the actual telephone counselling line, we are not looking to a specific referral similar to a doctor's referral to a specialist.

Senator NETTLE—I am not suggesting that you are. In information you have provided in the past and at estimates you have talked about the help line being able to provide access to government services to support people who might decide to proceed with a pregnancy. Presumably, you would provide that list and that information to the help line.

Ms Murnane—That might be, 'Go to your nearest Centrelink office.' It is very general, really.

Senator NETTLE—I am just trying to get a sense of what kind of involvement you will have in this help line. So far it seems very hands off, but, if you are able to tell me differently, please do.

Ms Murnane—What we are getting to now—and Ms Smith talked about this last time—is that, generally, I think we have answered your question. We have been asked that question a number of times today and we were asked it at estimates. As we drill down further, we are getting into things that may be required or may be described in the request for tender, and we are under an obligation not to dribble out what is in the request for tender but rather to make that available to all would-be tenderers at the same time.

Senator NETTLE—An answer to a question to the minister from Senator Stott Despoja stated that you are still operating on the time line to have the training provider chosen by August and the operator of the help line chosen by September?

Ms Murnane—We are still working to that timetable, yes.

Senator NETTLE—So you will have answers to those questions at that point?

Ms Murnane—Yes.

Senator STOTT DESPOJA—Chair, could we ask the department to provide on notice the service agreement between the department and Pregnancy Help Australia that has been the subject of discussion today?

Ms Smith—Senator, I think you put that question on notice during estimates.

Senator STOTT DESPOJA—I knew I had a question; I was not sure whether I had an answer.

Ms Murnane—We will provide that.

CHAIR—I might also put a question on notice to you. Given that the effect of this legislation would be to restrict the ability of some pregnancy counselling services to provide services in particular ways—I am thinking, for example, of being able to advertise in the front sections of telephone directories and so on—

Senator Stott Despoja interjecting—

CHAIR—Not the way I read clause 7, Senator. There is a complete ban on any access to that part of the telephone book. Can you take on notice the question of whether the department has any concerns with any of the church based counselling services, for example, with respect to the professionalism and quality of the service they provide in complying with contractual obligations to the department?

Ms Murnane—We will look at that. I think you would agree that is something for them to comment on too, but we will look at that.

CHAIR—Indeed. I will ask them that question as well.

Senator ADAMS—I would like to ask a question about the national call centre monitoring. Would the monitoring that is going to be used there be the type of monitoring that could be used for this service?

Mr Eccles—I can talk about the National Health Call Centre Network. Do you mean the broader one?

Senator ADAMS—Yes.

Mr Eccles—What was the question?

Senator ADAMS—It was about how the monitoring of that service is done.

Mr Eccles—How we are going to assess that service?

Senator ADAMS—Yes.

Mr Eccles—I did not come prepared for that question. That is quite a different model to this call centre.

Senator ADAMS—It is still monitoring, though.

Mr Eccles—The Commonwealth and the state are establishing a company to go to tender and oversight the development of the national health call-centre program. As part of the establishment of the company, we will be working with the company to identify ongoing performance monitoring. At the last estimates I think I mentioned the lessons learnt from Western Australia and other states. There are some very well established protocols for call volumes and time between calls—how long it takes to answer the phone right through to the average time spent by an operator on line with a person.

Senator ADAMS—HealthDirect has a very good system—

Mr Eccles—Indeed. I can talk about that.

Senator ADAMS—for monitoring whether or not the employees are giving the right information.

Mr Eccles—Absolutely.

Senator ADAMS—I just wonder if that would be the sort of monitoring that could be done in this instance.

Ms Murnane—Senator, we will look at that and we will discuss that with the expert committee. This is a very sensitive area. Recording calls and things might deter people from being able to get assistance at a time when they really need it. What I am prepared to do, when I meet with the expert group, is raise that point with them.

Senator ADAMS—Thank you. You will use HealthDirect's monitoring system as an example? That would be good.

Ms Murnane—Yes.

Senator MOORE—Has the Office for Women been advised of or involved in the discussions around the development of this policy?

Ms Murnane—This policy is part of a budget proposal.

Ms Smith—There has been officer-level discussion with that department and the Office for Women staff.

Senator MOORE—It would seem to me that that would be obvious in terms of cross-departmental involvement. Considering the experience we had with the domestic violence hotline and the various stages of evaluation and cooperative workings there, it would seem to me that that would be a similar exercise—though not as large—with sensitivities and the need for effective database referrals. You have enough work looking at your own *Hansard* transcripts, but we have had extensive discussions at Senate estimates about the effectiveness of that process. There could be lessons to be learnt. One concern I have is that everything seems to operate separately instead of using the best practice process. I would encourage there to be that interaction there. That would be good.

Ms Murnane—We will look at those. We will look at other lines. This one carries particular sensitivities. But we will, as has been suggested by a number of senators, look at other call lines and at whether they have any processes that we could take on—perhaps in some modified form.

Senator MOORE—As well, you could look at their database maintenance, which seems to have been at issue here.

Ms Murnane—Yes, okay.

CHAIR—Thank you very much for your time here today.

[4.48 pm]

COLEMAN, Mrs Marie Yvonne, Convenor, Social Policy Committee, National Foundation for Australian Women

RICHARDS, Ms Christina, Chief Executive Officer, Australian Reproductive Health Alliance

CHAIR—Welcome. Thank you both for being here today. I apologise for the delay in calling you forward. You have had information on parliamentary privilege and the protection of witnesses and evidence, I understand. As you know, we prefer to take evidence in public but we could also take it in camera if you feel there is information of a sensitive or confidential nature that you would like to present in that way. We have your submissions, Nos 1 and 11. I invite each of you, if you wish, to make—in light of the time—a hopefully short opening statement.

Ms Richards—I will go first, if that is okay. Thank you. We were invited to give a submission. The mission of the Australian Reproductive Health Alliance, founded in 1995, is to promote public support for enhanced reproductive and sexual health in Australia and internationally and to promote the advancement and the status of women and girls. We promote knowledge, education and evidence based research relating to the development of family planning and other reproductive health services, both within Australia and internationally.

The Australian Reproductive Health Alliance is a membership based organisation comprising members from a wide range of community and professional backgrounds, including well-recognised medical consultants and researchers, academics, members of the public, lawyers and practitioners in the field. We promote scientific, evidence based rather than religious or moral based approaches to sexual and reproductive health as they deliver the best public health outcomes for women, their families, communities and governments.

The principles on which the ARHA is founded are clearly articulated in the Cairo program of action, which was agreed upon by 180 countries including Australia at the International Conference on Population and Development held in Cairo in 1994. In 2004 the Australian Prime Minister, John Howard, reaffirmed Australia's commitment to the program and in 2005, at the world summit, he, along with other world leaders, also committed to achieving universal access to reproductive health by 2015. The Prime Minister also committed Australia to continue efforts to 'eradicate policies and practices that discriminate against women and to adopt laws and promote practices that protect the rights of women and promote gender equality'.

The ARHA supports the transparent advertising bill because, amongst other things, it seeks to provide Australian families with universal access to information about the full range of legally available options for managing an aspect of reproductive health—namely, a pregnancy, whether wanted, unwanted or planned. The only government service funded solely for pregnancy counselling and advice does not currently provide the full range of information about all options. This is a practice that discriminates against women and does not protect their rights to information and education about unwanted or unplanned pregnancy, including

abortion. Abortion is legal, safely available and government subsidised in Australia. It seems reasonable that another government funded organisation should be able to give information about other government funded services.

Senator Stott Despoja's bill aims to make pregnancy counselling services subject to the same laws regarding misleading advertising as organisations which are engaged in trade or commerce. This is entirely appropriate for any organisation receiving government funding, whether staffed by volunteers or not. Currently there is no national 24-hour pregnancy counselling service providing all-options information and education. Volunteers, for example, are not trained—and nor should they be—to use clinically proven protocols in operating a telephone triage system that can give health advice and counselling and referral services. The system I refer to is designed to provide recommendations and help callers to make informed health care decisions and to provide self-care advice—a system which can also help remote users. As such, we support the proposal of the National Foundation for Australian Women on this issue, and Mrs Coleman will speak more about that.

In ensuring that transparency, professional expertise and capacity to properly advise or refer remain at the centre of considerations in transparent advertising and notification of pregnancy counselling services in Australia, my hope is that the committee is able to avoid the volatility of the US experience around this issue, where specific facilities have been set up to look like medical clinics but are actually centres that give false information to those seeking an abortion. As misleading advertising practices, confusing appearances, specific targeting, delays and harassment have escalated, so have tension, violence and division in that country. I do want to stress, however, that I am not in any way suggesting a comparison between the existing government funded counselling services and those centres—only that, if the government funding is not equally available for all-options information and education, the potential for further divisiveness is there.

The situation did escalate in New York to the point where in 2002 the New York Attorney-General passed legislation that required crisis pregnancy centres to clearly disclose that they do not provide or make referrals for abortion or birth control, that they disclose verbally and in writing before providing a pregnancy test and counselling about pregnancy that they are not a licensed medical provider, that they clarify in advertising and consumer contacts their role in pregnancy testing, as well as tell people who call or visit the centres that they are not medically qualified.

Legal action to counteract religious messages in abstinence-only programs, pro-choice car plates, deceptive advertising, duress by adoption agencies, harassment, intimidation and Yellow Page entries has proven both costly and divisive in the US and Canada. Perhaps the committee could consider proactively managing these issues so they are not replicated in Australia. I would like to table a document named *Crisis pregnancy centres: an affront to choice*, which sets out the problem and some of the solutions that the US is attempting. Thank you.

CHAIR—Mrs Coleman, do you wish to make a statement?

Mrs Coleman—Yes, thank you. We were so surprised to be asked to explain what we were doing after a previous appearance that I am spending a moment or two on that.

The National Foundation for Australian Women is committed in its social policy activities to the promotion of good social policy which is evidence based. We see sound public administration as critical to the effective implementation of public policies, and to that extent we encourage parliamentary scrutiny as well as promoting good governance. As some of you will know, the organisation commissioned relevant research last year from the National Centre for Economic and Social Modelling, and just recently we have let a tender in association with HREOC and the Women's Electoral Lobby to look at women's wages and conditions.

We have been equally very interested in and concerned about the issues of health funding and the restructuring of respective roles in health service provision of the Commonwealth, the states and the territories. We have noted with interest and welcomed the announcement of the new National Health Call Centre Network, which will especially but not exclusively assist people in rural and remote areas of Australia. We understand that the new Health Call Centre Network will build on some of the systems already in operation in a number of the states and territories.

I make the point that I have made use of the Health First call system operated in the ACT for the local territory government by McKesson Asia Pacific. As I think must have crossed a lot of people's minds, I have wondered whether in good governance in terms of any proposed national telephone centre hotline for pregnancy support information this should not have been an add-on to the National Health Call Centre Network rather than a stand-alone service. We note that the government has allocated $15.5 million over four years for this proposed service. Were this to be an add-on contracted by the new company which is going to run the National Health Call Centre Network, any provider would already have appropriate call centre clinical software, as well as using approved clinical protocols and operating through nurse triage.

In the systems that exist in the states, local committees already provide oversight of existing contracts with McKesson, for example, which ensures quality control, adherence to contract terms and accurate local information on services to which referrals are made by the triage nurses. These seem to me to be the very characteristics which would go a long way towards providing the guarantees of independence from partisan positions, of clinical competence and of transparency which we all see as desirable in pregnancy counselling services. It is not my intention here to be an advocate for McKesson Asia Pacific; I simply draw to the attention of this committee that there are already well-established systems in this country which are entirely credible and which are available to operate services of this kind.

Through the good offices of the secretariat, I have provided the committee with excerpts from three current internet sites purporting to provide information about pregnancy and terminations. Of these, you will note, for example, that the document from McKesson, of which I have printed the core bits, gives a series of options—abortion, adoption, child spacing, condoms, contraception and emergency contraception—that one can click on and download practical pieces of information from their website as well as the option of talking to the triage sister.

I also note the document that, again, is being distributed to you from Better Health Victoria, which provides some information, together with some information on counselling options and where you can go. Whether or not you talk to a triage sister, you can download from the

internet sites information which is respectable from a clinical perspective and which offers some options. With the greatest respect to the pregnancy support services organisation, which offers telephone counselling, face-to-face counselling and the like, their site is innocent of any clinically appropriate protocol information that can be downloaded and, again, quite innocent of any addresses with which you can make contact and which might tell you of other options.

For poor people, particularly but not exclusively for people who live in remote areas, access to the sort of stuff that can be downloaded from any website is quite crucial, and it needs to be crystal clear that the information is dispassionate and accurate. I took on board some of the comments that the officers from the department of health were making about whether or not they would be keeping lists of services. There would be a difficulty in doing that, but that is what is going to happen with the new National Health Call Centre Network: there will be information there that can be downloaded, there will be information about what sorts of services you can go to, and there will be website links. As a bare minimum, we should be asking of any federally funded pregnancy advice service that there be information and web links and the like on a site.

Also, the fact that we are going to see the emergence of significant numbers of clinical practice counsellors with access to the Medicare Benefits Schedule highlights the importance of trying to make sure that there is material that can be downloaded from a website. Very properly, the department has made the point that the contract for this proposed 24-hour counselling service will go out through the normal Commonwealth tendering processes. But we think that there should be, in addition, a contractual requirement for regional or state based advisory bodies of recognised medical and other clinical practitioners who will be able to ensure that the entity that gets the contract to run the 24-hour service is using appropriate clinical protocols and has an up-to-date list of the sorts of services in a particular place that they might want to refer people to. Related to that is the fact that at the moment the National Health and Medical Research Council has not produced any clinical protocols on abortion and related topics. I have skimmed the material which is on this committee's website at the moment in terms of the submissions, and I notice that the canard about abortion always being associated with breast cancer raises its ugly head in a number of documents. If we had some information provided that had the authority of NHMRC status, we would be a lot better off than having people making claims here or making counterclaims. There is an authoritative Commonwealth body that issues protocol statements which are used by services and by practitioners, and I think that is an appropriate thing to do.

Finally—this is meant to be a brief statement—we do not see in terms of this bill that there should be no scope for subsidy for a counselling service that does not provide referrals for terminations of pregnancy. We consider that a service that provides non-directive counsel but not referrals has its place, but we think there should also and equally be a place for equivalent government funding for services that do refer. It seems to us that the issue is the availability of both and the existence of clear choice. Given that there exists in this nation a significant number of people whose philosophical position is pro-choice, as well as those who are not pro-choice, perhaps the appropriate policy position is for this committee to urge the government to give recognition and financial support to bodies representing both positions to require any funded body to be transparent as to its specific position and to provide an entirely

independent and clinically appropriate telephone triage system for advice and appropriate referral.

CHAIR—Thank you both for those statements. I open up the committee to questions.

Senator CAROL BROWN—I believe you were here when we had the discussion—you made a small reference to it in your opening statement—about what exactly the helpline will be providing, and the long discussion we had about the lists of organisations and whether further information as to the philosophy of each organisation would be provided. You had the opportunity to hear the evidence from the Department of Health and Ageing earlier. I was wondering if you could comment on their view that those lists will not be available.

Mrs Coleman—When you go to some of the websites such as Health First, or HealthDirect in Western Australia—I cannot remember the names of them all—there are already extant lists and references to other appropriate organisations' websites. For the life of me I cannot see why, if we are working cooperatively with the states and territories, that kind of information cannot be put together.

Senator CAROL BROWN—Given the statements that the department made today, do you have a view on exactly how supportive a helpline can be without directing people to local organisations?

Mrs Coleman—I cannot help feeling that that is going to be tremendously helpful. As I said, I think there are very strong grounds for having both a website from which material can be downloaded and the telephone triage system. If you call any of the services of the HealthDirect, Health First or the VicHealth kind, what you get is somebody who will quietly listen to the issue you raise and have a talk with you. In a very high proportion of instances, they tend to say things like 'you should now go and talk to your doctor' or 'perhaps you should call an ambulance and take yourself off to the nearest public hospital'. They give sensible advice and support. If somebody rings up and says, 'Look, I'm 19 and my boyfriend's just left me and I'm pregnant and I'm terribly conflicted and I don't know what to do,' then they should be given the option of talking and told that there are a range of services that they could make contact with to be helped—and they are going to need that information on a regional basis. If you live at Oodnadatta, what is the point of ringing if all somebody can tell you is, 'Go to your nearest Centrelink office'? You are going to need a bit more information than that.

