



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

WEDNESDAY, 1 MARCH 2017

CANBERRA

BY AUTHORITY OF THE SENATE

INTERNET

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

To search the parliamentary database, go to:

<http://parlinfo.aph.gov.au>

SENATE

ECONOMICS LEGISLATION COMMITTEE

Wednesday, 1 March 2017

Members in attendance: Senators Bushby, Di Natale, Gallagher, Hume, Ketter, Leyonhjelm, Lines, Ian Macdonald, McAllister, Moore, Rice, Roberts, Siewert, Watt, Whish-Wilson, Williams, Xenophon.

TREASURY PORTFOLIO**In Attendance**

Senator Cormann, Minister for Finance

Senator McGrath, Assistant Minister to the Prime Minister

Office of the Inspector-General of Taxation

Mr Ali Noroozi, Inspector-General of Taxation

Mr Andrew McLoughlin, Deputy Inspector-General of Taxation

Department of the Treasury

Mr John Fraser, Secretary

Output Group 1.1 — Corporate Group

Mr Peter Robinson, Chief Operating Officer, Corporate Group

Mr Timothy Dale, Acting Division Head, Business Services Division

Mr Martin Bolton, Acting Principal Adviser, Business Services Division

Ms Shannon Kenna, Acting Division Head, Communication Division

Mr Robert Twomey, Division Head, Financial and Procurement Division

Ms Kathleen O'Kane, Acting Division Head, Parliamentary and Legal Services Division

Mr Geoff McKinnon, Acting Division Head, People and Organisational Strategy Division

Output Group 2.1 — Macroeconomic Group

Mr Nigel Ray, Deputy Secretary

Ms Sue Vroombout, Division Head, International Policy and Engagement Division

Mr Chris Legg, Chief Adviser, International Policy and Engagement Division

Mr Warren Tease, Division Head, Macroeconomic Conditions Division

Dr Angelia Grant, Principal Adviser, Macroeconomic Conditions Division

Dr Michael Kouparitsas, Division Head, Macroeconomic Modelling and Policy Division

Dr John Swieringa, Principal Adviser, Macroeconomic Modelling and Policy Division

Output Group 3.1 — Revenue Group

Ms Maryanne Mrakovcic, Deputy Secretary, Revenue Group

Mr Robert Raether, Division Head, Corporate and International Tax Division

Miss Lynn Kelly, Chief Adviser, Corporate and International Tax Division

Ms Kathryn Davy, Principal Adviser, Corporate and International Tax Division

Mr Tom Reid, Division Head, Law Design Practice

Mr Tony Regan, Principal Adviser, Law Design Practice

Mrs Marisa Purvis-Smith, Division Head, Individuals and Indirect Tax Division

Mr Bede Fraser, Principal Adviser, Individuals and Indirect Tax Division

Mr David Pullen, Senior Adviser, Individuals and Indirect Tax Division

Mr Matthew Brine, Division Head, Tax Analysis Division

Mr Robert Ewing, Principal Adviser, Tax Analysis Division

Mr Matthew Maloney, Principal Adviser, Tax Analysis Division

Mr Geoff Francis, Head of Petroleum Resource Rent Tax Review Secretariat, Petroleum Resource Rent Tax Review

Mr Graeme Davis, Acting Division Head, Tax Framework Division

Mr David Pearl, Treasury Co-Lead, Black Economy Task Force Secretariat

Mr Matthew Bambrick, Australian Taxation Office Co-Lead, Black Economy Task Force Secretariat

Mr Robert Jeremenko, Chief Adviser, Revenue Group

Output Group 4.1 — Fiscal Group

Mr Michael Brennan, Deputy Secretary, Fiscal Group

Mr Matt Flavel, Division Head, Budget Policy Division

Mr Jonathan Rollings, Division Head, Commonwealth-State Relations Division

Mr Damien Dunn, Acting Division Head, Industries, Infrastructure and Environment Division

Mr Simon Milnes, Senior Adviser, Industries, Infrastructure and Environment Division

Ms Jenny Wilkinson, Division Head, Retirement Income Policy Division

Mr Ian Beckett, Principal Adviser, Retirement Income Policy Division

Ms Vicki Wilkinson, Division Head, Social Policy Division

Mr Marty Robinson, Principal Adviser, Social Policy Division

Ms Joanne Evans, Principal Adviser, Social Policy Division

Mr Hamish McDonald, Principal Adviser, Market and Competition Policy Division

Output Group 5.1 — Markets Group

Ms Meghan Quinn, Acting Deputy Secretary, Markets Group

Ms Diane Brown, Acting Division Head, Financial System and Services Division

Mr Robert Donnelly, Division Head, Foreign Investment Division

Mr Roger Brake, Principal Adviser, Foreign Investment Division

Mr Jim Hagan, Principal Adviser, Foreign Investment Division

Mr Adam McKissack, Principal Adviser, Foreign Investment Division

Mr Trevor Thomas, Principal Adviser, Foreign Investment Division

Mr Paul McCullough, Division Head, Market and Competition Policy Division

Ms Lisa Elliston, Principal Adviser, Market and Competition Policy Division

Mr Patrick Boneham, Division Head, Small Business Policy Division

Ms Emily Martin, Principal Adviser, Small Business Policy Division

Ms Kate Carnell, Ombudsman, Australian Small Business and Family Enterprise Ombudsman

Dr Craig Latham, Deputy, Australian Small Business and Family Enterprise Ombudsman

Ms Anne Scott, Principal Adviser, Australian Small Business and Family Enterprise Ombudsman

Australian Taxation Office

Mr Chris Jordan, Commissioner of Taxation
Mr Neil Olesen, Second Commissioner, Client Engagement Group
Ms Frances Cawthra, Acting Second Commissioner, Risk and Assurance Group
Ms Melinda Smith, Chief Service Delivery Officer, Service Delivery Group
Ms Jacqui Curtis, Chief Operating Officer, Corporate and Enabling Services Group
Mr Ramez Katf, Chief Information Officer, Enterprise Solutions and Technology Group
Mr Andrew Mills, Second Commissioner, Law Design and Practice Group
Mr James O'Halloran, Deputy Commissioner, Superannuation
Mr Jeremy Hirschhorn, Deputy Commissioner, Public Groups
Mr Timothy Dyce, Deputy Commissioner, Indirect Tax

Australian Charities and Not-for-profits Commission

Ms Susan Pascoe AM, Commissioner
Mr David Locke, Assistant Commissioner, Charity Services
Mr Murray Baird, Assistant Commissioner, General Counsel

Australian Competition and Consumer Commission

Mr Rod Sims, Chairman
Ms Rayne de Gruchy, Chief Operating Officer
Mr Scott Gregson, Executive General Manager, Consumer Enforcement
Mr Marcus Bezzi, Executive General Manager, Competition Enforcement
Mr Rami Greiss, Executive General Manager, Merger and Authorisation Review Division
Mr Nigel Ridgway, Executive General Manager, Consumer, Small Business and Product Safety Division
Mr Michael Cosgrave, Executive General Manager, Consumer, Infrastructure and Regulation Division

Australian Energy Regulator

Mr Peter Adams, General Manager Wholesale Markets
Mr Warwick Anderson, General Manager Network Finance and Reporting

Australian Bureau of Statistics

Mr David W. Kalisch, Australian Statistician
Mr Trevor Sutton, Deputy Australian Statistician, Statistical Business Transformation Group
Mr Jonathan Palmer, Deputy Australian Statistician, Chief Operating Officer, Enabling Services Group
Mr Bruce Hockman, General Manager, Macroeconomic Statistics Division

Mr Tom Joseph, Acting General Manager, Industry Statistics Division

Dr Paul Jelfs, General Manager, Population and Social Statistics Division

Dr Siu-Ming Tam, Chief Methodologist and General Manager, Methodology Division

Mr Patrick Hadley, Chief Information Officer and General Manager, Technology Services Division

Ms Lily Viertmann, Chief Finance Officer and General Manager, Finance, Facilities and Project Administration Division

Mr Chris Libreri, General Manager, Census and Statistical Network Services Division

Ms Samantha Palmer, General Manager, Governance, People and Culture Division

Mr Duncan Young, Program Manager, Census 2016 Branch

Mr Lane Masterton, Program Manager, Technology Capability Branch

Mr Michael Meagher Acting General Manager, Statistical Business Transformation Program Division

Ms Bindi Kindermann, Program Manager, Census 2021 Branch

Ms Jenny Telford, Program Manager, Communications and Dissemination Branch

Ms Juanita Pettit, Director, Planning, Governance and Ministerial Liaison Section

Productivity Commission

Mr Peter Harris, Chair

Ms Nina Davidson, Head of Office

Australian Securities and Investment Commission

Mr Greg Medcraft, Chairman

Mr Peter Kell, Deputy Chairman

Mr John Price, Commissioner

Ms Cathie Armour, Commissioner

Mr Chris Savundra, Senior Executive Leader

Ms Joanna Bird, Senior Executive Leader

Mr Tim Mullaly, Senior Executive Leader

Mr Greg Kirk, Senior Executive Leader

Mr Warren Day, Senior Executive Leader

Mr Michael Saadat, Senior Executive Leader

Australian Office of Financial Management

Mr Michael Bath, Acting Chief Executive Officer

Mr Andrew Johnson, Head of Reporting and IT

Mr Brad Parry, Head of Funding and Liquidity

Mr Matthew Wheadon, Head of Portfolio Strategy and Research

Mr Pasquale Raccosta, Chief Financial Officer

Australian Prudential Regulation Authority

Mr Wayne Byres, Chairman

Mrs Helen Rowell, Deputy Chairman

Mr Geoff Summerhayes, APRA Member

Mr Stephen Glenfield, General Manager, South West Region, Specialised Institutions Division

Mr Brandon Khoo, Executive General Manager, Diversified Institutions Division

Committee met at 09:01

CHAIR (Senator Hume): Good morning. I declare open this meeting of the Senate Economics Legislation Committee. The Senate has referred the committee the particulars of proposed expenditure for 2016-17 and related documents for the Treasury and the Industry, Innovation and Science portfolios. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee is due to report to the Senate on 28 March 2017 and has set Friday, 17 March 2017 as the date by which senators are to submit written questions on notice. The committee has fixed Thursday, 13 April 2017 as the date for return of answers to questions taken on notice.

Under standing order 26, the committee must take all evidence in public session. This includes answers to the questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has a copy of those rules. In particular, I draw the attention of witnesses to an order of the Senate of 13 May 2009, specifying the process by which a claim of public interest immunity should be raised.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to public interest that could result from the disclosure of the information or the document.

I would ask photographers and cameramen to follow the established media guidelines of the instructions of the committee secretariat. Please ensure that senators and witnesses' laptops and personal papers are not filmed. I remind members of the public and everyone in the gallery that they are not permitted to speak or interfere with proceedings or with witnesses at any point during the hearing. Security is present and they will be asked to remove anyone who does not follow these instructions.

The committee's proceedings today will begin with an examination of the Treasury portfolio. The hearing will then follow the order as set out in the circulated program. The committee's scheduled break times are listed in the program or as required. I welcome the Minister for Finance, Senator the Hon. Mathias Cormann, representing the Treasurer. I also welcome Secretary of the Department of the Treasury, Mr John Fraser, and officers for the Treasury.

Department of the Treasury

[09:04]

CHAIR: Mr Fraser, do you wish to make an opening statement?

Mr J Fraser: Yes, please. I think you have copies of it, but I will read it if I may. Australia's economy continues to perform reasonably well as we transition away from the investment phase of the mining boom, notwithstanding the results in the September quarter, which I will touch on later. We are also well placed to benefit from a pickup in global growth as countries in the Asian region continue to grow. As I have indicated for some time, the world economy is improving following a long period of subdued growth and recent indicators seem to be increasingly supportive.

In this environment, we should ensure we are in the best possible position to benefit from an upswing, in particular by maintaining our openness to trade and investment, but we must also be alive to the risks. In my last appearance before this committee, I touched on a number of uncertainties, including the future of China's growth, the trajectory for business investment and inflation, and the rise in protectionist sentiment around the world. These risks remain. It is vital that we ensure that our economy is resilient and that Australia's fiscal, monetary and regulatory policies are encouraging greater productivity, competition and innovation. Getting the settings right at home will help us weather any negative shocks and ensure we can take advantage of opportunities as they arise.

As we enter 2017, there are a number of positive signs in the global economy. Activity in the US has improved after subdued growth in the first half of 2016. US GDP grew strongly in the September quarter last year and momentum continued in the December quarter, and consumption in the US remains robust. At 4.8 per cent in January 2017, US unemployment is consistent with some measures of full employment. That said, some uncertainty remains around the outlook in the US, which I will touch on in more detail in a moment.

Growth in China remains solid despite bouts of concern about China's prospects. Chinese GDP grew at 6.7 per cent in 2016, in line with Chinese authorities' target of '6.5 to seven per cent'. Growth in other economies has been higher than forecast of late, including in the United Kingdom in the period following the Brexit vote, although growth in the Euro area is expected to remain subdued. Revisions to Japanese growth also reveal that activity has been stronger than previously estimated, and India and many South-East Asian economies continue to grow reasonably.

These positive signs have seen private sector growth forecasts revised up for a number of key economies. While the IMF and World Bank have largely left their forecasts unchanged, this marks a welcome break from the persistent downward revisions to growth forecasts that have occurred in recent years. Regardless, the IMF and World Bank both expect global growth rates to be higher in 2017 and 2018 than they were in 2016. This trajectory is consistent with the forecasts in last year's MYEFO for global growth to pick up to 3¼ per cent in 2017 and 3½ per cent in 2018, up from 3.1 per cent in 2016.

Of particular note has been the dramatic increase in a range of commodity prices in the past year. This has included significant increases in prices for iron ore and coal, which are Australia's major commodity exports. While global supply disruptions have clearly impacted coal prices, particularly in China, the forces behind recent strength in the iron ore price are

less clear. It is also unclear how much of the recent movements in commodity markets are driven by temporary or more persistent factors. This has presented us with some difficulty in framing our forecasts, and after extensive consultation we deliberately adopted a prudent approach at MYEFO. The judgement was made at MYEFO to suspend the practice of using a recent average of commodity prices to underpin the forecasts. An alternative assumption of a phased reduction in prices from recent levels was adopted for iron ore and metallurgical coal.

The rise in commodity prices is a good example of the kind of positive shifts that can affect the economy, with the flow-on benefits to businesses in the mining sector and to government revenue. If these elevated prices continue, we should prioritise budget repair and ensure that any additional revenue is banked as an improvement to the budget bottom line. We need to take great care not to fall into the trap of spending unexpectedly higher revenue should it arise in a way that would structurally weaken the budget, as may have occurred through the early 2000s. Nonetheless, these shifts in commodity prices are extremely difficult to predict, reinforcing the need to plan for both opportunities and risks from the global economy.

In this regard, a number of risks remain that could impact Australia's economic and fiscal position. Despite China's continued strong growth, the Chinese economy faces significant medium-term challenges as it transitions to more sustainable consumption-led growth.

Continued excess capacity in various sectors of the economy and high debt levels in the household sector also represent constraints on growth. As I have said to this committee in the past, the possibility of a sharp adjustment in China's economy could have flow-on impacts for Australia's economy, particularly our export industries. Another factor that continues to dampen expectations of growth has been the subdued growth in business investment that has been a feature of the global recovery.

Of course, the other major development in the international economy since my last appearance before this committee has been the commencement of the new US administration. At this stage, it is difficult to gauge the overall impact of the new administration's policies will directly have on the US economy. Measures that impact trade have the greatest potential to impact global growth, and of particular importance to Australia will be how potential trade measures impact China, our largest trading partner. More broadly, the rising protectionist sentiment that I remarked on to the committee in October has not abated. The use of temporary trade barriers has been increasing internationally, with such barriers affecting 2.5 per cent of traded products, compared to 1.7 per cent in 2009 and 0.5 per cent in 1990. As a small and open economy, Australia is dependent on trade and inbound investment as a driver of economic growth. It is imperative that we continue to advocate for an open global trading system in order to ensure the benefits of global growth continue to flow through to higher living standards in Australia.

Domestically, the September quarter results show that our economy remains sensitive to shocks. The Australian economy contracted by 0.5 per cent in the September quarter. There were some factors that were likely to be of a one-off nature, such as the weather-related disruptions in the construction sector. However, there is no denying that it was a very weak quarter. We do not believe that this represents the underlying pulse of the economy and anticipate a rebound over the forecast period. We will be in a better position to judge the very near-term outlook when national accounts for the December quarter are released later today. Market economists are expecting them to show a rebound.

It remains Treasury's view that the underlying fundamentals of the economy remain sound but finely balanced. While the outlook for real growth was revised down a little at MYEFO, this largely reflected the weaker than anticipated September quarter data. At MYEFO, we expected the economy to grow by 2¾ per cent in 2017-18 compared with three per cent at PEFO. Nominal GDP was expected to rise by a strong 5¾ per cent in 2016-17, an increase from previous forecasts because of the recent movements in commodity prices. These strong gains have offset the impact of slower inflation and wage growth, which would have normally reduced nominal GDP growth. Nominal GDP growth was expected to slow to 3¾ per cent in 2017-18 as commodity prices fall. We are currently in the process of revising our forecasts for the budget deliberations. The broad contours of the economy remain on track, with ongoing strength in mining and exports following the mining boom, high levels of dwelling and investment activity in the near term and ongoing growth in household consumption. Business investment has been the missing link from Australia's growth over the past few years, although we have seen an improvement in non-mining investment in the non-mining states.

To better understand this issue, we are working with counterparts in the state and territory treasuries to examine the drivers and barriers to business investment in Australia and we will report to the treasurers on this later in the year. This project will involve directly seeking views from large, medium and small businesses as well as the ACTU and business organisations.

Labour market conditions have also been mixed. After a period of strong growth in late 2015, employment has slowed over the course of 2016 and all of the increase in employment has been in part-time employment, with full-time employment falling over 2016. Conditions in the labour market are also different across states and territories. Overall, the economy has been generating enough jobs to maintain a stable unemployment rate, but there is still spare capacity in the labour market. All of these factors demonstrate that Australia's economy is still working through a complex transition away from mining investment and towards broader growth in an uncertain international economic climate.

Given all of this, we are still of the view that the Australian economy is performing reasonably well. Nonetheless, we need to continue to protect the resilience of our economy to ensure we are prepared for domestic and international risks. A key part of this process is ensuring that our financial sector is robust. Treasury, the Australian Securities and Investments Commission, the Australian Prudential Regulation Authority and the Reserve Bank of Australia are continuing to work through the implementation of the recommendations from the Financial System Inquiry. There is also no denying that the major banks have received a very clear message about the need to improve how they conduct themselves, particularly with regard to their customers.

Another priority is to ensure that we have a sustainable and affordable housing market. There is no doubt that house prices in Sydney and Melbourne have increased significantly in recent years but, as I have noted before, the price growth has not been replicated in all major cities or indeed in regional areas. Treasury's view remains that the major factor in driving housing affordability is the supply of housing, including the availability of land for development and the infrastructure and services that are in place to support that development. Treasury, along with our state and territory counterparts, are putting significant efforts into developing policy approaches to deal with this issue through the heads of treasuries forum. As

I have previously noted to this committee, ensuring a sustainable level of housing debt and savings in Australia is also a key factor in ensuring our housing market is robust, and we are continuing to monitor this.

Fiscal consolidation must also remain a priority. At MYEFO, the budget deficit was forecast to decrease by \$26.5 billion across the forward estimates period. The Commonwealth's level of gross debt is expected to peak at around 30.6 per cent of gross domestic product in 2019-20, a historically high level that underscores the need for budget repair. While we have forecast a reasonably steady trajectory towards a balanced budget, this is dependent on the economy continuing to improve in the coming years as projected.

If some of the risks to the economy that I have discussed were to eventuate, there would most likely be flow-on effects for the budget position. Ensuring we have a sound fiscal position as well as strengthening key sectors of the economy, such as the housing market and the financial system, will position Australia well to confront economic shocks when they arise.

Looking to the medium term, we also need to undertake the reforms that will support sustained economic growth in Australia. It is critical that we get the settings right in our tax system to promote business investment and to ensure Australia is internationally competitive. We have to recognise that we are now in a very competitive environment when it comes to corporate taxation and attracting investment not just with our regional neighbours but also with countries such as the United Kingdom and possibly the United States. The sustainability of our tax system, particularly our income tax base, is under threat not just from international competition but also from the changing nature of our economy and from some of the more unique features of our system. Higher taxes and regulatory burdens also increase incentives for tax avoidance and evasion, something that the Black Economy Taskforce, under Michael Andrew, will look at as it develops a framework for policies to counter unreported economic activity.

Reforms that will drive further competition in our energy, transport and service industries will also be central to boosting Australia's productivity and economic growth into the future. The Harper competition review provides the road map for the government to inform these and other areas, and Treasury is continuing to work on the implementation of these recommendations, once again, in close partnership with the states and territories.

Investment in productive infrastructure projects is a further area where governments can support the economy to grow over the longer term. However, it is Treasury's strong view that the projects need to be carefully considered to ensure they deliver economic benefits that outweigh their expected costs. As I touched on earlier, it is imperative that we continue to make the case for openness and benefits that this will deliver to Australia through cheaper goods and services, greater export opportunities and higher incomes over time. We must build an economy that is more competitive, more dynamic and more open supported by quality infrastructure and an efficient tax system if we want our long periods of economic success to continue.

I would just like to touch, if I may, very briefly on organisational issues. I previously advised this committee that we would establish a new structural reform group within the department. This new group will commence operation from next Monday with responsibility for competition and industry policy as well as regional development, energy, environment and

workplace relations issues. The new group will have a mandate to think and work differently, and I am confident it will drive the department towards more innovative approaches to more difficult policy problems, including how we better manage our economy's transition and its impact on individuals and communities. The new group will include staff in our Sydney and Melbourne offices, where we already do a substantial amount of work on foreign investment, tax and financial market policy development as well as business liaison to support our economic analysis. Since opening the Sydney and Melbourne offices, we have grown to 44 and 25 staff respectively and the offices have been instrumental in helping us attract and retain talented staff from the private sector and other backgrounds.

Like many of our colleagues across the public service, we are facing challenging resource constraints that put pressure on our capacity to meet the demands of government. We currently operate with around 800 full-time equivalent staff, down from more than 1,000 in 2010-11. But we continue to take on greater responsibility including running and implementing major regulatory and tax review processes, managing the foreign investment process and, importantly, preparing an increasing number of parliamentary bills.

We are also focused on improving the calibre and impact of our work, from our economic modelling through to the delivery of legislation. We held a very successful conference in Sydney, where staff from across the department joined experts from academia and other organisations, including from a number of overseas countries, to discuss how we can continue to improve our modelling capacity. We are committed to making the Treasury an engine room for policy ideas and advocacy within the government to drive debate on the major reforms that will set Australia up for sustained economic success.

As I said, from tax and spending arrangements to the way we regulate businesses and engage with other countries, we need to take the steps now that will prepare us for whatever the future may hold, both the good times and the bad.

CHAIR: Thank you very much, Mr Fraser. We have you until around 11:15 this morning and there will be an awful lot of questions from the group around the table. As is the chair's prerogative, I am going to kick that questioning off. I want to ask you about Australia's AAA credit rating. Just before MYEFO at the end of last year, there was a lot of speculation as to the sustainability of that AAA credit rating and the fact that it might be at risk due to deteriorating budget conditions. I am wondering whether you can enlighten the committee here about what it was that the three major credit rating agencies actually said about the need for Australia to maintain our path to budget balance?

Mr J Fraser: The messages were mixed. As you noted, there are three agencies. The messages from them differed possibly more in the nuance and in the detail than in the thrust of it. But there was a very clear message that they focused on our debt and not just at the government or public sector level but also for the economy as a whole. That is something they say about every country—we are not Robinson Crusoe in that regard—so the trajectory for our gross debt and our net debt is a clear focus. Speculating on what they may or may not do is possibly a fool's errand, but here we go.

I think that what has happened since MYEFO has probably been beneficial to us. The developments with commodity prices in particular, the continued thrust of our fiscal policy settings and what the government is trying to do there should help. Credit ratings must also be looked at in the international context, and you have to look at what other countries do. In a

sense they are relative, and you can draw your own conclusions about what is happening in other countries but, to me, a continued focus on improving the efficiency and the productivity of the economy, a focus on fiscal repair and also the benefit of a stronger world economy augur well.

CHAIR: Thank you. I have to say that relativity is something that bothers me somewhat. My understanding is that we were only one of 10 countries with advanced economies that have all three rating agencies giving us a AAA credit rating; and commodity prices, to a very large extent, are completely out of our hands. My focus is on the parliament's role in passing those budget saving measures in order to achieve fiscal consolidation. Can you elaborate to senators here how important that might be.

Mr J Fraser: The credit rating is important, and I think it will become even more important as it seems likely that we are going to move into a world of increasing interest rates. It affects everybody—it affects governments but also the banks and companies and, through that, people on the street. It is very important that we strive to keep that credit rating. People make judgements when they are investing and many put extraordinary weight on those credit ratings—not everybody, but many people put extraordinary weight, particularly some of the larger funds who do not have the resources to devote to a very detailed assessment of the Australian economy. As I said, we should strive to keep it. It is very important. We should not dismiss it. If anything, since MYEFO, the winds have probably blown a little bit more in our favour.

CHAIR: If we lost that AAA credit rating, could you explain to senators how it might affect the issuing of government bonds and how it might also affect the borrowing rate for banks.

Mr J Fraser: It would be harder to borrow. The precise impact in terms of interest rates either for our 10- or 30-year bonds, or even shorter-term bonds, is hard to judge because—I know it sounds trite—it depends on what is happening elsewhere in the world. But the bottom line is: if we lose it then our relative advantage, which you alluded to, at the moment would diminish, and that would not be a good thing for the economy. We would all pay a price. I think we would pay a greater price, the greater the interest rate levels are. We have seen a very clear message coming out of the United States, including overnight, that it looks as though interest rates may increase a tad more quickly in the United States than certainly was expected three or four months ago. In an environment of uncertainty, as I said earlier, the credit rating is a very useful advantage to have.

CHAIR: You mentioned in your opening statement that business investment has been the missing link in Australia's growth over the past few years and that to better understand the issue you are working with your counterparts from the state and territory treasuries to examine the drivers and barriers to business investment in Australia. This is something that we have been struggling with for a number of years. While you said you were going to report to treasurers on this later in the year, can you give us an indication of what your gut feeling is as to what those barriers might be now?

Mr J Fraser: We had been looking at this study anyway, but the formalisation of it arose out of discussions that the Council on Federal Financial Relations—I am still learning the acronyms—had in November. We had an economic presentation there, and Tim Pallas, from Victoria, also had some points to make. Coming out of that, CFFR, as it is called, resolved

that the head of treasuries group, which I chair, undertake an inquiry into this. We had a meeting in Hobart last Thursday and Friday of the head of treasuries, and they approved the game plan where I shall write to each of the CEOs of roughly 100 businesses. We stress that it is large, medium and small. Kate Carnell will be orchestrating the dialogue with the smaller businesses, and I think that is terribly important: business investment is about large, small and medium.

We will also be approaching the ACTU and the business organisations to ask them not to tick boxes. I spent a lot of my time ticking boxes for these business surveys or—indeed, getting someone more junior to do it, because it took a lot of time. We are asking the CEOs to come back with their thoughts and to not make it a political exercise but to think about what has stopped them investing in the past two to three years and perhaps, more importantly, what they are looking for to change that attitude. That will then culminate in roundtables which we will undertake in most of the capital cities, where we will ask those who are interested—and only at the CEO level—to join us to discuss this, with a view of putting a report together for the CFFR meeting in the second half of this year.

From my own point, it has been a continual worry—certainly, in my previous life I could watch it from the other side. It is difficult. I think the uncertainties range across a number of areas, but what was extraordinary was it was in a period of remarkably—and still remarkably—low-interest rates, generally good profit margins and with wage rates at very low levels historically. So you would think all the preconditions were there. You could understand people being, perhaps, a little bit cautious in the longer term. But for people who are doing 20- or 30-year investments, it struck me as strange that they were not. I was talking to one of the leading mineral groups yesterday who came to see me in Canberra. They talked about a 30-year project that they are embarking on. And they are investing. It is a 30-year LNG project. That was a welcome sign. So I think things might be changing.

I think people have just got so shocked by the global financial crisis because nobody, despite protestations to the contrary, picked it. That caught them unawares. That had very significant impacts on their balance sheets. The recovery from the global financial crisis has been remarkably long. It is 2017 now. I think their confidence in policy has been diminished. There is also a political risk—and I am talking internationally now. Political risk is far greater. The strategic issues have gone from concerns about parts of the Middle East to the whole of the Middle East, to issues in Europe—in Northern Europe, Eastern Europe. So investment in large areas of Eastern Europe has been put on hold. I think there were uncertainties in the United States running into the election—and I am talking about the last two to three years on that. And there have been uncertainties on commodity prices. We saw remarkable changes in the oil price and other commodities. So in this environment I think all the bias was to be conservative.