Senator CAROL BROWN—A thousand kilometres away.

Ms Coleman—Yes.

Senator STOTT DESPOJA—In your submission, Mrs Coleman, you state:

> Advertising ought to be clear and open, and agencies whose ethical frameworks prevent them from offering options if a woman wishes to proceed to having a termination ought to be required to specifically clarify this position in all advertising and printed material. Without this, there is a risk of misleading conduct, which is unacceptable.

I wonder if you could elaborate for the committee on your position, the position of the National Foundation for Australian Women, on those pregnancy counselling services that fail to advertise, for example, an ethical opposition to abortion.

Mrs Coleman—I think it is improper not to clarify where you are coming from. If one wishes to take the analogy which we have made with marriage guidance counselling services—one Relationships Australia—one knows perfectly well, if you choose to go to a service perhaps run by our distinguished colleagues from Catholic welfare services, that they will come to you with a specific philosophical approach, and they are open and proper about it. There is no problem with that; it is clear. That is our point: the problem is not people having different philosophical positions; the problem lies in them not being clear and up-front about their philosophical positions.

Senator STOTT DESPOJA—The idea that you put forward in your opening statement about, in particular, government funding seems to be a very reasonable position. Something that I perhaps need to take on board in terms of the drafting of the bill is that government funding be available to organisations, regardless of their philosophical perspective, provided they are up-front.

Mrs Coleman—That is the position we take. My own organisation includes people who are pro-choice and not pro-choice, but they feel very strongly about transparency.

Senator STOTT DESPOJA—Hence the name of the bill. Ms Richards, I notice in the ARHA submission that you support proposals to ensure that transparency, professional expertise and capacity to properly advise or refer remain at the centre of considerations in transparent advertising and notification of pregnancy counselling services in Australia. To perhaps expedite committee proceedings, do either or both of you have a preferred definition of 'non-directive'? Indeed, you might want to address the definition that I have used in the legislation. You have heard criticisms from the department and, indeed, I am aware of some in other submissions. Catholic Social Services Australia made some interesting points. I am happy to take it all on board, but I am really interested in coming up with a definition that suits 'non-directive'. At the moment, I get a bit confused because the department has told me that it is a condition of agreement for taxpayer funding of Pregnancy Counselling Australia that they provide non-directive services. Clearly, I have a different definition of 'non-directive' because, as you have heard in previous conversations, when an organisation says, for example, that it will not provide referrals, that is not my understanding. We may have different views on that, but I am trying to get a definition that suits our needs. Do you have anything to add to that, either now or on notice?

Ms Richards—Yes. I would like to just pick up on the words 'refer' and 'referral'. You do not actually need a referral to go to a doctor or a family planning clinic or to access abortion. You can self-refer. I think a better term is 'access to information and education'. Centres should be providing information, education and communication about services. You do not actually need to be a referral service, in the strictest terms of that word. I think the term 'pregnancy counselling' is a little bit problematic as well because 'counselling' is a word with a broad meaning. The 24-hour telephone system that is proposed could probably leave out the word 'counselling' because anybody could set themselves up as a counsellor. If you are in a medical model then counselling has a particular meaning, but many people outside of medical establishments use that word too. So I guess my preference is that we look at access to information, education and communication rather than counselling and referring over the telephone. The health call centres that we have been talking about actually have clinical

protocols and triage nurses that can provide the services of counselling. That is already set up. What Mrs Coleman is suggesting is that this could be an add-on service to that.

Senator STOTT DESPOJA—I am not suggesting that you need complaints in order to justify legislation—that is, I am a big believer in regulatory frameworks for just about everything if it ensures accountability and transparency. Again, this could be provided on notice or you could tell me now, in camera or otherwise: I am curious to know if your organisations have been in contact with women who may have experienced deceptive or misleading advertising. As I said, this is not based simply on my concern about the potential or the occurrence but on the fact that I want organisations to be up-front about the services they provide.

Mrs Coleman—The national foundation is not in a direct relationship with the consumer base in that way, although I did attach to our submission a statement which was provided to me by the daughter of one of our committee members which expressed her irritation with what she saw as fairly deceptive fundraising. I am not in a position to give you instances of that. But I would say that I think it is crucial that, in this business of monitoring any project of this kind—no matter what it is; whether it is an existing funded organisation or a new one—there is provision for independent evaluations which will involve contacting clients over a period of time and making some appropriate assessment. I have printed off—I have not given you this one—something from the McKesson website; they do Healthline in New Zealand. They say here that an independent evaluation of Healthline in New Zealand showed that 97 per cent of surveyed callers were satisfied. You can do that kind of evaluation. It should not have to be dependent on individuals making complaints to the department; there should be a provision for that.

Senator STOTT DESPOJA—Ms Richards, do you have anything to add?

Ms Richards—We are in contact with service providers and I would be happy to come back with some information for you on that.

Senator STOTT DESPOJA—Thank you, both. Thank you, Chair.

Senator FIELDING—I want to turn to the Australian Reproductive Health Alliance's submission, Ms Richards. In your submission you seem to be asking for all counsellors to be members of professional associations. Groups such as Lifeline or Mensline have volunteer counsellors, who they have provided with telephone counselling training. Are you saying that they should not receive government funding, or are you just reserving your comments to pregnancy support groups that do not refer for abortions?

Ms Richards—Not at all. I actually worked at Lifeline for a short time and I know that those telephone counsellors are volunteers and they actually pay to do the counselling training, which is very specific to that organisation and is not nationally accredited training. I also know, from having worked there, that people feel that this area of pregnancy counselling is not one that they feel terribly qualified to deal with.

Senator FIELDING—I come back to the fact that your submission is asking for all counsellors to be members of professional associations.

Ms Richards—Yes.

Senator FIELDING—How would that affect Lifeline and Mensline and those kinds of groups?

Ms Richards—As I said, I do not think that the volunteers who work there would ever purport to be professional counsellors. I think the legislation needs to be clear about what that term 'counsellor' is and means. That is what I am saying in the submission. If you call yourself a counsellor, I am suggesting that you should have a recognised accredited professional qualification.

Senator FIELDING—I think a number of those people do consider themselves counsellors. It will be interesting to see how that would play out against the view you have put in your submission. I can think of a whole range of counselling and other services that may be offered to women who are pregnant; ruling those people out just because they do not belong to a professional association seems pretty odd.

Ms Richards—I am not suggesting that you rule them out. I guess I am saying that not every woman who is pregnant needs counselling but, if you do need professional counselling, I think you should go to a professional counsellor.

Senator FIELDING—As I said, there are a whole range of counselling and other services that may be offered to women. They could include advice and information on options, a whole range of practical services like crisis accommodation, parenting classes, clothing and baby equipment, as well as referral to an abortion clinic, but it seems that this bill is only concerned with organisations that refer women for abortions. Shouldn't organisations that are not willing to offer support for women to continue their pregnancy also declare this?

Ms Richards—Can you repeat the last part of your question?

Senator FIELDING—Shouldn't organisations not willing to offer support for women to continue their pregnancy also declare this—the same conditions should apply?

Ms Richards—It is not a question that has ever occurred to me because I actually would be highly surprised that any organisation would advise a woman not to continue a pregnancy if she wanted to. I would find that quite extraordinary.

Senator FIELDING—Let me come at another spot here. Do you think it is fair that, even if an agency complies with the provisions of this bill, if it does not refer women for abortions it will be banned from listing in particular parts of the White Pages? Do you think that is fair?

Ms Richards—No, but I actually think that that agency should nominate up-front and be very transparent about the fact that it does not refer women for abortions. I think in the White Pages and the Yellow Pages people should make it very clear whether they will or they will not offer all options. Then you have the choice.

Senator FIELDING—I appreciate your response; thank you. I have one other question.

CHAIR—Can I clarify the answer to that last question. You say that you do not support a ban on pregnancy support services that do not offer abortion counselling but you support them being available, for example, in that part of the Yellow Pages where people go for up-front advice about those things?

Ms Richards—As long as they make it very clear that they will not be giving information, education, communication about abortion but they will be giving information about supporting a pregnancy, I have absolutely no problem with that.

CHAIR—That is not what the bill says. I assume you are aware of that.

Senator FIELDING—I took the response as being no with an explanation, but it was definitely no. I took that down as being the case.

Ms Richards—With an explanation.

Senator FIELDING—I have some questions, Mrs Coleman, with regard to your submission. The basic thrust of the bill is that you have to refer women for abortion or you will suffer particular restrictions on how you are allowed to operate and will be banned from particular entries in the White Pages. Isn't this just an ideological attack on community groups that do not agree with you on abortion and which offer alternatives to abortion?

Mrs Coleman—I deplore ideological attacks of any kind. I think too many years as a public servant have taught me to try to work on a basis of treading a middle line rather than taking an ideological position. No, I do not think we are saying anything like that; we are simply saying that it is appropriate for people to know what they are buying.

Senator BARNETT—I have a question for Mrs Coleman. We have had a similar discussion in a previous Senate committee on this matter and I would like to clarify the matter again, if you could confirm it. You said in your comments that you represent both types of groups, pro-choice and pro-pregnancy counselling or pro-life groups. I wonder whether you could identify which groups—

Mrs Coleman—No, I am not representing groups; I said that we have such people 'among our members'. We do not have organisations as members, in the main. It is an organisation which people affiliate themselves with as individuals. I can assure you that there are numbers of our people who would not themselves wish to have an abortion but who, at the same time, would wish to support the fact that it is a woman's choice. I do not think that is difficult to understand.

Senator BARNETT—Can you clarify your membership—how many members you have? Secondly, did you survey your members before making your submission, as you are acting on behalf of the National Foundation for Australian Women? Do you have the views of your members? How many do you have and have you surveyed your members?

Mrs Coleman—From a rough estimate of what I told you the last time you asked me a question like that, I think we have in the region of 300 to 400, something of that kind. I am sorry; I am not the membership secretary. Do we survey the members? No—

Senator BARNETT—Three hundred to 400 women?

Mrs Coleman—I do not think we have any gentlemen at the moment.

Senator BARNETT—Three hundred to 400, but you are not sure exactly how many.

Mrs Coleman—As I said, I do not keep those records. I am not trying to be obtuse. I am happy to take the question on notice if that would help you. It is a company limited by guarantee and registered with the Australian Securities and Investments Commission. We

have a democratically elected board of directors. The documents which I have submitted today have received the endorsement of the democratically elected directors who have corporate responsibility for the company.

Senator BARNETT—So you have not surveyed your members, but you have talked to the board and the board has endorsed the submission?

Mrs Coleman—That is correct.

Senator POLLEY—In response to a question I put to the department, they put on record that the information that would be made available through this help line to women would be the same for those who choose to terminate as for those who choose to continue with their pregnancy and those who choose to put their child up for adoption.

Mrs Coleman—Yes.

Senator POLLEY—I think it is fair to say that all areas we were concerned about are going to be treated equally in terms of the information that will be available to the clients. Mrs Coleman, you made the comment that you see that government should fund those that are pro-choice the same as those that are not. My understanding is that family planning clinics are funded by government, so they are already being funded in terms of giving advice to women to terminate—

Mrs Coleman—With great respect, it is some years since I was on the board of Family Planning Victoria, but it is a service which is about enabling women to manage fertility, and that includes having been very much in the forefront of pioneering giving advice on contraception as well as on sexual education, on helping girls and boys to be more responsible in their sex lives. That is not a matter of being solely a service that advises on abortion.

Senator POLLEY—Not solely, but part of the advice that they give to young women is that the option is there.

Mrs Coleman—It is part of the range of clinical information which they make available, and that is no different from the range of information that is made available by the ACT government's Health First line.

Senator POLLEY—Do either of you—I would be very interested in your views—support counselling at termination clinics? Do you see that as being totally transparent? Can you give any evidence to deny that there are some women who have gone to termination clinics for counselling who have then had abortions and then regretted them?

Mrs Coleman—I would not be at all surprised if there were some women who had terminations who regretted it and I am equally certain that there are women who have decided that the regret after a termination was still nevertheless something that they had to live with because they had made an informed choice. I think it is very important that, when any woman, no matter what her age, is contemplating a decision as serious as the termination of a pregnancy, she is given a very good opportunity to talk through all of her life circumstances that are relevant to this so that she makes an informed decision—'she makes an informed decision', not 'a service makes a decision for her'. Does that help you to understand where I am coming from?

Senator POLLEY—Through the counselling services that are provided to termination clinics, are those young women who may have regrets after the termination then obliged to continue counselling?

Mrs Coleman—That I cannot comment on. I am somewhat out of the age group that is using these services, but I think there are good quality termination services that do offer some counselling and I think there are some absolutely shabby ones that we could all be deeply mortified about, as in many other places. But I would think a good quality service does offer some kind of support and would presumably offer referral to a counselling service if it was felt that the young person, the woman, no matter what age—I beg your pardon; I should not be ageist—needed to have access to some support. I note with interest that the new medical benefits schedule item is specifically going to be available to people who want to have further counselling about issues to do with their pregnancy.

Ms Richards—Perhaps I can make a comment. There is evidence—and I can try to source it—that says that for the vast majority of women who have a termination the feeling is not guilt; it is relief. It is quite an extraordinarily high proportion, and I will endeavour to find that study. By the time women get to most termination clinics, they have already made up their minds. However, my understanding is that termination counselling is available if they wish to have it, and post-termination counselling as well. That is also offered by family planning clinics as well as a range of other services.

Senator BARNETT—Will you forward that study to our committee?

Ms Richards—I will do my very best.

Senator BARNETT—Are you familiar with any other studies? If so, could you advise the committee accordingly?

Ms Richards—I will certainly endeavour to do so.

Senator MOORE—It is a little confusing for everybody in that we have a specific bill that is looking at the general issue of advertising at the same time as the government is introducing an MBF position that I know is colouring all the questions. But the draft bill that is in front of us relates specifically to the advertising of any form of information on counselling for people who are pregnant. I am sorry, Senator Stott Despoja; my mind is going over to the other issue about whether your bill refers to counselling for family members and partners—I know the other information we have from the government talks about that. But this bill in front of us is specifically about whether organisations that provide any form of counselling for women who are pregnant should have to clearly identify what kinds of values their service is based on and what they will or will not do.

Your submissions talk about the type of counselling that should be involved. One of the things I am interested in is the knowledge that either of your organisations has about the current situation with advertising of counselling. My knowledge is from the Yellow Pages; I flick through there and I get to know it. Are either of you aware of current advertising of pregnancy support which you do not think is absolutely accurate?

Mrs Coleman—My knowledge is essentially similar to yours: the Yellow Pages and skimming through the trusty Google results on the internet for Australian sites. I suspect that some people are not up-front.

Senator MOORE—Ms Richards, in terms of the current advertising in the Yellow Pages, which is mainly where it is advertised, although I believe stickers on doors and things like that are also used, are there experiences that you know of where it is not absolutely clear first-off? It may become clear after you go and seek the counselling, but the bill is about advertising. What is your experience?

Ms Richards—Certainly, if you Google 'abortion' in Australia, you will get far more sites that purport to be options counselling than ones that are much more upfront. Most young people would tend to use Google to find out information and education.

CHAIR—We need to draw this part of the proceedings to a close. I thank Mrs Coleman and Ms Richards for their time today.

Ms Richards—Can I please clarify something?

CHAIR—Certainly.

Ms Richards—I want to refer again to Senator Fielding's question. It did take me a little while to understand where he was coming from. In my opening statement, I said I felt that if abortion was legal, safely available and government subsidised in Australia, it seems reasonable that another government funded organisation should be giving information about government funded services. I want to clarify that as the only government funded pregnancy support service currently in this country, I do think that that service should provide all options.

CHAIR—Okay, thank you very much. I thank both of you for your appearance today.

[5.33 pm]

QUINLAN, Mr Francis Gerard, Executive Director, Catholic Social Services Australia

ROOTS, Mrs Margaret, Director, Family Services and Network Support, Catholic Social Services Australia

CHAIR—Welcome, and thank you both for appearing and for waiting for us to get to you today. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. The committee prefers to take evidence in public, but could take evidence in camera if required. We have a submission from you, No 77. Thank you for that. I now invite you to make an opening statement, bearing in mind that we are running late. The shorter you make your statement, the more the committee would appreciate it.