On top of that, I would argue that many boards have become risk averse. It is far easier when faced with good profits to distribute them through either dividends or share buybacks, or a combination of both, rather than to take some risks. That is unfortunate; that is very unfortunate. I would hope that we can see in the next few years that issue addressed not only in this country but internationally. It has been the missing link.

The two big factors of the world economy over the last few years have the absence of business investment, whereas the preconditions generally seemed good—traditional ones—

and also the extraordinarily low unemployment rates, even though growth has been sluggish. Someone will write a book in 20 or 30 years and talk about why it happened, but I think the investment is what we ought to be praying for, if we can get that. I am a little bit encouraged by some of the foreign investment interest in Australia—in some areas picking up. I am also a little bit encouraged by some of the expectations data that we have seen in Australia in recent weeks. Also, there were data released in the United States a couple of days after Christmas which indicated quite a significant tick up in investment expectations. But that is the horse we should be watching in the race because it is the most important horse.

CHAIR: I will be very interested to see what it is that you report back to treasurers later in the year. Thank you very much for that, Mr Fraser. I am going to turn my questioning over to the Deputy Chair now, Senator Ketter.

Senator KETTER: Thank you very much, Mr Fraser, for your presentation this morning. I just have a couple of questions and then I will cede to my colleagues. I want to start off with the issue of record low wages growth at the moment. You made passing reference to wage growth in your opening statement. I am just curious as to why you seem to place less emphasis on that issue than, say, the Reserve Bank Governor, Mr Lowe, who warned recently that the record low wage rises and the high household debt are constraining consumer spending and there is a threat to the economy for the future. Would you like to comment on that?

Mr J Fraser: It is not a case of a different emphasis. Clearly, the low wage rates have been a real impact on government revenue, and we can possibly come back to that later. There was some interesting data that came out in the past couple of days that we are looking at, the disparity between wage growth in the capital cities and regional Australia. We will look into it, but I suspect also Sydney, Melbourne and possibly Brisbane and the other capital cities. That is interesting. Those numbers pointed to rates of growth more like three or four per cent. I have not seen that. But clearly you would expect wages growth to have been higher, given the profit and the activity levels we have had. It is the market. That is where it has come out at the moment. I would have preferred to have higher wage growth for the reasons I mentioned—not just revenue but also disposable income.

Senator Cormann: This is a challenge for the parliament too. The way to achieve stronger growth in real wages is by improvements in productivity. Of course, the reason the government is pursuing its Ten Year Enterprise Tax Plan and a more internationally competitive, lower business tax rate is that it will help boost investment, it will help boost productivity and, as every credible economist will tell you, it will help boost real wages over time. So the parliament has got the opportunity to help ensure that Australians will have the opportunity to benefit from genuine increases in real wages based on productivity improvements as result of legislating our Ten Year Enterprise Tax Plan in full.

Senator KETTER: Mr Fraser, you mentioned that there are some interesting figures that you have seen recently in terms of wages growth. I take it that the wage growth in the cities is different to what is happening in the regions.

Mr J Fraser: It really is the last two days. But it did strike me a little bit. Clearly, in some parts of the public sector the wage growth has been significant. The Victorian public sector, Queensland and New South Wales seem to have been higher than the rest of the economy. I had got the impression from my own business liaison, and particularly with the small and

medium-sized businesses, that in Sydney and Melbourne in particular—and it is not extraordinary wage growth—it had been higher.

I was in Horsham on Monday addressing the Victorian Farmers Federation Grains Conference and I met with the Mayor of Horsham. She said the wage growth up there had picked up but then the farming sector up there is doing wonderfully well, so there had been a flow-on in that area. I am hoping that as the economy continues you will get a lift in wages, but, as the senator indicated, the real driver has got to be efficiency and growth combined together in productivity. It is hitting our revenue, I can tell you. We are hurting with the revenue with the wages growth being low.

Senator Cormann: Just a final point on this: the flipside is that we have gone through a pretty significant transition in our economy, as the Secretary mentioned in his opening remarks. There is no doubt that the lower than previous wage inflation has certainly assisted with that transition and has helped ensure that the unemployment rate is well below what had previously been anticipated it would be.

Senator KETTER: I want to talk about the Structural Reform Group. I was interested in the fact that that group will be focusing on, amongst other issues, workplace relations. Can you tell us what the brief is there.

Mr J Fraser: The brief is what it says: to look at workplace relations, competition, flexibility in labour and product markets, efficiency driving productivity growth, consistent with what the Productivity Commission and other people have been telling us. If you are going to have a structural reform group they have got to look at all the moving parts in the economy. To get better productivity and more efficiency you have to look at workplace relations. But there is no particular brief; there is no particular objective. It is the same way we look at the agricultural sector or the mining sector.

Senator KETTER: In other words, perhaps to increase flexibility in the workplace relations?

Mr J Fraser: We will see how it goes.

Senator McALLISTER: Picking up on your earlier remarks about wages, Mr Fraser, is it automatic that increased profits and activity from business flow through to higher wages or are there other drivers and factors?

Mr J Fraser: It is bargaining. It is like everything: the price of anything is a bargain. It is a bargain between the employers and the suppliers of labour. And one would generally expect that, as the economy grows and as productivity grows, you would see an impact on real wages and also nominal wages. That is how it is all around the world. People have a bargain.

Senator McALLISTER: It is not automatic, though. It is a little dependent on bargaining and the relative bargaining power of the parties.

Mr J Fraser: There are some areas which are regulated and clearly the public sectors, the state public services, are. You could argue the bargaining is perhaps less important—maybe not in some parts of it—but, at the end of the day, a wage is the price for labour that is determined in the marketplace.

Senator McALLISTER: You made some remarks in your opening statement about ensuring a sustainable level of household debt and savings. The context for those remarks is

about ensuring that the housing market is robust. The Reserve Bank governor has made similar comments about debt, but he has said:

... the current high level of debt, combined with low nominal income growth, is affecting the appetite of households to spend, and we are seeing some evidence of this in the consumption figures.

I wondered if you might reflect a little bit on that and on what evidence it is that Mr Lowe is talking about.

Mr J Fraser: It cuts both ways. I am obviously on the Reserve Bank board and I totally support Phil's comments, but there was a period where the increase in housing prices in Sydney and Melbourne made people feel wealthy and they possibly took on higher levels of debt because they did feel wealthier. But there is a link: your consumption is driven by not only your income but your perceptions of your own wealth.

Senator McALLISTER: Are you suggesting that higher levels of debt increased consumption because people felt wealthier?

Mr J Fraser: No, quite the contrary. I am saying if you feel that you are wealthier, other things being equal—and that is a big 'other things being equal'—your willingness to spend may be greater. This is work that Friedman did back in the seventies and early eighties on relative and permanent or transitory consumption and your wealth is a major part of, he believed, not only your longer term consumption trends but also your more immediate consumption. That is the issue we have been talking about—people need to be mindful that the low-interest-rate environment in the world may not go on forever. At some stage indeterminate, we will not have as low an interest-rate environment, and businesses, people and countries need to be mindful of that.

Senator McALLISTER: I took Mr Lowe's comments to mean that high levels of debt were discouraging household consumption.

Mr J Fraser: For some that would be the case. These are very individual decisions—your debt, balance that against the assets you have. These are individual decisions.

Senator McALLISTER: They are individual decisions, but there are also trends that arise from the aggregate of individual decisions. Are there any trends in relation to consumption that you are seeing in the economy? Dr Lowe makes reference to trends in his evidence to the House of Reps committee, I wonder if you are seeing any trends around consumption.

Mr J Fraser: I might ask Dr Grant if she has any views on that.

Dr Grant: It is true that over the past two quarters—the June quarters and the September quarter—household consumption growth was below trend. There is some speculation as to what may be driving that. It is true that when household debt levels are high consumers have choices to make and that they may choose to pull back, but we are unable to know through the data what it is exactly that drives some of these choices. As the secretary said, there is a wealth effect, and some areas are seeing high house prices, but maybe, because of household debt levels, they are not spending as much out of that wealth as they may have in the past, I think it would be fair.

Senator McALLISTER: Mr Fraser, have you drawn conclusions about what might have caused this subdued consumption in the last couple of quarters that Ms Grant refers to?

Mr J Fraser: No. It is a hard one. In one hour and 45 minutes we will see the December quarter results, and we will see what happens. Would Mr Ray have a comment? He is the national accounts expert.

Mr Ray: You have already alluded to the governor's remarks about subdued income growth. Consumption is related to income growth.

Senator McALLISTER: As well as debt—it is a dual—

Mr Ray: It is a dual thing.

Senator McALLISTER: Mr Fraser, you said that you are continuing to monitor whether levels of household debt and savings are sustainable. Have you any remarks—a status update—about the current situation? Is it sustainable?

Mr J Fraser: I think we point to the risk. Clearly it will be less sustainable if interest rates are higher. At the moment we are getting a pretty clear message out of the United States that interest rates are heading north there. For us, I am not going to comment about the future course of interest rates, but it is a risk if interest rates go higher—the ability to sustain those levels of debt. For the government, it is clear cut in my mind. The more we have to spend on debt servicing the less we can spend on other things. It has always been my view why we need to focus on fiscal consolidation, to make sure we have the wherewithal to do the things that governments must and should do.

Senator McALLISTER: What is it that is driving higher levels of household debt?

Mr J Fraser: We can get into a discussion about social habits—avocados and stuff like that—but I am not going to go down that path.

Senator McALLISTER: I wasn't inviting you to do that!

Mr J Fraser: The clearest one is low interest rates. You have people come into a period of extremely low interest rates—those who have lived through, and I certainly have, but even the younger people—remember that the interest rate going into the GFC was quite considerable, and so people—

Senator Ian Macdonald interjecting—

Senator McALLISTER: Dr Lowe has observed that household debt has risen strongly in line with house prices. Are house prices the culprit in rising debt?

Mr J Fraser: It is a circular thing. Yes, certainly in Sydney and Melbourne. It is the eternal question about the two blades of a pair of scissors, trying to work out which blade is actually doing the cutting. It is very hard, but one blade by itself is not much use.

Mr Ray: You have to be a little bit careful. Only about half of household debt is owner occupied mortgages, and another quarter of it is investment, typically in real estate.

Senator McALLISTER: Typically in real estate.

Mr Ray: Yes. Then there are a range of other things and personal debts. HELP debt, for example, is included in household debt. What you are talking about I think is owner occupied.

Senator McALLISTER: No, I am talking about household debt. Yes, I am interested in owner occupied, but if it is also the case that a further 25 per cent is largely tied up in real estate then of course house prices are a relevant factor. That is helpful, thank you. Mr Fraser,

you made reference earlier to the risks associated with household debt, principally associated with interest rates.

Mr Ray: Sorry, I just want to add one thing, and that is just to square the circle with what Mr Fraser was saying. That is that you have to look at both sides of the household balance sheet. Rising house prices have effects on both sides of the balance sheet. So, yes, we have more debt, but we also have higher assets.

Senator McALLISTER: Have you undertaken any modelling in Treasury about risks or shocks associated with high levels of household debt?

Mr J Fraser: We model a lot of things.

Mr Ray: I think in the Council of Financial Regulators, when they are doing stress tests, it is done in that context. Have we done specific modelling? No.

Mr J Fraser: In the next few weeks the Council of Financial Regulators—that is, the Reserve Bank, ASIC, APRA and us—is doing a stress test.. That will be a half-day exercise.

Senator McALLISTER: You provide the secretariat for that organisation?

Mr J Fraser: No.

Senator McALLISTER: The RBA does?

Mr J Fraser: Yes.

Senator McALLISTER: Do you have any observations on trends in relation to mortgage and loan arrears?

Mr J Fraser: I have met with the CEOs of most of the banks in recent months. They say it is manageable at the moment. They have ticked up a little bit.

Senator McALLISTER: In any particular geographic area?

Mr J Fraser: No. It is almost trivial. What is interesting is that two of them noted to me that in days gone by people would worry more about mortgage debt arrears, whereas now they are far more motivated to make sure their credit card is up to date. I was surprised about that until you realise that now, particularly for younger people, if you do not have your credit card you do not exist, because of the tap and go and the whole bit. That has been the social change. Mr Byers would be in a better position to answer this, but the feedback from the banks is that we are not seeing concerns out of the ordinary with mortgage arrears or non-performing loans in the housing sector generally. That is also the case with some of the second-level banks. Recent meetings with a few of them have said the same thing.

Senator McALLISTER: You mentioned in your opening statement that we need to take care not to fall into the trap of spending unexpectedly higher revenue, because, in a way, that would structurally weaken the budget, as may have occurred during the early 2000s. Could you expand on that, please? What do you think happened in the early 2000s?

Mr J Fraser: We had done some research, which pre-dated my time—I talked about it in my CEDA, the Committee for Economic Development of Australia, speech in February 2015, where I spoke at some length using research that some of my colleagues had pioneered to see what had happened during the investment mining boom when revenue was very strong. To be fair, the government at the time was being advised, I understand, that the mining boom was going to go on for a long, long time, and that a significant part of this revenue was put into

spending programs that stayed there after the revenue went away. The message out of that is to be very mindful when you spend money how it is going to be financed over the longer term.

Senator Cormann: To add to the answer, when the government changed and the Rudd government was elected, the first two budgets of the Rudd government, in 2008-09 and 2009-10, government spending in real terms—that is, above inflation—increased by about 17 per cent. In fact, the only other year in the last 50 years when there was double-digit growth in spending, the same as in 2008-09, was in the period of the Whitlam government, going back to 1974-75—

Senator McALLISTER: Yes, Minister, and it was in an unprecedented economic crisis—

Senator Cormann: So just to conclude this—

Senator McALLISTER: as is acknowledged by all serious commentators.

Senator Cormann: That was meant to be crisis-level spending but was of course locked in as the new base.

Senator McALLISTER: That is simply not correct.

Senator Cormann: Then in 2012-13, when it was already understood that commodity prices were coming down, that revenue into the future was likely to come in well below what had previously been anticipated—the then Gillard government decided to permanently and structurally, through legislation, lock in further significant expenditure growth across a whole range of areas, and much of it in the period beyond the published forward estimates, at the same time as imposing a revenue assumption over the medium term that spending growth would be less than two per cent year on year. The fiscal effect of policy settings that were put in place by Labor actually led to spending growth each year over the medium term of 3.7 per cent on average year on year. So, without telling anyone how you would achieve the two per cent cap—

Senator McALLISTER: I think we heard this speech yesterday, Chair.

Senator Cormann: you just impost it as an assumption on your medium-term model, and that was spelled out in the Pre-election Economic and Fiscal Outlook at the time—

Senator McALLISTER: I heard this speech yesterday, and the day before, in fact—and last estimates.

Senator Cormann: by the secretary of Treasury, Dr Parkinson, and the secretary of Finance at the time, David Tune. So there were two periods in the previous, Labor, government—in 2008-09 or 2009-10—and in the lead-up to the 2013 election where the previous, Labor, government locked Australia into an unsustainable, unaffordable spending growth trajectory, which this country is still dealing with and still seeking to digest.

Senator KETTER: And might I just say that our time with Mr Fraser is very precious, so we are looking to maximise that opportunity.

Senator Cormann: Well, if political questions are asked then obviously I will use my prerogative to answer questions on behalf of the government. I have been very restrained this morning. If the questions are factual and about the economy, then of course I will keep my own counsel. But if questions with a political edge are asked I will of course defend the position of the government.

CHAIR: I remind senators to remain respectful to all members of the panel, including the minister, and if you want a different answer then ask a different question.

Senator McALLISTER: To be fair, I did ask a fact based question about the written statement provided by the Treasury secretary. It was not a political question. I merely asked the Treasury secretary to expand on his points. I asked him—

Senator Cormann: I think you know very well what you asked.

Senator McALLISTER: what do you think happened—

CHAIR: Senator McAllister, do you have another question for the panel?

Senator McALLISTER: No, I do not, but I object to the characterisation of my question as political, because it was very fact based.

Senator Cormann: It absolutely had a political edge, and I just wanted to make sure that the committee was aware of the full context of decisions with a structural impact on the budget bottom line that have been made over the past decade.

Senator GALLAGHER: Mr Fraser, thank you for your opening statement, and for giving us a copy of it. It is greatly appreciated. I think we are going to have a number of questions arising from it, but I just want to follow up a bit on housing affordability. I note from previous appearances and from speeches that you have given that this is an issue that you refer to often—concerns around housing prices, particularly in Sydney and Melbourne. I think you have made a number of comments either before estimates committees or in speeches. And in your address today you identified it, as I understood it, as one of the main priorities for Treasury—ensuring a sustainable and affordable housing market. At a very high level, does Treasury have responsibility for affordable housing policy across the government? Or another question is, can you explain to me how the policy development around housing affordability is being managed across the government?

Mr J Fraser: It is chaired by a number of departments. There are a number of departments working on it. But we are leading the affordable housing committee of the Heads of Treasury group, working with the Commonwealth and the states. It was a major focus of the discussion in Hobart last Friday morning. It touches a number of areas in Treasury. Obviously it touches right across a lot of the stuff we do. But for the Commonwealth government as a whole it is chaired by a number of departments.

Senator GALLAGHER: So, you are not the lead agency? I am trying to understand who has policy authority. Usually you would have kind of a lead agency that develops responses to particular problems.

Mr J Fraser: No, that is shared between ourselves, PM&C, Social Security—it is a big item. It is not a case of trying to be the top dog on it—and I know you are not suggesting that. But it is shared by a number of agencies, and we work in a very collaborative way with them to develop policy options, as do the ministers.

Senator GALLAGHER: Minister, within the cabinet is it clear who has responsibility for housing affordability?

Senator Cormann: It is very clear. Obviously the Treasurer is the leader of the economic team, unquestionably, and this is squarely a matter that falls within the Treasury portfolio, absolutely.

Senator GALLAGHER: So the Treasurer has policy lead but the Treasury does not? It is a shared responsibility.

Senator Cormann: I think you are verballing—

Senator GALLAGHER: No, I am not. I am just trying to understand how it works.

Senator Cormann: The Treasurer is the leader of the economic team, and to the extent that these are matters that are relevant to the economic team then obviously the Treasurer is the lead. But there are clearly other parts of government that have key responsibilities in this space, so to the extent that there are other parts of government that have key responsibilities in this place then that is as would be the case in other policy areas: a coordinated approach across government.

Senator GALLAGHER: Mr Fraser, in your opening comments today you confirmed—which I think is the view of the government—that supply issues around housing remain a major factor. Are there other factors that you consider are driving housing affordability pressures in particular locations?

Mr J Fraser: Well, the location issue is paramount, as you correctly said. I have indicated that the issues are different between different areas of Australia. Sydney and parts of Melbourne have been probably the most extreme in terms of housing price increases, and for other parts of Australia less so—far less so, in some cases. And if you want to generalise you can put Sydney and large parts of Melbourne in one camp, and you can talk about the other capital cities in another camp but then in New South Wales and Victoria, as in other states regional centres—and it differs. But the affordability issues are the greatest in Sydney and large parts of Melbourne.

The other factors are what we talked about earlier: demand for housing, population formation and, importantly, the spatial distribution of migration. We have done a lot of work in this, but, naturally enough, immigrants tend to go to Sydney and Melbourne. That is totally understandable. They are the big employment areas. That has been a driver in that respect, but we are now starting to see—at the Heads of Treasuries meeting on Friday there were reports from a number of the under-treasurers that they are seeing migration between the states: people going to lower-cost states but also lower-cost regional centres. It was very interesting, when I drove up on Sunday afternoon and was then talking with the mayor of Horsham—talking about what it would take to attract people to Horsham. It is a city of 14,000 but it services an area of about 30,000. There is only, I think she said, one decent rail service into Melbourne a week. And you think to yourself, 'Gee, if you could do something on the infrastructure side or tweak the rail system you might get a bit of an impact there.'

I am a real believer in this, because when I lived in the United Kingdom, and I spent a lot of time in Europe, I saw that they do not have the concentration on the big cities that we have in Australia. You can drive from London to Cardiff and go through a number of very substantial cities in the space of—depending on how fast you go!—a 4½- or five-hour drive. It is similar in Switzerland. It is a small country, but they have essentially four main cities rather than one big city—Zurich, Basel, Geneva and Bern. And we are very focused to our east coast—very Melbourne-centric—but not the rural centres. You can see it in sporting teams. If you go into some pubs and look at the old photos of footy teams, you can see that

the regional centres were quite big, thriving metropolises in the 1930s and 1940s and, indeed, into the 1950s. There has been a migration to the cities. That is another factor.

It is complex. I am delighted though to hear that people are perhaps addressing this issue by moving. We have an example with New Zealand. New Zealand is now into its third year of attracting people—not just Kiwis going home but Australians who are attracted by their tax system, to be blunt, and by the affordability of housing outside Auckland. Auckland is like Sydney. This is the third year they have had net immigration.

If you look at towns like Ballarat—and people are commuting from Ballarat to Melbourne on a daily basis—and Geelong, which has had extraordinary growth, you see some heart. I drive from Melbourne to Geelong. It used to be all grass and the RAAF base at Point Cook but now Point Cook is a suburb and they have even got an Upper Point Cook—although it seems very flat to me, but I am sure it has a hill there—and Werribee has now become a big suburb. That is what I say about the supply issue. We are all prisoners of our geography as well. Melbourne is blessed with having a lot of land that can be released. The states are very alive to this. The Victorian government, according to their Under Treasurer, is looking at better regulation and releasing land. So the market does move a little bit in this. Sydney and Melbourne are different.

Senator GALLAGHER: Surely a policy response for housing affordability cannot be just moving to other places. If you talk to people who have had to move for housing—

Mr J Fraser: I am not suggesting it is the policy response. I am just saying it is happening.

Senator GALLAGHER: Yes, because in the absence of other responses people are being forced to move to the outskirts of Melbourne or whatever and have long commutes because the jobs are not there. These are much bigger issues—

Mr J Fraser: Absolutely.

Senator GALLAGHER: that we do not have time to explore. But surely seeing people move out is not necessarily actually a positive response to the pressures of trying to live near where you work rather than having to commute.

Mr J Fraser: Your point is totally taken. But people are not stupid. They move because there are jobs. Some of the regional centres are growing dramatically. Goulburn is growing. The unemployment rate is still high but it is less than what it was. Ballarat is growing. Geelong is growing at three per cent per annum. I am not suggesting that this is a policy response; I am just making the point that the market can react and the key point for me is the infrastructure. I have said on previous occasions that I think in the 1980s we were remiss in not putting more infrastructure in to have a broader city profile for Australia. To me that was a failing in the 1980s—and Treasury was part of it, by the way.

Senator GALLAGHER: I would like to come back to housing affordability. Has Treasury done any work looking at areas that the Commonwealth is responsible for in terms of affordable housing? It is all very well to have discussions around supply, planning and spatial responses but they are not really areas the Commonwealth has responsibility for. You could work collegiately with the states, you could incentivise reform and all of those sorts of things, but has Treasury done any analysis of the Commonwealth levers—tax settings, for

example—and the impacts they may be having on housing prices in Sydney and Melbourne as part of the work you are doing?

Mr J Fraser: First of all, I do think those things are a Commonwealth responsibility. It has been a key focus at the Commonwealth federal financial relations meetings and the affordable housing task force that Treasury chairs with the states and territories has a big focus on land supply, regulation, taxation of land and infrastructure. That has been a big issue. It is also an issue with the Harper Review, about incentivising the states and territories under the intergovernmental agreement. We look at everything.

Senator GALLAGHER: You do? You have done?

Mr J Fraser: We would be remiss if we did not look at a range of issues affecting housing.

Senator GALLAGHER: What has that shown, for example, in areas such as Commonwealth tax concessions?

Mr J Fraser: You get a range of outcomes depending on the areas. You get a range of outcomes depending on the behavioural responses. This is why we are trying to upgrade our modelling capacity. This notion that we have these models that are definitive in terms of what the outcomes will be is not true. The modelling is not up to definitive answers. You can get directions on it, you can do things that diminish demand but it also often diminishes supply—but then it depends on what the behavioural responses from others are. There is no definitive answer.

Senator GALLAGHER: We might come back to that. I accept that.

Senator WHISH-WILSON: Morning, Mr Fraser, Minister and others. I want to talk about black swans.

Senator Cormann: From avocado to swans, that is good.

Senator WHISH-WILSON: You know I was surfing in Sri Lanka on 20 January but I was wondering if you were at Davos for the World Economic Forum or whether Treasury or government had any representatives there?

Mr J Fraser: I have never been to Davos. The view within in the bank is that others can do Davos, I do the warmer places. I think a member of the Foreign Investment Review Board was at Davos and certainly colleagues who had been seconded to the global infrastructure hub that I chair were at Davos.

Senator WHISH-WILSON: I ask because it would be tempting at the first big conference for the year for the head of the IMF to be asked what she saw the black swan events as being for the year—in other words the risks to the financial and global economy. I note she highlighted a trio of a race to the bottom with corporate tax cuts; deregulation, especially in the financial markets; and, of course, trade—protectionism around trade. Listening to your opening statement this morning and having a look at the tabled copy, I think you are coming very close to supporting corporate tax cuts—talking about the competitive environment in which we operate, attracting investment on a comparative basis to the United Kingdom and the United States. Do you have any view about Christine Lagarde's comments on a risk to the global economy being this race to the bottom on corporate tax cuts?

Mr J Fraser: Everyone has a different view. Every economist generally has a different view. I do not see it as a race to the bottom for a key reason: governments at the end have to fund their spending and, in the broad, you tax individuals or you tax corporates so there is a brake at the end of the day on the race to the bottom.

Senator WHISH-WILSON: Isn't that the point? We have to fund those corporate tax cuts from somewhere else. Isn't that Christine Lagarde's key point?

Mr J Fraser: The key reason for the tax cuts, whether it be in the United Kingdom or some of the utterances coming out of the United States, is to increase growth and investment. That growth also provides wherewithal to fund the budget and fund the tax cuts.

Senator Cormann: Because stronger growth, as well as improving the capacity for families across Australia to get ahead and creating more jobs, also helps to generate more revenue for government. If we want to be able to sustainably fund the important benefits and services provided by government we need to ensure we have got a strong economic base, and we need to ensure that businesses across Australia who employ over one million Australians are able to be as successful and profitable as possible so we can attract more investment and ensure—as we have said earlier—that we can have sustainable increases in real wages over time.

Senator WHISH-WILSON: So obviously the IMF disagree, Mr Fraser, with Senator Cormann's assertion there, or his assumptions—

Senator Cormann: That is your characterisation. I think you are verballing the IMF.

Senator WHISH-WILSON: Senator Cormann, all throughout the Treasury secretary's opening statement he has quoted the IMF figures for global growth, giving us a frame within which Australia sits; yet the head of the IMF is saying that a corporate tax cut 'race to the bottom' is a key risk to the global economy. That means she is not suggesting it is going to increase economic growth. We have a disconnect here between Treasury and the head of the IMF.

Senator Cormann: I totally disagree. The point that I would make—and it is a very important point—is that Australia is nowhere near the bottom when it comes to corporate tax rates. In fact, we are getting closer and closer to the top when it comes to corporate tax rates internationally, and that is a problem for us. We are an open trading economy. We are, of course, engaged in global competition. We are competing for investment into Australia internationally. Even if the parliament legislates the full Ten Year Enterprise Tax Plan and, over a 10-year period, we reduce the corporate tax rate to 25 per cent, we are still only middle of the road among OECD countries. Any proposition that Australia is somehow participating in or engaged in a global race to the bottom when it comes to corporate tax rates is completely false. I completely reject it—

Senator WHISH-WILSON: Well, you can let Ms Lagarde know if you meet with her, Senator Cormann.

Senator Cormann: We do not want to end up in a situation where we are the odd ones out—so at the top of the range—when it comes to business tax rates, because that will hurt and damage our economy. It would hurt and damage investment. It will lead to fewer jobs and higher unemployment, and it would also lead to lower wages compared to the alternative in the context of lower business for the Australian environment.

Senator WHISH-WILSON: Mr Fraser, you have a background in banking, like me, and you have worked overseas. Only last week in the *Financial Review*, there was an interview with Canada's largest pension fund; interestingly called the Canadian Pension Plan Investment Board. They invest about \$9 billion in Australian infrastructure. The head of that pension fund rejected commentary about Australia losing its international competitiveness because of likely corporate tax cuts in the US and Britain if we did not follow suit. He says:

As investors we frankly value the cash flows ... What matters to us is predictability—it is not so much the level of tax paid. We look at the predictability of the system ...

Isn't sovereign risk, when you add economic risk and political risk and other factors, a lot more complicated than just tax cuts? It goes to how we track foreign investment and direct foreign investment.

Mr J Fraser: Of course. I never said anything else.

Senator WHISH-WILSON: I am not saying you have.