Mr Quinlan—I think that, when I timed it, it was about an hour and 35 minutes.

CHAIR—Oh! We will see how we go.

Mr Quinlan—I will see how I go on an edit.

CHAIR—Right. The sooner you start, the sooner you finish then.

Mr Quinlan—Thank you for the opportunity to appear before you again today—we have been here before—and to present the views of Catholic Social Services Australia on the important issue that this bill raises. Catholic Social Services is an agency of the Australian Catholic Bishops Conference and Catholic Social Services Australia is also one of the largest networks of non-government social service agencies in Australia. The 60 members of our network provide a wide range of assistance to people in every state and territory, including some 29 Centacare agencies that would be well known to people.

You have before you our written submission and I do not intend to revisit it in these opening comments but to try and summarise it succinctly. Catholic Social Services Australia supports the objective of transparency in the presentation and delivery of social services, including pregnancy counselling, but we do not believe that this bill in its current form achieves these objectives.

The bill singles out particular pregnancy counselling services—namely, those that do not provide referral to termination providers—and places onerous requirements on them to advertise in a particular way under threat of criminal penalties. The bill defines pregnancy counselling so broadly as to catch in its net a vast array of service providers, medical practitioners, educators and others. It further defines advertising so broadly as to capture every conceivable form of publication or notice, whether made to the public or not.

The bill adopts a definition of nondirective counselling that is out of step with the usual clinical definition and, on these definitions alone, we believe the bill fails. Even if the deficiencies in these definitions could be corrected, I ask the committee to consider whether or not legislation is the best tool to determine the nature and content of counselling that is provided by highly trained and professionally competent psychologists, social workers and counsellors.

In partnership with governments of all persuasions, our members have developed quality frameworks and processes to guide service delivery and practice. Amongst other things, these frameworks make explicit the values that underpin services; they articulate processes for the supervision of professional counsellors and they articulate processes to deal with ethical challenges. These frameworks have, for a long time, facilitated the process of partnership with governments that allow the provision of professional services, whether in education, health or social services, by faith based and other similar services.

It is our simple contention that the principle of transparency should be applied equally to all services, and that existing quality frameworks providing appropriate disclosure are a more useful basis for negotiating service standards and practice than is legislation. I would be pleased to answer any questions that you might have on the contents of the submission or the opening statement.

CHAIR—That hour and a half went very quickly! Thank you very much. I assume some of the organisations within your umbrella provide pregnancy counselling services?

Mr Quinlan—That is correct.

CHAIR—And I assume some of those have received funding from the federal government—in fact, I think you mention the funding that is received by the Australian Episcopal Conference for natural family planning programs.

Mr Quinlan—Again, it is a definitional question but if you consider the NFP to be pregnancy counselling, then, yes, it does receive that recurrent grant.

CHAIR—You have not had any issues raised with those organisations, of which you are aware, about the quality of the services you have offered or the compliance with contractual requirements laid down by the Australian government in respect of the offering of those services?

Mr Quinlan—Certainly we have had no question from the government in relation to those services. I think, as any provider who is providing direct services to the public would say, we do from time to time receive questions about our services from clients or people who purport to represent clients, but certainly no substantial comments or concerns that I am aware of.

CHAIR—You might not be able to answer this question, but do you have the sense that the women who come to use the services that are provided by the organisations you represent—and they enter through whatever gateway they use to access those services—are confused about the nature of the services you provide? Do you have a sense that women are, in a sense, misled about what is available to them by way of information, support or counselling from the services that are being offered?

Mr Quinlan—It is very difficult to generalise because the pathways into our services are so many and varied. What I would say is twofold. Firstly, our services are, by way of their branding and naming and, as I referred to in our submission, the code of ethics that we provide and that our members subscribe to, very upfront and transparent in the way they are presented. Services that are specifically developed to support the intention of women to maintain pregnancies that they may not be able to maintain without support are largely presented directly as those sorts of pregnancy support services. As I said earlier, I am not

aware of any representations that would suggest otherwise. Regarding the naming of organisations, as I said, most of our diocesan services will bear a name like Centacare, Catholic Family Services or something very similar. I do not think there is much confusion—certainly, that I am aware of—in the clients that come to us. I need to say, however, that the clients who do come to us come to us from a variety of faith and non-faith backgrounds of all kinds and they receive services of a high professional standard.

Mrs Roots—Good counselling is good counselling. The question is: when does it become defined as pregnancy counselling? Good counselling is about following a client's need and dealing with the issues that the client presents in that form. The options are raised in response to what the clients who come through the door are actually raising. We are very clear about setting, maintaining and monitoring professional standards so that very professional services are provided. It is the client who asks for what they need and that is explored fully with them. Otherwise, we would not be doing what we would deem to be professional, good quality counselling.

Mr Quinlan—Somewhere in there is the definition that Senator Stott Despoja might be seeking—about what non-directive counselling might entail. It is really to say that I do not think we can say that a service that provides information about all the options available is necessarily nondirective; nor can we say that a service that provides only a limited range of options is necessarily directive.

CHAIR—Do any of your services have their phone number appear in the section at the front of the phone book in any areas—in the way of emergency help lines or 24-hour services?

Mr Quinlan—I would like to take that on notice, if I may. I am not certain.

Senator MOORE—I was going to ask the same question that Senator Humphries just asked, so I was interested in the response. That is across the country? I know that there are variations in different parts of the country. I want to take up the point you finished with and the issue of nondirective. Once again, there is confusion about the bill, which is looking specifically at any form of advertising, and what we are going to be seeking down the track with the medical funding.

Mr Quinlan—I hope it is clear that we have focused very directly on the bill.

Senator MOORE—As am I.

Mr Quinlan—We certainly do not feel that we have enough information as yet about the proposal in relation to the counselling services.

Senator MOORE—We are waiting for the department to get its mind around what is happening in the legislation. You commented that counselling that does not offer information on all options is not necessarily directive. Can you expand on that? If someone is seeking information about what they should do and the counselling process only explores some options, how can that not be directive?

Mr Quinlan—It is really simply that some clients will come to us to explore particular issues. Again, it is very difficult to generalise but, certainly in some circumstances, it is not appropriate for the counsellor to broaden the scope of the discussion beyond that which the

client is seeking to explore. The client may well come to an agency with a very specific question about some very specific issues, and it is not necessarily the role of the counsellor then to broaden the discussion. That is really what I am attempting to say. In a counselling circumstance, a client and their counsellor may explore a small number of options or a single option, and that is not necessarily because the counsellor is being directive; it is because the counsellor may be appropriately dealing with the presenting problems that the particular client is wishing to examine.

Senator MOORE—If someone came to one of the various forms of counselling services that the Catholic Social Services offer and particularly wanted to know where they could find information about contraception or termination and that came up in the counselling, what advice would you give to your counsellors to pass on?

Mr Quinlan—Again, without wanting to obfuscate, there would be a range of responses that might depend on the particular relationship that the counsellor has with the client. It may also depend on a range of other issues that the client is wishing to explore. Our services do not refer clients directly to termination providers. That is not to say that our services do not attempt to provide objective concrete information that a particular client might be seeking about a particular range of circumstances.

Senator MOORE—Are there problems with the connotations of the word 'refer'? I do not know whether you were here earlier when we were talking with the department. From the department's perspective, they have a very serious issue with the word 'refer'. They think that it has medical connotations, and we explored the difference between offering a direct referral and providing information on which a person can act. The department see a clear delineation between those two areas. From your answer, you seem to have that issue as well.

Mr Quinlan—I think we pointed out in our submission also that there are particular problems with that. In relation to just what is in the bill, I think having a clear understanding of what would constitute a referral is problematic. Our agencies will certainly ensure that the clients receive all the information that they need. That may mean that when the options with our services are exhausted that it is appropriate for them to be taken up by another service, a medical practitioner or someone else who is able to make a detailed assessment of their circumstances and needs.

Senator BARNETT—Your submission states:

> This Bill, as currently drafted, is inadequate as its core concern is referral to abortion. If it became law it would not achieve its stated objective, but it would result in considerable disruption to many professional services that currently assist people considering pregnancy or who are already pregnant.

Can you expand on that and advise evidence to support your views?

Mr Quinlan—Yes, certainly. I think those comments relate particularly to definitional problems that we have already identified. It seems to us that, and I concede that I am not a lawyer, on a reading of the definition of pregnancy counselling, the scope is remarkably broad and may drag into its net a whole range of services that I presume would not be the intention of drafters to include—as I said, medical practitioners, school counsellors and others. There are an awful lot of people who are providing pregnancy counselling services in that regard.

Also there is the definition of advertising which, from memory, not only includes a very long list of types of publication and notices but also includes a statement of whether they are available to the public or not. So it seems to us of concern that there may well be a whole raft of documentation also that is caught up in that net. There are a whole range of circulars, notices, pamphlets and other things that organisations will be producing all the time describing their services but which will not be intended for and will not ever be seen by the public. I think there is the potential for a raft of disruption in regard to both those elements.

Senator BARNETT—What about the fact that it is inadequate as its core concern is referral to abortion?

Mr Quinlan—That relates to what are identified as options for pregnancy counselling which is to say maintenance of the pregnancy, adoption or fostering of some kind, or termination. The penalties that would be imposed by the bill relate only to advertising that relates to referral to abortion services not to the other two elements that are identified.

Senator BARNETT—Finally, on page 4 of your submission, you make a reference to the government funding for pregnancy counselling services with the Family Planning Association getting $15.4 million of the $16.7-odd million. Then you express some sort of concern about the majority of the funding being received by organisations that could be regarded as pro abortion. What are your concerns, observations and analysis of that and why is that important?

Mr Quinlan—It is really to suggest that the funding that is available to services like our own we think is a relatively small proportion of the total funding pool that is available.

Senator POLLEY—We have heard evidence tonight and some of my fellow committee members have concerns about the amount of information that would be available through the help line. I asked the department whether or not the same information would be available on all options of a pregnancy. Do you have a view in relation to the sort of advice that would be available to meet the criteria of this funding?

Mr Quinlan—As I said at the outset I really do not feel as though I have enough information or an adequate description yet from the department or the ministry about what is proposed in the help line contract. I will say we are eagerly awaiting that information and obviously have an interest in what is forthcoming.

CHAIR—We have to suspend the hearing for a moment while we attend to our duties in another place. We will be back shortly.

Proceedings suspended from 5.52 pm to 6.02 pm

CHAIR—We will resume the hearing. I apologise for the interruption. I think you were in the midst of an answer to Senator Moore. Had you finished that answer? Can you remember the question? Can Senator Moore remember the question?

Mr Quinlan—If Senator Moore is happy with my answer then I am happy to say I am finished.

Senator MOORE—I have one follow-up question; I think it is a follow-up question. On page 5 of your submission, you talked about the various funding now going to various organisations. You state:

... the majority of funding is received by organisations that could be regarded as "pro-abortion".

You also state that the Family Planning Association have received the bulk of it. Why do you say that they are pro-abortion?

Mr Quinlan—I was really trying to reiterate the comment that we made earlier in the document that it differentiates them from our particular kind of service.

Senator MOORE—In many ways, that is the crux of the whole discussion in that there are counselling organisations and processes which give information on a whole range of areas, and there are some that give information on some areas. Probably because of the community discussions, they have been labelled as either pro-abortion or anti-abortion.

Mr Quinlan—Yes, I think that was the point we made at the start of the submission.

Senator MOORE—That is the crux of it. The draft legislation is an attempt to try and ensure that the public, when they look at any service, can have a sense of which camp they fall into, which is negative in itself. I wanted to flesh out that term 'pro-abortion', because my understanding of the Family Planning Association is that they do not self proclaim as pro-abortion.

Mr Quinlan—I think it also underscores for us the merits or otherwise of legislation as a tool to actually deliver the sort of outcome that we are trying to achieve. I am not convinced that legislation is the best way forward. We make the point in our submission that we think a more fruitful way of ensuring the sort of transparency that we are seeking is through the professionalisation of services, through the articulation of quality frameworks for organisational operation and management and through the sorts of professional standards and professional memberships that various counsellors and others will have.

Senator MOORE—Do you have any opinion on the fact that the government is now introducing a provider funding process, further funding that is going to be significant in terms of the amount of funding that is going to be available across the country? Do you see that that will make it any more important to have that clarity of understanding about what services can be provided?

Mr Quinlan—Frankly, I think it is important regardless of what funding is available for what services. I think it is just as Margaret indicated earlier: good counselling is good counselling, and we ought to be pursuing good counselling. In our view, part of that is transparency of values positions when there are values positions. It is about openness in relation to codes of ethics and standards and those sorts of things that we refer to, regardless of the position that is held.

Senator WEBBER—You say in your submission that Catholic agencies do not refer directly to termination services and are committed to making this clear to prospective clients. At what point do you define someone who looks at accessing your services as a prospective client? At what point do they become the client?

Mr Quinlan—In many ways, they become the client before they even access our service. Part of what we are saying is that our agencies, through the code of ethics—which I am happy to table, with the chairman's permission; I referred to it in the submission and indicate that it is available on the web—think that information ought to begin to be available to clients even

before they access our services. So, in relation to the way we present our services in advertising and in the sort of material that we are talking about there in relation to a code of ethics that an organisation ought to make available, that is where the process starts.

Senator WEBBER—If a woman who is pregnant looks at accessing your services then surely any young woman who is pregnant would therefore be a prospective client, if they felt the need for counselling services. Would there be a problem in acknowledging the fact that you do not refer to termination in the Yellow Pages when your service is advertised? That would be upfront rather than a woman having to approach you, discuss it and then look at the ethics.

Mrs Roots—That would assume that we should identify every type of counselling we did and said what we did or did not do. We could go through the same process for addiction counselling or for gambling counselling. As I said earlier, when do counselling services—because we have generic counselling services—actually become pregnancy counselling services? We could define all the types of counselling services, and then we would have to make a statement about what we would or would not do with any of those services. To get around that, because we are generic and in lots of places in Australia we are the only service available, we have our value position very firmly out there so that people know what it is. The moment they walk in the door, of course, it is reiterated.

Senator WEBBER—I have a great deal of respect for that. But, to muddy the waters a bit between what the government is proposing to fund and Senator Stott Despoja's bill, it would seem to me that, if that is your view, you should make it very clear to prospective clients. I think that is admirable and a good thing. If an organisation like yours were to then tender for this new service, they would have to agree that, if they advertised, it would have to be in the advertising that that is not going to be an option that you will canvass with prospective clients.

Mr Quinlan—That is a different question. It is hypothetical at the moment, but it is a question in relation to a hypothetical service. If, for instance, this hypothetical service—

Senator WEBBER—I think the service is real in that the government has allocated the money. It is hypothetical as to whether you would get involved in it.

Mr Quinlan—In my mind, it is hypothetical as yet as to the nature of the service. If, for instance, the service were described as a referral service, then clearly I think it would be important that that position were stated up front.

Senator WEBBER—So it would, therefore, be appropriate to say 'any organisation', because the Prime Minister said, 'If people want to be referred to an organisation, X will be available,' et cetera and that, therefore, the organisation that tenders for that would have to be up front about whether they were prepared to provide the list of accessing termination services.

Mr Quinlan—As I said, we await with great interest—because we think it is going to be an important program—the description of what the program is and will do. Once that information is available to us, we would have a decision to make, firstly, about whether the services that the government was seeking to provide were consistent with the values position we adopt and whether, in that sense, we would choose to tender for the services. Once we had

made that decision—and let us say, hypothetically, that it was a decision to proceed—then we would have to make some further decisions about the sorts of information, disclosure, advertising and other things that would be required in order to be honest to both the needs of the government and the needs of the service we would be providing.

Senator STOTT DESPOJA—First of all, thank you for providing a submission to the inquiry. There are some issues, believe it or not, on which we agree. There are a number of comments in here relating to transparency which I strongly agree with. I thank you, too, for your views on the definitional issues, because I think there is an argument in acknowledging broader issues that relate to counselling. Also, if you are going to talk about making something transparent and accountable, there is an argument as to whether or not you talk about specific counselling services. You have probably given me a few ideas for a few more private member's bills, so you should be careful, Mr Quinlan! Following on from Senator Barnett's comments, I want to ask you about the summary of your submission. It says:

> This Bill, as currently drafted ... If it became law it would not achieve its stated objective, but it would result in considerable disruption to many professional services that currently assist people considering pregnancy or who are already pregnant.