Mr J Fraser: I know them well; they see me twice a year. It is an amalgam. You take a decision. I used to make big investment decisions; it is an amalgam of issues. I guess the point we are making is, whether we like it or not, there is a competition for capital, there is a competition for people and there is a competition for export markets. If we choose to ignore that competition, we run the risk of diminishing our growth prospects.

Senator WHISH-WILSON: In relation to the second 'black swan' event the IMF recognised, which was deregulation in the US, I am also interested in your perspective—which you did note in your opening statement—on the US administration and on President Trump's deregulation and the fiduciary act. I suppose he has not directly mentioned the Dodd-Frank act in his directorates, but he is clearly looking at breaking down what is probably the biggest reform in US financial regulation history. Do you see that as a risk to the US economy and to the global economy if others follow suit in regard to financial deregulation?

Mr J Fraser: It is early days yet; it is very hard to know precisely what they are intending to do. It is a bit like punching at shadows. I also hesitate to comment on other administrations or other nations' policies.

Senator WHISH-WILSON: Would you be concerned about the effect of the repeal of the Dodd-Frank act on Australia's financial system?

Mr J Fraser: To make any sensible comment about it, you need to know precisely what they have in mind.

Senator WHISH-WILSON: Could I ask about a couple of other specific issues, following on from Senator Gallagher's questions on housing affordability. We talked a bit about this at the last estimates, and you said there is a committee and a review under way on this issue. Can I get an idea of how much detail you are dialling down into in this study? Will you have figures on how many young Australians, for example, cannot afford to buy a home? Are you collating this kind of data for a modelling exercise?

Mr J Fraser: That is a good question. The data is not great, so to draw conclusions you have to make a number of assumptions. The behavioural aspects are different. People of my age—when I was buying a home in the 1970s, I think I probably had a different mindset to what a lot of young people have at the moment.

Senator WHISH-WILSON: We are not going to go back to avocados again, are we?

Mr J Fraser: No, please! We are working on it. We are getting some very good input from the community housing groups. That has been useful. We are getting some very good input from a number of the states and territories. The problem differs between states and territories. In some parts of Melbourne apartment prices have fallen—you could not call it oversupply, but certainly the number of people who are surrendering their deposit for apartments is interesting. That is bringing stuff back onto the market. It is a hard one, and you also have to make assumptions about what are 'reasonable' aspirations for a house.

Senator WHISH-WILSON: I am really interested in that particular aspect of it. In terms of collecting that data to help you make those assumptions, have you consulted with young Australians or groups about what their needs and expectations are in relation to that?

Mr J Fraser: We have consulted very widely, but I think that question is probably better directed at Mr Robinson from the fiscal group, who will be here later this afternoon.

Senator WHISH-WILSON: Thank you. Ultimately I would like to know if that will advance us. They sound like simple questions, but I understand that there is a lot of work that goes into them. How many young Australians at the moment cannot afford to buy a home? There are questions around the increased supply that you talked about: how many new dwellings do we need to improve housing affordability? We have talked about location: where do we need them? How much would house prices need to fall or wages need to rise to solve these kind of issues?

Mr J Fraser: Back to the future: in 1977 or 1976 there was a thing called the Indicative Planning Council, which was chaired by the then Department of Housing and Construction. Treasury was on it, as was the Bureau of Statistics. It was simpler times. They tried to ask, what is the housing stock at the moment and what is the population growth? In the end it segued into combinations and permutations and just got out of control trying to work out the numbers. You have to wrestle with these issues. Obviously a key driver is the cohorts of population, the age at which people will need housing, the number of multiperson households and the number of people living with their parents. That is one of the things that has come through.

Senator WHISH-WILSON: I appreciate that it is a complex task. I look forward to hearing—

Mr J Fraser: Marty Robinson and Michael Brennan will be the best people to ask this. I am involved. I am going on one of the national committees as I have a real interest in it.

Senator WHISH-WILSON: I have always asked questions around infrastructure financing and spending. Obviously you have seen that Dr Lowe has been very outspoken again around infrastructure—probably more so in recent weeks than he has ever been. I think that last week he pretty much said that infrastructure is probably the best housing affordability policy. You have talked about these suburbs, on the outskirts of Melbourne, for example, and you mentioned that had there been better infrastructure planning 20 or 30 years ago it might have helped solve some of these crises. In terms of our infrastructure spending, are you still of the same view about what the spending for recurrent debt, the bad debt and good debt, for long-term productive infrastructure should be? I think you hedged your bets a bit when I

asked you this question last time. Is Treasury considering splitting the accounts so that it is a lot easier for us to see what is being spent on recurrent debt and long-term infrastructure debt?

Mr J Fraser: It is a legitimate question, and our position remains the same: if it is going to be financed, it should be financed and there should be transparency about who is financing it, and that, really, in many cases, means future generations. We owe that to future generations. There is a considerable amount of material already in the budget papers which allows you to pull that out. But also remember this: the overwhelming bulk of capital expenditure in the public sector is done by the states and territories, and they already do it.

Senator WHISH-WILSON: I understand their infrastructure spending has been decreasing.

Mr J Fraser: Our spending is not great.

Senator WHISH-WILSON: No. It has been decreasing.

Mr J Fraser: It may increase, and if it does we are looking at ways to make sure that, with the Department of Finance, it is more transparent—or easier to read.

Senator WHISH-WILSON: I draw your attention to an excellent select committee report into infrastructure financing that was done last year. We collected a lot of evidence into how we could act to make it more transparent and make the system work better. It is a bit of a plug for my committee. I want to ask you about some questions on notice that I received back from Treasury. The first asked:

Has Treasury discussed with credit rating agencies their approach to the balance of government borrowing for recurrent purposes and government borrowing for infrastructure investment when making assessments?

This was about whether, in relation to assessments on credit rating like AAA, they look at this particular issue. The answer was that that had not been done. A second question was:

Has Treasury undertaken modelling on the impact of a downgrade in Australia's credit rating resulting from more borrowing for infrastructure investment?

The third question was:

Has Treasury undertaken modelling on the impact of a downgrade in Australia's credit rating on demand for government bonds?

I am not a total fan of modelling. I understand it is very limited. The answer was: no, Treasury had not undertaken modelling. Has there been any progress made in that regard?

Mr J Fraser: Certainly, on the last one, I have been working with the Australian Office of Financial Management. We talk about these things. We try to anticipate both black swan events and white swan events, and we also try to say, 'What would be the impact?' I tried to encapsulate that in my answer before to the senator about the impact of AAA. It is hard to work out and to be precise. We are operating in a global environment, so our borrowing costs are very much a function of what the international capital markets are doing. But, rest assured, we look at these issues.

Regarding your point about modelling, I keep hammering on about this. We will upgrade our models, but when we had the people at the modelling conference last week—they came from the United Kingdom and from the Congressional Budget Office in Canada and from New Zealand—we found that we share the same issues. I was at a meeting of heads of

Treasuries from Canada, the UK, Ireland and New Zealand in Dublin in September and we spent a considerable amount of time thinking about how we could not only forecast but model things better. We all had the same problem, frankly, which is that the expectations on the outputs of models far exceed the current capacity or even the projected capacity to do it. That said, one of the messages that did come out of the conference last week—we had Chris Murphy do a paper on this, which will be published—is that the role of judgement has to be there. The model cannot answer life for us. There has to be judgement, because there are behavioural aspects to it which are unlikely to be captured in the historical data.

Senator WHISH-WILSON: I certainly do not have high expectations. They can inform you, but they will not make a decision for you, that is for sure.

Senator BUSHBY: Thank you, Mr Fraser and the officers from Treasury, for being here today. Mr Fraser, just before I get into asking you some questions, I note that you mentioned twice your visit to Hobart last week. In reference to previous conversations, did you manage to get a hotel room?

Mr J Fraser: With difficulty—seriously, with difficulty. I think I mentioned before that we were going to go down there in November, to a Hobart hotel, and we gave up; we had to get, for all the states and territories, roughly about 25 rooms, and so we booked the rooms for last Thursday and Friday back in November, and we were spread amongst four hotels. But I can understand why they are booked out; it was beautiful.

Senator BUSHBY: Yes, things seem to be going pretty well, certainly in the southern part of Tasmania—

Mr J Fraser: Yes, although, as to the number of cranes, there were two cranes there in November and now there is only one.

Senator WHISH-WILSON: You only need one; we don't have many high buildings!

Senator BUSHBY: That is an issue in itself. On that, I note that the Marriott chain has announced the first Marriott luxury hotel in Australia will be built in Hobart; I think they announced that on Monday, so a couple of days after you were there. But there is a lot of hotel construction going on. So hopefully next time you get there you will find there are some.

Mr J Fraser: But also the liners are coming in. The liners in Sydney do not even stay overnight because of the berthing fees at Circular Quay or around there. But the liners are coming in for two nights, and I think there were 50 overnight liner visits last year. My friend and colleague the head of Tassie Treasury said they were expecting 92 this year, and he said there is a hotel about to be completed which will be virtually at the dock—

Senator BUSHBY: Yes, right against the wharf.

Mr J Fraser: But they have got to learn to take restaurant bookings after eight o'clock!

Senator BUSHBY: Well, if you know where to go you can find them, I am sure; maybe talk to me next time you are down there! But it is indicative, I think, of how things are going in Tasmania. I note your report; sometimes you talk about states, and you did not mention states, but I was pleased to see also that Tasmania had the second-lowest unemployment rate in the most recent figures that came out, which is a big turnaround from recent years. I see you nodding.

Senator WHISH-WILSON: On the back of the clean, green and clever economy, Senator Bushby.

Senator BUSHBY: Well, on the back of three years of a state Liberal government and four years of a federal Liberal government as well.

Senator WHISH-WILSON: Rome wasn't built in a day.

CHAIR: Do you have any questions for Treasury?

Senator BUSHBY: Yes. I should ignore the interjection. Just following up on a couple of things on housing: I note that APRA is appearing tomorrow, but how would Treasury characterise the impact on the housing market of APRA's December 2014 changes to lending standards? Has it had an impact on the growth that we have seen particularly in the larger cities?

Mr J Fraser: With due respect, that is probably something for my people this afternoon, but also for Wayne Byres himself. I think APRA has done a terrific job; they have brought in these standards and the changes, and I have met recently with three of the bank chairs, and they have done it without any grief. The banks have a very good relationship with Wayne Byres and his people. And they move in the right direction. They are caught, of course, with the same issue: that conditions differ between Sydney and Melbourne and the rest of Australia. So it is a tricky path, at times, they have to navigate.

Senator BUSHBY: Yes, it is a tricky path. I suspect that the instruments they have available to them in that respect are more about prudential standards than housing affordability in itself—

Mr J Fraser: Absolutely.

Senator BUSHBY: but, even though those instruments are probable a fairly blunt instrument, they are probably not as blunt an instrument as interest rates, which are a very blunt instrument—

Mr J Fraser: Absolutely; I totally concede that.

Senator BUSHBY: which does not differentiate between markets and differing factors across the country at all.

Mr J Fraser: To be fair, from my discussions with the banks, they are alive to the issue. The relationship they have with APRA is a good thing for Australia, and it is not as if the banks are not alive to the problems that they themselves would have if things got silly.

Senator BUSHBY: As a senator from a largely regional state, it always does concern me—the bluntness of instruments like interest rates. If the housing market in Melbourne and Sydney does get hot to the extent that it is considered there is a need to use blunt instruments to address that, the impact in regional Australia can be quite disproportionate and unfair.

Mr J Fraser: Absolutely. I am an old man, and we saw that in the late 1980s.

Senator BUSHBY: I have some other lines of questioning which, to some degree, flow from the questions you were being asked earlier about the causes behind the drop-off in hotel investment in Tasmania. I understand the 2016-17 MYEFO figures forecast a continuing decrease in new private investment. Is that correct?

Mr J Fraser: Mr Ray?

Mr Ray: That is correct.

Senator BUSHBY: We had a bit of a discussion about what might be the causes behind that. But one thing that was not overly focused on was the degree to which mining investment fell and the degree to which that contributes to the fall in private investment.

Mr Ray: Yes. That is the big driver of why the number is negative. This is the unwinding of a record mining investment boom, the largest in Australia's modern history.

Senator BUSHBY: Essentially, over the last 10 or 15 years, there have been massive amounts invested in mining, getting ready to export.

Mr Ray: Yes. The way to think about it is that, if you look at mining investment as a share of the economy, it sort of bounces around at about two per cent of GDP. In previous mining booms, that has gone up to about three per cent of GDP. During this mining boom, it went to nine per cent of GDP; it was huge, massive.

Senator BUSHBY: It has been a massive positive shock to the economy.

Mr Ray: It has been a big shock to the economy, and the economy—as Mr Fraser said in his opening sentence—is going through a big transition off this mining investment boom. We have mining investments coming off by about 20 per cent a year.

Senator BUSHBY: So the nine per cent high—what are we forecasting it will come down to?

Mr Ray: I do not know that we do it quite like that, but it will not go all the way back down to two per cent, because mining is a bigger share of the economy. Ongoing maintenance of the mines will mean that mining investment will be somewhere between two and three per cent.

Senator BUSHBY: Mining exports as a share of the economy—presumably that increased as the capital investment comes to a conclusion and the mines become productive, digging the stuff up and selling it—actually becomes a more important part of the economy as the mining investment comes off.

Mr Ray: That is correct.

Senator BUSHBY: You mentioned the transition, Mr Ray. How much further does the unwinding of the mining investment boom have to go before it gets to a point of equilibrium?

Mr Ray: Dr Lowe said that we are about 90 per cent of the way through it, and we have the same numbers he has.

Senator BUSHBY: What do you expect to happen to business investment in the economy more broadly when that drag finally dissipates?

Mr Ray: When that drag dissipates, all things being equal, we are expecting that business investments will make a positive contribution to growth.

Senator BUSHBY: That is because at the moment the fall in mining investment is pulling down the overall number; once that fall is not included in the equation, you only have the positive from other investments?

Mr Ray: That is correct. If you look at the MYEFO forecasts for the current year, we are forecasting minus six per cent from business investment, total, and in the next year it is zero because of the detraction. So two things are happening: one is we are actually forecasting a bit

of a pick-up in non-mining business investment, but also the detraction from mining gets smaller.

Senator BUSHBY: You add those two things together and it makes a smaller figure than you would otherwise have had, but, once you do not have the negative figure there, you are just left with a positive.

Mr Ray: Yes.

Senator BUSHBY: What do ABS capital expenditure figures point to with respect to non-mining investment in the economy?

Mr Ray: I will start, and Dr Grant will add in. The latest release was a bit softer still. With the latest release we had the first read for next year, and that was a decline. It is still projecting a decline.

Senator BUSHBY: That is non-mining?

Mr Ray: That includes non-mining, yes. So non-mining was also declining in the next year.

Senator BUSHBY: Do you have any figures for non-mining only?

Mr Ray: Yes. The first estimate for 2017-18 for non-mining is a fall of two per cent. That is the first estimate. There is a wide confidence band around that.

The second thing I would say about the ABS capex is that they pick up very well large companies and large projects, so their coverage of mining, for example, is very strong. What is not so much in the ABS capex is small business and small companies and services. Those things are not captured so much in capex.

Senator BUSHBY: So the figures for the ABS capex are probably conservative, because they do not include that, or they are fluffy because they are not sure what it is?

Mr Ray: In the mining investment boom, they were providing a very good read. As we come out of that, the coverage is not as strong, so there would be other things that we have to put into the forecast for non-mining.

Senator BUSHBY: So the coverage is not as strong. Does that mean that it underestimates or that it is just vague?

Mr Ray: I would not say it underestimates. I would say the coverage is not as strong, so there are other things that you need to take into account.

Senator BUSHBY: The confidence level is not as high, basically.

Mr Ray: Yes.

Senator BUSHBY: Okay. Despite the flatlining investment growth, which we have talked about earlier and which I have been asking some questions about, what do the latest NAB business surveys suggest about confidence in the Australian economy?

Mr Ray: I will go to Dr Grant for the details, but the NAB business survey has been strong for some time on confidence levels, and it is above the historical average.

Senator BUSHBY: Is that a fairly useful indicator of actual outcomes as they develop? Is there a reasonable correlation between the confidence levels and business decisions that are made subsequently?

Mr Ray: An advantage of the NAB business survey is that it has got better coverage of the sectors that are not, for example, in ABS capex. A disadvantage is that it is harder to interpret the responses from that sector to survey questions.

Senator BUSHBY: So it is useful to some degree but, like the ABS capex, not an absolute.

Mr Ray: It is useful, and it is something that we watch very closely.

Senator BUSHBY: Okay, thank you.

CHAIR: Thank you, Senator Bushby. Is that it?

Senator BUSHBY: I can ask more questions, but if I am cut off—

CHAIR: I am just very conscious of time, and I realise we only have you till 11.15. I know there are a lot of senators around the table who have more questions. I understand, Senator Roberts, you have a very quick line of questioning for us.

Senator ROBERTS: Yes. It is good to see you again, Secretary Fraser.

Mr J Fraser: Thank you.

Senator ROBERTS: I can remember our last brief questions. These will be just the same—like me, short and simple! Before I go to those questions, I remember that you dismissed—or I took it that you dismissed—M3. I have subsequently found that the Federal Reserve Bank quantitative easing is actually relatively less than the quantitative easing that has been occurring in this country over the last 20 or so years. Anyway, I am not asking questions about quantitative easing today. Mine are simple.

The first one is: how much has CPI inflation increased in Australia since publication from September 1948 to December 2016?

Mr Ray: I think we would have to take that on notice.

Senator ROBERTS: That is fine. The second question is: how much has M3 money supply increased in Australia since publication from July 1959 to January 2017?

Mr Ray: I think it is the same answer.

Senator ROBERTS: Okay. The third one is: is there a relationship—fully and/or partially correlated and/or causal—between the money supply as measured by M3 and inflation as measured by CPI?

Mr J Fraser: I will take that. I did not dismiss M3; that is a clarification. If I recall correctly, I said it was extraordinary that there was such a focus on M3 broad money cash base in the late eighties. Of course—as you correctly, I think, pointed out—it has been pretty flat. Conscious that I might be meeting up with you today, I did look at the recent numbers all around the world, and it remains very flat. It will be interesting to see, as the world recovers, whether that relationship comes back. I had the good luck to meet with Mr and Mrs Friedman on three occasions, and I am a great admirer of them. They have, by the way, said their greater work was done on distributional analysis, permanent consumption and transitory. But, over the longer term, Friedman made a case that there was a link between M3 and prices, but he said it was not much use for short-term or even medium-term forecasting; it was very much long run. The study that he did was based on data that they had going back to the American Civil War. All he said was, 'I think there is a relationship, and fiddle with money

supply at your peril.' So, with big movements in money supply, he expected that there would be big movements in prices in the same direction. But, as for using it as a forecasting tool, he said, 'Forget it.' That is good question.

Senator ROBERTS: I have a quote from Nobel Laureate Milton Friedman, from his book *The Counter-Revolution in Monetary Theory*. He said:

Inflation is always and everywhere a monetary phenomenon in the sense that it is and can be produced only by a more rapid increase in the quantity of money than in output.

I also have a quote from—

CHAIR: Is there a question here?

Senator ROBERTS: No, there is not. I was just engaging in conversation.

CHAIR: Well, this is the time for questioning. We have lots of people with questions.

Senator ROBERTS: Fair enough. Thank you.

Senator KETTER: Mr Fraser, just going back to the issue of wages growth and related issues, we just had the Fair Work decision last week in relation to penalty rates in very significant sectors of the economy. Have you done some work in terms of the economic effects of that decision?

Mr J Fraser: No.

Senator KETTER: No. Have you done any work in relation to people having their pay cut or having less disposable income?

Mr J Fraser: Dr Grant? Mr Tease?

Mr Tease: We have not done any work on the decision of the commission, either on the wages side or the impact of lower incomes for those people in those industries.

Senator Cormann: What you have to remember is that this is a result of a decision enshrined in legislation by the previous, Labor government. It was the job of the Fair Work Commission to independently review all of the evidence—thousands and thousands of pages of submissions—and to consider all of the economic and other arguments, and to finally come to a view, which they have. The president of that commission, a former senior union official, who was appointed by the previous, Labor government, has come to a view and I—

Senator WHISH-WILSON: Chair, on a point of order: the question was very specific. Senator Cormann's answer has nothing to do with the question. It was—

Senator Cormann: I am being entirely relevant. I know the former Labor-Greens government's defenders do not like to hear it.

Senator WHISH-WILSON: whether the Treasury had modelled these—

Senator BUSHBY: On the point of order—

CHAIR: A second point of order, Senator Bushby?

Senator BUSHBY: No, on the point of order: this is not a question without notice in the Senate. The minister is entitled to answer and respond to any question in any way he chooses to. There is no requirement for direct relevance here. He is entitled to respond—

Senator Cormann: I would argue that I am being directly relevant.

Senator BUSHBY: But, regardless—

CHAIR: Thank you, Senator Bushby, Senator Whish-Wilson. There is no point of order. I would refer the minister back to the questions.

Senator Cormann: Just to conclude, the job to assess the economic impacts as part of the overall assessment on an independent basis was a job given to the Fair Work Commission by the previous, Labor government and enshrined in legislation. In fact, as the Minister for Employment and Workplace Relations, the now Leader of the Opposition, Bill Shorten, ensured that the Fair Work Commission would specifically review penalty rates. That is what they have done. In their judgement, having reviewed all the evidence, this will lead to higher employment and the opportunity for businesses to employ more Australians. That is the judgement that President Ross, a former senior union official appointed by the Labor Party into a body set up by the Labor Party, in a review established by the Labor Party, has come to.

Senator KETTER: Can I just get back to Mr Fraser. In your opening comments and in questions to you, you talked about the bargaining power of workers and how that related to wages growth. You are saying you have not done any modelling as yet on the impact of the Fair Work decision. Are there plans to do that?

Senator Cormann: You are actually misquoting him there. He did not say he had not done any modelling 'as yet'. You asked him whether Treasury had done modelling, and he said no, full stop. When you say 'as yet', it implies something different to what he said.

Senator KETTER: Okay. So perhaps the question is: do you have any plans to do modelling?

Mr J Fraser: In developing our forecasts for the budget, we take into account everything that has happened in the economy, both domestically and internationally.

Senator GALLAGHER: So that is a yes? The decision of the Fair Work Commission will feed into the work that you do in the Treasury forecast?

Mr J Fraser: It would be taken into account in the broad, but it is not a specific modelling of the Fair Work Commission recommendation.

Senator KETTER: Just to come back to your observation that the bargaining power of workers is relevant to the issue of wages growth, do you have a view as to what impact this decision in relation to penalty rates will have on the bargaining powers of workers?

Mr J Fraser: No.

Senator KETTER: Have you provided advice or consulted with the Department of Employment or the Fair Work Commission or any other government agency about the impact of the cut to penalty rates?

Mr J Fraser: Let me check. No.

Senator KETTER: Have you provided any advice or consulted with the Treasurer or the Treasurer's office or any other Treasury portfolio minister in relation to the impact of the cut to penalty rates?

Mr J Fraser: No.

Senator Cormann: All of this just demonstrates the government's respect for the independence of the Fair Work Commission, as set up by the previous Labor government.

Mr Ray: That may have come from a different part of the department. It would be normal for advice to be provided on something—actual advice in particular, in this case. We might just need to check that with the relevant group who are coming in later. They can let you know.

Senator KETTER: So you can take that on notice for us?

Mr Ray: I would rather suggest that Fiscal Group provide an answer to you when they come.

Senator KETTER: Okay. I note the Treasurer has made comments—

Senator Cormann: Just to be clear, there is no macroeconomic advice.

Mr Ray: There is no macroeconomic advice.

Senator KETTER: The Treasurer today has talked about the impact of the decision, and he has talked about the potential for jobs to be created in his view. He has pointed to the Fair Work decision. Have you looked at the actual decision at all to commence any consideration?

Senator Cormann: Before I ask the secretary to provide a specific answer, let me just make this self-evident point: obviously the Fair Work Commission has considered the evidence of small-business organisations and others which have submitted that, subject to certain adjustments, they would be able to open shops and facilities that otherwise would be closed. If you have more businesses open for business and providing services, self-evidently that will lead to employment that otherwise would not be available. Anyone who wants to argue with that self-evident proposition wants—

Senator WHISH-WILSON: What evidence have you got?

CHAIR: Senator Whish-Wilson, you do not have the call.

Senator Cormann: If I may, arguing against the basic proposition that if more businesses are able to open their doors there will be more employment is equivalent to arguing against the existence of mountains in Switzerland.

Senator WHISH-WILSON: How do you know—

CHAIR: Senator Whish-Wilson, you do not have the call.

Senator Cormann: You have asked me, 'How do I know?' What I know is that the Fair Work Commission reviewed all of the evidence and a former very senior union official who is presiding over the independent Fair Work Commission, having reviewed all of the evidence, has agreed with the judgement that making the adjustments that they are proposing to make to penalty rates will lead to more businesses being able to keep their doors open on a Sunday and will lead to higher employment. That is their judgement.

You do not agree with the Fair Work Commission, which was set up in its present form by the Labor Party. You do not agree with the judgement that was made by the Labor appointee, Iain Ross; that is your right. But he and the commission have reviewed all of the evidence and they have come to a particular conclusion.

Senator KETTER: But this morning the Treasurer was pressed as to what is the hard evidence that a reduction in penalty rates—

Senator Cormann: He referred to thousands of pages of evidence that were reviewed.

Senator KETTER: If I could just finish my question—

Senator Cormann: I listened to the interview very carefully. I was actually there listening to the interview. I always listen very carefully to what the Treasurer says. It was a very good and very instructive interview.

Senator KETTER: He was pressed for some hard evidence.

CHAIR: The conversation is getting a little bit out of hand here. The call is with Senator Ketter, Minister, if you could answer Senator Ketter's question.

Senator Cormann: I am answering Senator Ketter, of course—

Senator KETTER: I had not finished it.

Senator Cormann: No, I am still dealing with your question.

Senator KETTER: Minister, with respect, I had not finished my question—

Senator Cormann: Before you start interrupting my answer, the truth is I listened very carefully to the Treasurer on ABC AM this morning, as I always do, and the Treasurer very eloquently pointed to the evidence that was reviewed, as is their job, by the Fair Work Commission. That evidence, which has been referenced by the Fair Work Commission in their decision, clearly suggests that in their view there will be more jobs as a result of the judgements or the recommendations and proposals that they have made in relation to penalty rates. You are not forced to agree with the Fair Work Commission, but that is the judgement that the Fair Work Commission have come to.

Senator KETTER: Then perhaps you would agree with the other finding that the Fair Work Commission made that, in general, most existing employees would probably face reduced earnings.

Senator Cormann: When you say 'you would also agree', that is an attempt again to verbal what I said.

Senator KETTER: Well you have cited with approval—

Senator Whish-Wilson interjecting—

CHAIR: Senator Whish-Wilson, Senator Ketter has the call.

Senator WHISH-WILSON: According to your own logic, it is an irrefutable proposition.

CHAIR: Senator Whish-Wilson, Senator Ketter has the call. Please direct your comments through the chair.

Senator KETTER: If you are citing the Fair Work Commission's decision with approval, you need to also look at the other aspect of it, where the commission has said:

... it is improbable that ... existing workers' hours on Sundays would rise sufficiently to offset the income effects of penalty rate reductions.

Senator Cormann: What I am doing is noting that a previous Labor government introduced the legislation—with the support of the Greens, incidentally, in the Senate, who supported that legislation to enshrine the independence of the Fair Work Commission in relevant legislation and supported the referral of penalty rates, as I understand it, to the Fair Work Commission. They have done the job of reviewing all of the evidence and, at the end of it, they have made a judgement. That was their job; it was not our job. I have not reviewed the thousands of pages of evidence that the Fair Work Commission have reviewed, but I have to trust the judgement of those who were given that job. The Fair Work Commission is a bit like

the RBA, really. It is set up as an independent statutory body. It is not a political decision. It is not in the discretion of the government to make those particular determinations. So, really, it is up to us to note what they are saying about the effect.

Senator McALLISTER: Or you could vote for the legislation in the parliament.

Senator GALLAGHER: To finish this line of questioning on the Fair Work decision, is Treasury going to do any work about the potential impact of that decision at a macro level, feeding into the assumptions in the budget, but also about the impact that it may have particularly on low-income, casualised workers? Will there be any work done by Treasury into that?

Mr J Fraser: As I said earlier, in putting together our forecasts for the parameters and forecasts and assumptions for the budget, it is one of the many factors that we would take in that is new intelligence of what is happening with the economy.

Senator GALLAGHER: Okay, so you will be doing some work on it?

Mr J Fraser: No. We will look at the economy as a whole, and there are a range of issues—including commodity prices and the data that will be released in 32 minutes—and we will take account of that in putting together our forecast. But, you know, it is not a specific modelling of the Fair Work Commission result. It is part of the amalgam that we look at in reviewing our forecasts and assumptions for the budget deliberations.

Senator GALLAGHER: Do you think a decision like this would have an impact on wages growth across Australia?