In the context of this submission, that is a pretty bold statement. I know you have responded to Senator Barnett, but I want some more specificity, if I can, please, because that is quite a comment when we are not talking about closure of services, we are not talking about services being unable to operate. As you know, this bill deals very specifically with the issue of transparency. So, leaving aside the adequacy or inadequacy of the bill as you perceive it, can you give me an example of what you mean by professional services that would not be able to operate, particularly for those people who are already pregnant? That is a pretty big image for me to confront, if you understand.

Mr Quinlan—I do not think we are saying that services would not be able to operate—maybe I have chosen words that are not clear. What we are saying is that there would be considerable disruption to services that are operating.

Senator STOTT DESPOJA—In what way? That is what I would like you to elaborate on. Would it be simply that they would be subject to legislation that prevents deceptive and misleading advertising? Why would that be disruptive?

Mr Quinlan—That is not the extent of the concern. The extent of the concern is, firstly, the range of services that would be required under the definitions included in this bill that would become subject to the legislation. As I have indicated, it seems, on my reading—and I make no bones about the fact that I am not a lawyer—that there is a whole range of services. I am not just referring to Catholic agencies; I am referring to a whole range of services that, on any common person's reading, would be considered to be providing counselling services. They would then have to consider their position in relation to—and I will move on to the definition of advertising—a whole raft of documentation and materials described in the definition of advertising and that, I think, would be caught under the scope of this bill, under fear of quite harsh and severe penalties. That is the sort of disruption that I am talking about—that is, disruption to services.

Senator STOTT DESPOJA—Thank you for that. I understand that it is a value laden statement. But, when you talk about people who are currently considering pregnancy or who are already pregnant, there were a few images that I was not too comfortable with. I was not happy about what I was doing to all these pregnant women. But I see your point. I was going to ask a comparable question—in fact, probably pretty much the same question as Senator Webber asked—because I thought the previous witnesses made an interesting point about the 24-hour help line. In the legislation, as you know, it is made very clear but I think non-directive—by my definition—that the 24-hour help lines should be the only ones that advertise. Having said that, we have heard other perspectives which may include this: 'Hang on. What's wrong with someone who does not fulfil that definition of advertising but is up front about it—that is, by putting in a disclaimer?' I wanted to get your response to that as well. Perhaps there is room in that area of the bill for a change. The bill is not perfect. I do not think it is as bad as you say it is.

Mr Quinlan—You are right. We agree on some things!

Senator STOTT DESPOJA—This is the process of a Senate committee and this is why I am really glad that we got this process to tease issues out. There are going to be some philosophical issues on which we do not all agree, but if we do look at drafting something we want it to get rid of some of those loopholes. In relation to the 24-hour hotline or help line in the phone book, do you have a view as to whether or not people should have to put in a disclaimer or a comment about the services they provide? Again, I know in your answer you were saying: 'Hang on. It's so broad ranging.' I am talking about if you specifically list yourself as 'pregnancy counselling'—that is, you are listed under 'pregnancy support', 'pregnancy counselling' or 'pregnancy helpline'; the listing has the word 'pregnancy' in it. I figure that narrows it down a bit. Therefore, some of the other agencies to which you refer are not necessarily in that 24-hour hotline loop. Is there anything wrong with people being up front in that respect, specifically in relation to the issue of terminations and referrals for terminations? I will be up front: that is obviously in the definition in my bill.

Mr Quinlan—I would answer that in a couple of ways. Firstly, I think the definition even as you have just given it, with respect, is still quite broad. Some of our agencies, for instance, would advertise pregnancy support services that are very clearly services to support women who may otherwise not be able to continue a pregnancy, and they are advertised in that manner. They are advertised unashamedly with the specific purpose of offering an alternative to women who may not see maintaining a pregnancy as an alternative. It seems to me self-evident that those agencies are not going to be referring to termination services.

Senator STOTT DESPOJA—Sure.

Mr Quinlan—That is the first answer. The second part of that answer is that I am just not certain that I see a way in which legislation is likely to be the best solution to maintaining the kind of transparency that you are talking about. It would be our contention that lack of understanding or lack of information about referral to termination services is not the only lack of information that women who are approaching pregnancy counselling services might suffer. A lack of information about pregnancy support services, as I have just described them, might equally be a failing in the sorts of programs that we have on offer. It seems to me that, once we start down this path, it is very difficult to differentiate between sorts of services. If we are

going to have transparency in advertising then I think we need transparency in advertising for all services. We need better descriptions of the sorts of options and services that agencies promote and the sorts of priorities that they might give to various services. That is something that genuinely offers better information to women and their families who are in very difficult and not always but often tumultuous circumstances when they are approaching services.

Senator STOTT DESPOJA—To make the process tonight a bit faster, would you be prepared to take questions on notice?

Mr Quinlan—Yes, certainly.

Senator STOTT DESPOJA—I was interested in the comment—and I know this has been picked up elsewhere—in your submission where you highlight the fact:

> Whilst Catholic agencies do not refer directly to termination services, and are committed to making this clear to prospective clients, they will refer women seeking information related to abortion to medical professionals and qualified care, or further specialised counselling.

You might want to do this now or take this on notice. I think it would be very useful for the committee to know if you have any specific examples of what 'medical professionals', what specified 'qualified care' and what 'further specialised counselling' services you refer them to. I am wondering if this is a regular referral that is provided. Again, I am happy for you to take that on notice, Mrs Roots, although you look as if you might want to tackle that one.

Mrs Roots—Our services would have, as a matter of practice, people that they would refer to in such circumstances. But the first line of option would be explored with the client as to who their normal GP is and what inhibits them from going to the GP. There is a range as to why they would not be using such a system. It is really working with the individual person, and in any given circumstances that would be the procedure that would be expected in good counselling. If they did not have a system then there would be—within our system for all our counselling services—some other options that were available. As in counselling, it would be giving a range of options to the person that they could actually choose from in these circumstances. So there are quite specific guidelines on how you would handle such a situation.

Senator STOTT DESPOJA—Do you mean specific guidelines under which your organisation operates?

Mrs Roots—Yes. With all our members—and this goes for almost any referral—they are not actually directed to one service. They are actually given a range and what is behind that is talked about if they do not have their own preferred option. As for this situation, obviously, if a woman comes with an issue like this you would explore what her status was with her own medical practitioner.

Senator STOTT DESPOJA—Indeed. On that last note, maybe you would provide us with a list of the service organisations that are affiliated with your organisation. If they would be willing to provide us with those guidelines in some greater detail, that would be helpful. Thank you for your submission. We may not agree on all points but I appreciate the feedback.

Senator NETTLE—In the second-last sentence of the last paragraph on page 3 of your submission, you talk about the bill precluding 'services with a limited range of services from

receipt of government funds' and their not being able to access government funds 'unless they breach this requirement'. I am wondering about this. Are you suggesting that organisations are breaching such a requirement or are you suggesting they would breach such a requirement?

Mr Quinlan—I was actually reflecting—and you may be able to correct me—my own confusion over two different messages that I received when I read the materials. The first was as to the reference—and forgive me if I get the language wrong. As I understand it, the reference from the Senate asking this committee to investigate the bill states:

The reason for the referral of the Bill provided in the Selection of Bills proposal is to examine the adequacy of the legislation in improving regulation of pregnancy counselling, and ensure the counselling provided by Government-funded pregnancy counselling services is objective, non-directive, and includes information on all three options.

Yet—and, again, this is my non-lawyer's reading of it—the bill itself is actually only applying penalties to organisations that are misleading or deceptive in their advertising, so it does not seem to directly pursue that element of the reference that I was just quoting.

Senator NETTLE—Maybe I am reading it wrong, but I read your comment in that report to be saying that services that breached the requirement of the legislation to disclose whether or not they refer for termination would not receive government funds unless they breached the requirement. I thought you were saying that services would not get funding unless they lied about whether or not they referred for terminations. That is why I was asking whether you thought organisations would do that.

Mr Quinlan—Certainly none of our organisations would.

Senator NETTLE—I am not suggesting that, but it seemed to me that your submission was saying that organisations may do that in order to get funding. I was just checking whether that was your view.

Mr Quinlan—No. The intention of that section of the submission was to indicate that I understand that the purpose of the bill—not the reference, but the bill itself—seems to be around penalising deceptive and misleading advertising. We would of course be very gravely concerned if the intention of the bill was to specifically rule out the funding of services that are not providing the three options that are described. That was the point I was trying to make.

Senator STOTT DESPOJA—Sorry to interrupt, but I should have responded to that. I read that paragraph in bold and I can tell you, in bold, that is not the intent and the bill does not have that effect.

Mr Quinlan—I looked long and hard for it when I read the reference from the Senate.

Senator NETTLE—You have just taken on notice, haven't you, providing the names of the organisations that you cover?

Mr Quinlan—Yes. Our members are listed on our website, so that information is quite freely available. Also we took on notice to expand on the notion of better representation of the protocol around some of those referrals.

Senator NETTLE—You talked before about quality frameworks. I wondered whether—and this can be taken on notice—you could give us an example of the kind of quality frameworks that your organisations operate under.

Mr Quinlan—Margaret is the expert.

Mrs Roots—Because most of our services receive federal or state government funding, we are required to conform to quality frameworks and to provide consistent services. All our organisations have a quality framework in place that gives consistency of service delivery by auditing our service delivery. Certainly in professional counselling organisations that is the standard expected now to get government funding. We would assume that for any service that comes in and is funded for pregnancy counselling the same assurances would be given, because we are using public moneys to deliver these services. It is the way the departments actually monitor us.

Senator NETTLE—I did not understand that you were referring to the government's model. I thought you were talking about another model.

Mrs Roots—At Catholic Social Services Australia we have a model, because we have such a broad range of services that we deliver. You can appreciate that we have in some agencies 60 different quality frameworks.

Mr Quinlan—Required by various branches of government and different departments.

Mrs Roots—So we have an umbrella one that adopts all those underneath.

Mr Quinlan—They are standards like ISO.

Senator NETTLE—I was asking what your example was, because I think in your opening statement you said you had the view that you thought it would be more effective to regulate the industry through that approach rather than through legislation. Perhaps you could expand a little bit more on that, because the existing quality framework as we have had it described by the department when they were here is about organisations providing information to the government to say, 'Yes, we meet all of your standards.' Whereas if there is legislation it requires then the capacity to enforce it. We see it in other areas. I do a lot of stuff to do with immigration. If it is in the legislation, it is easier to get people to comply than if it is in a vague framework. As detailed as it might be, it is not as detailed as the legislation. Maybe you could expand on that. It struck me as odd your view that you can regulate better through a framework than through legislation.

Mr Quinlan—Particularly where we are talking about funded services. It seems to me—and I have not followed the discussion earlier in the day—for instance, that there has already been a fair bit of discussion about a particular government service, which is a 24-hour help line. It seems to me that the government is well placed in the preparation of tender documents, in the contracts that will follow those and in the service monitoring that follows those. It is very well placed without the burden of legislation to monitor, in quite a high level of detail, the sorts of practices and outcomes that will be delivered by that particular service. In fact, we make the criticism of many sources of government funding in other settings that the departments, on behalf of the government, have the capacity to be far too prescriptive in the way that they can administer services to quite a micromanagement level of service provision.

That is a concern that we often wrestle with from our side. So it seems to me that, in relation to specific pools of funding, the government and the departments that represent it are very well placed to monitor service standards. It seems to me that in legislation, unless the

legislation is drafted for each particular narrow band of service, we are likely to get into the sorts of problems that we see in the draft legislation before us. You are attempting to write legislation that has specific application to particular services but which is likely to draw in a range of other services that are not necessarily the targets, if I might use that phrase, of the legislation.

Senator NETTLE—I think we will have to disagree. In immigration and security it is much easier to get agencies to follow things if they are in legislation rather than in guidelines. That is my experience, so we will have to leave that.

Mr Quinlan—Sure.

CHAIR—I have one last question. I understand that Catholic teaching suggests that a woman who faces the prospect of putting her own life at risk if she carries a pregnancy through to term has the legitimate option of being able to terminate that pregnancy. Is that your understanding?

Mr Quinlan—Without wanting to obfuscate, I would like to choose my words carefully here. It is a very technical area of both theology and practice. I would certainly be happy to get you a detailed and technical answer on that question.

CHAIR—The thrust of my question is this: if a woman, who might be a practising Catholic, came to one of the services that you represent and asked: 'My doctor has said to me that I cannot safely carry my child through to term. If I do, I put my own life at risk. Is it all right for me to have an abortion?' is it conceivable that in those circumstances such a service that you represent would advise the woman that she could and should have a termination? Would that organisation then facilitate that woman getting the advice she needs to do that?

Mr Quinlan—On the example you have given, Senator, I think it is more likely that the woman might be referred to an appropriate spiritual adviser. If she is presenting with a concern about spirituality or perhaps her status in relation to the church then it is likely that that is a piece of advice that would be much more appropriately delivered to her by her appropriate spiritual adviser or authority. Our agencies would likely work with that woman to find an appropriate person for her to seek that advice from. I do not think that would be within the scope of professional counselling services per se. But it would certainly be within the scope of our services to ensure that the woman received the sort of support and advice that she was seeking in order to answer the obviously very difficult question that she would be wrestling with. It would be important too, I imagine, in those circumstances, to ensure that she was getting appropriate medical advice. That again is something that would not be provided by our counselling service. But our counselling service would be facilitative and would assist her to ensure that she got that appropriate medical advice.

CHAIR—Yes, but the point of the legislation is not that you provide advice on medical issues; it is that you refer to people who can provide advice or provide a service.

Mr Quinlan—We certainly would not be providing advice on medical issues, no.

CHAIR—That is what I am saying. The legislation affects you in terms of whether and in what circumstances you would refer a woman to a medical service. If you do not refer a woman to a medical service for the purpose of procuring an abortion, then you are caught by

the provisions of this bill. For example, you would be required, as I read it, under clause 6, to advertise in a particular way, if you did not refer a woman—

Senator STOTT DESPOJA—But it has no impact on the services you can provide. It just means that you cannot deceive when—

CHAIR—I am not saying it does. In terms of the way the legislation is drafted, if you, admittedly, on rare occasions, did refer a woman to medical services for the purpose of procuring an abortion because that was consistent with other advice she had received that suggested that her life would be at put risk by carrying the pregnancy through to term, then would you not be in effect holding yourself out as an organisation that did offer people information or referral to services that procured abortions?

Mr Quinlan—I think we would want to make it clear that we refer women to medical practitioners for specific medical advice, not for the procurement of abortion, per se. If women are seeking further information about their medical circumstances, then the best people to give that to them are former colleagues behind me from the Australian Medical Association and their members. We would not be providing referral to women for any specific medical procedures. That would be a decision that the woman and their medical practitioner would make. We would of course always ensure that if women needed particular medical care, they were able to receive appropriate medical care and we would facilitate them receiving that, just as we would facilitate them receiving spiritual care and guidance if they required that. Again, I think this comes back to those notions of what non-directive counselling might be. It would be in that complex fulcrum of human experience that we would be attempting to draw out with the client their particular needs and the particular support that they were seeking and to provide them with the best and most efficient avenue to receiving that support and advice.

CHAIR—Thank you very much for your appearance today.

[6.39 pm]

CHIRGWIN, Dr Margaret, Director, Public Health and Ethics, Australian Medical Association

HAIKERWAL, Dr Mukesh, President, Australian Medical Association

PESCE, Dr Andrew, Federal Councillor and Member of Executive Council, Australian Medical Association

CHAIR—Welcome. I apologise for the long delay. I hope you were not planning on catching a flight to somewhere else in Australia this evening.

Dr Pesce—Yes.

CHAIR—Oh dear! There are lots of things that Canberra has to offer in the evening. I am sure you will enjoy them this evening, if you do not end up getting that flight. You have our apologies. I thank all of you for being here today. You have, I think, had information provided to you about parliamentary privilege. You understand that evidence should be given generally in public, but if you wish to have confidential information provided you can do that in camera. We have your submission; it is No. 6. We have looked at it. Can I invite you to make an opening statement before we ask you questions. Again, I apologise for leaving you for so long before calling you forward to present evidence.

Dr Haikerwal—Thank you, Mr Chairman, and there are no problems about the delay; that is part of the practice of life, I think. Certainly, we keep people waiting in our practices all the time, so you are entitled to get your own back!

Thank you for the opportunity to speak today. The AMA made a submission and presented to the inquiry into RU486. We did this from a standpoint of neutrality on abortion. For us this was a technical issue; in a situation where abortion is legal in all states and territories in Australia, the introduction of a new methodology to procure an abortion should be a technical issue rather than a political one.

There are clearly many women each year choosing abortion. There are between 80,000 and 100,000 abortions performed in Australia each year. The exact numbers are unknown, but no-one believes that abortion is a good form of birth control. In this context, the AMA feels very strongly that actions should be taken to reduce the number of abortions performed. However, these must be actions that support and empower women, not actions that seek to control or force particular choices upon them.

Whilst recognising that the broader issue of abortion falls beyond the scope of this bill, the AMA considers that most people, whether prochoice or prolife, would support interventions to reduce Australia's abortion rate. The AMA believes that interventions to reduce Australia's abortion rate must support and inform women and must not attempt to coerce them into making any particular reproductive choice. Acceptable interventions to reduce abortions should focus on both reducing the number of unwanted pregnancies and on reducing the number of abortions related to unwanted pregnancies.

The AMA's Executive Council has recently developed the following resolution in relation to the issue: 'That the AMA supports the following as acceptable interventions to reduce Australia's abortion rate ...'—and I would pre-empt the reading out of those by saying that the federal council, the whole council of 34, approved that resolution, subsequent to its being submitted.

CHAIR—Yes, we read that in the submission.

Dr Haikerwal—Okay. So obviously that is as written; I will not read those two motions out because you have them before you. Whilst advocating for a reduction in Australia's abortion rate through acceptable interventions, the AMA feels that all women must be able to access non-directional pregnancy counselling services at any time. We support the principles behind the bill—namely, that advertising and notification for pregnancy counselling services must not be misleading or deceptive. To ensure greater transparency and accountability in the performance of such services, we contend that the minister should report annually on payments to and performance of pregnancy counselling services.

Indeed, for this program to benefit more women, wider access to counselling should be considered for pregnant woman who have a variety of problems requiring deeper consultation. By these I mean issues around miscarriages, genetic counselling, prepregnancy counselling, medication review of women who are on medication whilst they are pregnant and women who may have had alcohol or drug use before learning that they were pregnant. The other significant concern we have is that, if there were one item number for one particular procedure, the confidentiality relating to that particular service would be lost.

CHAIR—Thank you very much. We will now go to questions.

Senator NETTLE—I would like to pick up on what you were saying at the end, about 'if there were one item number'. Are you talking about the government's proposal in relation to a new item on the MBS for pregnancy counselling? When you say that their confidentiality would be lost, is that because a part of that requirement would be to provide the department with details of people who use that service, or because it is providing the department with a list of the doctors who use that? I am just not sure whether the confidentiality is about the patient or the doctor.

Dr Haikerwal—The confidentiality relates directly to the patient. Obviously, if a patient is pregnant and continuing with the pregnancy, generally there would be antenatal care, and they would not need pregnancy counselling. We think there is some benefit in having pregnancy counselling—counselling for women who are pregnant or have recently been pregnant—for a variety of other reasons. By explaining the scope of such a descriptor—such as 'Item 2: women's health issues, especially related to pregnancy'—it would mean that there was far more acceptability and far more use of that potentially beneficial item.

Senator NETTLE—I am trying to understand how it would work. Would you provide information to the department about patients who had accessed that item?

Dr Haikerwal—When a bill is submitted to Medicare, you have to itemise it with a number. If you are talking about the provision of a counselling number, that number would be exhibited and therefore in the Medicare Australia databank. It certainly would be accessible to government, so it would be identifiable should that be the requirement.

Senator NETTLE—Would there also be a list of doctors who used that? I know that there has been some discussion about which doctors would use it and what level of training they had had. Would there be a list of doctors who use that that the department would have? How would that work?

Dr Haikerwal—Again, each time an item is billed to a patient and the patient receives a rebate, also on the same account is the provider number of the doctor, which identifies the doctor and indeed the doctor's location.

Senator NETTLE—Are you involved in discussions and consultations with the department of health about that?

Dr Haikerwal—We have certainly had consultation with the department about this, telling them our very significant concerns about the narrowness of the scope, potentially, of the item and how that would impact negatively on the use of the item—and indeed the benefits that could potentially be generated from it if it were used in a wider aegis.

Senator NETTLE—I do not know whether I can ask you at what point those discussions are at.

Dr Haikerwal—They have certainly taken our thoughts on board and will get back to us.

Dr Pesce—I might just clarify that. The confidentiality issue does relate to the patient, because if she takes a Medicare form to the Medicare office and then it goes, 'There's your abortion counselling item number,' it is immediately apparent that she has had problems. It is the same reason we have always argued against an abortion procedure specific item number, even though there was talk about possibly introducing that over the last few years. Currently termination of pregnancy-abortions is mixed in with miscarriages. In a way, that compromises our ability to collect data, but if we wanted to collect data we could do it in other ways. I do not think it is fair to women that they have an item number that labels them when they go to the Medicare office or if someone opens their mail inadvertently when the bill comes home. Quite possibly, that makes it public knowledge that they have had a termination of pregnancy.

Senator MOORE—We are in the situation where we have a proposed bill in front of us which looks specifically at the issue of counselling services and advertising, and we are in the middle of a process where there is another budgetary item from the government that has been brought down and looks at new Medicare item numbers. Whilst they are related, this inquiry is looking particularly at the advertising process. When we talked to the department earlier, they were talking about the issue of their new counselling hotline and so on, and there was a great deal of discussion about the verb 'to refer'. The bill, as it is now written, specifically talks about honesty in advertising and about 'referrals' for terminations of pregnancy. That is the term that is used. Do you believe that that is the best use of the word 'referral' in that sense or is there some particular confusion about the verb 'to refer'? Does that conjure up a medical practice, particularly, which is the position of the department?

Dr Haikerwal—To me, 'refer' is a very generic term. It depends on who else you send somebody off to and on the function you want them to look into on your behalf because of specific expertise. Some people will take it to be a very specific procedure for one doctor to refer to another doctor or to another practitioner, but it could be a referral to a general service or a wider ranging provider of care.

Senator MOORE—The bill before us specifically talks about tightening up advertising on the basis that people who are seeking help may be confused or may get into a situation where they do not totally understand because of the nature of the advertising. Is that something the AMA is aware of—any confusion in advertising in this process?

Dr Haikerwal—I think that advertising has to be very clear. Everybody is welcome to do the work they do and to come from the particular direction they want to come from. But they have to be up front at the time of providing a service, and that is an important part of the process—that people know they will get non-directional guidance, wherever they seek that help.

Senator MOORE—I know that Dr Pesce is an obstetrician and Dr Chirgwin is in the specialist area in the AMA. We have had considerable discussion about non-directive counselling and what constitutes non-directive counselling. Are any of your professional areas able to make a comment on what is directional and what is nondirectional?

Dr Haikerwal—From our point of view, nondirectional is that you are basically told what choices are available and given information about that variety of choices. For instance, I see the hotlines as being a first line of contact, but you do not get an awful lot more information from that, apart from where else you may want to go to seek other advice, because of the very nature of that service and the personnel manning that sort of service. It would be very different to seeing a professional with specialist health counselling knowledge or expertise, a GP who has a separate sort of expertise, a gynaecologist, a psychiatrist or whatever is required.

Dr Pesce—I would probably take it a little further. Nondirectional would mean—apart from what Mukesh has said—that, once a patient indicates that her preference seems to be for a particular course or approach to solve a problem, you should be able to support her in that decision. It could be for something related but distant. For example, if a woman came to me with menstrual disorders and it became clear that she did not want a hysterectomy, as a specialist I would feel obliged to give her good advice about the alternatives to hysterectomy—medical treatment and various things. I think that, if you want to provide a proper service, you are obliged to follow the path that the patient chooses for herself as you advise her on all her options.

Senator BARNETT—I thank the AMA for their submission. In the second last paragraph of your submission you say:

> ... we contend that the Minister report annually on payments to and performance of pregnancy counselling services.

I can understand the sentiment behind that. Do you also support annual reports on Medicare funding of abortions—how much, the types of abortions, whether they are mid term or late term and that sort of thing?

Dr Haikerwal—I think one of the problems we have is about data collection altogether in this area. When the minister first raised this particular question previously, there was significant disquiet because the numbers included all miscarriages as well as terminations that were done for medical reasons, so the whole system was blurred. Also, the system of collection and reporting requirements vary significantly from state to state. The inconsistency

in legislation from state to state and the way in which that data would be gathered is really very difficult. Then there is the other complexity of private and public services providing these sorts of services. It would be hard but it would be useful to have that data, absolutely.

Dr Pesce—We would strongly support good data. Our only problem with using Medicare item numbers and things like that is that there is a breach of patient confidentiality. There are ways to obtain the data that you need. If you want to know how much money is being spent on abortions and how many abortions are being done, all you have to do is develop a system that does it. But in the past people have said: 'Here are 6,700 of the 35643 item numbers. That means they are all abortions.' That is intellectually dishonest and, if it is the case, there are problems with the patient confidentiality issues that I raised before. So we would strongly support good data on any aspects of medical care—there is nothing wrong with good data—but we want to make sure that it does not interfere with patient confidentiality issues.

Senator BARNETT—I understand there are two Medicare item numbers, and you have mentioned one of them. In questions on notice to the department they have provided answers in terms of Medicare funding amounts.

Dr Pesce—There are in fact more, because there are second trimester abortions, which come in the obstetrics schedule, and you do not know which of those are—

Senator BARNETT—Yes, that is what I am referring to. I do not know the number—

Dr Pesce—There are two surgical item numbers that could be used and there are at least two obstetric item numbers, so there are four. With the obstetric ones, you do not know whether it is because of a foetal anomaly or it is a social elective termination. So there are still big problems with data collection. However, you could get that data in a proper manner if you went to the trouble of setting up a proper and prudently constructed data collection system.

Senator BARNETT—And you would support that approach?

Dr Pesce—Yes.

Senator FIELDING—Isn't 'referral' a medical term which is inappropriate for counselling services and which is not necessary because abortion clinics do not require referrals?

Dr Haikerwal—'Referral' can be very much a narrow descriptor of what one medical practitioner will do to another, but, in more general terms, people can refer you to where you would purchase something because you got a good deal or whatever else. So I would see 'referral' in this context as being a much more general term. Generally you need a referral from a medical practitioner to access a clinic specifically set up to perform abortions—so-called abortion clinics.

Senator FIELDING—Generally?

Dr Haikerwal—You do, full stop.

Senator FIELDING—Given that the AMA supports principles behind this bill, will the AMA require its members to publish a statement in all their listings like 'this doctor does not provide referrals for termination of pregnancy'? If not, why should pregnancy counselling groups be forced to?

Dr Haikerwal—We certainly would not require our members to do anything—we cannot. We are a membership organisation, and we simply provide advice and support for doctors.

Senator FIELDING—So you support the bill but would not—okay, thank you.

Dr Pesce—I would answer that by saying that, if a woman rang a doctor's surgery and said, 'I would like to see Dr X because I want to organise an abortion,' I would expect that doctor to be ethically bound to divulge to the patient prior to their arrival if there was no way under which that doctor would provide that service. But often women will ring up and say, 'I want an appointment to see Dr X,' and do not tell the secretary why they are going to that appointment—it will only become clear later on. Given the fact that doctors deal with a broad range of medical issues, it would be unhelpful and probably inappropriate. However, I would say to my members that, if that doctor knew that was what the patient was specifically coming for—if they had a specific request that was volunteered by the person saying, 'I want to see Dr X because I want to organise this'—and that doctor took the appointment and took that patient's Medicare funding plus the gap payment but under no circumstances would the doctor provide that service, that would be unethical.

Senator FIELDING—That would make sense for medical advice. I appreciate the difference between counselling and medical advice.

Senator STOTT DESPOJA—Just on that last point, I want to make sure that you understand that this bill specifically deals with notification and advertising of pregnancy counselling services. Obviously that is where the issue comes in—the expectation that people would have to be up-front in their conduct. So your understanding would be that doctors are not specifically affected by this bill, unless of course it is an organisation that is a pregnancy counselling service?

Dr Haikerwal—Yes.

Senator STOTT DESPOJA—I just wanted to make sure that that distinction was clear. Do you also understand usage of the word 'referral' not just in the formalised sense of 'I need a referral to see a specialist'? For example, the constitution of the Australian Federation of Pregnancy Support Services Inc. 1985 under the objects 25E says that they do not advise, provide or refer directly or indirectly for abortion. The word 'refer' can be used in a number of ways, including the possibility of referring to an adoption agency. When you talk about the breadth of terminology in relation to 'refer', would that be your understanding as well?

Dr Haikerwal—Absolutely. In that arena there are three main choices, and you would expect the referral to be to whichever of those three options people were contemplating.

Dr Pesce—You can refer to *Hansard*, and there is a general meaning of the word. In the MBS system, in medicine a referral is a dated piece of paper with a doctor's name, provider number and a referral to a specific doctor. That is a medical referral, but we often refer for non-medical things. I guess I am a bit frustrated that a lot of energy may be spent on this. It would be better to call it 'assisting the woman in obtaining the relevant service that she requires'. If you do not want to call it a 'referral', then call it 'assisting'. If you do not want to assist someone then you should probably say that. We could get stuck on the concept of 'referral', which has a specific meaning in the MBS structure and with doctors, but the term is used all the time. If I were trying to do my job properly and a patient came to me and asked

me for something that I could not provide then it would be my obligation to assist her in obtaining that somewhere else, whether that includes a medical referral or a referral to her spiritual counsellor.

Senator STOTT DESPOJA—In the context of the definition section of the bill, I have tried to aim for as much specificity as possible in the reference to providing referrals to termination of pregnancy services where requested. That is part of my definition of 'non-directive'. I am interested in the AMA's definition. I welcome your submission because it specifically addresses the issues in the bill. In your submission you state:

... it is imperative that women are fully informed regarding the range of available pregnancy counselling services.

Dr Haikerwal, I would be interested in the AMA's views of, for example, organisations that do not necessarily provide referral to abortion or organisations that are pregnancy counselling services that fail to disclose that they are not willing to provide referral for a termination. In the context of your argument, is it problematic that women are fully informed on the range of available pregnancy counselling services?

Dr Haikerwal—It is difficult to single out different organisations.

Senator STOTT DESPOJA—Certainly.

Dr Haikerwal—All organisations will have some benefit, and we aim to provide some benefit to women who seek their services. The concern is really about them being unable to advise women on particular ways that they would wish to proceed. For instance, if the woman does not have any understanding of adoption, they should be able to refer her to a different organisation that does talk about adoption. It is very much about everyone having a place in the sun, as long as the people who do more detailed counselling have the required training. They may approach things from a different point of view. Take the issue of adoption, for instance. If they are unable to help in that area, they should be able to say, 'We don't do work in that area. Here are the adoption counselling people who can give you more advice on that.'

Senator STOTT DESPOJA—As you probably gather from the way this bill is structured and the specific emphasis on advertising, the transparency of advertising and the prohibition of misleading or deceptive advertising, my concern is not about the range of organisations that may provide advice—I am quite happy to encourage that diversity—but about the possibility that a service gives the impression, implicitly or explicitly, that they provide information on all three options available to women. You have referred to the three options in your submission. They are self-evident but, nonetheless, you have defined the process as providing the three options. I am worried about that misrepresentation. It is not so much about the range of services being provided but about what happens and whether it is fair to women, who ring up or contact a particular service, if they are given a false impression. I guess I am looking for guidance in providing a regulatory framework to prevent that from happening.

Dr Haikerwal—I would agree up-front that it is certainly important for the services that are advertising as a specific pregnancy guidance organisation to be able to say, 'We are providing all three' or 'We have a certain slant.' That is quite important.