Mr J Fraser: I do not know at this point.

Senator GALLAGHER: Does it concern you?

Mr J Fraser: It is a decision by the Fair Work Commission. I respect that.

Senator GALLAGHER: I am not really talking about the decision—

Mr J Fraser: I do not have an opinion.

Senator GALLAGHER: but does it concern you?

Mr J Fraser: No, I do not have an opinion.

Senator GALLAGHER: Surely you have got a broader ambit across the economy.

Senator Cormann: I have a point of order here. You have been here for quite some time now, Senator Gallagher. You know that you are not actually meant to be asking for opinions on matters of policy. You are not meant to be asking the officials for an opinion. That was very clearly spelt out by the chair in her introductory remarks. The Fair Work Commission have made a decision; they have made it independently; they have pointed to the fact that, in their judgement, the recommendations they have made or the proposals they have made will lead to more jobs and to more opportunities for businesses to keep their businesses open on a Sunday. It is not for us to second-guess their judgement, because it was them who reviewed all of the evidence.

CHAIR: Senator Gallagher, would you like to rephrase the question.

Senator GALLAGHER: Just finally, will there be more jobs created out of the Fair Work decision; and how many?

Mr J Fraser: I do not have an opinion on that.

Senator GALLAGHER: Will you be doing some work to establish that?

Senator Cormann: He has answered that question. He has clearly answered it as part of the overall assessment of where the economy is at. This is one of many factors, and so that will feed into the Treasury consideration relevant to economic parameters and other forecasting information.

Senator GALLAGHER: Minister, several members of your government have consistently said this decision will lead to more employment in the industries affected, so I am asking you—and, through you, the Treasurer: how many jobs; and, if you do not know how many jobs, how are you going to ascertain how many jobs that back up the statements that ministers have made?

Senator Cormann: We are backing up that statement by pointing to the judgement formed by the former senior official of the ACTU, now president of the Fair Work Commission, Ian Ross. He has clearly spelt out that, having reviewed thousands of pages of evidence and submissions put forward to the Fair Work Commission, it is his final judgement that making the adjustments to penalty rates for some awards on Sundays will lead to more jobs. That means that we of course are entitled to point to the judgement that they have made. You can hardly suggest that somebody with Ian Ross's background would come at this with a—

Senator GALLAGHER: I am asking ministers to back up what they are saying.

Senator Cormann: We are pointing to the fact that it is Fair Work's judgement—and I think we are entitled to point to it—because you can hardly say that Ian Ross has got a history as a Liberal-National Party right-wing warrior who is somehow driven by an ideological anti-worker agenda. That is clearly not his track record but, even though he has a track record in the union movement, having reviewed all of the evidence independently, he has come to a particular view. That view, in his judgement, having reviewed the evidence, is: there will be more jobs, if there are adjustments to penalty rates on the Sunday, the day recommended. It is not for us to second-guess—it is not for you either, incidentally, to second-guess—their judgement, given that you set them up as an independent body. Before the election, Bill Shorten was saying how dangerous it would be to take that independence away from the Fair Work Commission.

Senator GALLAGHER: Well Labor is not going to stand by and watch a 25 per cent pay cut to the lowest-paid workers in the country.

CHAIR: Senator, is that a question?

Senator Cormann: You are in favour of independence as long as it is in favour Labor Party positions—

Senator GALLAGHER: We will not.

Senator Cormann: but you are not in favour of independence, if they make judgements that are inconsistent with what you would like to see happen. That is not independence.

Senator GALLAGHER: We have made our position clear.

Senator Cormann: What you want is the Fair Work Commission to be a partisan instrument of the Labor Party—that is what you want them to be. The reason you are doing

what you are now doing is that you are bitterly disappointed that Ian Ross is not allowing himself to be a continuous instrument of the Labor Party.

Senator GALLAGHER: We are bitterly disappointed that low-income—

Senator Cormann: He has asserted his independence.

Senator GALLAGHER: working people will get a 25 per cent pay cut.

Senator Cormann: He has made a judgement about the right way forward in his view—

Senator GALLAGHER: That is what we are concerned with and that is what we will stand up it for.

Senator Cormann: and the reason Bill Shorten—quite outrageously, really—is seeking to undermine the Fair Work Commission's—

Senator GALLAGHER: And you do it when it suits you, Mathias.

Senator Cormann: independence now is, because you—

Senator GALLAGHER: The Road Safety Remuneration Tribunal.

CHAIR: Senator Gallagher—

Senator Cormann: Bill Shorten is bitterly disappointed—

CHAIR: Minister, thank you very much for your answer. Senator Gallagher, can I please suggest that you direct your questions to the Treasury portfolio. We only have them for another 10 minutes. We are going to break for another 10 minutes. If you have a question, please feel free to ask a question but do not make statements to this group.

Senator IAN MACDONALD: Chair, as I indicated to you, right at the beginning, I have questions—

CHAIR: I understand that, Senator Macdonald.

Senator IAN MACDONALD: I think the Labor Party has had all the time so far.

CHAIR: I will ask Senator Gallagher whether she has any more questions. I have allocated another five minutes to the ALP on this issue.

Senator GALLAGHER: To finish that line of questioning, what I can take from that is, while, Mr Fraser, you are concerned about wages growth, in terms of this significant decision, the Treasury is unaware of whether this decision will have an impact on wages growth and, as yet, you are not envisaging any work to explore that further.

Mr Fraser: No, we will explore it in the context of the broader update of our forecast—an update that will take into account a welter of information across both the wages and other areas.

Senator McALLISTER: On something entirely different, do you think there is a problem with the Australian gas market?

Mr Fraser: Yes.

Senator McALLISTER: How would you characterise that?

Mr Fraser: I am not an expert in power. We are all very rudely aware now of the issues in power. The government has acted quickly, and Treasury has acted quickly, to try to get on top of it.

Senator McALLISTER: Exactly what does that mean from a process perspective?

Mr Fraser: I put resources into it. We formed a group within Treasury.

Senator McALLISTER: Is this the structural reform group, Mr Fraser?

Mr Fraser: No, this is the—

Senator McALLISTER: Another group?

Mr Fraser: It is not a group. It is a task force. We try to organise ourselves to be agile, and we do not necessarily work within the confines of the structures that have bedevilled the Public Service for decades. We have formed a group dedicated to looking at the whole issue of energy and power, and that group has done considerable work. I have had discussions with Alan Finkel, who came into the department to give us a briefing. I would not pretend to say that we are experts on the power issues at the moment, but we are trying to get into a position where we can provide advice to the Treasurer.

Senator McALLISTER: Have you provided any advice about the gas market to date?

Mr Fraser: I am sure we have, but not in the—

Senator McALLISTER: In the recent past?

Mr Fraser: Yes, not in the recent past.

Senator McALLISTER: I am happy to leave off here, but are you saying to me that you cannot tell me anything about the gas market this morning?

Mr Fraser: No, I am taking a judgement, but I am not in a position to give a definitive view. I think it would be inappropriate.

Senator McALLISTER: That is okay. We can ask other Treasury officials. That is all right.

Mr Fraser: I think Treasury is not in a position to give a view.

Senator McALLISTER: Thank you.

Mr Fraser: We have not come to a landing.

CHAIR: Senator McAllister, I am conscious of time.

Senator McALLISTER: I know. So am I, and I have a further question.

CHAIR: One last question. The ALP have had one hour of the time to question today.

Senator McALLISTER: You are now taking up my time by pointing this out to me.

CHAIR: I beg your pardon, Senator McAllister?

Senator McALLISTER: I have a handful of questions about energy—

CHAIR: And you have already had one hour. If you cannot land a blow in an hour on the government, do not blame the chair.

Senator IAN MACDONALD: Why you have given Labor an hour I will never know.

CHAIR: Senator Macdonald has some questions as well. You are more than entitled to ask your questions, but please do so respectfully. You may ask one more question and then I am going to move to Senator Macdonald.

Senator GALLAGHER: You need to treat other people with respect, Chair.

CHAIR: I beg your pardon. Would you like to have a private meeting, and we can take up a little bit more time doing that! Senator McAllister, please ask one more question, and then I am going to turn the questioning over to Senator Macdonald.

Senator McALLISTER: I want to indicate that I am unhappy about this. I have a number of questions—

CHAIR: Indication noted.

Senator IAN MACDONALD: Can I lend you a handkerchief!

Senator WHISH-WILSON: Ignore him.

Senator McALLISTER: I will ignore Senator Macdonald. He has a reputation for great rudeness.

Senator IAN MACDONALD: If you are so unhappy, we are very interested in that!

CHAIR: Would you like to ask the Treasury group another question?

Senator McALLISTER: As part of your energy analysis, have you performed any analysis on the cost of new coal-fired power stations compared to alternatives?

Mr Fraser: No, we have not.

Senator McALLISTER: Have you formed a view about why so many industry players dismiss new coal plants as a viable option for new generation in Australia?

Mr Fraser: No, I have not. We are consulting as widely as we can. As I said, it is a very important issue. As with everybody, it has crept up on us.

Senator McALLISTER: Do you think that new coal plants are a feasible investment without a government subsidy of some kind?

Mr Fraser: It is a complex issue. It comes back to what we were discussing earlier about political risk and investment. Part of the political risk is regulatory risk. For any power generation, and for any mining, the regulatory risk can extend over 30 years. I had a discussion with a major producer yesterday, and when they are looking at a 30-year plant they need to have comfort about the regulatory environment, and clearly this is difficult.

Senator McALLISTER: Do you think—

CHAIR: Thank you very much, Senator McAllister. I gave you one question. You had another two. I am turning the questioning over to Senator Macdonald.

Senator IAN MACDONALD: Mr Fraser, in your statement you mentioned the structural reform group, and that one of the issues that was going to be addressed by that structural reform group was regional development. You are aware, perhaps better than most, that, really, we currently have two Australias. We have capital city Australia—including the Gold Coast and Sunshine Coast—which is wealthy, comfortable and doing quite well. Then you have regional Australia, where wages are generally lower, and public services are generally lower or non-existent. Is this group going to look at that? Also, can you tell me what else the structural reform group will look at? I appreciate that they have not started yet, but what do you envisage that they will look at?

Mr J Fraser: I am passionate about these issues about regional Australia. Overnight, literally, we talked about changing our recruitment policies for graduates, because it was extraordinary to see that the graduates we take in are all coming from the capital cities. I

exaggerate, but fewer than five people came in from regional areas. Of course, that reflects in part that, outside of the Gold Coast, there is only really one major regional university—in Armidale. People go to universities in the capital cities, and hence that is why—

Senator IAN MACDONALD: I have to interrupt you. You are very ill informed if you do not know about James Cook University, which has not only Townsville and Cairns campuses but also a Singapore campus.

Mr J Fraser: I will be careful. I have got a nephew who graduated recently from James Cook.

Senator IAN MACDONALD: Well, he must be one of the brighter people in your family, then.

Mr J Fraser: He is trying.

Senator WHISH-WILSON: That is very degrading.

CHAIR: Senator Macdonald, that is very disrespectful.

Mr J Fraser: Now we are trying to do a question of infrastructure, it is a question of employment, which was touched on earlier.

Senator WHISH-WILSON: Could I make a point of order, Chair, that that be struck off *Hansard* and Senator Macdonald withdraw that comment?

CHAIR: A point of order?

Senator IAN MACDONALD: Saying that Mr Fraser's son, who chose to go to—

Mr J Fraser: No, my nephew.

Senator IAN MACDONALD: James Cook University is a very bright member of the family—

Senator WHISH-WILSON: You said he must be one of the brighter members of his family.

CHAIR: Let us not take Senator Macdonald's quote out of context. Continue your line of questioning, Senator Macdonald. I am very conscious that we need to wrap up in a few minutes.

Senator IAN MACDONALD: I am quite sure Mr Fraser understood that I think anyone who goes to James Cook University is very, very bright. Mr Fraser, if someone in your family going there, I am delighted to hear about it. You see, the Labor Party and the Greens just cannot stand the truth.

CHAIR: Senator Macdonald, do you have a question for Mr Fraser?

Senator IAN MACDONALD: Yes, I do. In fact, I interrupted Mr Fraser's answer.

Mr J Fraser: We are going to look at the whole ambit of issues about rural Australia, because it is wrapped up in affordable housing, it is wrapped up with infrastructure and it is wrapped up with questions about spatial growth with population and migration. I try to take a great interest in rural Australia. I am probably more focused on New South Wales and Victoria, but I would like my Treasury people to visit. When I went to Horsham, I took two young fellows with me to show them the real world. Coming out of that, I want my people to go and visit and sit down with the mayors and the councillors, and sit down with the welfare

groups, and understand what the impacts are, because we are a little bit too focused on the Canberra-Sydney-Melbourne axis.

Senator IAN MACDONALD: Mr Fraser, I could not agree with you more. I am delighted to hear you say that, although I am a fraction disappointed that you are only looking at New South Wales and Victoria. You are aware, of course, that Queensland is the most decentralised state? There is more regional Australia in Queensland than any other state.

Mr J Fraser: I just said that I was personally interested because of my background and whatever—Queensland, yes, and also Western Australia.

Senator IAN MACDONALD: On your policy for bringing in new graduates—and that is really one of the best pieces of news I have heard for a long period of time, because it is so essential—will you source them from universities like James Cook or Charles Darwin?

Mr J Fraser: The key point will be to let people in these universities know that there is a career option with Treasury. That is the first point. When we do our town halls, which I do personally, we will think about going outside Brisbane, going up north. I will be doing one in Perth. We will particularly invite people from the regional areas to come to these what we call 'town hall' meetings, where we talk about Treasury—not just me. Some of the brighter people in Treasury, rather than me, talk about the career advantages they get.

Senator IAN MACDONALD: Could I suggest you might even talk to the Minister for Finance, whose chief of staff, I think, is a graduate of James Cook University.

Senator Cormann: An outstanding contributor, too.

Senator IAN MACDONALD: She is. That demonstrates the quality that you can get from a regional university.

CHAIR: Thank you, Senator Macdonald, you have one more question.

Senator IAN MACDONALD: Yes. Apart from that, what else will the structural reform group be looking at in a regional context?

Mr J Fraser: It will be looking at everything. When I left Treasury in 1993, the structural reform—it was called a division then, but things change—was an exemplar, I thought, for bringing issues together right across government and for not just being reactive but putting issues on table. The end point is, essentially, productivity and efficiency that promotes better growth and better outcomes for people in Australia.

Senator IAN MACDONALD: Will that group be looking at the government's focus on northern Australian development, as well?

Mr J Fraser: I think that is an issue still to be determined between that and the budget policy area.

CHAIR: Thank you very much, Mr Fraser. Thank you very much, Senator Macdonald. I think we might break for morning tea.

Senator GALLAGHER: I just have a couple more questions. I do not want to delay the secretary any longer.

CHAIR: I am desperately trying to keep to schedule today.

Senator GALLAGHER: No more than five minutes.

Senator Cormann: Five minutes is fine.

Senator WHISH-WILSON: I want five, as well—no more.

Senator Cormann: It becomes difficult then because we have the national accounts at 11.30, and Mr Fraser needs to be out for those. He needs to be out well and truly before then—

CHAIR: I am happy to continue for five more minutes. Can I ask the ALP that you condense your questions down to three minutes. Senator Whish-Wilson, can you condense your questions down to two minutes. And then we will go from there.

Senator Cormann: If we can conclude by 11.23, that would be good.

Senator McALLISTER: I simply want to check, as I always do, about the Progressing Women Initiative. On the last time we spoke you indicated that you were going to meet the target of 35 per cent female SES. Is that still the case?

Mr J Fraser: No. I said I would endeavour to.

Senator McALLISTER: No. I think at our last meeting you said you would because you were appointing someone into an SES role. So where are we up to?

Mr J Fraser: For what—the SES?

Senator McALLISTER: Have you met the 35 per cent target?

Mr J Fraser: Yes.

Senator McALLISTER: Mr Ray has said previously—back in October 2015—that the longer term target was for 40 per cent. What is the deadline for that target?

Mr Ray: I think we discussed it before, Senator. We did not put in place a deadline. But that is the ambition.

Senator McALLISTER: It is an ambition, not a target?

Mr Ray: Yes. As at 31 December, we were at 37 per cent.

Senator McALLISTER: The annual report for 2015-16 includes a statement that there is an updated version of the Progressing Women Initiative entitled, 'The Progressing Women Initiative: 2016-2020 strategic direction'. I have been unable to find that document on your website. Is that publicly available?

Mr Ray: I am actually not sure whether it is. I think it is on our intranet, but that is not the same. I will check. I will take it on notice.

Senator McALLISTER: In checking whether or not it is publicly available—a separate question is: can it be provided to the committee.

Mr Ray: Yes.

Senator McALLISTER: Mr Fraser, my colleague Chris Bowen has published a column in which he called on Australia's top economic institutions to improve their gender diversity, particularly noting the lack of senior women in economic roles. What are your views on that call?

Mr J Fraser: Half of our band three level people are women.

Senator McALLISTER: But you do not have any other views?

Mr J Fraser: The evidence is there.

Senator McALLISTER: Is it desirable to increase the number of women in senior economic roles?

Mr J Fraser: I have voted with my feet.

Senator McALLISTER: Sorry.

Mr J Fraser: The new head of the structural policy division was announced at 4.30 yesterday afternoon. It is Meghan Quinn.

Senator McALLISTER: Is it desirable to improve the number of women in senior economic roles?

Mr J Fraser: Of course—absolutely. Otherwise, she would not have been appointed.

Senator McALLISTER: Why is it so, Mr Fraser? Why is it desirable?

Mr J Fraser: She was the best person available.

Senator McALLISTER: No, I am sorry. I am not talking about the appointment; I am talking more generally. Why are these targets—

Mr J Fraser: Three of my band three people—that is two of the deputy secretaries and the—

Senator McALLISTER: This is a why question, not a what question, Mr Fraser.

Mr J Fraser: Yes, because we need the diversity. I showed that a UBS and I have showed that here.

Senator McALLISTER: Thank you.

Senator WHISH-WILSON: I just have one question for Mr Fraser about APRA's concern about repricing of carbon-intensive capital, which they announced last week, but I can perhaps put some questions on notice to Treasury about that.

Mr J Fraser: Asking people this afternoon might be better.

Senator WHISH-WILSON: Yes, okay.

CHAIR: Terrific. Thank you, Senator Whish-Wilson. Thank you very much, Mr Fraser. Thank you very much to the Macroeconomic Group.

Proceedings suspended from 11:21 to 11:34

CHAIR: This committee will now resume. I welcome the Markets Group from the Department of the Treasury. Does anyone have an opening statement?

Ms Quinn: We do not have an opening statement this morning.

CHAIR: I will start the questioning with Senator Gallagher.

Senator GALLAGHER: Ms Quinn, correct me if I am wrong, but have you been named as the head of the structural reform group, or are you in charge of the structural reform group?

Ms Quinn: That is right, yes.

Senator GALLAGHER: So you are in charge of them, or is there someone in charge that reports to you?

Ms Quinn: The structural reform group becomes operational on Monday, and I will be the deputy secretary in charge of the structural reform group—that is looking after the whole group—and the secretary is the next one up.

Senator GALLAGHER: Do you know how big the group is going to be?

Ms Quinn: Around 40 people.

Senator GALLAGHER: Where are you getting these staff from?

Ms Quinn: Internally at this stage.

Senator GALLAGHER: From?

Ms Quinn: From within Treasury. So functions that are part of Treasury will be moving to the new group and we have had a—

Senator GALLAGHER: Could you just run through what those functions are?

Ms Quinn: Some elements are still in flux but, in general, it would be taking on elements of infrastructure; competition policy; industry policy; labour market elements; energy; policy; regional development; industry development; and regulatory reform—that is off the top of my head. It is things to do with structural economic reform around the changes in the economy and the way things work going forwards. Elements from fiscal group and elements from markets group are coming together to do cross-cutting themes.

Senator GALLAGHER: Thank you. And it is to start on Monday?

Ms Quinn: That is right.

Senator GALLAGHER: Will you be pulling in expertise from outside Treasury to support the work that is being done?

Ms Quinn: That is the expectation. That is what we do in other parts of Treasury now. As we do in my current role in the financial system, there are some secondees, for example, in that mix at the moment from the ACCC and we will be calling on expertise, as and where we need it, to be able to provide good quality advice to the government.

Senator GALLAGHER: How are the priorities going to be identified within those areas? For example, if you talk about labour market reform, who and what will determine the priorities?

Ms Quinn: That will be the same as it is for other parts of Treasury. It is a function of the government's priorities. We provide advice to the government, so it is up to the government's priorities and that then flows through the organisation.

Senator GALLAGHER: For example, the Fair Work decision on penalty rates—will that go to that group?

Ms Quinn: I honestly cannot answer that. I am not in situ yet. I have been looking after the financial system division. To the extent that there is work on the labour market, there is a connection between the social policy division and the new structural reform group, but I am not sure which bits sit in which part.

Senator GALLAGHER: I am just trying to understand, and this follows on from questions that we asked the secretary, whether or not Treasury—which group did you just mention?

Ms Quinn: Fiscal group currently has responsibility for labour market and it is in the social policy division.

Senator GALLAGHER: So you have a social policy division. Will fiscal social policy or your area be modelling the impact of the Fair Work decision on penalty rates?

Ms Quinn: I honestly do not know the answer to that. I have not had a chance to talk to my colleagues. The announcement was made late yesterday, so I am happy to take it on notice, or you can put that question to my fiscal group colleagues who will be here later this afternoon.

Senator GALLAGHER: The announcement of this group was made yesterday?

Ms Quinn: That is correct.

Senator GALLAGHER: You were announced as the head of that?

Ms Quinn: As the deputy; yesterday as well.

Senator GALLAGHER: So it has been a fairly quick decision to call this group together?

Ms Quinn: The secretary informed this committee when he was before it at the end of last year that he was intending to create a group, and there has been a process since then to work through various elements of the structure, the staff and all the rest of it. However, the formal announcement was made yesterday.

Senator GALLAGHER: I am trying to understand whether there is going to be any work done in any part of Treasury. Minister, it is easy to deflect in a way to say that I do not know about it more broadly. It goes back to my question earlier about a significant decision affecting 600,000 workers and whether Treasury is going to model the impact of that decision. I would have thought it was core business, myself, for Treasury to have a look at how that might flow through—for example, whether it has impacts on the social security system, whether it has impacts on wages growth. I just would have thought it would have been something that would fit within Treasury's broader ambit of oversight.

Senator Cormann: The Secretary to the Treasury dealt with this very directly and very eloquently and very precisely. Treasury in the lead-up to any budget being put together and in considering all of the relevant data and information about where the economy is at in relation to economic parameters and so on of course considers a whole range of different factors, and that is a factor. The job to specifically make an assessment on the issue of penalty rates and how certain potential ways forward might benefit or otherwise impact on jobs and the economy was a matter for the Fair Work Commission. It was not us who gave that job to the Fair Work Commission; it was the previous Labor government.

Senator GALLAGHER: But surely the impacts of that decision concern the government.

Senator Cormann: We can go round and round in circles, but I will not be able to add to the very clear evidence that the secretary has provided, and that is that this is one of many factors that Treasury will consider in forming a view about the appropriate economic parameter information underpinning relevant budget forecasts.

Senator GALLAGHER: You are essentially saying that you are not specifically going to model the impacts of the Fair Work decision on penalty rates as a separate piece of work within Treasury?

Senator Cormann: As the Treasury secretary very explicitly said, there are always a lot of things that go on in the economy in terms of both global economic impacts and domestic economic considerations. Treasury, as appropriate and according to their professional judgement, take all of the relevant factors into account, and that feeds into the view they form about the appropriate economic parameters to underpin budget forecasts. It is not up to the

government at a political level to second-guess what the appropriate methodology is, but the Secretary to the Treasury very clearly explained to you this morning, before the break, how Treasury deals with these sorts of matters.

Senator GALLAGHER: But surely executive government is interested in the potential impacts of a decision like this. Wouldn't you seek that information?

Senator Cormann: Executive government respects the decision of the parliament under the period of the previous government to give that job to the Fair Work—

Senator GALLAGHER: I am talking about the decision. I am not going back to how we got to there. I am saying now that there is a decision, are ministers interested in the impact of that decision? Have you sought advice? Are you wanting Treasury to model this?

Senator Cormann: Obviously, we would like to see what the Fair Work Commission independently judged would be the case. To the extent that the Fair Work Commission has come to a view that their recommended way forward, their proposal, will lead to more jobs, then we are obviously very keen to see that happen. They have formed a view that adjustments to some penalty rates on the Sunday will enable businesses that would otherwise be closed to open and to provide their services to the community. That means they can employ Australians that otherwise would not be employed. It is a judgement that the Fair Work Commission formed. We obviously would welcome the fact that more Australians would have the opportunity to be employed. It is not up to us to second-guess their judgement. They were given the job to review—

Senator GALLAGHER: I am not talking about the decision.

Senator Cormann: Yes, you are. You can't separate it.

Senator GALLAGHER: I am saying: are you interested in the impact? Is it just a hands off, 'Oh well, whatever? Whatever impact on our budget, don't care. It is what it is.' Is that the way you run a government?

Senator Cormann: You want us to theorise.

Senator GALLAGHER: No, I am wanting you to model the impact.

Senator Cormann: Let me answer the question, please. You cannot model the impact until such time as the adjustment has been in place. You want us to theorise—

Senator GALLAGHER: Treasury models all the time.

Senator Cormann: You want us to second-guess what the Fair Work Commission has already done.

Senator GALLAGHER: No.

Senator Cormann: The Fair Work Commission has reviewed the evidence, the data and the information. They have formed a judgement. That judgement is there for all to see. They have made certain predictions on what the economic consequences would be and what the impact would be on more jobs. Obviously, in the future, looking backwards after these decisions, through an appropriate transition, have been implemented, there will be an opportunity to assess to what extent what the Fair Work Commission thought would happen actually did happen. You want us to essentially run again through that same exercise that the Fair Work Commission have already gone through—

Senator GALLAGHER: That is not what I am asking.

Senator Cormann: before their decisions have been implemented. As the Secretary of the Treasury indicated, that is not something that he is proposing to do.

Senator GALLAGHER: I accept that you do not want to answer the question, but do not change the question.

Senator Cormann: I have answered the question.

Senator GALLAGHER: I am not arguing about the decision. Leave the politics of that aside. I am asking whether the ministry, the executive government, is interested in the impacts of that decision and how that might impact the Commonwealth budget, for example. That is the question I am asking, and your response to me is, 'It is what it is.'

Senator Cormann: No, sorry. There are two separate things there. In relation to the impact on the budget, as the Treasury secretary very explicitly says—and he has answered that question directly—this is one of many factors that Treasury will take into account as they form judgements on the economic parameters to underpin the next budget. So, as far as the impact on the budget is concerned, that is that.

In terms of the impact of the Fair Work Commission on jobs and how many jobs will be created, you cannot actually assess that until the decision has been implemented.

Senator GALLAGHER: Yet you are all walking around saying it is going to create jobs.

Senator Cormann: You want us to essentially go through the same exercise of assessing—

Senator GALLAGHER: If you would not mind backing up what you say—

CHAIR: Senator Gallagher—

Senator Cormann: the evidence that the Fair Work Commission has already assessed—

Senator GALLAGHER: Minister, you are very aware—

Senator Cormann: I understand the sensitivity. Labor stacked, so they thought, the odds in their favour. They set up a commission which was headed by a former senior union official.

Senator GALLAGHER: We have had this three times.

Senator Cormann: They thought it would be an extension of the Labor Party. They thought they would do in relation to penalty rates what Bill Shorten wanted them to do and, having reviewed all of the evidence, they came to a different view to that which, clearly, Bill Shorten expected. That is why now Bill Shorten is seeking to undermine the independence of the Fair Work Commission. Given that you wanted them to be independent, really you ought to be respecting their independence.

Senator GALLAGHER: Chair, this is not the question I asked, and the answer has been given three times at least this morning.

Senator Cormann: You asked a political question.

Senator GALLAGHER: I did not ask a political question.

CHAIR: Senator Gallagher, do you want to ask a different question? We will move on.

Senator GALLAGHER: I do. I will accept that the Treasury is not doing any work on modelling the impact of that decision. In terms of the regional development side of the

structural reform group—and I note that Mr Fraser spoke about that as well in his opening comments—will this be looking at the Deputy Prime Minister's campaign called getoutofthecity.com.au? Does that form part of the work around structural reform and regional development that you will be looking at?

Ms Quinn: These questions would be best directed to my Fiscal Group colleagues, who are currently looking after this function. I appear before you today as the acting deputy secretary for Markets Group.

Senator GALLAGHER: So you are not aware of this campaign?

Senator Cormann: We are dealing with Markets Group. The structural reform group is not actually in operation yet. You cannot ask questions in relation to something that is not in place yet, and Ms Quinn has been very generous in seeking to be helpful, but really the matters to be discussed in this section with Treasury are matters related to Markets Group, and the other matters that you are raising are matters for Fiscal Group.