Dr Pesce—You probably appreciate my comments, and I have a general tendency towards what you want to achieve. Having looked at this, I would say that there is nothing to stop

organisations from saying, 'We do all three things' and that only an organisation that does all three things can advertise that they do all those things, otherwise they would be in breach of the Trade Practices Act.

Assuming they are in a community where there are options, if they wanted a particular type of service, women would probably be able to very quickly figure out which one they should go to. My main worry is if there is confusion amongst women about what is happening, especially, for example, if there were a single tender for the telephone service. I have always seen this as a way of improving health services for women by giving them access to services that they do not currently have funded. If it is not set up properly then women will say: 'Oh, this is a bloody waste of time. You end up talking to someone and they won't give you what you want anyway,' so they will not use the service.

I like to look at it as a positive thing, and always have. You can have lots of options. If there is not transparency, there will be frustration, there will be cynicism and maybe it will not achieve the potential that it could to help the right people. Everyone has a place. They are all women who want certain things. It is just as bad, in my view, for a woman who might find out that it was a viable option for her to keep her baby or adopt her baby out and who, because she did not realise the way to do that, ended up having a termination and regretting it. That, to me, is a bad outcome in the same way as stopping someone who wants to have a termination from having one is.

I think that transparency is very important and if you want the service to improve the situation of women in this position, it has to follow the direction of: 'Let's be upfront. Let's tell people what we are about, and that way we will get the people who we can help best.'

Senator STOTT DESPOJA—I think you got to the heart of the message in relation to the Trade Practices Act, as it is because the Trade Practices Act does not cover this service that I have introduced this bill. There is no regulatory framework, so that is what I am aiming for, hopefully with some positive consequences. Thank you for your submission. Will you take questions on notice?

Dr Haikerwal—Sure

Dr Pesce—Why do you think it does not cover it?

Senator STOTT DESPOJA—It does not. We have had legal advice. Because of the nature of some of these services that are, in most cases, provided by genuine nonprofit organisations, they are not covered. That is the sole impetus for this bill. It arose because of the lack of coverage. I might add that it is not just pregnancy counselling services that are not necessarily covered by the Trade Practices Act. I acknowledge that for other witnesses. That is why this bill is based on the same principles of the TPA, recognising that there are slightly different circumstances as well. It is in the same way that I would expect every other organisation to comply without misleading or deceptive advertising—including politicians, but we will get there soon too.

CHAIR—I have a question. You say in the introduction to the part of your submission that refers to the AMA's resolution on abortion that the resolution is designed to facilitate a reduction in Australia's abortion rate. I assume that is an acknowledgement on the part of the

AMA that that rate is too high at the present time. Do you see anything in this legislation that would facilitate that outcome?

Dr Haikerwal—It makes it very confusing—not the bill itself but the way the whole thing is being approached. The new item number and the need for the bill make the whole thing very much more complicated. I think there are other ways to approach this. However, I think that if you have transparent services then that would probably make very little difference. I do not know if the counselling service will make an awful lot of difference either, because that is approaching the situation when it is too late. We are at the bottom of the cliff. We need to be approaching the situation prior to people needing to make the decision to go and get abortion services or counselling.

CHAIR—Given the unstated assumption behind the legislation, I think it is fair to say, that there are women at the moment, who are being misled by misleading advertising or descriptions of services, who are being sort of shepherded away from abortion services who otherwise would have them, if that is the case—and I postulate that that is the assumption behind this legislation, to some degree at least—isn't it the case that passing this legislation would potentially have the result of increasing the abortion rate in Australia?

Dr Haikerwal—I do not think so. I think that, when people have actually made the decision to seek abortion and there is some potential for abortion counselling, the chance of a turnaround is probably limited. By having some certainty that all three options that are there will be made available to them, that they can be sure of that, will make them more likely to actually seek those services. If they felt they were going to get preached at or not be treated fairly or given all the options, there would be less likelihood of them actually taking up those services.

Dr Chirgwin—I think it might reduce the number of later term abortions that are undertaken. If people feel certain they know what kind of counselling is going to be available to them, that it is not going to try and pressure them in any direction and they feel very secure, they might go to it when they are only eight, nine or 10 weeks pregnant. If they are very frightened and they look in that book and they think, 'Oh, my goodness, this is going to be somebody who's going to chew my ear off and not tell me I can have an abortion or whatever,' they might not do it until they are 20 weeks and someone has noticed they are pregnant. I think, if this bill goes through, you will perhaps reduce the number of late term ones, which I think we would all like to see.

CHAIR—I am surprised to hear Dr Haikerwal say that he does not think it would make a difference to most people who go down and have resolved to use one sort of service or another—that is, an abortion service or some sort of pregnancy support service. The assumption, it seems to me, behind this legislation is that there are a significant number of women who are making inappropriate choices for themselves because of the misleading nature of the services.

Dr Haikerwal—I think the choices that are before them could be made more straightforward if some of the other things we talked about in our submission and in our deliberations here were put in place. That could make the choices more palatable.

CHAIR—But they would make the same choices?

Dr Haikerwal—Yes—well, not necessarily.

Dr Pesce—One problem is that, unlike many other discretionary medical decisions that you can make, when a woman has an unplanned pregnancy to a variable extent there is a time frame in which she needs to make a decision. It may well be that, without information, she may not understand the time available to her to make that decision and what her options are. This is partly what Margaret was saying: I think sometimes women get rushed into a decision and, when they get rushed into a decision, they may make a decision that they regret. That is why I saw this as a good thing for women. It may give them access to some counselling and support in their decision-making process which would allow them to make a decision that they are less likely to regret later on in life.

To try and answer your question: is this going to decrease abortions? I do not know. I suspect it probably will not. The vast majority of women who come to a decision to have an abortion make that decision and then live with it. I see this as a way of making that decision easier for them and making it less likely that there will be that small percentage who think back and say, 'Gosh, I think I made the wrong decision.' I am sure that a lot of people would like to think that counselling itself is going to decrease abortion. I do not think so. I think better sex education and better preventive measures—that is, preventing unwanted pregnancies in the first place—would have a much better potential for reducing unwanted pregnancies leading to abortion than dealing with them after the event.

CHAIR—Thank you.

Senator STOTT DESPOJA—I would just like to put this on the record. The bill is not based on any assumption that women are making wrong choices; it is based on the assumption that women are entitled to full and frank information. I just want to clear that up, because that is not an assumption.

CHAIR—I do not think I said 'wrong choices'.

Senator STOTT DESPOJA—Okay. I will double-check that with the *Hansard*.

CHAIR—I said 'choices that are inappropriate'.

Senator STOTT DESPOJA—Inappropriate? Okay. I hope I have not misrepresented you, but I do not want to be misrepresented, either, in that assumption.

Senator ADAMS—Thank you very much for coming. There has been some talk about the national health call centre. I will use Health Direct in Western Australia as an example. It now has mental health counselling services attached, with all the protocols and everything else that go with that call centre—and it has been going for quite some time. Can you see a place for non-directive pregnancy counselling in a call centre like that? Could there be another add-on? We have mental health now. Therefore, do we go a step further?

Dr Haikerwal—Thank you for the question. There is a sudden explosion in the number of call centres out there. There would be some reason to try to rationalise it all and to have one call centre that you call for everything and then, depending on the nature of your call, pre-existing services would be used and approached and would take calls depending upon the nature of your medical concern. I think it is important to actually use what services are out there rather than put in yet another overarching system.

Senator ADAMS—This is what is worrying me.

Dr Haikerwal—The second thing is that I would see a call centre as being a form of comfort and an extra layer of support, not really doing very much more than doing the next level, which is saying: 'Here are the places that you can go to. We'll see you through this particular short time until you can get to the face-to-face'—because that is really when the real decisions are made and the real counselling happens that will be followed through. There is a limit to what can be done in a phone consultation.

Senator ADAMS—I realise that.

Dr Haikerwal—I think that is why it is important to see it as being a first line of call if necessary and not the be all and end all of the service that is required.

Senator ADAMS—Say someone rang the helpline and desperately wanted to have pregnancy counselling of some sort. As far as a referral went—and if the helpline had a list of different areas—would you see that as a problem?

Dr Haikerwal—It is important that there is a list there and that people are given a few numbers to try in the morning. That is the idea: that the choice is given and that there are people there that have the opportunity to provide those sorts of services. As for them, they may come from different directions. I do not believe a phone line is going to be the most appropriate way of dealing with somebody who is in distress and has some significant concerns that may be more than just about being pregnant. They may be about all the other social disturbances that that might create for them or the financial worries or the other woes that they are going to have. That requires some very strategic and very careful consideration and guidance.

Senator ADAMS—This is really what I am getting at. Firstly, you have got that direct line by which you can get help, which is really what the national call centre is going to be about, and then you are going to have this pregnancy helpline off somewhere at the side with counsellors sitting at it and with counselling available for perhaps an hour, two hours or whatever. But what happens as far as the protocols are concerned? You might be able to help me here because I have not had a chance to catch up with Health Direct yet. Does it have a protocol for those people that do ring in that situation? Does it give out information on counselling services for people to go to?

Dr Haikerwal—I am not sure of the details of that service either because it is in the phase of being introduced. I would imagine there would be a certain set of protocols that it would have to follow.

Senator ADAMS—What I am saying is this. Health Direct has been set up in Western Australia for a long time. Someone rings up and is triaged and, obviously, they have to be helped somewhere along the line. That is the sort of thing they have. I am wondering if you as an organisation know if there are protocols out there.

Dr Haikerwal—I do not know if there is a protocol existing. But my hope would be that you would actually engage the services that currently exist and use those rather than set up a whole new system that may not have the same degree of past experience and expertise.

Dr Pesce—I would have expected, just because of governance issues, that once you are taking a call from someone who has got a medical problem then you have a duty of care to that person. If you are an organisation running a call centre that did not have pretty good guidelines and protocols, then you would be taking the risk that you could end up having a problem if an adverse event occurs as a result. Let us say someone who was suicidal rang up, you did not do anything and they tried to hang themselves and they ended up brain damaged in an ICU. Whenever you are not the individual responsible for the continuing of care, you always have to have a system of care in place. If you have a system of care in place, you need guidelines and protocols. I would expect that it would be impossible to win a tender for this unless there was something like that and you could assure that there would be proper governance of the service that you would be providing.

Senator ADAMS—The reason I am asking is that these call centres are out there now and I am interested in the protocols as to referring people.

Dr Chirgwin—I do not know if Western Australia has them but I can tell you that NHS Direct has them, so it would be very easy to get such protocols. NHS Direct is the one in England that you ring. If there are not protocols here, it would be very easy to get suitable protocols as they exist, even if Western Australia does not yet have them.

Senator ADAMS—Your submission states:

> Indeed, for this program to benefit more women, the counselling should be considered for wider access to pregnant women who often have a variety of problems requiring deeper consultation.

Can you explain 'wider access' and just where you would like to see this counselling go? I think you have referred to education.

Dr Pesce—One of the most traumatised groups of patients I see are the women who have just had a miscarriage. I am a busy specialist. I would like to talk to them for as long as it takes, but I can see that it will not always be possible. It would be good if they had access to professional counselling, subsidised under the MBS, to help them talk through that. Also, women with infertility who are very anxious about possibly never having a child are often under very severe emotional stress and, apart from medical care, they need counselling. Often the big infertility clinics have these services because it such an obvious need. But if you are in country towns or in places where there is no big infertility centre, you do not have access to that. So wider access should include miscarriage, infertility and postpartum depression, which has had a lot said about it. At the moment, I get patients who are getting depressed and when I ring up and try and get an appointment with a psychiatrist, it takes six weeks to get an appointment. There are hospitals that deal with it, but you have to walk over broken glass to try and get them seen within a few days. Anything which facilitates and improves the level of service that these other women also can access would be good. I see these as pregnancy related issues, and I would like to see money used to help these women as well. It would then also make me happier if this was a non-specific item number for pregnancy counselling. I think it would be better for women and it would be a good thing.

Senator ADAMS—Thanks very much.

Senator STOTT DESPOJA—Were you surprised that the help line in particular was targeted for women who had an unplanned pregnancy within a 12-month period?

Dr Pesce—Yes.

Senator STOTT DESPOJA—Me too.

ACTING CHAIR (Senator Moore)—Thank you very much, doctors. We do appreciate your patience of the fact that we mucked you around this evening.

Dr Pesce—It made me get here, otherwise I would have been late.

[7.22 pm]

FOSTER, Mrs Anne Maria, Executive Officer, Pregnancy Help Australia

GARRATT, Mrs Deborah, Director of Counselling Services, Pregnancy Help Australia

ACTING CHAIR—Welcome. Please accept our apologies for the delay this evening. It has been caused by a number of factors, but I am afraid it is an occupational hazard in this place. I particularly want to apologise on behalf of Senator Humphries, our chair, who has had to go off to another appointment. It is not through lack of respect for you as witnesses. I understand that information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. We prefer to take evidence in public, but if for any reason you would like to go in camera, please let us know and we will arrange that. We have a submission from your organisation. I have no idea what number it is, but we have got it. Would either of you like to make an opening statement?

Mrs Foster—Yes, I would like to.

ACTING CHAIR—Please go ahead.

Mrs Foster—In relation to the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005, a bill for an act to prohibit misleading or deceptive advertising or notification of pregnancy counselling services and for related purposes, Pregnancy Help Australia makes the following statement. Pregnancy Help Australia is supportive of the requirement of truth and transparency in advertising in relation to all counselling services including pregnancy counselling. Pregnancy Help Australia agrees that every pregnancy counselling service should provide non-directive counselling, where counselling and full and frank information on all three pregnancy options—raising the child, adoption, and termination of the pregnancy—are available to the client in order to empower the client to reach an informed decision. We are confident that the counselling we offer falls within these parameters.

Pregnancy Help Australia is in disagreement with the definition of non-directive pregnancy counselling services which has been provided for the purposes of this bill. According to this definition, such a service should offer not only counselling and information with respect to the three pregnancy options available but also referral to termination of pregnancy services where requested. Our objection to this definition is based on the following. The use of the term 'non-directive' in describing referral practices is inaccurate and misleading. This term has long been held to describe a counselling process or modality. The term 'non-directive' in the field of counselling refers to a counselling modality developed by Carl Rogers in the 1930s and is also referred to as 'person-centred' or 'client-centred' therapy. Within this term there exists no room for dictating either practical services or referral to other services. The term 'non-directive' as it applies to counselling is firmly entrenched in the field of counselling to define a process. It is inappropriate to attempt to change its meaning by the introduction of this bill.

Similarly, with regard to advertising the services of an organisation, Pregnancy Help Australia believes it is unprecedented that a service be required to advertise that which it does not provide, let alone be so specific regarding a single service such as abortion referral. There

is no evidence that an organisation which does not provide a particular service or referral provides a less adequate or effective counselling service to women. Both proposals—that is, inclusion of a revised definition of non-directive counselling for the purposes of the bill and the requirement to advertise that which a service does not provide—are discriminatory in their intent and would disadvantage organisations which legitimately provide non-directive counselling in accordance with the accepted professional definition of the term and pregnancy support as advertised.

ACTING CHAIR—Mrs Garratt, do you wish to make an opening statement?

Mrs Garratt—No, thank you.

Senator NETTLE—The Department of Health and Ageing, appearing before us, indicated that they had become aware that you were changing your constitution. Could you provide us with some more information about how that process occurred, the purpose behind it and how it is going to change?

Mrs Foster—Our constitution has been in the process of being revised for several years, based on the fact that we received government funding. Because we received government funding our internal structure changed. We became staffed and we developed a whole new range of programs and service provision. The constitution that was accepted in 1985 does not adequately cover those internal structural changes. Certainly, the changes that we are proposing do not involve any changes to our objectives or our ethos—they remain the same. They are purely changes around meeting procedure—all those structural things that a constitution provides information about—and a framework for the organisation to operate within. In a conversation with one of the people in the department I mentioned we were looking at a new constitution. It is totally coincidental; it is not related to any bill or to the parliamentary debates that have been occurring.

Senator NETTLE—Did you say you were changing your constitution because you received government funding?

Mrs Foster—That was the original impetus for changing. Prior to that we were a very different organisation. We were not staffed; we had a different structure. So this has been a long process of developing a constitution which we feel will reflect more accurately where we are now as an organisation.

Senator NETTLE—I notice you are using both names, the Australian Federation Pregnancy Support Services and Pregnancy Help Australia. Can you explain that? Is one a trading name?

Mrs Foster—It is technically a trading name, although our incorporating body tells us that is the wrong terminology to use. We are still the Australian Federation of Pregnancy Support Services, according to our incorporation, but we are operating as Pregnancy Help Australia for the same purposes: to become a more modern, up-to-date organisation. We thought the other organisational name was very long and convoluted, and we wanted to be more streamlined.

Senator NETTLE—When did that change occur?

Mrs Foster—At our annual general meeting last year, in October 2005.

Senator NETTLE—Does your organisation provide information to people about how to access a pregnancy termination?

Mrs Garratt—We do not, as is stated in our philosophy, refer for abortion services. We do not refer for any medical services. Our counsellors are trained to provide non-directive, supportive counselling to women, not to make assessments about any medical matters at all, and that includes whether or not they should be having a termination. Women would be referred back to their health practitioner if they want further information about where to access termination services.

Senator NETTLE—I was not asking as a medical referral—I accept that you are not medical practitioners—but about what information women are able to obtain. If a woman rings you up and says, 'I want to have a termination; what do I do?', what would you do in that circumstance?

Mrs Garratt—We would always tell a woman immediately, if she asks, if we can provide her with information about where to get a termination. All our counsellors are trained to say, 'We cannot provide you with a referral for termination services. We can, however, talk to you about your options and give you information about abortion procedures, et cetera, if that is what you want to do.'

Senator NETTLE—Do you provide information about how a woman could access a termination? Not a referral, but information which a woman could then, herself, use. Do you say, 'If you go to this website, you can find some information out there'?

Mrs Garratt—I do not know that we ever get caught up in that kind of process. Women who have found our phone number are generally well able to find a phone number for a termination service. I do not know that women are struggling, if they have called our service, to say, 'Where can I look for one?' I do not think that that comes up.

Senator NETTLE—So you would not provide information about how a woman could access a termination?

Mrs Garratt—We would refer her back to her medical practitioner.

Senator NETTLE—Can you provide a little more information about what training you provide for counsellors?

Mrs Garratt—Our counsellors undergo up to about 70 hours of face-to-face training. In some centres the face-to-face component is a little less than that. Where it is less, there is additional distance education that counsellors have to undergo. Our training at the moment comprises up to 250 hours done over about a six-month period. Counsellors then have a three-month probationary period where they observe phone calls and undertake supervised counselling. They undergo a telephone skills assessment at three months and, if they are seen to have reasonable competency at that time, they are allowed to start taking calls.

Up until their first year anniversary, there is regular clinical supervision. All of our counsellors undergo clinical supervision, but new counsellors have more regular clinical supervision. All of our new counsellors now enter an annual reaccreditation system where they need to gain 30 points each year to maintain their accreditation and their ability to remain as counsellors with our organisation.

Senator NETTLE—Aside from your internal training, do you have any requirements for people to have a certain level of qualification in order to be counsellors or trainers for your service?

Mrs Garratt—To be counsellors for our service, no. People do go through an application process. We ask people for referees. We do not ask that people have any particular qualification. Some research says that volunteer lay counsellors do not necessarily get worse outcomes than professional people. However, our trainers do have training provided to them for training purposes.

Senator NETTLE—But there not a requirement that they have a particular qualification?

Mrs Garratt—No.

Senator NETTLE—You mentioned outcomes when you were talking about volunteers. What outcomes are you talking about and how do you measure them?

Mrs Garratt—We are not measuring outcomes in our counselling processes or in our organisation. When I talk about outcomes, it is just a reflection of the research that talks about counselling outcomes and whether they are necessarily better with lay trained people than with professional people. I guess that is referring to the skills competency of people in a counselling situation.

Senator NETTLE—Can I ask you to take on notice to provide the committee with the study you were referring to that says there is no difference in the outcomes?

Mrs Garratt—Sure.

Senator NETTLE—That would be appreciated. Are you a registered training organisation for your internal training?

Mrs Garratt—We are in the process of becoming a registered training organisation. A lengthy, time-consuming minefield of paperwork has been going on for some months now, but we would expect to have received recognition as an RTO within the next three months. That is our aim.

Senator NETTLE—Which name will that be under?

Mrs Garratt—It will be under the Australian Federation of Pregnancy Support Services.

Senator NETTLE—Do you list anywhere that you do not refer for termination or provide information to women about access to termination? Is that listed anywhere in your advertising or anywhere in your material?

Mrs Garratt—Not specifically. However, Anne will know more about our Yellow Pages advertising.

Mrs Foster—The advertising in the front of the book does specify that we offer alternatives to abortion.

Senator NETTLE—But you do not indicate anywhere in your own material that you do not do that?

Mrs Foster—No.

Mrs Garratt—Just on that: there is a big difference between whether we provide referral for termination services and whether we provide information about the processes of termination. We will provide women with information about what might happen if they choose to continue with their pregnancy, if they choose to adopt out or what they might expect from a process of termination.

Senator NETTLE—But I thought you indicated to me before that you do not provide information about how a woman might access a termination.

Mrs Garratt—That is correct.

Senator NETTLE—That was what I meant.

Senator POLLEY—Thank you for your submission. Do you get referrals from abortion clinics?

Mrs Garratt—No.

Senator POLLEY—In your submission, under the heading 'Misleading and deceptive advertising', it says:

> It is unprecedented that a service be required to advertise that which it does not provide, let alone to be so specific regarding a single service such as abortion referral. There is no evidence that a service which does not provide a particular service or referral provides a less adequate or effective counselling service to women.

Would you care to elaborate on those comments for the committee?

Mrs Garratt—Yes; on anything in particular?

Senator POLLEY—Just put on record whatever evidence you want to put before us.

Mrs Garratt—We have not yet been presented with any evidence at all that, because it does not provide referrals for termination, our service provides a less effective counselling service. What we do in our counselling service is to listen to a woman's concerns and offer her information when she requests information about different alternatives. We do not proactively force information on women that they do not want to listen to or to hear, and that is part of what being non-directive is about. I think it is really important to make the distinction between the effectiveness of a counselling service and whether or not a particular referral is provided.

Senator POLLEY—In your third paragraph under the same heading we read:

> There are 'for profit' abortion services currently advertising in the help pages of local telephone directories. These services provide no practical or material support, nor referral to pregnancy support services, to women who access their 'counselling' but who do not choose to have an abortion. In fact, many services, promoting themselves as 'pro choice', have a clear financial vested interest in women choosing and undergoing abortion. In not addressing this issue, the Bill, in effect, seeks to reduce women's options when faced with unplanned pregnancy.

Would you care to elaborate further on that?

Mrs Garratt—There have been a lot of references to whether organisations such as ours need to be specific about what they do not provide, if they are going to be advertising for example in the help pages, whereas in the help pages of our regional telephone directory there

is a 'for profit' abortion service, whose business is abortion, that advertises pregnancy counselling and calls itself 'pro-choice'. I would suggest that that could be misleading or deceptive to women who might ring that service—more so, perhaps, than the fact that we may not talk about what we do not provide. We will still give information. We do not have a vested interest—certainly not a vested financial interest—in the outcome of a woman's decision.

Senator POLLEY—In relation to your summary—and I will not read all of that out for *Hansard*—do you have anything further to add to your summary in relation to this bill?

Mrs Foster—I do not, no.

Senator POLLEY—So your summary stands as you provided it in your submission. Thank you.

Senator STOTT DESPOJA—Good evening. Sorry we are running so late. Can I ask about the list of your affiliates? Would you provide a list to the committee of those affiliates which come under the umbrella organisation of Pregnancy Help Australia or AFPSS? Is that possible?

Mrs Foster—Do you mean the organisations which are members of our organisation?

Senator STOTT DESPOJA—Indeed.

Mrs Foster—It is on our website.

Senator STOTT DESPOJA—I want to clarify this. I have accessed your website, as you know; is there any particular update to that list? Are they current?

Mrs Foster—They are current as far as I know. There may be one or two new organisations which are currently seeking affiliation but, as we stand, that is the current list.

Senator STOTT DESPOJA—Thank you. Is Heartbeat International currently an affiliate?

Mrs Foster—That is not an affiliate of ours. We are affiliates with them, as a professional national organisation, but they are not a member of our organisation as such. Do you understand what I mean?

Senator STOTT DESPOJA—I think you need to clarify that.

Mrs Foster—Heartbeat International is a similar organisation to ours in that we are a group of pregnancy support services within Australia. Heartbeat International is a similar organisation which has affiliates within the United States. But it is also a bit broader reaching in that it also has a lot of international affiliates, and we are affiliated in that way with Heartbeat International.

Senator STOTT DESPOJA—I might put some questions on notice, if you are willing to take them.

ACTING CHAIR—Are you happy with that, Mrs Foster?

Mrs Foster—Yes, that is fine.

Senator STOTT DESPOJA—I will wait and see, because the last thing I want to do is to take up more time if that is inappropriate. But I want to clarify this: when you talk about 'affiliates', you make a distinction between affiliate organisations and, perhaps, associated organisations; is that a fair distinction?

Mrs Foster—I think it is another one of those terminologies that has lots of different definitions. In terms of our affiliated agencies, we are referring to our member organisations.

Senator STOTT DESPOJA—Got it.

Mrs Foster—We have, at the moment, 30 member organisations which make up the Federation of Pregnancy Support Services.

Senator FIELDING—Acting Chair, I would like to ask a question. Are we talking about the bill or are we talking about their association? Isn't this committee about the bill?

ACTING CHAIR—This is an open—

Senator STOTT DESPOJA—This is a pretty obvious question, actually.

ACTING CHAIR—We have had several questions earlier about people's membership, Senator.

Senator STOTT DESPOJA—It is not getting at anything, Senator Fielding; it is not asking for the number of members in terms of individuals; I am just trying to work out who comes under the charter and constitution.

Mrs Foster—In terms of our affiliation with other organisations, we are members of ACOSS; we are members of the Australian Counselling Association; we are members of an organisation which used to be called TISCA but which I think is now called Helplines Australia, which is an umbrella body for telephone counselling organisations, and we are affiliated with Heartbeat International. They are the four organisations that we have affiliation with for various reasons—because they all cover us in a different role, I guess, or we are able to mutually provide a service to one another in that way.

Senator STOTT DESPOJA—Thank you for that. I appreciate it. I will go to the issue of the constitution—and I thank you for your clarification—and the notion that you are amending your constitution, regardless of what the prompt is, and doing it for the purposes of updating or dealing with changes as a consequence of government funding. To me that is quite a legitimate reason. I guess you would have guessed that my curiosity would be about what aspects of the constitution you are changing. You made clear in your response to Senator Nettle that you were not amending the objects of the constitution—

Mrs Foster—No; I mean, yes, we are not.

Senator STOTT DESPOJA—No. And, as you know from questions that I have asked on notice, you would be more than aware of my interest in your funding by the government, not because I am questioning your legitimacy or right to operate but, obviously, I have a different definition of non-directive and that is obviously what we are getting to in the bill. I do want to clarify this: your objects—such as: '(1) to provide an organisational structure for state, regional and local prolife pregnancy support service centres with the purposes to offer mutual support, advice and service'—are not changing; your prolife philosophy is not changing?

Mrs Foster—It is not changing.

Senator STOTT DESPOJA—And, similarly, under point 5(e): 'not to advise, provide or refer directly or indirectly for abortion or abortifacients'—that is not changing?

Mrs Foster—That is not changing.

Senator STOTT DESPOJA—Do you think that that complies with a definition of 'non-directive'? I am trying to get to the bottom of this because I note that you have some strong views on the definition of 'non-directive'. Could you give the committee your definition—and I am not sure if it would be the definition in your charter or a sort of blend of what you have said here and in the submission to us—of 'non-directive counselling', specifically in relation to provision of information on the three options available to women? Obviously, we have a different definition; we are not debating that. I would like to hear yours.

Mrs Garratt—Sure. I think I said it relatively succinctly earlier: non-directive counselling is about working with the client, where they are at that point and with the information that they are seeking at that point, rather than leading them down any particular path. It really does not have a lot to do with specific information-giving or specific referrals at any point in time.

Once a counselling call moves into information giving, we may be a little less non-directive. It does not mean we become directive, but it is a different process. We use more cognitive kinds of skills. But, in terms of being non-directive, the most important thing is that we stay with the woman and/or the man and their issue rather than what we think their issues might be or should be.

Senator STOTT DESPOJA—I understand your comment about leading them down the path, but what about when people ask for information? I acknowledge that you touched on this issue with Senator Nettle but, for example, if someone wants information or to be referred to an agency that deals with issues such as adoption, what happens in those circumstances?

Mrs Garratt—One of the things that we need to be aware of is that we are a national line, so it is a 1300 call. Someone may be calling from somewhere in the middle of nowhere in Western Australia and it is being answered in Brisbane, for example. We do not have—as it seems most other organisations, which are bigger and better funded than us also do not have a great registry of organisations for referral purposes. We provide general kinds of information. When people want to know where they can get a termination, we refer them back to their medical practitioners. If people want to know about adoption, generally there is a government department within their state that handles that kind of information, so we would refer them to that agency.

Senator STOTT DESPOJA—When you say that you offer, for example, creative services action and creative services alternatives to abortion, what kind of information is contained in that? That seems somewhat more proactive in providing that information. What does that mean?

Mrs Garratt—If someone makes a decision to keep their child and they are looking for practical or emotional support, one of the works of our member agencies is to provide those things. So, again, we would be able to refer to one of the pregnancy support services, if there is one in the area, if they need more practical, material or emotional ongoing support.

Senator STOTT DESPOJA—Can we go back a step. We were talking about the issue of termination and you talked about, say, general practitioners. That information would be provided, as in you would refer someone in a particular area to a doctor or suggest they go to their own GP or a clinic. What is the answer to the question, 'I need information on how I can access a termination; who do I see?' Suppose you were asked that question. It is not supposed

to be funny. I am genuinely talking about a woman who would pick up the phone—and I asked you about adoption services and you answered that—in terms of termination, because women do ask that question, I have no doubt.

Mrs Garratt—We would say to the caller: 'In order to access abortion services, you would need to talk to your GP. If you do not have a GP, do you have a friend who can recommend a GP?' or whatever. We never refer to specific medical practitioners. If the caller wants some more information or wants to have an opportunity to talk through their other options, if they are interested, we offer them that opportunity.

Senator STOTT DESPOJA—You have made a number of points in the submission about abortion services in Australia being widely advertised and readily accessible by the majority of the population. Many people accessing pregnancy counselling services will have made such contact by utilising a phone book or internet and information about abortion services being available through these media. Obviously there has been a lot of debate about the listing in the 24-hour emergency, health and help sections of the *Yellow Pages*, and this is an issue I have attempted to address in the bill. It may not be in a way in which you agree—and I think there is room for movement in how the bill is written on that issue, given some of the suggestions that have come forward today. But is it fair to say that abortion services are not as readily accessible and/or advertised in the same way as perhaps the pregnancy Help Line or Pregnancy Counselling Australia are advertised? I am not suggesting there are not other avenues or postings, but, in the 24-hour services section, do you believe there is access to information on termination services?

Mrs Garratt—It is certainly my experience that there is. We do not have any evidence or documentation of women saying: 'I don't know where to go. I've looked in the phone book but I can't find anywhere and my doctor won't tell me,' et cetera. We do not have instances of that. In fact, as I made reference to earlier, there is a for-profit abortion clinic that advertises in those 24-hour help line pages—at least in our regional directory.

Senator STOTT DESPOJA—Is that an incorporated organisation?

Mrs Garratt—I would have absolutely no idea. It is a termination service that operates in Melbourne and does outreach services to regional areas.

Senator STOTT DESPOJA—I am just very conscious of the distinction—and you used the term 'for profit' here. You would obviously describe yourselves as a non-profit organisation and thus not subject to the Trade Practices Act—

Mrs Foster—Yes.

Mrs Garratt—Yes.