Senator GALLAGHER: So we will wait for the right officials for that.

Senator Cormann: That is right.

Senator McALLISTER: We said we would advise of who we would need back within the constraints on the officials' time today. It might be that we want to have another conversation with Corporate Strategy and Services Group, because there were a number of matters that we did not finalise in this morning's discussion.

Senator Cormann: Sure. That is fine.

Senator GALLAGHER: Minister, just to finish this off, could you confirm whether Treasury will be involved in the Get Out of the City campaign that has been launched by the Deputy Prime Minister this morning.

Senator Cormann: I cannot confirm that, but I am happy to take it on notice. I am not aware, essentially.

Senator GALLAGHER: Are you aware of the campaign?

Senator Cormann: I am aware of the campaign, but I am not aware of the answer to your question.

Senator GALLAGHER: Is it a government campaign? It was issued on Deputy Prime Minister letterhead.

Senator Cormann: I do not believe that this is part of the Treasury estimates, but I am happy, in an abundance of helpfulness, to take the question on notice.

CHAIR: Senator Gallagher, do you have any questions for the Markets Group?

Senator GALLAGHER: Yes. These were.

CHAIR: I have lots of senators who have lots of questions. We can move on and come back to you if you like.

Senator GALLAGHER: I think the ones that I thought were here are now in Fiscal Group.

Senator McALLISTER: There is analysis in the *Australian Economic Review* that suggests that more than half of Australia's markets are concentrated and, in some of our

largest industries, the four biggest firms control more than 80 per cent of the market. Is Treasury concerned at the level of concentration in Australian markets?

Ms Quinn: Clearly, we monitor what is happening in the marketplace in terms of competition. We have an Australian competition commission that also monitors competition in various parts of the market. But, for a more detailed response, I will pass to Paul McCullough.

Mr McCullough: I am aware of the article. We obviously pay attention to that sort of thing. The ACCC pays attention to that sort of thing, as well. I do not know that there is anything specific I can give you here. If you have some questions about particular markets, we might be able to take them on notice.

Senator McALLISTER: Okay. In evidence earlier this morning, there was a brief discussion about the Harper review. The Harper review recommended a fully independent market studies function for the ACCC. Is your group giving consideration to that policy initiative?

Mr McCullough: Broadly, this division would have responsibility for implementing all of the recommendations of the Harper review that the government has endorsed. There are about 45 headline ones, and they count up to 115. As to the market studies issue, I am aware that the ACCC is currently conducting market studies, but I will have to take on notice the detail of that response.

Senator SIEWERT: I would like to go to issues around fundraising and the current review, which I understand is just about to wind up or finalise, of the Australian consumer law. I understand that the review is looking at how Australian consumer law could be amended, or possibly amended, to address fundraising. Is that a correct understanding? I am sorry; I am not sure who to ask.

Ms Quinn: It is true that the Australian consumer law review is ongoing. It has been a process over many months. It is expected that its final report will be presented to consumer affairs ministers towards the end of March. So the final report has not been provided yet to government. As part of that review, the interim report did note that further regulatory guidance on the application of the law to fundraising would be useful and sought further views on whether there are any regulatory gaps. So it is something that was canvassed in the interim report, and submissions and parties have been in discussion about those issues subsequently. That is the state of play as of now.

Senator SIEWERT: I understand—in fact, I do not just understand; I know, because I have had correspondence and representation about it—that a number of the charities and not-for-profit organisations are quite supportive, or in some cases very supportive, of Australian consumer law being changed to better deal with fundraising, given the mess that our current laws are across Australia. What is the government's position on possibly amending Australian consumer law to better address issues around fundraising?

Ms Quinn: That goes to a matter of government policy and policy advice, which we do not canvass in this forum. At this stage, though, there is a process going on to gather the inputs from the stakeholders that you mentioned, and state and federal colleagues, as well, to put together an evidence base on which the review itself will make recommendations. Then the usual process would be for the government to consider those recommendations and then

form a policy view. At this stage, it is still on foot, and there is not really much more to say, other than that certainly the review is aware of it and is engaging with stakeholders.

Senator SIEWERT: Have you identified any problems, from a Commonwealth perspective, of changing consumer law to better address issues around fundraising?

Ms Quinn: There are a few different concerns that I am aware of from the stakeholder community. Some of them go—

Senator SIEWERT: No, I am asking about the Commonwealth, not stakeholders.

Ms Quinn: Sure, but it depends on the concerns that the stakeholders have raised as to what the possible solutions might be. One of the concerns is around the interaction between state and Commonwealth—

Senator SIEWERT: I wanted to come to that. I understand that, yes.

Ms Quinn: and that is a matter of a referral of powers from the states. It is currently the states' responsibility, and if there were to be a policy decision to change that arrangement, as there has been in other parts of consumer credit and consumer law, it would require a process of the states referring to the Commonwealth. There is a constitutional issue about authority and who has the ability to take action.

Senator SIEWERT: I do want to come back to the other issues, but given that we are on this one—if the states and territories agreed to a change in the Australian Consumer Law, knowing full well the consequences, what would be the Commonwealth's position then? I understand you raising it as an issue and I understand the issue.

Ms Quinn: Once again, you are going to a matter of government policy and government decision. It has not made a decision on this at this stage, so there is nothing I can add at this point.

Senator SIEWERT: I know I am not going to get much further there, so could you go to the other issues that have been raised.

Ms Quinn: There can be uncertainty around the lack of guidance from regulators, and issues to do with case law and how they are applicable in the area, particularly in relation to donations. They are some of the other concerns I am aware of. Is there a specific issue you would like to canvass?

Senator SIEWERT: I would like to go to the two issues you have just raised. In terms of case law, I understand that can be an issue, but it surely is not a barrier to making a change, because then you would develop some case law?

Ms Quinn: Sure. Case law and the courts interact all the time with the regulatory structure, and the regulatory structure adjusts, depending on the interpretation of statutes and their application through the court system. So that is not a barrier to change. But these are some of the concerns that have been raised by stakeholders.

Senator SIEWERT: They are from stakeholders. What would be the Commonwealth's concerns about any change? I am not asking for an opinion on where you would be going with it. I am asking: are there concerns that the Commonwealth has in terms of changes to the Australian Consumer Law?

Ms Quinn: You are getting to a level of detail where I might just check with my colleague Emily Martin, who is in our consumer area, whether she wants to add any more detail.

Ms Martin: I think that, really, the Commonwealth position will become clearer once the state and territory and Commonwealth ministers have had an opportunity to consider the report from the ACL review.

Senator SIEWERT: There is no in-principle concern from the Commonwealth about any possible changes that could be made to the Australian Consumer Law to further include fundraising?

Ms Quinn: I think it is probably fair to say that there is no for or against. The process would be for the state and Commonwealth ministers to consider the information provided as part of the review and then form a considered view. At this stage, there is no view either way.

Senator SIEWERT: There has been a lot of work done around red tape, I am sure you are aware, for charities and not-for-profits. In terms of the current approach to fundraising, has that been identified, in your work, as part of the problem of red tape for charities and not-for-profits?

Ms Quinn: This issue about how the systems—the Consumer Law and the other parts of the regulatory architecture—fit together has been raised; and the lack of clarity or overlap, or the onerousness of the regulations is something that has been raised as part of the review, yes.

Senator SIEWERT: So it is clearly up there as an issue that needs to be addressed?

Ms Quinn: Yes.

Senator SIEWERT: Okay. In terms of the review, could you outline what happens next, once that is finished in March, as you have just outlined? What happens with it then? What is the time frame?

Ms Quinn: The review gets provided to the ministers in March. I will hand to Emily for the next steps.

Ms Martin: State and territory ministers and the Commonwealth minister will then have an opportunity to consider the review. They have a meeting of consumer affairs in August, at which they will be making some decisions on some of the proposals in the review.

Senator SIEWERT: Some decisions on some of the proposals—sorry, what does that mean?

Ms Martin: The review is not finalised yet, so the proposals are still being finalised.

Senator SIEWERT: How do you know there will be decisions on some proposals, rather than on all of them?

Ms Martin: Because there is a number of proposals that will be ready and do not need legislation, and there will be some that do need legislation. So there will be some that need to go through a regulatory impact statement process. It just depends how they are tiered.

Senator SIEWERT: Thank you.

Senator Cormann: Before we get to the next question, in relation to the questions that Senator Gallagher asked me about the 'Get out of the City' initiative, I can confirm for the committee that I have received advice that that is a National Party initiative, using a party website. It is not a Commonwealth government initiative.

Senator IAN MACDONALD: Ms Quinn, I understand the previous questions that you are going to be in this structural reform group. Is that right?

Ms Quinn: That is correct, yes.

Senator IAN MACDONALD: Is this the right place to ask questions about that?

Ms Quinn: Not at this stage. The group will get formed on Monday, and the functions that are going to be part of the structural reform group are currently in the existing structure. Some elements are in markets groups—issues to do with competition and regulatory reform; and some elements, to do with industry policy, regional policy and other structural elements, are still in fiscal group. It depends a little bit on what the question is; I am happy to guide you as to whether it is in markets group or fiscal group.

Senator IAN MACDONALD: You heard the secretary's answer to my question about what the group will do in relation to regional Australia. Is there anything you can elaborate on in that, or has the secretary covered that fully?

Ms Quinn: The secretary has covered it for now. I would be very happy to give a more fulsome outline at the next estimates.

Senator IAN MACDONALD: Okay. Minister, could I ask you: when I said to the secretary, 'Will the structural reform group be looking at the government's focus on northern Australian development as well?' he replied, 'I think that's an issue still to be determined between that and the budget policy area.' Do you have any idea what that actually means?

Senator Cormann: It sounds to me like this is an internal consideration in Treasury on how they share internal responsibility for certain policy considerations of government. I understood that as an organisational consideration, but I think Ms Quinn might be able to add to it.

Ms Quinn: As I mentioned, with some of the areas the exact dividing line between those things that are dealt with by our budget policy division and what would be dealt with by the structural reform group are still under discussion. We have some projects which are more to do with funding and financing, which potentially goes to the budget policy and use of the balance sheet to pursue certain policies, that would more naturally sit in our budget policy area that looks after the Commonwealth balance sheet. But there are other policies which are very much using other instruments of government, such as regulation or other tools of government, which would more naturally sit in the structural reform group.

There are some projects which will still be shared by the two areas, as we share work across different elements in the Treasury now. It is just a matter of who will actually lead policy on some of these issues but, within the northern Australia remit, there are quite a lot of different types of policies. Some of them are currently done out of markets group—things to do with insurance and financial systems, for example; and things to do with competition policy, are down to markets group. We will come back to you with a proper schematic once we have sorted through all the descriptions.

Senator IAN MACDONALD: Correct me if my simple brain has got this wrong but, in simple terms, does the policy group area deal with issues where money has been allocated and money is being allocated and spent, whereas the structural reform group will look at other issues? You said regulations, as well.

Ms Quinn: The more concrete way of articulating it is that things that impact on the government balance sheet, so the use of guarantees or the use of subsidies et cetera, would potentially be more closely aligned to the budget area; and things to do with regulatory

policies or other mechanisms that the government uses would be in the structural reform group.

Senator IAN MACDONALD: You raised one other issue, perhaps unfortunately from your point of view, that I am interested in. I was going to raise it later on, but it seems to be your area—insurance in northern Australia. Where are we at with that?

Ms Quinn: As you know, there was a task force that was looking at insurance in northern Australia. The government is yet to respond to the recommendations of that task force. It is still considering its position.

Senator IAN MACDONALD: Is that something the government will get advice from your markets group on?

Ms Quinn: All things insurance are a matter for the financial system division in markets group, and that would be the place that supported the government in its decision-making.

Senator IAN MACDONALD: I cannot, of course, ask you what your advice to government has been, will be, or is, but what work have you done on that as the markets group?

Ms Quinn: Markets group supported the secretariat for the task force and have taken over the analysis and the work from the task force in supporting the government's decision-making process. We do the usual things, which is monitoring what is happening in the marketplace, engaging with stakeholders who have an interest and can provide us with information and support, working through the potential implications of different options—all the work that we do on any policy matter.

Senator IAN MACDONALD: This has been going for ever, but with more gusto since Cyclone Yasi, which I think is now about four or five years ago. We have been looking into it since then and, luckily, we have big mirrors. I might ask either you or the minister: is there a magic bullet solution around? I am talking about the outrageously high premiums that those north of Brisbane pay for insurance. I appreciate this is principally a matter of the markets; insurance companies are all private and the less governments are involved, the better. But there seems to be a failure—

Senator Cormann: In my experience magic bullets are very rare, Senator Macdonald, but I am sure Ms Quinn will be able to add to that answer.

Ms Quinn: The Northern Australian Insurance Premiums Task Force did look into this in great detail across the system. They were fairly clear in their report that they did not think there was a magic bullet; that there was a combination of factors—

Senator IAN MACDONALD: They did not think, did you say?

Ms Quinn: That is right, and there had been a combination of factors that had contributed to the increased premiums. They did point to elements that the government could consider or, in fact, private industry—in terms of the insurance industry—could look at to improve insurance premiums for customers. They noted the importance of mitigation in particular. They also noted the importance of clarity of information so that people building in the area and the insurance company have appropriate information to be able to accurately price risk. They were then asked to talk about other options for providing support for the region through

reinsurance and those sorts of elements, and they cautioned against some of those policies on the basis of potential interference with the market over time.

Senator IAN MACDONALD: Which I well appreciate, but it means that those people living in cyclone risk areas will continue to pay two and three times the premium that someone in the fire-prone, flood-prone areas of the south will pay. Finally, remind me who was on this who was on that task force—if not by name, then by description.

Ms Quinn: Sure, I am happy to take that. The task force was let by Mike Callaghan, former deputy secretary of the Australian Treasury. He was assisted by a reference panel of experts which consisted of: Mr Rob Whelan, CEO of the Insurance Council of Australia; Mr Dallas Booth, CEO of the National Insurance Brokers Association of Australia; Mr Gerald Ewing, CEO of Regis Mutual Management; Ms Joan Fitzpatrick, Chair of the Australian Reinsurance Pool Corporation; and Ms Fiona Guthrie, Executive Director of Financial Counselling Australia. We have also got Ms Margaret Shaw, the northern Australia consumer representative and Mr Craig Wilson, the Senior Executive Director of the Department of Premier and Cabinet, Queensland government.

Senator IAN MACDONALD: So five from the insurance industry, one consumer person and one from the Queensland government.

Ms Quinn: Roughly speaking, although it is a little unclear how you would—

Senator IAN MACDONALD: And one Canberra bureaucrat.

Ms Quinn: It depends on how you class—I am sure that, Mr Booth, for example, carries a consumer hat as well as—

Senator IAN MACDONALD: Which one was—

Ms Quinn: The insurance brokers of Australia—he certainly has contributed strongly to consumer oriented issues.

Senator KETTER: I would like to turn to the issue of credit card reforms, and in May of last year the government announced its response to the Senate Economics References Committee report, looking at progress that has been made in relation to following through with the government's announcement of nine reforms to credit cards. Firstly, if I could ask—a comment was made by Mr Phil Khoury, who is the reviewer in the ABA review of the Code of Banking Practice. He noted:

Competing priorities for Treasury and drafting resources and for Parliamentary time could mean that legislation will not be introduced into Parliament during the life of this Parliament.

Is this statement correct?

Ms Quinn: To start with: you are correct in that the government did provide information around credit cards and its proposals. Since that time, Treasury has been working with our behavioural economics team unit in the Department of Prime Minister and Cabinet and with a major bank to design an experiment to do some work to see how to implement some of those proposals in an implementable way that will have direct impact on approving the circumstances for consumers. It is not a straightforward area. There has been quite a lot of work done internationally and even in the Australian industry to think about ways to tackle some of these problems that were raised by the committee.

The matter of legislation priority is one for government. There is a great deal of reform in the financial systems space and there is a sequencing of those reforms. Exactly when and how things get done, though, is a matter for government.

Senator KETTER: You say that you are effectively designing an experiment. Can you elaborate—

Ms Quinn: The behavioural economics team has a process—which is consistent across the academic world, where they rigorously design with appropriate ethical and privacy standards—where they look at modelling the impact of particular activities. So one experiment might be, just hypothetically, that they look at the way information is delivered and what impact it has on people's behaviour. Does it matter if people get a phone call or does it matter if they get it by email? Does it matter if things happen in person? What is the phrasing? What is the other information that is provided to a consumer? What is it that actually impacts on the ground to improve outcomes? There has been quite a lot of work done in the UK that suggests that it is not quite as straightforward as just giving people reams of information that that will have a good outcome. So we are working with a major bank and the behavioural economics team with academic expertise to be able to design the implementation of this very precisely so that we can have real benefits for consumers.

Senator KETTER: I understood that, amongst other things, phase 1 of the reforms was to deal with the issue of online cancellation—is that one of the things you are experimenting with?

Ms Quinn: Mostly the area of priority is around recommendations 8 and 9, so not that specific recommendation.

Senator KETTER: In answer to a question on notice from me in December of last year, Treasury had said at that stage that you had not undertaken further consultation and were yet to even commence drafting instructions for phase 1. This was notwithstanding the fact that in the May paper it was said that:

... the Government seeks stakeholder feedback with a view to developing and releasing associated exposure draft legislation in the near term.

That was back in May of last year. What is the reason for the delay in even getting started with the exposure draft legislation?

Ms Quinn: Before you get to exposure of legislation there are a few steps, but what is drafted and when is a government process across the whole of government and is a matter of government priorities.

Senator KETTER: So there are other priorities involved here?

Ms Quinn: Correct. Drafters in the Office of Parliamentary Counsel draft legislation on behalf of the government across all portfolio matters.

Senator KETTER: Can you tell us who is setting the priorities for the legislation?

Ms Quinn: The government does.

Senator KETTER: I think you said you are dealing with recommendations 8 and 9.

Ms Quinn: That is what the behavioural economics team will be focusing on in particular.

Senator KETTER: Okay. I understood two phases were going to be rolled out, phase 1 being online cancellation and phase 2 being largely in relation to improved disclosures. Is that still the case?

Ms Quinn: Phase 1 does rely on the ability to draft. That is a function of the overall priorities of government. Phase 2 is something that we can do independent of the legislative priorities setting.

Senator KETTER: Has any consumer testing started with phase 2 then?

Ms Quinn: Not at this stage, no. There has been a design element to work through, but we are expecting it to start fairly soon.

Senator KETTER: Can you tell us about what the design issue might be?

Ms Quinn: It is partly just about making sure regarding the design. I cannot tell you in great detail, because I have not been involved, but, in principle, the sample size, the way you approach people, how you select people in the sample and all those sorts of things need to be worked through. In particular, in this case they need to be worked through with our industry partner.

Senator KETTER: Can you tell us when that behavioural testing might be commencing?

Ms Quinn: Very soon. I do not know the exact date. It is a function of working with our industry partner to put it into the field, but we have reached the end of the design phase and we expect to be able to move into the data collection phase soon.

Senator KETTER: Okay. I would now like to move on to the issue of the so-called FinTec sandbox. Firstly, what was Treasury's involvement in the design of the FinTec regulatory sandbox?

Ms Quinn: The FinTec sandbox you refer to is actually a policy implemented by ASIC as part of their independent regulatory powers. In the lead-up to ASIC making that decision and publishing it, Treasury has been involved in two ways. One is that the Treasurer has a FinTech Advisory Group that he has formed to gather input from industry about the issues that they face in supporting FinTec development in Australia. Treasury provides parts of the secretariat support for that. It is mostly industry organised, but we are involved in that discussion. The FinTech Advisory Group had views on the potential regulatory sandbox framework, and ASIC did have a consultation process. Treasury was involved in that consultation process alongside the advisory group. As advisers to the government, we also engaged with ASIC on the decisions that they were making, the framework that they were going through, and the types of issues that they were discussing, but it is an ASIC policy as determined by ASIC.

Senator KETTER: Is the lead for the consultation process with ASIC?

Ms Quinn: Yes, that is right. ASIC undertook the consultation. They put out a proposal paper, people provided input, they formed a final view and then they announced it in December.

Senator KETTER: Okay. To put it more crudely: you follow the lead of ASIC. You will be guided by their views in relation to this issue.

Ms Quinn: They are the independent regulator. That does not mean that we do not have views and questions, provide information and gather input from people as part of the process.

We work very closely with ASIC on policy-formation issues both when we take the lead and when they take the lead, so it is a cooperative working relationship.

Senator KETTER: Okay. Is it correct that, to acquire a licensing waiver, a firm sends an email to ASIC providing some cursory information about the company?

Ms Quinn: ASIC is asking people to let them know that they are operating under the waiver through correspondence, yes.

Senator KETTER: Is that information verified in some way? What is the process?

Ms Quinn: These are questions you can put to ASIC in terms of how they are operationalising their policy.

Senator KETTER: Okay. Are you aware of what is happening in comparable jurisdictions—the UK, Singapore—on this particular issue?

Ms Quinn: Yes, that is correct. We have certainly engaged with our colleagues overseas bilaterally. Treasury is also a part of a process with the Financial Stability Board, which has got an expert group looking at FinTec regulation. One of the members of my home division, the Financial System Division, is on that advisory board, so we have very close links with other jurisdictions as to what they are doing.

Senator KETTER: I will go back to the issue of the request for a licensing waiver. Was that process established by ASIC or at the instigation of Treasury?

Ms Quinn: ASIC has designed the waiver and the implementation of it. The operation of it is entirely with ASIC.

Senator KETTER: So you did not provide any advice or guidance to ASIC in relation to that process?

Ms Quinn: We engaged with ASIC all the way through the process, discussing it, exchanging views and providing information as we do on many things and as they do when we are working on the lead. The commission is an independent regulatory agency, and they put in place the final policy decision.

Senator KETTER: In the other jurisdictions that we are familiar with here that wish to operate sandboxes, if I can use that term, they have proposals for applications to be approved by the regulator. Is that going to be the case with ASIC's process?

Ms Quinn: No. ASIC has got an open-door sandbox. That is one way it is being phrased. For people to be able to enter the sandbox, they notify ASIC before they commence testing, but they are not required, as they are in the UK, to be formally licensed. Importantly, the waiver that allows market entities to test things has restrictions around what people are allowed to do, the number of customers they are allowed to interact with and the monetary limits. Importantly, they must maintain the consumer protections that are in the system. They must continue to have dispute-resolution arrangements in place, compensation arrangements in place and other things such as the best-interest duty. So the consumer protections are still required for people that are testing, but it does give people an opportunity to test ideas and to make sure they have got a proof of concept about their model without necessarily having the full regulatory force of a licensing arrangement.

Senator KETTER: Is there any consideration of whether the business is actually innovative before the waiver is granted?

Ms Quinn: I do not believe so, no, but you can check with ASIC.

Senator KETTER: And how do you determine that the consumer protections are there?

Ms Quinn: That is a matter for ASIC as the monitoring body. There are restrictions on what you can do in the sandbox. The waiver only precludes some things. There are restrictions on the types of products and the types of activities you can undertake, and that is all set out in the ASIC policy document.

Senator KETTER: I understand that UK firms are required to report weekly and the regulator conducts monitoring over the course of the products' testing. Are you aware of how ASIC will be monitoring the sandbox firms?

Ms Quinn: It will depend very much on the take-up of the sandbox and the types of activities that are happening in the sandbox. ASIC has a risk based approach to monitoring and enforcing, as you know, and so it will depend a little bit on how things unfold, how the regulator responds.

Senator KETTER: Coming back to the degree of regulation or oversight, here, apparently Mr Price, one of the ASIC commissioners, is quoted as saying that this licensing exemption is unique amongst regulatory systems globally. Will there be requirement for these firms to provide information to ASIC about the types of products they are promoting?

Ms Quinn: It is a different approach to what other regulatory agencies overseas have taken in that it is allowing people to enter the sandbox and undertake activities within a defined range. The concept of a sandbox is something that has a frame around it, and so there is a frame around the activity that people are allowed to undertake under the concept of a sandbox. People are allowed to enter with a very limited regulatory oversight. They must continue to maintain consumer protections and to fit within the box of the sandbox. If they do not, ASIC has the power to force them to cease and desist activity. It is an ability for people to test products before fully entering into the licensing system.

Senator KETTER: Are you familiar with Choice's very colourful characterisation of this sandbox, where they say it is like dropping a great white in a kiddie's paddling pool and sending the lifeguard home for a kip?

Ms Quinn: I have seen that press release, yes.

Senator KETTER: In terms of the products being offered, will there be any oversight by ASIC of the institutions offering those products?

Ms Quinn: There are restrictions on the types of products that are available for people to test within the sandbox, and that is set out in the policy document. The sandbox does not apply to superannuation products or life insurance products, for example, because they are long-lived assets where you might make a decision now and hold them for multiple years. So there are restrictions on both the number of retail clients that the companies can interact with, up to 100 people. There is a time limit on the activity in the sandbox. You have 12 months to test your ideas and gather information before you are required to apply for a full licence and there are other restrictions, such as the consumer protections and various other restrictions.

The difference is that people can enter the sandbox without necessarily having to provide all that information up-front, but, at any time, ASIC can ask for it as part of their other regulatory tools. They are a risk based regulator that will be keeping an eye on activity

associated with the sandbox. As to more precise details, I am sure they would be happy to provide them when they appear.

Senator KETTER: With Choice's characterisation that I just mentioned, are those the types of concerns that you would have foreseen in designing the—

Ms Quinn: We certainly did, in the submissions into the process and the discussions, talk about the appropriate protections for consumers. That was an element of the discussion and is, clearly, in ASIC's considerations of their policy decision.

Senator KETTER: What have been your submissions to ASIC, in relation to that issue?

Ms Quinn: That goes a little bit to the advice that we provide to government.

CHAIR: Senator Ketter, I might move on—just for the sake of allowing other senators to have some questions, and I have some myself. I want to ask about the Foreign Investment Review Board. Where I come from, the issue of foreign investment in real estate is quite a hot topic. I am wondering potentially how the ATO is working to ensure that foreign investors in local real estate are complying with the Australian law?

Ms Quinn: As you know, the government did introduce a new regulatory framework for foreign investment, including increasing the resources, oversight and compliance around real estate applications in particular. That did involve moving the function of monitoring compliance to the Australian tax office. I am happy to pass to Mr Rob Donnelly, who is the division head for Foreign Investment.

CHAIR: Thank you. Mr Donnelly, can you also give us an update on how many divestments have been made, which I understand was part of that discussion?

Mr Donnelly: I am happy to give you an update on the transition of those activities to the ATO. As part of the government's reforms in 2015, there was a suite of reforms around foreign investment. One of those was to both increase the penalties that apply to foreign investors who illegally purchase Australian residential property and charge a fee for those investors who want to apply to buy Australian property in line with the foreign investment policy. The administration of that was transferred from Treasury to the tax office as part of those reforms. Since the reforms started there have been 61 forced divestments, which the Treasurer has announced, and they range from properties—pretty much right across Australia—of very low value to properties of quite significant value. Obviously the iconic case which started the divestments was a very, very expensive property in Sydney.

As part of the compliance activities that the ATO have taken on as part of the functions that were transferred to them, they have reviewed over 2,700 cases and found 570 different areas of noncompliance. Some of those areas of noncompliance might have been as simple as an investor who was eligible to purchase a property and failed to seek approval. In those cases those investors can seek, and potentially be granted, retrospective approval. But others, and at least 61 of them, were cases where the foreign investor was not eligible to purchase the property, and as a result they have been asked to divest.

CHAIR: Can you give me an indication of how many active investigations there are going on at the moment?

Ms Quinn: The ATO advises they have around 300 active investigations that are currently underway.

CHAIR: Residential real estate is not the only issue; agricultural land has been a hot topic here. Which countries have you found to be the largest owners of Australian agricultural land?

Ms Quinn: As you know, there was the government-released report in September last year that provided information on foreign ownership of agricultural land in a concise, comprehensive way for the first time. That did include information about what nations own land. I will pass to Rob.

Mr Donnelly: As Ms Quinn has said, last year the government released the first iteration of the foreign investment in agricultural land register, which was part of the same set of reforms—there were a number of others which we have not mentioned and I do not propose to go through them. That register is also administered by the ATO. They published the fact that only around 13 per cent—I think it was 13.6 per cent—of agricultural land is actually foreign owned. The top five countries: the UK is the largest foreign owner of Australian agricultural land—owning a little more than 50 per cent of the total foreign owned component—followed by the US, which has just under 15 per cent. The Netherlands, Singapore and China round out the top five.

CHAIR: I suppose the next phase of this is a register of foreign ownership of water entitlements. Can you please give the senators here an update on how that project is progressing?

Mr Donnelly: Certainly. You are right; another element of the reforms was the establishment of a foreign ownership of water entitlements register. Legislation to enable that register passed in December last year. We are currently working with the ATO to both implement the actual register itself and develop an IT system that allows foreign owners of water entitlements to register on the system. It will allow, obviously, the ATO—

CHAIR: Allows or compels?

Mr Donnelly: The IT system will allow, the legislation compels. We are also in the latter stages of a consultation process around some regulations that will define exactly how that process will work. That consultation process closes on 3 March.

CHAIR: I must have missed this, but when will the register be up and running?

Mr Donnelly: You are right; I did not mention that. The register is expected to be up and running from 1 July this year.

Senator LEYONHJELM: In relation to the register of foreign owners of land, can you remind me if those percentages were by area or by value?

Mr Donnelly: Those percentages are by area. Obviously the nature of some of the bigger aggregations, where they are quite large but have relatively low productivity compared to some of the smaller, less productive farms in the south of Australia—so it is by area, and those percentages are also percentages of agricultural land not total Australian land. So it is 13 per cent of total agricultural land, not 13 per cent of the Australian land mass.

Senator LEYONHJELM: What is the process that a potential purchaser has to go through for FIRB approval for acquisition of Australian property, rural or metropolitan, and how long does it take?

Mr Donelly: So the rules and the processes are slightly different, depending on whether we are talking about residential property, agricultural property or commercial property. I will very quickly run through each. For residential property, an applicant will need to apply to the ATO. They can do that through an online system. They provide information, which allows the ATO to do some checks about the investor, their eligibility to purchase the property and about the property itself. They pay a fee and, assuming the ATO runs all of its checks and finds that the individual is eligible for that purchase, they will be granted approval. The statutory period for that, along with the statutory period for all FIRB approvals, is 30 days from the receipt of payment of the application fee. The ATO, in the vast majority of residential cases, does much better than that 30-day time period. In a simple case it may even be as quick as a couple of days.

For agricultural property, as part of the same set of reforms we have been discussing, the government dropped the threshold for agricultural property from \$252 million to \$15 million. That is a cumulative threshold, so if you already own \$14 million of property and you want to buy a \$3 million property, you still need to come and seek approval because at the end of the process you will have holdings in excess of the \$15 million threshold. Again, there is an online application process. The investor submits details about themselves and the property. That is assessed by a team in my division in the Treasury. Again, we go through a series of checks and in the event that we find that the purchase is in the national interest, then we can issue an approval, or the Treasurer does, depending on the various size and other national interest considerations that are involved. Commercial property is quite similar to agriculture property in its process. There are some differences in threshold and the like in terms of what investors need to apply. I am happy to go through those if you need me to.

Senator LEYONHJELM: No, I do not need that much detail. In those three categories of applications received, what proportion is rejected?

Mr Donelly: Rejections are very rare. From memory, there were only three residential applications rejected in our last annual report. There were in the order of 34,000 or 35,000 applications in total.

Senator LEYONHJELM: Thirty-four thousand or 35,000 applications?

Mr Donelly: For residential property, and only three were formally rejected.

Senator LEYONHJELM: Are any withdrawn on the basis of advice?

Mr Donelly: Yes. Before we issue a formal rejection, the natural justice process requires us to go back to the applicant and say, 'The Treasury is considering whether to reject your application. Do you have any submissions that might sway his judgement one way or the other?' It is not at all uncommon at that point in the process for the applicant to say, 'Rather than having a formal rejection, I would like to withdraw my application at this stage.'

Senator LEYONHJELM: Do you have any idea of the percentage of all applications that are ultimately not granted? That would include those withdrawn and rejected.

Mr Donelly: Not off the top of my head. I would say that certainly the number withdrawn would be larger than three by many orders of magnitude, but I could not quantify it off the top of my head, but I am happy to take it on notice.

Senator LEYONHJELM: All right. Thank you. Are the numbers similar for the other categories?

Mr Donelly: In business and agricultural investments, rejections are extremely rare. There have been only five formal rejections of business cases in the last 15 years or so and the two most recent ones have been the two bidders for Ausgrid.

Senator LEYONHJELM: In terms of the impact on foreign investment generally and the perceptions of Australia as a desirable destination for foreign investment, ultimately the number that are granted relative to applications is more important. So if they do not proceed for any reason based on the process, that is probably just as influential as an outright rejection. Could you also take on notice how many applications do not end up being approved?

Mr Donelly: That might be a little bit misleading because it is not uncommon for a bidder to, for example, submit an application early in a commercial process and then be knocked out of the commercial process and withdraw from that reason rather than because they might have—

Senator LEYONHJELM: I understand. All right—whatever data you have.

Mr Donelly: Certainly.

Senator WHISH-WILSON: I have to go fairly quickly because I have limited time. I would like to ask the Treasury Secretary about APRA's recent report, *Australia's new horizon: climate change challenges and prudential risk*—whether Treasury has read it and has any concerns about what has been raised by APRA. I will quote directly for you. Unless a smooth transition happens, 'there will be systemic impacts and implications that have to be carefully monitored', specifically in relation to repricing of carbon-intensive capital. This is obviously an issue that is being looked at right around the world. Has Treasury looked at this issue at all?

Ms Quinn: APRA is an independent regulator and is required to look after resilience in the financial system as part of its statute. We are aware of the work that APRA has done, as we are aware of other things they do, and we support APRA as an independent regulator to make the decisions as it sees fit.

Senator WHISH-WILSON: Would you, for example, look at modelling the impacts of repricing with carbon risk? Do you have any idea what it would do to the Australian economy? Is that under your purvey as a department?

Ms Quinn: The implications for particular entities, which is under APRA's remit, is part of APRA's role—

Senator WHISH-WILSON: I know that.

Ms Quinn: and typically they actually ask companies and entities to do that modelling themselves for their own decision-making. That is the responsibility matrix we have in Australia.

Senator WHISH-WILSON: But you do not consider it a priority for your division to look at?

Ms Quinn: To the extent there is information available from other sources, we would not double-guess the work that has been done.

Senator WHISH-WILSON: I have a couple of quick questions on CPI. In terms of CPI, would you agree that CPI is not an official cost-of-living index?

Ms Quinn: This is not a question for Markets Group.

Senator WHISH-WILSON: It is about the welfare of communities and the Australian people.

Ms Quinn: I am not denying that the measurement issue of CPI and how that factors in is important, but it is not actually a part of Markets Group's responsibility. To the extent that different indices are factored into the welfare system is for our Social Policy Division as part of Fiscal Group. To the extent that you are interested in the CPI as a metric for cost of living in terms of impacts on the economy more broadly, that would be our Macroeconomic Group.

Senator WHISH-WILSON: Okay. So I will ask this afternoon then in Social Policy Division. And they are appearing with the Fiscal Group?

Ms Quinn: That is right.

Senator WHISH-WILSON: In terms of the IMF, I asked, once again, the Treasury secretary this morning about the comments that the IMF had made about what they see as being 'black swan' events or systemic risks to global economies and markets this year. The comments were made on 20 January by the head of the IMF. I am interested more specifically in another report that they put out—the 2016 'Mission' article on Australia and managing macro-financial vulnerabilities. That would come directly under your responsibility—to answer those questions.

Ms Quinn: Yes, that is right.

Senator WHISH-WILSON: They talk about a number of acute risks concentrated in the specific housing market segments. They make the claim that:

The macro-financial resilience of the economy to housing market shocks could be enhanced through tax reform. The tax system provides households with incentives for leveraged real estate investment that likely amplifies housing cycles.

Specifically, they are referring to capital gains tax concessions and negative gearing. Is that something you have done any work on for the government?

Ms Quinn: Questions around precise work on capital gains and negative gearing should go to our Revenue Group colleagues. To the first part of your question about the macro-stability implications for the housing market, that is something that we monitor. It is something that we assess with our Council of Financial Regulators colleagues.

Senator WHISH-WILSON: Has there been any assessment then that you have done that these things do pose risks? Can you tell the committee whether you believe that is true or not?

Ms Quinn: We look at the housing market and the implication it has because it is such a large asset held by our major banks. So, clearly, the state of the housing market and the potential for risks through that channel, which could come from a variety of sources, domestic and foreign—is something that we do.

Senator WHISH-WILSON: Is it a risk?

Ms Quinn: Housing is something that we do spend a lot of time focusing on—

Senator WHISH-WILSON: No, no. Specifically, the IMF is talking about incentives: 'The tax system provides households with incentives for leveraged real estate investment that amplify these shocks.' Do you recognise that as being a risk yourself?

Ms Quinn: We recognise that elements of housing are a risk, which is why we have a policy—

Senator WHISH-WILSON: I am not asking you about elements of housing, Ms Quinn. I am asking you whether you recognise what the IMF has said—that specific government policies introduce systemic risks into the housing market. Do you agree with that based on your work?

Ms Quinn: I do not have the IMF quote directly in front of me, so it is a bit unfortunate. It is important—the staging of quotes and how they go together. It is true that the tax system has an influence on investment decisions across a range of factors. It is also more important to think about the types of situations that might make housing to be a risk. We have a very large housing stock as part of the assets of our balance sheet for our banks. We spend more time focusing on what the source of the shock might be and how it might flow through the system.

Senator WHISH-WILSON: Let me ask you in a different way then, if you do not have the direct quote, although I did read the direct part. But, you are right, these things can be taken out of context. Do you recognise that current tax settings that do provide incentives for leveraged investment provide introduced systemic risks into the economy and specific asset classes? Does Treasury recognise that?

Ms Quinn: In terms of thinking about systemic risk, you need to think about what would be the cause of a systemic shock. So the fact that someone owns a house in itself does not cause a systemic risk. Whether they have been incentivised to own that house through—

Senator WHISH-WILSON: Do not lecture me on what does and does not—

Senator Cormann: Sorry. That is loaded term. I would ask you to—

Senator WHISH-WILSON: No—

Senator Cormann: Don't use the word 'lecture'. I absolutely object to your description of what Ms Quinn was doing as lecturing. She was answering your questions to the best of her ability and in good faith, so that is a loaded question.

CHAIR: Senator Whish-Wilson, we are going to give you one more minute on this issue.

Senator WHISH-WILSON: Sorry to interrupt you, Ms Quinn. I understand that this is one of many risks that you would incorporate in systemic risks, but do you believe it contributes risk towards housing accessibility and potential bubbles—just simple factors? And have you advised the government accordingly on that? It is not a hard question.

Ms Quinn: Well, it is not a straightforward question. In the financial system division, we look at the impact of different shocks on the financial system, and we look at the state of events as we observe them in the economy. Housing is a significant potential risk in the financial system, given it is such a large proportion of our bank balance sheets. The ownership of housing can be positive or negative depending on the sort of shock. So it is not straightforward to attribute the reason a person might own a home and where it sits on the balance sheet as to whether it causes a risk.

Senator WHISH-WILSON: What about leveraged investment, which is what I originally asked you? There is speculation, and people are buying property—multiple properties—because there are incentives in place that allow them to do that. You do not believe that is adding to the risk in these financial markets?

Ms Quinn: It depends on the circumstances of the people who have got leverage. There are many occasions where people use leverage quite productively as an investment strategy, and that does not cause systemic risk.

Senator WHISH-WILSON: And there are cases where—

CHAIR: Senator, you have taken two minutes.

Senator WHISH-WILSON: I would like to finish my line of questioning, thank you, chair.

CHAIR: There are lots of people with lots of lines of questioning here.

Senator WHISH-WILSON: I have very limited time. You said I would have 10 minutes.

CHAIR: I am afraid that the Greens have had far more than that. You can have one more question, and that that is it. Then I am going to move onto Senators Bushby and Gallagher. We are going to finish—

Senator WHISH-WILSON: How much time did Senator Siewert have?

CHAIR: She had 10 minutes.

Senator WHISH-WILSON: How long have I had?

CHAIR: You have had nearly 10.

Senator WHISH-WILSON: Right. Ms Quinn, you do not believe overall that these kinds of incentives are contributing to potential financial risk in a significant asset class that you have identified? And you have provided no advice to the government about the policies and the implications of those two policies specifically?

Ms Quinn: We clearly provide advice to government on a range of issues, and that goes to advice we provide to the government. We do monitor the implications of the housing market for financial stability. We do monitor what is happening in the micro-elements of the housing market and what is happening in terms of the balance sheets of the banks.

CHAIR: Thank you very much, Senator Whish-Wilson. Senator Gallagher, you have about 10 minutes for questions. Senator Bushby has about five.

Senator GALLAGHER: Okay. I will be quick. I have some questions on the reports in *The Australian* today around the Foreign Investment Review Board's chairman's comments about the process for investing in Australia. Who would be the right person to ask?

Ms Quinn: It depends a little bit on your question, but a combination of me and—

Senator GALLAGHER: I am looking for a response from you on his comments, which are, basically, that if you are looking to invest you try to avoid icons and that a particular decision had not been made objectively under the FIRB guidelines. In particular, I am looking for a response to that.

Mr Donnelly: I think the reporting of those comments—I was not at the speech from Mr Wilson yesterday—could have been taken a little bit out of context. I think what Mr Wilson said on iconic assets, as reported in *The Australian*, was that investors should look closely at them and consider that the controls around the foreign investment framework for iconic assets will be applied in the same way to those assets as they are to every other asset. That means that the investor needs to be able to clearly demonstrate the positive interest that their investment will generate for the Australian economy and the Australian community. The

foreign investment national interest test has been in place for many years, and for many years we have looked at whether a particular investment is contrary to the national interest. We have applied that test in a non-discriminatory fashion across all different assets. As part of the reforms in 2015, the current government determined that we should look at agricultural assets from a lower threshold, but we broadly apply the same principles to agricultural assets as we apply to other assets.

Senator GALLAGHER: I was not at the speech either, but the comments from the chairman of the FIRB as reported—and they are in quotation marks—do not align with that answer, or perhaps that is your interpretation of the comments. But the specific quote is:

"Given that we must maintain public confidence in our foreign investment stream and (FIRB) has to have an implicit social licence to operate from the public, I'd suggest that if you are a (Chinese company) looking to invest, that you try to avoid icons."

Mr Donnelly: Again, unfortunately I do not have the article in front of me, but I do recall a comment attributed to Mr Wilson further down in the article which says, 'If you do intend to buy an iconic Australian asset, you will need to be very clear that you're able to demonstrate how you will contribute to the Australian economy before you do so.' That is the same for any other investment into Australia because, by their definition, an iconic Australian asset is something that is important to the Australian community. We need to make sure that that test is vigorously applied to iconic assets.

Senator GALLAGHER: Perhaps this is a question for the minister, really, because confidence in FIRB's processes is extremely important for foreign investment. You have the Chairman of the Foreign Investment Review Board speaking to a large audience raising concerns that the Kidman cattle empire decision had not been made objectively under FIRB guidelines. He went on to say, 'Avoid icons if you are wanting to invest.' He said further:

"My advice if you are thinking of investing is stay away from the business icons — they are always going to be difficult ...

Do you agree with the comments of the chairman, and do you have any concerns that that is the public message that is being given to overseas investors?

Senator Cormann: I do not have any comments on those comments. I will ask the Treasurer whether he wants to add anything to that.

Senator GALLAGHER: You do not have any concern with comments like that being made?

Senator Cormann: I certainly agree that confidence in the foreign investment framework is important. I believe there is strong confidence in the foreign investment framework. I think our foreign investment framework is very well understood. If there is any desire by the Treasurer to provide additional comments commenting on comments by the Chairman of the Foreign Investment Review Board, I will advise the committee.

Senator GALLAGHER: So you do not want to put on the record that you disagree with the comments?

Senator Cormann: This is outside my area of portfolio responsibility. I will consult with the Treasurer and if there is—

Senator GALLAGHER: I would have thought that you had some interest as Minister for Finance, I must say.

Senator Cormann: I am here in my capacity as representative for the Treasurer. It the Treasurer wants to add anything to this—

Senator GALLAGHER: Could you answer as Minister for Finance, then, whether you have any concerns about that being the message?

Senator Cormann: As you know, we are here in the Treasury estimates and I will refer this matter to the Treasurer.

Senator GALLAGHER: You are the master of deflection!

CHAIR: Senator Gallagher, do you have any questions?

Senator GALLAGHER: You did it all day yesterday and now you cannot answer as Minister for Finance, which is what I thought you were. Ms Quinn, I just want to get some information on the organisational arrangements in Treasury. You said you are going to be the deputy secretary of—is this a new division?—the structural reform—

Ms Quinn: It is a new group. In Treasury we have groups, and under groups we have divisions.

Senator GALLAGHER: You have four divisions plus corporate—is that right?

Ms Quinn: We have groups. We have the Macroeconomic Group, Markets Group, Fiscal Group, Revenue Group and a new structural reform group to make five.

Unidentified speaker: Plus corporate.

Ms Quinn: Plus Corporate Group.

Senator GALLAGHER: So it is going to be five plus corporate?

Ms Quinn: Yes.

Senator GALLAGHER: So you are going to have six groups now?

Ms Quinn: Yes.

Senator GALLAGHER: And you are going to be deputy secretary of the new group?

Ms Quinn: That is correct.

Senator GALLAGHER: And someone, presumably, will move into your position?

Ms Quinn: My current role is the Division Head of the Financial System Division. Diane Brown, who is at the table, will be taking that role.

Senator GALLAGHER: All right, thank you. Can you give me an update on where the legislation is in relation to the government's response to payday lending or small amount credit contracts? It was, I think, announced in November last year.

Ms Quinn: We had this conversation earlier with Senator Ketter. It was more around just legislative priorities. Legislation has not been developed at this stage.

Senator GALLAGHER: Not for payday lending?

Ms Quinn: Not at this stage.

Senator GALLAGHER: Do you have an expectation of when it will be ready for consideration by the government or be in parliament?

Ms Quinn: The scheduling of legislative drafting is a matter for government and government's priorities.

Senator GALLAGHER: So you are saying that it is not even at the drafting-of-legislation stage?

Ms Quinn: We do not have a draft piece of legislation, no.

Senator GALLAGHER: How does that work? Is a decision taken by the executive to issue drafting instructions? Is that what gives you the green light to go off and start the development?

Ms Quinn: There is a whole-of-government process that determines the priorities for the Office of Parliamentary Counsel—which is part of the Attorney-General's portfolio—but there is a process across government about setting the legislative priorities, and that is what guides them in their drafting allocation.

Senator GALLAGHER: In terms of getting onto that list, your minister would have to go through a process to get it onto the timetable based on that.

Ms Quinn: There is a coordinated process across government where ministers indicate their priority and their desires, and then there is combined decision-making to then pull that together as a priority that is given to the Office of Parliamentary Counsel.

Senator GALLAGHER: And that process has not started for small-amount credit contracts or the credit card reforms?

Ms Quinn: There is a great deal of legislation on that list and it is just a matter of working through the priorities. Those two elements are definitely on our list of work programs that we are working through and will be able to support, but the precise drafting is a whole-of-government process.

CHAIR: Senator Gallagher, I am just conscious of time.

Senator GALLAGHER: Yes. And the drafting has not started for those credit cards and small amount credit contracts?

Ms Quinn: We are not currently drafting that legislation.

CHAIR: Senator Gallagher, do you want to put your questions on notice?

Senator GALLAGHER: I will put some on notice.

Senator BUSHBY: I had some questions about the banks and net interest margins and things like that, but, in the interest of time, I will leave them so we can go to lunch.

CHAIR: Terrific. Thank you. We will suspend this meeting.

Proceedings suspended from 13:02 to 14:04

Australian Taxation Office

Australian Charities and Not-for-profits Commission

CHAIR: We will resume. Who would like to make an opening statement?

Senator Cormann: Mr Jordan has one.

Mr Jordan: Yes, I would like to make a brief statement. Thank you for that opportunity. I want to quickly give you an update about our business since we last met in October. We really did have a very successful tax time. There was really quite an improvement in 2016 over 2015, particularly with our use of myTax, the simpler tax return function for individuals and some other new online tools. We are having some very positive results with our work on the

tax avoidance task force and we are progressing well with our international work with the OECD on the BEPS and the Panama papers.

Obviously, I also want to let you know about the recovery and restoration from the systems outages we experienced in December and February, and how well our systems are now going. No doubt you are aware the ATO experienced recent systems outages—one before Christmas and one at the beginning of February. Rather extraordinarily, these outages were caused by the failure of storage hardware, or a SAN, which is a storage area network, provided and maintained by Hewlett Packard Enterprises on our behalf. This SAN was not old equipment and, in fact, had only just been installed in November 2015 and was soon to be state-of-the-art at the time. This three-power SAN provided to us simply as a data storage facility by Hewlett Packard is similarly installed in many large organisations here and around the world. In fact, there are 67,000 of these SANs around the globe supporting major business operations, including mission-critical ones like trading floors and banking platforms. We have two of those 67,000. Nothing like the failure we experienced has been experienced by any Hewlett Packard client before, so this was an extremely unusual and unfortunate event.

You may have noted that I have commissioned an independent end-to-end review into the nature of the failure—the root cause, the adequacy of backup and contingency arrangements, and what needs to happen to ensure the ATO and the community are not exposed to this type of incident in the future. PwC are conducting that review and will assist the ATO to fully understand the causes and impacts of the outage experienced. This review will report back to me around the end of March and we do expect it to inform us about our IT strategies in this particular area—storage hardware—moving forward. But I should say, to manage expectations, I flag that it is likely that not all of the report will be published due to legal and commercial sensitivities.

I also point out that Hewlett Packard are undertaking their own root cause review of the outages. They will be doing forensic testing of the cables and the disks and the SAN array itself once we have shifted to a new facility. Hewlett Packard advise that the forensic analysis will not take place until about June, which is the time we will fully migrate to a new system and they will transport the equipment to the US to their labs—so not until the hardware has been physically removed and sent to the labs in the US. Meanwhile, of course we are focused on providing stability, full functionality and capacity for all of our systems and services. We are replacing the faulty SAN with a better one, a newer one, and we are of course readying ourselves for tax time 2017, which we would do at this time of the every year.

We are now on track with our systems availability and functionality. Hewlett Packard have confirmed to me, and again just this morning in a meeting, that they are confident that the storage array has now been stabilised and will perform as required to handle the usual volumes and traffic associated with lodgement cycles. In fact, this week we have just handled the very significant 28 February lodgement date for BASs and activity statements without a hitch.

I do want to acknowledge those in the community who have been impacted by the outages, in particular key players who have helped the tax and super systems work, tax practitioners, the superannuation industry and software providers. While I appreciate this has been a testing time, many have been supportive and constructive in their feedback and engagement with us.

One thing I wanted to say is that the outages have really highlighted how much all of us are now reliant on technology and digital services—many businesses, organisations and individuals. It is simply a fact of life now—we are dependent on our phones, computers and big systems, and the reality is occasionally they will fail. It does demonstrate how important it is to have some form of business continuity and contingency plans—what do you do when the system goes down, the power goes off, a telco is shut down or the bank is off-line? We all need to be able to turn our efforts to alternative and legitimate productive work at the same time as business resumption. In essence, it means we all should have some form of business continuity plans for when there is some kind of outage. We are working very collaboratively and cooperatively with our stakeholders, and we will be doing everything we can to ensure stability and performance of our systems. We will consider carefully, of course, and act on the findings and lessons out of the reviews being done so that we can resume our focus on enhancing our service offer to the Australian community—simple, fast and convenient, like I said to you last year.

If I can quickly turn to some ATO business results and highlight for you the good progress we are making on a number of fronts with the Tax Avoidance Taskforce, about a year ago I sat here and spoke in very strong terms about our resolve and commitment to take on the more difficult and complex matters, to take on the minority doing the wrong thing, in the interests of the majority. We have 70 audits in the large business area, covering 59 multinational corporations currently underway, and hundreds of other companies are being reviewed for compliance, with both general tax law and the government's new multinational avoidance legislation. At least seven major multinational audits are expected to come to a head before 30 June—four in e-commerce and three in the energy and natural resource industries. We expect to raise liabilities to total in excess of \$2 billion from the seven companies. Some might be expected to be settled by the companies and some are likely to go to litigation.

The process to assure our ATO settlements is also now operational. We have three retired Federal Court judges reviewing settlement cases completed since 1 July 2016 and a number of other large settlements nearing completion. Work on the private groups and wealthy Australians, including high-wealth individuals, trusts and promoters, is continuing, with over 280 audits under way. This work has raised \$545 million in liabilities, with a \$250 million in cash collections so far just this year.

I do want to assure you that we are on track to deliver this year—for the task force, for tax time and other commitments we have made to the community. We continue to drive our cultural change, and we do not waiver from our vision of contemporary service, integrity and expertise.

CHAIR: Thank you, Mr Jordan. I want to ask you about the ATO outages that you mentioned—the website and the tax portals—and particularly about this piece of technology that Hewlett-Packard was responsible for. What was the type of contract that the ATO entered into with Hewlett-Packard, when was that it entered into and when will it end?

Mr Jordan: As I understand it Hewlett-Packard has been a service provider for a number of years, and there was a new overarching contract entered into in 2010 to provide a number of services. This particular one is data storage facilities. When you look at the spectrum of IT services, the storage of data is something that normally just works. Cabling and storage

facilities are not seen as high-risk things—this is why this has been particularly unusual, because these are things are typically seen as pretty solid in the general scheme of things.

A variation to that master contract was made because the prior storage facilities had reached capacity, and it was agreed that these newer, bigger storage facilities would be installed over a period of nine to 12 months to transfer the data. The actual installation was in November 2015, so I presume the variation in contract was sometime during 2015. We spend something less than \$5 million a year on that part of the contract for the use of data facilities—it is part of an overall contract to deliver certain facilities. That part is a relatively modest, straightforward thing; the old equipment had reached its capacity, and we put in place newer, faster equipment as a variation.

CHAIR: That newer, faster equipment is going to alleviate any future impacts on online services, particularly at those really busy times. Is that correct? You do not anticipate any further problems?

Mr Jordan: That equipment is the equipment—

CHAIR: that failed.

Mr Jordan: that went wrong.

CHAIR: Right. Sorry.

Mr Jordan: We are in the process of putting in place much more bulletproof, more extensive, newer equipment with a series of additional functions and aspects. I am told it will be the most solid equipment in any Hewlett-Packard installation in the world. Obviously that will take a period of time to migrate to have that fully up and running.

CHAIR: And Hewlett-Packard have taken responsibility for this outage?

Mr Jordan: Hewlett-Packard have acknowledged that they were providing a turnkey solution to us to provide data storage facilities, that their equipment failed and that they failed to deliver on the contractual terms. We have been working jointly with them to ensure the restoration of full functionality and services. They have been quite open in acknowledging the failure of their services.

CHAIR: Mr Jordan, you gave quite a detailed description in your opening statement about that particular event and you have just circulated a copy of that opening statement. Is everyone happy to accept that as a tabled document? Thank you very much for that, Mr Jordan.

I will move on very quickly, before I turn over to Senator Ketter. I want to discuss company tax rates, which have been a hot topic in the media for us recently. I want to ask you, particularly post the election results in the United States, how Australia's business tax rates compare to OECD countries around the world.

Mr Jordan: Perhaps that is something more for my Treasury colleagues. We simply administer the rates that are specified.

CHAIR: I am happy to turn that over.

Ms Mrakovcic: In terms of where the OECD average is on corporate tax rates at the moment, I believe it is around 25 per cent, which is five percentage points lower than Australia's current corporate tax rate. Obviously there are a few countries that have higher corporate tax rates than Australia; we are not quite at the extreme top. The US, I believe, is at

35 per cent at the federal level, and that is before state taxes, but we are certainly at the upper end amongst OECD countries. Obviously there has been a discussion in quite a few countries, including the US and the UK, around the desirability of corporate tax cuts. So it is a hot topic, as you say, at the moment.

CHAIR: Could I ask you two questions about the enterprise tax plan. The first is: the tax cut is being phased in over 10 years, which is quite an unusual policy measure; it is not just an instant tax cut. Can you explain why it is being phased in over such a long period of time.

Ms Mrakovic: I think that the government has made it clear that the intention behind its phasing was essentially to ensure that there was the benefit of an announcement effect so that businesses would have certainty around the prospect of future cuts in the corporate tax rate, and that would, itself, have an impact on promoting investment. At the same time the phasing in would ensure that most of the costs were actually incurred on the budget at the back end of that 10-year period and at a time when the budget situation would be expected to be more favourable.

CHAIR: Finally, there have been a lot of accusations that the company tax cut is unfunded. Can you please confirm that the enterprise tax plan is in fact fully costed and built into budget figures.

Ms Mrakovic: Yes. All budget measures are costed and then put into the budget.

CHAIR: In the forward estimates and in the long term?

Ms Mrakovic: Absolutely, in the sense that where measures reach maturity beyond the forward estimates they are fully factored in beyond that period of time. There is obviously, more broadly, a different methodology for the forward estimates to the medium term, and I think that deeper description around that is probably more suited to my Fiscal Group colleague. But in terms of an understanding or recognition of the maturity of the measure, and taking that into account as we build our estimates into both the forward estimates and the medium term, that is something that is fully understood and implemented in that way.