Senator STOTT DESPOJA—hence my concern about the lack of regulation dealing with advertising and notification. It is not specific to your service—I might make that very clear—it is just a general principle about transparency in advertising. I acknowledge that you do say Pregnancy Help Australia is supportive of the requirement of truth in advertising in relation to all counselling services, including pregnancy counselling. I go on to note that you have criticisms about the legislation. But why would it necessarily be—I am trying to use your terminology—detrimental to have legislation that ensured that pregnancy counselling

services, regardless of their philosophy, were subject to some pretty basic principles; that is, that they cannot mislead—that in your advertising material you must be up front about the services you provide?

Mrs Garratt—I do not believe that the way we advertise or the way we promote our services is misleading. The fact that we do not offer a particular referral for a medical service does not mean that what our counsellors provide to callers is any less or that we give less to women. One of the concerns that I have had in discussions is that, whilst some research tells us that most people believe abortion should be available for women and be someone's choice, often people do not know how they would feel until faced with that decision. There are also a lot of people who say, 'I believe abortion should be available but I would never have one.' I think that, if we are required to say that we offer pregnancy counselling but do not offer referrals for terminations, we are asking women to decide before they even pick up the telephone whether that is something they would want to have. We are putting in front of women a piece of paper and they have to decide, 'Maybe I do want a referral for a termination service so I won't ring that service.' There is certainly some evidence and lots of anecdotal instances that women's first and only venture in counselling for a pregnancy related decision has been at an abortion clinic, where counselling is possibly more likely to be more directive.

Senator STOTT DESPOJA—Are you saying that at an abortion clinic women are more likely to be given directive information about having a termination and that they are more likely to have it?

Mrs Garratt—Yes, I would suggest that someone in the employ of someone whose business it is to carry out terminations may be more swayed to move a woman to a termination decision.

Senator STOTT DESPOJA—Is that for financial reasons? Obviously you made reference to business.

Mrs Garratt—It may well be.

Senator STOTT DESPOJA—Do you recognise that there are other interests, though, that may operate in any organisation?

Mrs Garratt—Yes.

Senator STOTT DESPOJA—You are very upfront about describing a particular ethical position of your organisation. Do you suggest that it works the other way—that a counselling service that is based on a pro-life position is more likely to be 'directive' in that direction?

Mrs Garratt—I think that in any organisation we need to ensure that the quality of counselling is professional and that we uphold certain standards. I think that whilst an organisation such as ours holds a certain philosophical position it is not a philosophical position that is to the detriment of any woman who rings our organisation, and we do not hold an interest in what her decision might be.

Senator STOTT DESPOJA—I want to clarify a statement in your submission, where you said:

Abortion remains illegal in most states of Australia. Therefore, in these situations, the Bill requires the counsellor to be complicit in an illegal act.

That is a very strong statement which suggests that not only is the law being rewritten but this legislation is contrary to current laws. Do you stand by that statement?

Mrs Garratt—Yes.

Senator STOTT DESPOJA—I am just checking: how does the bill do that? This bill is dealing with transparency in advertising, and I am wondering how that makes counsellors participants in an illegal act.

Mrs Garratt—I hear what you are saying about the bill. In some of the debate around this bill and certainly in some of the media around this bill there has been a suggestion that services that are not offering referral for termination services are somehow inadequate and misleading. In fact, there is an enormous campaign at the moment suggesting exactly that. There is a lot of debate suggesting that, in order to provide a full service, all services, including counselling services such as ours, should provide referral for a termination. I guess that is what the statement reflects.

Senator STOTT DESPOJA—It is a very strong statement to suggest that a piece of legislation is entreating people to act illegally. I understand you have strong views, but I ask you to consider that statement, particularly in that it is not furthering or changing the law in a way that changes the current role, responsibility or position of counsellors. It does not loosen or change the law in any way. In fact, there is nothing to suggest that counsellors who are operating now would operate any differently as a consequence of this legislation—that is suggesting that counsellors are acting illegally now. I think that it is a very bold statement for an organisation to have publicly, one that might be quite readily challenged. I recognise that you might have different views on some issues but I urge you to reconsider that statement. Having said that, I am appreciative of your views and of your willingness to take questions on notice. I will be providing a couple of questions, and I hope that you will be able to respond to those for me. Thank you for your time.

Senator BARNETT—I would like to follow up on some of the questions from Senator Stott Despoja and to ask you some questions about your submission—and thanks for your submission. I want to read a statement from the submission of Ms Melinda Tankard Reist. Are you familiar with her?

Mrs Garratt—Yes.

Senator BARNETT—I wonder if your views concur with hers. On page 2, under the heading, 'Counselling by abortion providers and family planning agencies', she states:

My own research over many years demonstrates that the services offered by abortion providers and related agencies are often oriented towards securing an abortion decision.

And she then goes on to refer to some of her interviews with women and to some anecdotal accounts, and she refers to her two books. She further states:

The experience of these women was that abortion clinic and family planning counsellor were presenting as independent and unbiased, when they actually had a vested financial (and often ideological) interest in abortion. Senator Stott Despoja's Bill does not address this reality.

I think you were referring to that sentiment earlier. Can you clarify your views as to whether the bill addresses your concerns?

Mrs Garratt—It certainly does not address those concerns. It does single out pregnancy counselling services that do not refer for termination. It does not address the issues to do with organisations that advertise that they offer pregnancy counselling but do not offer other services: referral or information about services for adoption or support for continuing the pregnancy. So, yes, we would absolutely concur with that and that is one of our criticisms of the bill.

Senator BARNETT—You support truth in advertising and you have said that on the public record. The thrust of your concern is the definition of non-directive counselling. It seems to me that your definition is consistent with the definition used by the Prime Minister and Minister Abbott on 2 March when they announced this advice and the funding. I am seeking clarification of that and whether the bill in your view makes an entirely different definition of non-directive counselling. The bill states that all three pregnancy options must be referred to—raising a child, adoption or termination of pregnancy—which seems to conflict entirely with your views and that of the Prime Minister and Minister Abbott. Is that right?

Mrs Garratt—Yes, absolutely. I think that the term has been misused in this bill. When we are talking about non-directive and counselling services, I think we need to maintain the definition of non-directive within mainstream counselling as it has stood for decades, rather than change it.

Senator BARNETT—If the bill becomes law, it would be mandatory for your organisation to refer and to provide counselling which must offer referrals for termination or abortion. Is that right?

Mrs Garratt—We would either have to do that or we would have to—

ACTING CHAIR—Senator Barnett, that is not true in the bill we are looking at.

Senator BARNETT—I am happy to rephrase the question.

ACTING CHAIR—I think you should. The bill we are looking at is the bill on advertising and there is nothing in that bill that enforces anyone to offer any referral. The bill looks at publicity and advertising. I just want to make that clear.

Senator BARNETT—That is a debatable point.

ACTING CHAIR—No, if you read the legislation, I think your question is inappropriate.

Senator BARNETT—I have and I have referred to the bill and quoted from the bill.

ACTING CHAIR—Could you rephrase your question.

Senator BARNETT—I will rephrase the question. I am happy to move around this. Page 2 of your submission states:

> If it becomes mandatory that pregnancy counselling lines must offer referrals for termination of pregnancy, and if it is accepted that such referrals can only be made by medically appropriate personnel, the range of support services offered by pregnancy counselling lines becomes restricted, thus limiting access to appropriate support services for those seeking such assistance.

Can you expand on that?

ACTING CHAIR—I think that refers to different legislation, Mrs Garratt.

Mrs Foster—That is actually referring to a situation which talks about medical referral where anybody who was offering the counselling would be a medical practitioner and therefore would be entitled to make a medical referral for a termination.

ACTING CHAIR—Just to be clear, it is a different piece of legislation. It is not the bill in front of us.

Mrs Garratt—I think what it does to our organisation is that it says, from my understanding of the reading of the bill, that we could not say that we provide non-directive counselling, which is what we do, if we do not refer for termination services.

Senator BARNETT—Exactly.

Mrs Garratt—I think that would misrepresent our organisation because we do provide non-directive counselling services.

Senator BARNETT—Not only that, it would prejudice your organisation. In fact, it would make your organisation not exactly null and void, but it would cut across the objects of your organisation.

Mrs Garratt—Absolutely. What it would suggest is that we counsel directively with a particular agenda and that is not what our organisation does.

Senator NETTLE—The bill is about how you can advertise yourself. So the first bit was right. It does not say you have to change your organisation, it says you have to change how you advertise your organisation.

Mrs Garratt—It does offer a definition of non-directive counselling which includes that you have to provide referrals for termination.

Senator NETTLE—So if you are going to advertise yourself as non-directive, you have to meet that definition which was what you said originally.

Senator BARNETT—Yes, and that has consequences.

ACTING CHAIR—So it is a different definition of non-directional. Okay, I am happy with that.

Senator FIELDING—Just by way of clarification, there are a number of submissions that do go into this. Basically the thrust of the bill is that if you do not refer to abortions then you suffer restrictions on being advertised in the *White Pages*. This is quite specific. This is the reason that there are a number of submissions on that very concern about non-directive counselling—I think this is picking up your point, if I can just clarify. All of a sudden you are up against not being able to advertise in the *White Pages* but counselling is supposed to be non-directive. That is the point. That is the reason that the bill is causing some problems with reference to quite a few of the submissions.

Senator BARNETT—That is the point and I do refer to section 3 under definitions of the bill. I am happy to read it, it is in the bill and there is a definition there. It says:

non-directive pregnancy counselling service means a service that offers counselling, information services, referrals and support on all three pregnancy options being

(a) raising the child; or

(b) adoption; or

(c) termination of pregnancy ...

That is what the definition is. I asked you earlier whether that was contrary to the view and position of the Prime Minister and the Minister for Health and Ageing when they announced this on 2 March and whether it is inconsistent with your own view, just to clarify that again.

Mrs Garratt—Yes, it is inconsistent with our view. Non-directive counselling describes a process that is engaged in between a counsellor and a client. It does not and should not involve anything to do with referrals to any organisations or services.

Senator BARNETT—You have referred to the fact that you have received about $250,000 in funding from the Australian government to provide pregnancy counselling. On the other hand, the Family Planning Association receives over $15 million. Do you feel concerned or disappointed that there is some sort of imbalance there or do you think it is an accurate reflection of public policy?

Mrs Foster—We have to definitely say that we do feel disappointed because we feel that the service we offer is an unbiased service. We genuinely do provide non-directive counselling and we are very limited in the adequacy of our service because of the limitations of our funding.

Senator BARNETT—Thank you.

Senator NETTLE—I want to check the amount of funding that you get from the federal government. What we have is from the Catholic submission, which says it is $245,000.

Mrs Foster—It is actually $300,000, just for this year, because we received an increase at the end of last year.

Senator NETTLE—Mrs Garratt, you said that you had never had an experience of a woman not being able to find access to a termination clinic in the past. That sounded like a big statement to make. I wanted to give you the opportunity, if you wanted to, to take that on notice to verify that. If you are able to say definitely, I would be surprised.

Mrs Garratt—I am certainly not aware of any and we handle a lot of calls, but unplanned crisis pregnancy cases do not form the majority of our callers. I am not aware of a caller who, having been advised that we do not provide referral for those services, is referred back to their GP and complains, 'No, I cannot find a provider.'

Senator NETTLE—Who are the majority of your callers? You said that they are not unplanned pregnancies. What would be the category of your callers?

Mrs Garratt—We take calls from people for all sorts of reasons. We get calls from people who are pregnant and have questions, 'I am feeling this. Am I normal?' We have questions from people who are pregnant but who are calling because they are having a relationship difficulty and they want someone to talk to. We have women ringing who have suffered pregnancy loss, whether through miscarriage or post abortion, going through a grieving process. We also have people ringing because they cannot get pregnant and they want to talk through issues surrounding that.

Senator NETTLE—Is it possible, on notice, to provide a breakdown? Do you have records showing the proportion of unplanned pregnancies and other categories?

Mrs Garratt—Yes, we do. I can get some statistics for you.

Senator NETTLE—That would be great. My last question relates to two of your member organisations, both in South Australia: Birthline and Genesis. It relates to a discussion that has occurred in the Senate estimates process in the past on information provided by another service that had received calls from women who had accessed one of your services and then subsequently rung their service. These women were taking notes about what the person on the phone—your service—had said to them. I wanted you to comment on those. I will give you two examples. The first relates to Birthline. The woman says:

I rang them to talk about an abortion I had and they told me, 'I think you should name your baby.' She also told me my baby didn't have a place in heaven and asked me if I thought what I did was sinful.

The other one I want you to comment on relates to Genesis:

The mother of a pregnant 13-year-old young woman rang this number for information regarding options for her daughter. She was told that if her daughter adopted out her child it would be the worst thing she could do and if she terminated, well, that's just killing the baby. She was advised that there would be support for her daughter to keep the baby, like cots and baby clothes. She was also told the government would give money to keep the baby—'a few thousand dollars'.

Could you comment on whether you think those representations—and I accept they are through a number of people—are non-directive counselling and whether you would have any problems if these were an accurate representation of what your counsellors had said?

Mrs Garratt—If they are an accurate representation of a counselling call, and I do not have information about those specifically, they would not constitute non-directive counselling. If we received a complaint in which we were able to ascertain that something like that had occurred with one of our counsellors, it would be immediately investigated. From my perspective it would be a serious situation if the counsellor had made comments like that. I would be speaking to the counsellor directly and ascertaining whether this was a training issue or an issue of this person not being able to work within the bounds of our philosophy, and we would take steps accordingly. We would not condone counsellors who manipulated or coerced or in any way made women feel uncomfortable.

Senator NETTLE—I will see whether I can provide you with some more information in relation to those representations.

Mrs Garratt—Sure. A number of complaints—certainly bits and pieces that have hit the media—have occasionally been attributed to our organisation and, when we have investigated, they have not come to our organisation at all, because we are not the only national pregnancy counselling service.

Senator ADAMS—You spoke about infertility. It is a very complex issue. What would you do in that case?

Mrs Garratt—Usually, when these women and/or men are ringing, they are ringing to talk about their feelings associated with that. Again, our counsellors are not medically trained. We are not offering these people fertility counselling as such, but we are offering them an opportunity to talk through the issues, how they feel about it and how they are dealing with it.

Senator ADAMS—Would you give them any lead as to where they could go to talk to a professional?

Mrs Garratt—Generally people who are having fertility problems to the extent that they want to ring a counselling service are already doing things about that. They have been to doctors et cetera. So they may or may not want ongoing face-to-face counselling somewhere. They may ring our service again, or they may just want to talk for 20 minutes anonymously and get off the phone. That is the other key thing with our service—most people ring a national counselling line because they want to talk to someone anonymously.

Senator ADAMS—But, if they asked where they could go to get further counselling or further information, what would you do?

Mrs Garratt—In terms of fertility, again, I think we would probably need to refer them back to whoever was taking care of them to refer them to a local service for specific fertility counselling—

Senator ADAMS—So if no-one was taking care of them—

Mrs Garratt—because we do not have a national register of organisations that could provide that service.

Senator ADAMS—So, if I were to ring up and ask you—because I am desperate and I want to go somewhere—what would you tell me at the end of it? Would you give me somewhere to go or not?

Mrs Garratt—No, probably I would say to you that you could ring our organisation again at any time, 24 hours a day, to talk to someone, and in the meantime you would get back to whichever health professional is taking care of you and tell them that you need to talk to someone, and they should be able to refer you to someone in your local area who can help you.

ACTING CHAIR—Thank you, Mrs Foster and Mrs Garratt. Again, our apologies for keeping you so late. My apologies to Hansard and also to the senators for keeping you so late. Senator Stott Despoja, do you wish to put something on the record?

Senator STOTT DESPOJA—Just to clarify—and I will provide it in writing for the committee—there was some question earlier about proposed section 8 and what that was modelled on. The information is based on the education services act that was passed by Minister Nelson, so I have used his terminology and wording for the purposes of dealing with the issue involving finances and the states. For the purposes of the questions from, I think, the Catholic commission—I am not sure—in relation to advertising, I just want to acknowledge that that definition of advertising has been used in law before. So I am just making sure that you are aware that there are precedents. But I will get information in writing to senators on those issues.

ACTING CHAIR—Mrs Foster and Mrs Garratt, I know there have been particular questions put on notice, but I neglected to say—as I always tell witnesses—that, if there is anything you wish to add, please get in contact with the committee, because we are meeting on and off for the next two weeks. Thank you.

Committee adjourned at 8.24 pm