Senator Cormann: There is a very helpful graph—chart 3.1 on page 27 of the half-yearly budget update. What that graph shows is, of course, what we have previously discussed, and that is that the budget is projected to return to surplus by 2021. What you will see on that graph is that, for the whole period of the medium term all the way to 2026-27, it is projected to remain in surplus. That graph, which demonstrates this, includes all of the relevant costings information in relation to the government's Ten Year Enterprise Tax Plan. After the cost to the budget bottom line of the Ten Year Enterprise Tax Plan has been factored in, you can see that the budget is projected to return to surplus by 2021 and is projected to remain in surplus all the way through, so any suggestion that these tax cuts are not funded is wrong.

I hold Chris Bowen as the shadow Treasurer in high regard. However, he says, at the same time, that the corporate tax cuts are not funded before then proceeding to spend the money. He cannot have it both ways: either his argument is that the corporate tax cuts are not funded, and then he cannot actually use the money for alternative purposes, or he accepts our proposition, which is clearly reflected in the budget papers, and that is that the corporate tax cuts are funded over the medium term. Then we can have an argument about whether or not it is more desirable to boost productivity, boost investment and boost growth and real wages over time by making our business tax rate more competitive, or whether it is more desirable,

as Labor has been suggesting, to spend more and to tax more. But there is a fundamental dishonesty in the basic proposition of the argument where the argument is run, at the same time: 'It is not funded, but I am going to spend the money anyway.'

CHAIR: Thank you, Minister. The question was very well answered.

Senator KETTER: I want to start with the petroleum resource rent tax. We know that the government has announced an independent Treasury review into the same issue. Can the ATO provide a breakdown of the staff numbers, for the past five years, that have worked on assessing and/or auditing PRRT-related deductions?

Mr Jordan: I will wait for my colleagues to come up. I am pretty sure they will not have those figures off the top of their head. If I could just clarify: was it the last five years of the assessed PRRT liabilities, the collections of PRRT, for the last five years?

Senator KETTER: The staff numbers for the past five years that have been working on assessing and/or auditing PRRT.

Mr Jordan: The staff numbers?

Senator KETTER: Yes, staff numbers.

Mr Jordan: Sorry.

Mr Hirschhorn: I would have to take the specific numbers on notice, but we do have a core team of people who focus and have a specialisation on PRRT. They are primarily based in our Perth office, with a support function in one of our Melbourne offices. It would be in the order of probably 10 to 20 people who focus on PRRT. But I will take the precise numbers on notice.

Senator KETTER: How many audits have you conducted in the past five years or are you currently undertaking?

Mr Hirschhorn: I would have to take that on notice. I would say that there is a very small population of companies which are potentially in the PRRT. In our submission to Mr Callaghan's PRRT inquiry we have quite detailed statistics on the number of taxpayers who are in the PRRT. What I would also say is PRRT is a projects based tax. There are not a large number of projects which are within the PRRT, so there are not all that many audits. We have one-on-one engagement with every PRRT-paying project.

Mr Olesen: If I could add to that, the concomitant of that is we are very confident with the amount of petroleum resource rent tax that is being paid and whether it is the correct amount being paid, because it is a small number of payers and our coverage is very high. Because of the small number of payers, we have a very high degree of confidence in the accuracy of what they pay.

Senator KETTER: Can you tell me how many audits have resulted in changes to the amount of PRRT owing?

Mr Hirschhorn: Again I will take that on notice, and again this is detailed in our submission to Mr Callaghan's review. There have been some cases in relation to PRRT which are the result of amended assessments which have been taken to court, and they have been around some financing elements and also some expiration elements of PRRT.

Senator KETTER: Does the information in that submission go to the value of the changes, the amount of tax owing?

Mr Hirschhorn: I do not think we have included the amount of adjustments. There are challenges. For example, in 2015-16 I think there were only six projects making taxable profits and maybe only 15 entities which paid PRRT. With that small level of population, disclosing data at an aggregate level is not really disclosing data at an aggregate level. Potentially people might be able to reverse-engineer individual taxpayers' results, so we have restrictions on how we publish some of this data. But I would reiterate Second Commissioner Olesen's comments that because it is a concentrated group we have a very high level of confidence that the right amount of PRRT is being paid.

Mr Olesen: It is worth adding that it is quite normal practice for us. When the population of a group is less than about 10, we tend not to publish figures, because of the secrecy requirements under which we operate.

Senator KETTER: Perhaps you could tell me what the basis of the change in the amount of tax owing was? What were the issues in dispute?

Mr Hirschhorn: Of the public cases, there was one around whether hedging expenditure was expenditure which could be taken into account in working out the taxable profits of the PRRT project. Another case was around what expenditure qualified as exploration and so got the benefit of the higher augmentation rate.

Senator KETTER: In terms of LNG processing, in concluding the arms-length price of gas feedstock, how many PRRT returns in the last tax year used the methods of the advance pricing arrangement, comparable uncontrolled price and residual price method?

Mr Hirschhorn: Again, I will have to take that on notice and may not be able to respond because of the small number. I would note that there are differences between when the gas is used by the company itself and when the gas is sold on the market. So some of those methods are used where the gas is sold in a sense into the same enterprise or sold to a downstream operation, so there is an internal transfer price. As some of these new fields come online, most of the gas is being exported, so some of those questions fall away because the gas is not being used in the entity's own operations. It is being exported to third parties.

Senator KETTER: In terms of PRRT deductibility, can you give examples of the kinds of social infrastructure costs that are not classified as general project expenditure?

Mr Hirschhorn: We have recently issued a practical compliance guideline, I think, on this issue. I will take this on notice, but when we talk about social infrastructure it is where production facilities are doing things for local communities either explicitly or implicitly as part of their licence to operate and gain community acceptance.

Senator KETTER: If a PRRT taxpayer were to hire a lobbyist for the purpose of influencing government policy in relation to an LNG project, would this be classed as labour costs associated with public and government affairs and therefore deductible against the PRRT as general expenditure?

Mr Hirschhorn: I will take it on notice, but my immediate response is I would be very, very surprised if we allowed that sort of expenditure, because the expenditure has to be directly related to the production facility. In fact, one of our issues is how much of a head office cost can be apportioned to the production. Those secondary expenses would not be directly related to the production.

Senator KETTER: Similarly, if a taxpayer were to sponsor a sporting event for the purpose of promoting the social benefits of the LNG project?

Mr Hirschhorn: Similarly, my initial response is that that would fail the test.

Senator KETTER: Can you describe the ATO risk management procedure for risks of noncompliance with PRRT liabilities?

Mr Hirschhorn: Again, I would refer you to our submission to Mr Callaghan's review. It is quite a long and detailed submission. But I would come back to the point that there are so few projects that are potentially subject to PRRT, and a much smaller number which are actually PRRT payable or have the potential to be PRRT payable, it is based around one-to-one engagement. So our teams would be risk reviewing and having direct taxpayer communication on every PRRT payable return.

Senator KETTER: Given the ANAO's report findings in relation to the operation of the North West Shelf royalty scheme, have you conducted audits of the companies operating on the North West Shelf Project?

Mr Hirschhorn: Again I have problems because there are only a few participants in the North West Shelf. But what I would say is that the royalty scheme that the ANAO commented on is not administered by the Taxation Office. I would also say that the North West Shelf was for many years outside the PRRT regime. It was recently introduced into the PRRT—

Senator Cormann: And that is because the North West Shelf gas project paid royalties and excise on production from day one of the project. It was only a decision under the previous government to move them into the PRRT regime.

Mr Hirschhorn: When it was moved into the PRRT regime as part of the extension of the PRRT regime and the introduction of the MRRT regime, it received a starting-base value which effectively gives it an allowance for expenditure. That allowance for expenditure must be recouped before any PRRT can be payable on the project.

Senator KETTER: Who would be responsible, if necessary, for issuing a cost-recovery notice for unpaid royalties?

Mr Hirschhorn: I am sorry, I cannot tell you offhand which department administers that.

Mr Olesen: But royalties are a state government matter, so that would be a matter for the state government—one of their entities.

Senator KETTER: Okay.

Senator GALLAGHER: Thank you, Commissioner Jordan, for your opening statement. I have a couple of questions. Can you just confirm for the committee that it is an offence for a business or for another organisation to charge GST but not pass it on to the ATO?

Mr Jordan: Generally, if you collect GST for a taxable supply you are allowed to offset the GST on purchases, and if there is a net GST payable as a result of all of your activities—your sales and your input tax credits—you are required to remit that to the ATO. That is the general proposition. We now have our Indirect Tax Deputy Commissioner at the table, but I hope I got that bit right!

Mr Dyce: Yes you did, Commissioner!

Mr Jordan: Good answer!

Mr Dyce: We do monitor nonpayments and treat those very seriously. We do actively pursue them, not only through administrative processes but then through legal action when nonpayment occurs in some situations.

Mr Olesen: But if your specific question is, 'Is there an offence?'—

Senator GALLAGHER: Yes.

Mr Olesen: I think we might have to take that on notice, just to check whether that provision is still there. As far as I know there used to be a provision like that—

Senator GALLAGHER: You would want to—

Mr Olesen: But we just need to check that to be sure. As Mr Dyce said, our starting point is to pursue legal recovery for outstanding debts.

Senator GALLAGHER: Are there penalties attached?

Mr Olesen: There are certainly penalties attached for late payment of—

Senator GALLAGHER: Late payment, or nonpayment?

Mr Olesen: Late payment—

Senator GALLAGHER: Or collection without—

Mr Olesen: Same thing—yes. That is right. So, once we have managed to achieve payment there will be penalties and interest associated with that.

Senator GALLAGHER: Is there a scale of penalties? What is the maximum?

Mr Dyce: It is an interest charge. There is an interest charge in relation to non-payment of an obligation from the time that it was due and payable until the time that it is either paid or, potentially, up until the time that a court makes a judgement, which would reflect not only the primary tax but also an interest charge.

Senator GALLAGHER: What is the arrangement if you are collecting GST but you are not registered to collect GST? What would happen in that situation?

Mr Dyce: You are not allowed to collect GST if you are not registered. You are not allowed to charge GST if you are not registered, and that is—

Senator GALLAGHER: Is that a separate sort of offence?

Mr Dyce: That is a separate provision, yes. But the law does not allow you to charge GST where you are not registered.

Senator GALLAGHER: And there are penalties for that, I presume?

Mr Dyce: That is a breach. I would have to take on notice for exactly what type of offence it is.

Senator GALLAGHER: Could I ask you to look into a matter that has been brought to my attention? I have some documents here that might assist, relating to Pauline Hanson's One Nation Party Queensland division. It has been advertising GST-inclusive membership on their websites. Membership of the organisation clearly indicates GST inclusive but it does not appear to me, from some of the research I have done quickly—and I would not mind if you had a look at it—that the division is registered for GST collection. Can I just table those documents and ask the ATO to have a look at that?

Mr Jordan: Yes.

Senator McALLISTER: Are fresh salads subject to the goods and services tax?

Mr Jordan: Are we going down the birthday cake path?

Mr Dyce: It would depend on what the salad is, because there is not actually a specific provision that relates to fresh salads. The legislation refers to everyday foods, and there is a separation between that and preprepared meals or ready-to-eat meals. There are some combinations that would qualify as being GST free, and there are some that would not, not just based on what is in them but also on how they are marketed.

Senator McALLISTER: The ATO's website, in the GST food guide, says that salads including pasta, rice, coleslaw, meat, seafood and green salad, sold from salad bars at supermarkets in either the delicatessen section or from a self-serve bar, are GST free. Is that still the case?

Mr Dyce: We are currently working with industry to review the guidelines. We are looking at whether the guidelines still reflect the very rapidly moving nature of salads or these types of products, if I can call them that, in the market, because the market has shifted quite a lot. If that is what our website says, that is our current view, but I want to flag that, through our conversations with industry, industry have raised a number of questions about a range of different products. They have highlighted to us that their products have changed dramatically over the last few years, and so we are working with them to try and understand what the different types of products are and what the categorisations should be.

Senator McALLISTER: But it would be a change, you would agree, to charge the GST for salads? The process you are going through acknowledges that.

Mr Dyce: It depends on what you define salad as, because some people may define a salad as a bowl of lettuce; some may define it as a barbecue chicken shredded up with three grains of rice on it. I am not trying to be facetious, either; there are a range of products that are very, very different that are marketed as salads.

Senator McALLISTER: But historically the commitment was that the GST would not be on salads. There was a deal between the former Prime Minister John Howard and the Democrats party leader in 1999—and it is a while ago—and the letter that John Howard wrote to Meg Lees at that time said, 'Salads and savoury bread will be GST free.' It was fairly unequivocal at that time.

Mr Olesen: I think we are all struggling to remember exactly what the undertakings were. My colleague Mr Dyce's recollection is that the undertaking was in respect of everyday foods, and I think that is the way in which the GST laws have been constructed—to try and work out what an everyday food is as opposed to a preprepared meal. I am sure this is where some of the complexity now comes in, as society changes, in the same way that taxi travel we thought was one thing and now it is a little bit broader. These issues are not uncommon when you are dealing with indirect tax.

Senator McALLISTER: I will draw your attention to the letter that John Howard wrote to Meg Lees on 22 June 1999. It canvassed a range of issues around the GST. Obviously it was a very complex arrangement that those two politicians came to about the GST, but it says unequivocally: 'Salads and savoury bread will be GST free.'

Mr Dyce: We rely on the legislation and the explanatory memoranda to establish what is or is not subject to GST. That is our responsibility as administrators of the law. I am aware that there are some in the industry that believe that all products, no matter what the content, if they are described as salads should be GST free. That is of course a policy issue that the ATO does not get involved with. Our job is to try and look at the products and how they are marketed.

Mr Jordan: Being a person who has a salad every day when I am in Sydney, I must say this is of interest to me. I will check the receipt again next time as to whether they are charging GST or not. It is a combination—

Senator McALLISTER: I do not think they ought to be because your website says that they should not.

Mr Jordan: They should not, that is right, so I am going to check that. It is a combination of lettuce and different things that are put in a packet and given to me. I have always assumed that it was fresh food, but I will actually check the receipt. It is something we will take a commonsense approach to. You are right: salad, fresh food, is exempt. I think the comment was made that, if you have a barbecue chicken and just shred it up and put in a leaf of salad, is that really a salad? This is the problem when you have big carve-outs of a system and people try to play the system and say, 'Here's a salad.' You have to take a commonsense view. We do not want to make things complex for people in salad bars or that type of thing. Systems have been in place for a long time. We will not be trying to disrupt things that have been in place for a long time unless there was silly behaviour from a few who are trying to call something a salad when, in fact, it might be something quite different.

Senator McALLISTER: Is there any evidence that people are trying to call something a salad and it might be something quite different?

Mr Jordan: I do not know about any of that, but I presume there are some issues otherwise you would not be asking these questions.

Senator McALLISTER: I am asking these questions because it appears that there is a working group or an industry consultation afoot—

Mr Jordan: On salads?

Senator McALLISTER: on salads. Is that right, Mr Dyce?

Mr Dyce: We have had a meeting with industry on salads because they wanted to talk to us about the different products they had on the market and understand what the correct treatment should be, because the market has moved so significantly over the last few years. Quite appropriately, we agreed to meet with them. It was a very productive meeting. There was a range of different products that they discussed—also, how those products are marketed. We agreed to look at it to try to see if we could provide more clarification.

Senator McALLISTER: What stakeholders were involved in that meeting?

Mr Dyce: We invited a whole range of players from the industry. I do not know the exact attendance list, but we had representation from a range of organisations that sell salads in chains, representation from supermarkets and a whole range of other industry players.

Senator McALLISTER: I understand your website says:

As a result of feedback the ATO will update the draft information brief issued on 15 November 2016 with new examples to provide greater clarity on some issues and a better balance between taxable and GST-free examples, by the end of March 2017. The need for further consultation will be determined at this time.

Is that still the timetable?

Mr Dyce: We are still working towards that. It is very, very close.

Senator McALLISTER: It is very close, obviously.

Mr Dyce: My understanding is it will issue very shortly.

Senator McALLISTER: What will it look like when you finish? Are you going to report to government?

Mr Dyce: This is an interpretive issue. We are simply trying to clarify with industry how the products are categorised under the legislation. We are not changing the law.

Senator McALLISTER: There is a longstanding commitment that salads, as I indicated, are not going to be included in the GST. Are you saying that that is the continuing position of the ATO? You are not seeking to change that arrangement?

Mr Jordan: As a general proposition, no: a salad is a salad and that is GST-free. But if something is dressed up as a salad that is not really a salad, we might need to do something about it—

Senator McALLISTER: So, a marshmallow salad.

Mr Jordan: if this is a problem. I am not aware of that, but clearly someone is aware of it because we would not be running around having consultations on salad unless someone wanted to do that.

Mr Dyce: A number of organisations do charge GST on products that they call salads, but they recognise them as something more than just a basic salad; they are actually a pre-prepared meal.

Senator McALLISTER: Is it true that the ATO wrote to stakeholders in March last year and said to them, 'GST changes have become very political, so consultation will be deferred until after the election'?

Mr Dyce: I am not aware of that.

Senator McALLISTER: Can you take that on notice and check for me, please?

Mr Dyce: Yes.

Senator McALLISTER: And, if you have it, could you provide that letter to the committee?

Mr Dyce: Absolutely.

Senator McALLISTER: Have you been in contact with any of the ministers or ministerial officers about applying the GST to salads?

Mr Dyce: Not that I am aware of, no.

Senator McALLISTER: Not the finance minister?

Senator Cormann: I am quite happy to confirm that I have not had a conversation with the ATO about salads and GST.

Senator McALLISTER: So there has been no contact with any of the ministerial personnel?

Senator Cormann: To clarify for you again, we had the Senate estimates for the Finance portfolio yesterday. Finance looks at the expenditure side of the budget, where their good friends and colleagues in the tax office are very focused on the revenue side of the budget.

Senator McALLISTER: Are you considering the health implications of this as you are working through these issues?

Mr Dyce: We are looking at what the correct categorisation of products is under the tax legislation.

Senator McALLISTER: Thank you.

CHAIR: Senator Leyonhjelm, I am sure you have questions about something other than vegetables.

Senator LEYONHJELM: I certainly will not be asking about salads. Mr Jordan, there are two areas that I want to ask you about; the first one is relatively brief. Regarding the case involving the tax office and Uber over GST, do you know whether Uber has signified an intention to appeal?

Mr Jordan: The appeal period has not run out and, as I understand, our office has been in discussions with them, but I do not know of any determinative statement by them.

Mr Olesen: If they choose to appeal, you will know when we know.

Mr Dyce: It is still within the time frame.

Senator LEYONHJELM: Is there any thought, assuming the judgement stands, that it will then apply to others outside of ridesharing, so that it might apply to Airbnb, for example?

Mr Jordan: No. Remember, to collect GST, you must have an enterprise and, normally, a turnover of greater than \$75,000. The one exception to that is people providing taxi travel, because you had two groups of people that might be able to charge 10 per cent less than others. As I understand it, in the accommodation side of things you have the \$75,000, so most householders probably would not get \$75,000 a year for renting a room. They have to pay income tax on the money they get as rent. For the room itself, there is no GST, but, if they are providing a B&B or something else, I think it might start to kick in.

Unidentified speaker: If it is a commercial property.

Mr Dyce: That would be a commercial property, yes.

Senator LEYONHJELM: The threshold still applies—

Mr Dyce: The \$75,000 threshold, yes.

Mr Jordan: But the straight-up-and-down person who is letting out a room occasionally at night probably does not get \$75,000 and, therefore, there is no GST.

Senator LEYONHJELM: Finally on this issue, a media report came out the day after or two days after the court decision was announced, in which it quoted you as saying you 'expressed frustration at Uber's lack of cooperation'. I am wondering whether you were accurately quoted.

Mr Jordan: I think that was an old quote that was not related to the case. I think it was referring back to some of the comments made either in this forum or at the Senate inquiry into

international tax—the corporate tax avoidance inquiry. Uber would say openly, 'We comply with everything and we cooperate with all tax authorities around the world,' and my commentary was, 'We're not quite seeing that cooperation here in Australia,' because we wanted to help. Even now that the court has clarified that our view was correct, how can we help work with them to get the drivers who are not already registered? How can we work with them to help the drivers report their income quarterly and remit the GST quarterly to make it as easy as possible? That is where we see some positive opportunities.

Senator LEYONHJELM: Thank you. It looked like you were complaining that they had not talked to you in the context of the court case. I thought that was a bit peculiar.

Mr Jordan: No, that was definitely an old thing.

Senator LEYONHJELM: I am changing subjects now to the Panama papers and the Mossack Fonseca clients issue. You will recall I asked you about that at the last estimates. Has anyone yet been charged? I asked the AFP yesterday and they said no-one has been charged yet, but, then, they tend to say, 'Leave that sort of stuff to the ATO.'

Mr Jordan: As far as I am aware, no-one has been charged. We had 15 raids—unannounced visits—across Victoria and Queensland. There were six accountants and 60 taxpayers involved. The AFP exercised three search warrants. That is where they found all that silver and some other cash and that sort of thing. In the proving up of criminal cases, it takes a long time to gather evidence. We are not in that space yet. We are, obviously, auditing a number of people. Some have come forward. Even some of those 60 people associated with those six accountants have come forward and said, 'I want to make a disclosure,' so that will all happen relatively easily. Mainly, charges will not be laid there if it is a voluntary disclosure and there is nothing particularly criminal about the activities that gave rise to the income and it was just income held offshore. So time will tell, but it is a bit early to be in the position to be laying charges at this point.

Mr Olesen: I have some more recent figures than the commissioner has access to just at the moment. I think there are 160 taxpayers that we have now contacted, and some 40 of those have already come forward and made disclosures to us voluntarily for a significant amount of income. As the commissioner is saying, we will continue to work through the tax collection side of that. Where our interest really lies, of course, is with those advisers who have been connecting taxpayers locally with some of the offshore service providers. That is really where our attention will be turning and that is more likely to be the space where you will see action taken at a criminal level.

Mr Jordan: With the promoters—the people who put multiple people into a scheme. We found that in Australia these accountants were using a firm up in Hong Kong to manage the money and to effectively act as the operation to shield the identity. They asked Mossack Fonseca to set up the company, so they are the real body that we want to understand more in Hong Kong. You get someone going to their accountant here. He refers them or goes directly to this promoter in Hong Kong who happen to use Mossack Fonseca, who are one of a number of these types of businesses—law firms that form companies and try to hide the identity of people behind them. You will find the people in Hong Kong might have some nominee companies that they own trying to shield the identity of the companies.

We are chairing a working group of 30 countries—a meeting was held on 16 and 17 January—in the OECD to try to pull together all the different work that those 30 countries are doing to identify those types of promoters to see if we can take concerted action there. That is really where we want to focus, to get to the source of the advice of putting people into these schemes.

Senator LEYONHJELM: Do you anticipate there will be prosecution in due course?

Mr Olesen: That would be my expectation at this stage. Just drawing on our experience from Project Wickenby, there are a large number of prosecutions—over 40, from memory—that came out of that endeavour over a decade, so with that experience, we would reasonably expect that we might see some similar outcomes from—

Senator LEYONHJELM: Do you have a view as to the fate of the 160 kilograms of silver that was seized in one of the AFP raids?

Mr Olesen: I have no view on—

Senator LEYONHJELM: AFP told me yesterday that they are still holding it. I am assuming it is evidence. I am just wondering—

Mr Olesen: I think that is a matter for them.

Senator LEYONHJELM: You do not know about that.

Mr Olesen: Yes.

Senator LEYONHJELM: That is going to be interesting, because if you are handling the prosecutions and they are holding that evidence, where are they going to combine?

Mr Olesen: We do not handle the prosecutions. There is a two-step process. We do the investigations, and of course, our brief ends up with the Commonwealth Director of Public Prosecutions.

Senator LEYONHJELM: Understood.

CHAIR: Senator Leyonhjelm, sorry—I am conscious of time.

Senator LEYONHJELM: Yes, okay; alright, I will leave it there. Thank you.

CHAIR: Senator Whish-Wilson—a very limited time here, understanding that your colleagues have an awful lot of time allocated later on.

Senator WHISH-WILSON: What limit?

CHAIR: Five minutes.

Senator WHISH-WILSON: Five minutes?

CHAIR: Yes, we have to get around an awful lot of—

Senator WHISH-WILSON: No, I have just spoken to my colleagues. They are putting questions on notice, so I will take the time.

CHAIR: All right; 10 minutes

Senator WHISH-WILSON: How long are you allocating to the Greens in total?

CHAIR: Ten minutes at the moment.

Senator WHISH-WILSON: But then you will come back to the Greens after that?

CHAIR: We will come back to the Greens later on.

Senator WHISH-WILSON: Okay. First quick question: Is there any scope to include taxes paid by partnerships in the tax transparency data that applies to companies and the legislation on that?

Mr Jordan: The report that we put out—we have done it twice now—does not apply to partnerships. It is—

Senator WHISH-WILSON: My understanding is that it does not, but I am happy to—

Mr Jordan: I will get—

Mr Olesen: That's right.

Mr Jordan: They are running up here—Second Commissioner Mills.

Mr Olesen: The rules around us publishing data relates to corporate entities and not to partnerships.

Mr Mills: I should add that partnerships actually, in themselves, do not pay tax; rather, the partners in the partnership pay tax.

Senator WHISH-WILSON: The partners in the individual—okay. So in a situation of, for example, the big four accounting companies, it would be the partners themselves and their individual tax returns that you would focus on in terms of the amount of tax they are paying?

Mr Olesen: For publication purposes? We do not publish any individual's taxation information. It is only the—

Mr Jordan: We would look at the individual partners.

Senator WHISH-WILSON: That is fine. I just wanted to check that. It was reported last year that the government is looking to whistleblower protections or rewards for information in relation to multinational companies. Are you still pursuing that? Have there been any developments in those areas? Does the ATO support that?

Mr Olesen: It is not a matter of whether we support it; it is an initiative that the government has announced. Maybe our colleagues in Treasury that are closer to—

Mr Jordan: We have a substantive whistleblower process now that does not involve payment, though. So I think there are a couple of elements of this that I will refer my Treasury colleagues to. I think there was more publication of it and a greater focus, but also asking about compensation payment.

Senator WHISH-WILSON: Sorry to be rude, but unless it is going to be really quick, perhaps you can take that on notice.

Mr Mills: Happy to take it on notice. Just quickly, we released a consultation paper about whistleblowers, but we will take on notice any questions you have.

Senator WHISH-WILSON: Thank you, and I will chase that up. In relation to the petroleum resource rent tax, can the ATO confirmed that \$187 billion in total—if I could use the PRRT tax credits—has gone up in the latest financial year to \$238 billion, so a rise of about 21 per cent?

Mr Jordan: We have a quick change over here—but there was a recent publication in our annual report.

Mr Hirschhorn: That number is in our submission to Mr Callaghan's inquiry. The carried forward balance is now approximately \$238 billion in total across the different categories.

Senator WHISH-WILSON: Thank you. How much of that figure between years is uplift of pre-existing credits, and how much is from new projects? Is that detailed breakdown also in the—

Mr Hirschhorn: I do not have that level of detail to hand—

Senator WHISH-WILSON: Could you take that on notice.

Mr Hirschhorn: but what I would say is: in our submission, we do have the split of the cumulative balance of each category, year by year. Again, I am not sure if I can actually produce this data, because there are so few projects. But I would say that, if you look at the categories and see how much they have grown versus the augmentation rate of the category, you can get a sense of how much new expenditure there is versus augmentation.

Mr Jordan: The augmentation means that uplift on exploration is 15 per cent plus the long-term bond rate, and the different categories have different upload rates.

Senator WHISH-WILSON: Is it possible for you to take that on notice, or is the issue that there are too few companies, as you mentioned?

Mr Hirschhorn: I am happy to take it on notice, but I would say that it may be that we say that we will be unable to provide that break-up.

Senator WHISH-WILSON: Is that because with too few companies you come close to commercial-in-confidence and we would pretty much know who they are?

Mr Hirschhorn: Yes. Our perspective on taxpayer secrecy is that once we get a small enough population we do not provide a split because it would, in a sense, reverse—

Senator WHISH-WILSON: As a matter of interest, how many companies are there? Are there three or two?

Mr Hirschhorn: I think our general rule of thumb is about 10 companies.

Mr Olesen: I think he means: generally, how many people sit behind the \$236 billion.

Mr Hirschhorn: Sorry, to clarify: were you asking a question as to how many before we break it down?

Senator WHISH-WILSON: Yes.

Mr Jordan: Generally, if there are 10 in a category, we start getting very nervous about producing the data.

Senator WHISH-WILSON: We really would like to see this data. This is a pretty significant matter of public interest.

Mr Hirschhorn: I am trying to be as helpful as possible—

CHAIR: I know you are. I appreciate that.

Mr Hirschhorn: If you look at that detailed number and you know what the augmentation rate is, because that is a matter of public record, you can—

Senator WHISH-WILSON: Do I sense that you have not made a ruling on this? You sound like you are uncomfortably close around 10, but have you actually made a ruling that you cannot provide this kind of data? Maybe if I put on notice my next few questions, which are quite detailed, in relation to this, you can let me know.

Mr Jordan: We can see what would push the limits to provide to you.

Senator WHISH-WILSON: I think we are also looking at doing a references inquiry day on this as well, hopefully, to get into more detail, so it would be useful to know that in advance. *The West Australian* reported that, based on Wood Mackenzie's analysis for APPEA's submission to the PRRT inquiry, the Gorgon project will not pay any tax at all for the entire life of the project. Has the ATO done an analysis to confirm or refute that conclusion?

Mr Olesen: We are not in a position to comment on particular projects.

Senator WHISH-WILSON: It is a pretty big project.

Mr Olesen: We operate under secrecy provisions, so we are not able to comment.

Senator WHISH-WILSON: Okay. This kind of throws my other question out; but I will still try and put them on notice, and we will see. I still have some more questions. Various well-informed sources have explained to us—and by 'us' I mean the committee members—that tax credits from decommissioning projects will push PRRT revenues into the negative. Has the ATO done an analysis to confirm or refute that conclusion?

Mr Hirschhorn: What I would say is that there is a provision which says that if a project has been paying PRRT and that project is closed down then that closing down expenditure can result in a clawback of PRRT. Of course, whether that tips PRRT into the negative in a particular year depends on all the other projects which are paying PRRT versus a project which is shutting down. If in a particular year there were no PRRT paying projects and a project was shut down—for example, a petroleum resource came to the end of its life and was shut down with significant expenditure—there is a theoretical possibility that PRRT could be negative in that year.

Senator WHISH-WILSON: My next question relates to oil spills. Thanks for confirming, from previous estimates questions on notice, that an oil spill from an exploration well would be incidental to the exploration and therefore potentially profitable for an oil company. Can you confirm what types of activity, such as the cost of cleaning up the coastline, getting salvage equipment shipped from overseas and so forth, would be eligible for uplift rates at the 18 per cent a year. Perhaps you could take that on notice rather than do it now.

Mr Hirschhorn: Yes, I will take that on notice.

Senator WHISH-WILSON: I have two more quick questions. Do you have the power, within your tax rulings, to limit or restrict the current application that allows tax breaks for oil spills, or would it require amendments to the PRRT Act?

Mr Hirschhorn: We administer the law as it is.

Senator WHISH-WILSON: All right. But you have had no briefings on that or provided any advice to the minister in relation to that specific issue?

Mr Hirschhorn: Not that I am aware of.

Senator WHISH-WILSON: In your understanding, is it potentially possible for a company to make a profit from its own oil spill? It would be obscene if it could.

Mr Hirschhorn: I think what you are referring to is that where you have an unsuccessful exploration, that excess exploration expenditure can be transferred to another project. By

being transferred to another project, another PRRT payable project, it can shelter PRRT that would otherwise have been payable.

Senator WHISH-WILSON: It is an interesting concept that an environmental externality could be paid for by the taxpayer. I know it is not your fault.

Mr Hirschhorn: I would say that expenses in your business—income tax is a profits tax. PRRT is a superprofits tax. People get reductions in tax for expenses incoming to their profit.

Senator WHISH-WILSON: There has been discussion, recently, about a so-called Buffet tax. Mr Jordan, has the ATO done any work for the government on implementing a cap on deductions for high-income earners, along similar lines to—

Senator Cormann: The tax office administers the tax laws. The tax office is not responsible for policy. This is a matter for Treasury.

Senator WHISH-WILSON: Sorry. I will refer that to you, Maryanne.

Ms Mrakovic: Could you repeat the question?

Senator WHISH-WILSON: In terms of a Buffet tax, have you provided any advice or done any work on implementing a cap on deductions for high-income earners and what that would, potentially, raise in revenue? I know you would have to work with the ATO to do that.

Ms Mrakovic: Basically, the question goes to the nature of advice, and Treasury, normally, does not comment on those matters.

Senator WHISH-WILSON: On what matters?

Senator Cormann: On policy advice to government.

Ms Mrakovic: On policy advice.

Senator WHISH-WILSON: Let us not call it advice. Have you done any modelling or any work for the government on this issue—

Ms Mrakovic: We have not done any modelling.

Senator WHISH-WILSON: in terms of putting a cap on deductions for high-income earners?

Senator Cormann: What is your precise question?

Senator WHISH-WILSON: It has changed four or five times because—

Senator Cormann: Just remind me what your precise question is.

Senator WHISH-WILSON: I want to know: has the tax department or Treasury done any work on implementing a cap on deductions for high-income earners for the government, which is often called a Buffet tax and is a policy. That is what I would like to know.

Ms Mrakovic: I think the issue is that you have asked the question in terms of have we done work for the government. I am trying to distinguish between work for the government and advice. If you could just clarify that for me.

Senator WHISH-WILSON: Has Treasury done any work on the so-called Buffet tax?

Ms Mrakovic: There are a whole range of issues that crop up internationally and domestically. Obviously, if it falls within the realm of tax issues it is something that is of interest to us. We do varying degrees of analysis or thinking around it. It is very hard to be specific.

Senator Cormann: I might be able to help you here. The government does not have a policy to introduce a Buffet tax, as you describe it.

Senator WHISH-WILSON: But have you looked it, Senator Cormann?

Senator Cormann: I have not looked at and my position has been put very clearly, in an effort to assist you.

Senator WHISH-WILSON: The analysis would be around the validity of deductions made by high-income earners and whether the system is being gamed by high-income earners and whether a floor, essentially, on deductions is a policy that is reasonable and would be looked at. Do you have any comments on whether you think high-income earners—

Senator Cormann: What will be looked at is not a matter for officials of either the tax office or Treasury. What may or may not be looked at is a matter for the government. The way this process works is that for policy proposals to be developed—any policy proposal—there is a generic bit of advice on the process. For any policy proposal to be developed for consideration in the budget context there has to be policy authority, which involves the Prime Minister and authority through the Expenditure Review Committee.

It is only after such authority, in a general sense, across the board has been received that further work will be done to develop options in relation to any particular area. It is not a matter that officials of Treasury or the tax office can assist you with in the way that you are framing the question.

Senator KETTER: I would like to start with Revenue Group, in relation to working on the issue of capital gains tax reform. Have you done any work in relation to the capital gains tax discount, perhaps in relation to options to reduce the discount?

Ms Mrakovic: The issues around capital gains tax and negative gearing have been around for quite some time. They were obviously issues that I know were aired, discussed, in Henry in detail. They were also issues that were raised in *Re:think*. So, in terms of work on issues such as capital gains tax and negative gearing, I would make the same answer that I did to Senator Whish-Wilson, which is that if it goes to matters of the tax system then essentially we are doing work; we are thinking about those issues. Certainly, as I said, they were raised in the *Re:think* document.

Senator Cormann: Let me assist you as well. You would be very well aware that the government went to the last election promising not to make changes to negative gearing and not to reduce the capital gains tax discount in the way that was proposed by Labor in the lead-up to the last election. We do not have any plan, any proposal, any intention to do anything other than act consistent with what we promised in the lead-up to the last election in relation to these matters.

Senator WHISH-WILSON: In relation to Labor's policy—

Senator Cormann: I know that people like you and others always like to dissect every comment. We have been very clear. We have absolutely no plans, no intention, to reduce the capital gains tax discount. We have absolutely no intention to abolish or change negative gearing.

Senator KETTER: My question is to Revenue Group. Have you been asked by the Treasurer or the Treasurer's office to do any such work in relation to the capital gains tax discount?

Ms Mrakovcic: In accordance with longstanding practice, I just do not want to comment on those issues.

Senator Cormann: We will take that on notice.

Senator KETTER: I am not asking you the nature of the advice; I am just asking: have you been asked to do something?

Senator Cormann: But I have taken this on notice and, as the chair read out at the beginning of our hearing again, officers—or, for that matter, the minister at the table—are always able to take questions on notice, and I have taken that question on notice.

Senator KETTER: I have a series of questions that follow from that. If you were asked to do some work by the Treasurer's office—

Senator Cormann: That is a hypothetical. As soon as you put in 'if', that is a hypothetical question and that is not something that—

An honourable senator interjecting—

Senator Cormann: Well, a sentence that starts with 'if' by definition is a hypothetical question.

Senator KETTER: But if you wish to take it on notice—

Senator Cormann: I am happy to take a series of questions on notice in relation to these matters, but I am just flagging with you that hypothetical questions are not something we can assist you with.

Senator KETTER: No, these are not hypothetical questions. They flow from the answer to the first question, and that is the difficulty. If there was a request to do such work, when were you asked to do that? Have you provided advice to the Treasurer or the Treasurer's office in relation to the capital gains tax discount and, if so, when did that occur? Ms Mrakovcic, are you familiar with Mr Coorey's article in *The Australian Financial Review* of 16 February?

Ms Mrakovcic: Yes.

Senator KETTER: Has Treasury worked on options to change the CGT discount with respect to property investment?

Ms Mrakovcic: I am going to take that question on notice.

Senator Cormann: As I have already indicated, and this is also on the public record: that story was false. It asserted the inclusion of certain measures in the May budget; there is absolutely no basis for that assertion whatsoever. The Prime Minister, the Treasurer and I have all been very explicit on this point. The government has got no proposal in front of it; we do not have any plans or intention to reduce the capital gains tax discount or to abolish or change negative gearing as it currently exists. So, to the extent that somebody briefed that particular story—I am certain that somebody will have had that conversation with Mr Coorey, but it was inaccurate. Can I give you a guarantee that nobody anywhere in the bowels of Treasury might have considered certain options? No, of course not. Treasury officials from

time to time would consider options and scenarios and policy options, but let me be very clear: there is no proposal by the government; the Expenditure Review Committee has not asked for a proposal; there is no plan; there is no intention to make the changes that were reflected in that particular article.

Senator GALLAGHER: With respect, Minister, that was not the question that was asked. The question that was asked was: has the Treasurer sought advice from Treasury on changes to the CGT arrangements?

Senator Cormann: That question was taken on notice and I provided further context in my answer, which—

Senator GALLAGHER: Questions on notice should be seen to avoid questions. I cannot believe that officers are not able to answer a question as simple and as straightforward as that. You are using that to avoid answering the question.

Senator Cormann: No. It is a matter for you as to what you can and cannot believe. I have sat on your side of the table and, let me tell you that, on regular occasion, Senator Wong or Senator Conroy took questions on notice when they wanted to ensure—I am confident that that was to ensure that the answer provided to opposition senators at the time was 100 per cent accurate. I am making the same decision now, that I want to ensure that the answers that are provided to you are 100 per cent accurate, and that is why we have taken it on notice. In that same context, I have also put very clearly on the record the government's position, which of course you already know.

Senator KETTER: I have two more questions on this issue and then I will hand over to one of my colleagues. Firstly, does Treasury discuss issues relating to taxation with the Department of the Prime Minister and Cabinet?

Ms Mrakovcic: Yes, we would have a dialogue with the Department of the Prime Minister and Cabinet on any number of issues.

Senator KETTER: Has Treasury been working with the Department of the Prime Minister and Cabinet on options to change the capital gains tax discount?

Senator Cormann: Now you go to the core of the things that we have already taken on notice, so we will just add that to that—

Senator KETTER: I was dealing with Treasury before. This is now—

Senator Cormann: We will just add that to the questions taken on notice.

Senator GALLAGHER: To avoid answering the question.

Senator Cormann: That is your assertion. It is entirely consistent with past practice of—

Senator GALLAGHER: [inaudible] able to answer that question, but you are not allowing them to do so.

Senator Cormann: Our approach is entirely consistent with the approach taken by the previous government.

Senator WATT: I have a couple of questions about the Bell Group matter.

Senator Cormann: Steeped in the history of Labor Party corruption in Western Australia.

Senator WATT: No, we are talking about the—

Senator Cormann: That is what we are talking about.

Senator WATT: No, we are talking about—

Senator Cormann: The taxpayers of Western Australia, the taxpayers of Australia are still paying the price for the deep-seated corruption by the WA Labor Party over many, many years. Tax havens—

Senator WATT: We know that the Bell Group scandal involves one side of politics and we also now know—

Senator Cormann: It involves the Labor Party. It involves the WA Labor Party. The WA Labor Party is fundamentally corrupt.

Senator WATT: You previously told the Senate you had not been involved in it and we found out that you had been.

Senator Cormann: You are misleading the Senate committee. You are actually misleading the committee. That is not an accurate representation.

CHAIR: Senator Watt, do you have a question?

Senator WATT: I would like to get to it.

Senator Cormann: I want to correct the record. Given the comment that Senator Watt just made, I want to just very clearly remind the committee that the questions that were asked last time—and I have copied this committee into a letter to that effect—by Senator Watt were whether a minister had contacted the ATO about legal advice having been obtained by the ATO from the AGS or the Solicitor-General about the WA Bell Group legislation and the potential constitutional challenge against that legislation. He also asked the ATO whether any concern had been expressed by any minister or their office about such advice having been sought. He also asked me directly whether I remember having any discussions with any other federal government ministers about that legislation or the decision of the ATO to intervene in that case. I can confirm that my evidence at the time was 100 per cent accurate. In that I said:

- The relevant decision by the ATO to intervene in the case against the WA Bell Group legislation was not something that I was involved in in any way;
- It was a decision that, appropriately, was made and progressed independently by the Australian Taxation Office.

Finally, I said:

... at the relevant time, I was not aware that the ATO was seeking or had obtained legal advice in relation to a potential constitutional challenge against the WA Bell Group legislation.

At no point did I ever discuss the issue of the ATO's or the Commonwealth's involvement in a potential constitutional challenge against the WA Bell Group legislation with other Federal Ministers or indeed with the ATO and I certainly was not involved in any discussions with WA or other Federal Ministers about any 'deal' not to challenge that legislation in the High Court.

That was the evidence I gave last time. Given Senator Watt again sought to verbal me, I stand by that evidence 100 per cent.

Senator WATT: Thank you for answering a question that I did not ask.

Senator Cormann: But you made an assertion that—

Senator WATT: Do I have the call, Chair?

CHAIR: You do have the call.

Senator WATT: Commissioner or Mr Mills, it might be most appropriate to direct this question to you. There have been different figures bandied around over the course of this inquiry about the exact amount of money that the ATO was seeking to recoup from the Bell Group of companies. I cannot remember the exact figures, but at different times I have heard figures in the order of \$300 million or in the high \$400 millions. I think it depends what set of figures you are talking about. Can you just remind us of that.

Mr Mills: I do not have the exact figures. I can give you estimates, if you like, and take on notice to give you the exact figures.

Senator WATT: Can you just give us the rough estimates.

Mr Mills: In rough terms, when it finally came down to it, we were looking at chasing in the order of \$400 million plus interest. Some of the interest added up to over \$1 billion because it ran over 20 years. That is the order of magnitude. However, there is not a pot of money in the Bell Group of that order of magnitude to cover our primary claim, our interest claim, the primary claim of other creditors and the interest claim of other creditors. So, in the end, we were looking for between \$300 million and \$400 million.

Senator Cormann: Which is a direct cost to the Bell Group liquidation and the cost that is still incurred by taxpayers both at a state and at a federal level. The fact that we have not been able to recoup that money yet is a direct result of the deep-seated corruption of and the corrupt decisions by a WA Labor government in the period from 1983 to 1993. As Western Australia goes to an election now, Western Australians should carefully reflect on the cost of more than \$1 billion that is still being imposed on Australia as a result of the corrupt decisions of a Labor government in Western Australia in the past.

Mr Jordan: I will just briefly reiterate how we went from that very high figure down because of the various parties. If we could get the actual primary tax that was levied, we would agree on our part of that multiparty settlement negotiation to take the primary tax rather than seek to recover that enormous other compounded interest over such a long period. That is how we got to that figure. It is the primary tax.

Senator WATT: I understand. I just want to pick up on one of the questions on notice that has been answered by the ATO as part of the Bell Group inquiry. In fact, this was a question on notice answered by you arising from a hearing of the House Standing Committee on Tax and Revenue on 1 December 2016. The question that you were asked was: was the ATO ever aware of a direction given by the Attorney-General or proposed by the Attorney-General not to intervene in the case? That case was the High Court action that occurred. The answer provided by the ATO was no. I would just like to rephrase that question slightly. Was the ATO ever aware of a direction proposed by the Attorney-General's office, as opposed to the Attorney-General, at any stage of preparation which would have prevented the ATO from intervening in the Bell High Court case?

Mr Mills: I do not recall. I will have to take that on notice and find out whether or not the people who were involved in the case were aware of it.

Senator WATT: Commissioner, are you aware?

Mr Jordan: No, I am not. Second Commissioner Mills and I have been at the specific inquiry on this. There have been a lot of questions and answers. I can simply say that we had a view around the course of action we should take. We did not deviate from that view. We

took that course of action. No-one sought to inappropriately or otherwise persuade us to discontinue from that view. So, whichever way you cut it, that is our position. We always had that view. Whether or not people were having discussions outside of us, no-one ever sought to inappropriately influence the course of action that we had, continued and did.

Senator WATT: Mr Mills, just to be crystal clear, you have never heard any suggestion that the Attorney-General or his office at any point requested advice on issuing a direction to the ATO to not intervene in this litigation?

Mr Mills: 'No' is the short answer. Even if I did, I think it would be, by the sounds of it, hearsay at best and a third-hand thing. But the short answer is no.

Senator WATT: I can assure you that I am asking similar questions of every participant in this, so do not feel like we are picking on you.

Mr Mills: No, it is just that we have had a lot of questions between us.

Senator WATT: We have. I remember them well. I would also like to direct you to some information that has been uncovered through freedom-of-information processes and an application made to the Solicitor-General. Some of the documents we have received mention the existence of a string of emails with the subject line 'Re Bell, Commissioner of Taxation request for advice from the Solicitor-General, referral to counsel assisting the Solicitor-General'. Those emails—and I am not suggesting that you were a party to those emails—bounced between the Attorney-General's office and the Solicitor-General's office. Among others, there were four emails that were sent between those parties between 6 March and 7 March. My recollection is that we cannot see the content of those emails. The content has been redacted. But we know those emails were sent and what the subject was. You have previously given evidence that you had already received advice from, I think, the Solicitor-General on intervening in this case on 2 March. My memory is that you did intervene on 8 March. So I am curious about this. If you had already received advice on intervening on 2 March, why would you need to be making a separate, fresh request for advice from the Solicitor-General a couple of days before the deadline for intervention?

Mr Mills: I swore an affidavit on either 7 March or 8 March. I would suspect that anything to do with it at that time would have been in relation to my swearing an affidavit for the interventions before the High Court.

Senator WATT: So you did not have any concern leading up to 8 March that the Attorney-General might try to block the ATO's intervention in that litigation?

Mr Mills: You may recall I previously gave evidence that I had a conversation with the Attorney-General at the request of the then Assistant Treasurer and now Minister for Revenue and Financial Services in relation to our actions on this. I advised him what we were doing. I believe that was on the evening of 7 March or maybe 6 March. Certainly it was around then. I think it was the Monday night of that week. That was it. I advised what we were doing and subsequently I swore the affidavit. There were just simply a number of things that were going on at the same time in relation to this matter.

CHAIR: Senator Watt, I will ask you to put any further questions on notice.

Senator BUSHBY: I thank the ATO and the Revenue Group for assisting us today. I also have some questions about capital gains tax but more from the perspective of compliance than policy changes. How does the ATO ensure that capital gains tax is actually paid?

Mr Olesen: That is a very broad question.

Senator BUSHBY: Specifically, do you have a dedicated group that checks stamp duty records and sales? How do you go through and make sure that—

Mr Olesen: Capital gains tax is all-encompassing. It applies to a lot of taxpayers. So, we have officers who focus on particular risks that the capital gains tax rules in general might present to the system. Their analysis of those risks would inform a whole range of teams about things that they might want to look at in the audits they are doing. Typically we would address particular risks through the audit teams that are looking at a taxpayer who presents a capital gains risk in the case we are examining. We get data from third parties that gives us insights into potential capital gains, that gives us more of a leverage to—

Senator BUSHBY: For example?

Mr Olesen: I have lost track of the detail, but we are getting some sale-of-property data.

Senator BUSHBY: So you do actually go looking for sale-of-property data?

Mr Jordan: You mentioned stamp duties. I think it is more around the state—

Senator BUSHBY: Sale records, sorry.

Mr Jordan: property titles, land titles offices.

Senator BUSHBY: Yes, but stamp duty would not be the value.

Mr Jordan: Yes. So, I think in conjunction with some of the initiatives around foreign, non-resident ownership of lands and so on, a system has been set up of reporting from the state land titles office of ownership of property, which has always been a bit of a problem for us in the past—to get relevant information.

Senator BUSHBY: Is that comprehensive, or risk based?

Mr Jordan: This has been very useful—

Mr Olesen: It will be comprehensive in the end.

Senator BUSHBY: So you would be able to know—

Mr Olesen: We will have access to—

Senator BUSHBY: for the ATO to ensure that everybody who is selling a second property or an investment property and some other assets—

Mr Olesen: My understanding is that we will have access to real property changes—

Senator BUSHBY: Yes, but real property—you can check that everybody who is liable for a capital gains tax obligation is actually meeting the obligation that they—

Mr Olesen: Well, we will have information about the transfer of title of a property. To work out a capital gain you need a bit more information than that. But it is a good starting point.

Senator BUSHBY: That is right, because it sparks off a—

Mr Jordan: Over time this will be very useful information to us, as will stock exchange information regarding share trading, provided that we can appropriately identify the shareholder, because they have a PIN or whatever it is called for the stock exchange, and one of the potentials of this blockchain technology is to identify a person associated with an asset. And it would be very useful to get feeds of that, because then you would have all the share

trading activity. We would all have the land titles office. That would then cover, for most people, the type of capital gains, either on shares or on real properties. So, that would be a very useful forward planning—

Senator BUSHBY: You used the word 'forward'. Would it be correct to say, then, that up until now most of the ATO's compliance on this has been relying on self-reporting by the taxpayer with risk based audits?

Mr Jordan: Yes, and in terms of that, we often focus our attention on specific things. We might look at who owns expensive cars, who owns boats, who owns ski lodges and who owns different types of assets and then cross-check that. But this whole area is such a big, emerging area of our lifestyle spending, and income-reported matching is a huge focus for us in our data analytics area right now.

Senator BUSHBY: It sounds like you are taking a lot of positive steps to actually address potential revenue leakage in this area.

Mr Jordan: Absolutely.

Senator BUSHBY: Have you done any assessment of what you might have been missing out on?

Mr Olesen: Not specifically on capital gains tax. As you might be aware, we are doing some work around measuring tax gaps generally. That will be inclusive of the extent to which we are not collecting capital gains as a part of the tax base. I doubt that we will be able to tease out exactly what component of the tax gap relates to capital gains in the first round. But as we get more sophisticated over time that is a long-term potential. So, that is the key piece of work through which we are trying to identify taxes that are not collected, if you like.

Senator BUSHBY: But I presume that in respect of capital gains tax the fact that you are taking these proactive measures to improve your information gathering—

Mr Olesen: Correct.

Senator BUSHBY: and your information match and so forth—data match—suggests that you do think that there has been leakage in this area?

Mr Olesen: Again, it is a difficult question. There is leakage in all—

Senator BUSHBY: You do not know what you do not know?

Mr Olesen: In all of the system that we administer, there are bits that we do not collect, and I think capital gains is no different and quite possibly a bit worse than some other parts of the system.

Senator BUSHBY: You say it quite probably is worse?

Mr Olesen: It could quite possibly be, but it is speculation, really.

Senator BUSHBY: The reason I am asking—there are no particular incidents that are prompting my asking—is that it just seems to me that it is an area in which people may become liable to pay tax because up to now it has significantly relied on self-reporting and there is a potential for people who are not necessarily as keen to pay taxes as they should be to not pay them.

Ms Olesen: Sure, but it is not the only part of the system that can be like that.

Senator BUSHBY: No, I am sure it is not, but it is a lot harder with income tax. It is even a lot harder with company tax, which we have talked about today—because the records are there.

Mr Olesen: That is right.

Senator BUSHBY: But in this case, in the absence of the ATO knowing what purchase prices were, and sale prices and all those sorts of things, you do not necessarily know up-front that there is an obligation to pay.

Ms Olesen: No, but I would just say generally that we run a self-assessment system, so the whole system is on the basis of people properly declaring the taxes that they owe. And we run a risk based approach to checking as best we can and in as balanced a way as we can that the correct taxes have been paid, and capital gains is certainly part of that landscape.

Senator BUSHBY: I have a final question on that. Have you actually prosecuted anybody for not disclosing in the capital gains tax area and, if so, how many?

Mr Olesen: I would have to take that on notice.

Senator BUSHBY: That would be fine. Actually, I have one more question on this. Would you be able to give me, for over the last five years, on notice, the capital gains tax collections of the sale or rental and/or second homes held by Australian resident taxpayers, and do that breakdown by state, if you can?

Mr Olesen: I am happy to take that on notice.

Senator BUSHBY: That would be great. Now, another question, and this one came to me because I was approached by a small business owner: is it the case that a person involved in a small business, having put in their tax return and expecting a refund, could be told that their refund has been applied against a future owed Pay As You Go obligation?

Mr Jordan: Not necessarily future.

Senator BUSHBY: Well, one that is not due yet?

Mr Olesen: I am happy to take on notice to check the detail of that, but not against a future—perhaps against an existing, current liability, on another head of revenue. That would not be unusual.

Senator BUSHBY: The facts as put to me were that this particular person completed her tax return, was expecting a refund at the end of November or December. When it did not arrive she queried with her accountant and was told that the tax office had informed the accountant that rather than sending the return to her they used it to pay off her next quarterly Pay As You Go, which was not due until the end of February.

Mr Jordan: That does not sound right.

Mr Olesen: We are happy to look at the details, though, if you would like to give us the paperwork.

Senator BUSHBY: Will do. On a different matter, you would be aware of a report in *The Australian* on 11 February 2017 titled 'Funding crash as foreign investors retreat'. Is that something you are aware of?

Mr Olesen: No.

Senator BUSHBY: Would Revenue be aware of that article?

Mr Raether: Yes, we are aware of the article. Our markets group colleagues have a foreign investment division, if you want to ask questions about the history of foreign investment.

Senator BUSHBY: I might leave that one, then. We have had some comments already about measures that the government has taken to address, effectively, moves by companies to avoid paying taxes. I am interested in the diverted profits tax and how we are dealing with that. I think it is probably for Revenue, but could you explain to me how the diverted profits tax will work and the types of companies that will fall into the arrangement?

Mr Raether: The diverted profits tax applies to what the legislation describes as significant global entities—that is, global entities with a global income of \$1 billion or more annually. They are also required to have Australian sourced income of over \$25 million. And it is targeted at companies that are using artificial and contrived arrangements to divert profits offshore. That is why it is called 'diverted profits tax'.

Senator BUSHBY: How does that differ from measures that were put in place to deal with transfer pricing and other things? Why is this one different?

Mr Raether: You might be aware that at the moment the tax law has a general anti-avoidance provision, part IVA, that the Commissioner of Taxation is able to rely on where taxpayers have a sole or dominant purpose of avoiding tax. So, if you like, the diverted profits tax is not meant to replace things like transfer pricing and other normal provisions in the tax law. But it does give the Commissioner of Taxation a significant new power where there is a principal purpose of avoiding tax through these types of contrived arrangements.

Senator BUSHBY: So, it adds to the suite of measures that the government has in place, which adds to those that were already in place. The government has certainly put in a number of measures, which are aimed at ensuring that companies operating and earning profits in Australia pay the taxes that they should legally pay in Australia.

Mr Raether: That is right. The Tax Laws Amendment (Combating Multinational Tax Avoidance) Bill, which includes the diverted profits tax, for example, also includes an update to the transfer pricing provisions for the 2015 update, which makes sure that they remain world's best practice to deal with things like intangibles and sort of contemporary examples where multinationals are trying to avoid tax. In my own division there is a lot of work that Treasury, on behalf of the Australian government, has done through the base erosion and profit shifting agenda, through the OECD, and things like country-by-country reporting, which gives the ATO, along with other tax authorities, access to data about the particular entities that they have offshore and their dealings with offshore entities, as well as domestic initiatives like the diverted profits tax and the Multinational Anti-Avoidance Law.

Senator BUSHBY: In respect of the DPT, what time line do companies have in order to pay the 40 per cent penalty tax if they are caught diverting their profits illegally?

Mr Raether: There is a whole procedure for administering the tax. Generally it is envisaged in the legislation that the ATO will engage with the taxpayer early about its intention to issue an assessment. There is then a 12-month review period wherein the taxpayer can engage with the commissioner and provide further information. It may well be through that process that an amendment to their normal income tax assessment is raised. And that is really part of the policy intent of the DPT—to create greater openness with taxpayers and the

ATO. So, it may be an amended assessment with their normal income tax obligations. Or, ultimately, after that 12-month period, the commissioner may choose to raise a DPT assessment.

Senator BUSHBY: When does the 40 per cent penalty tax come in?

Mr Raether: Sorry—to be clear—the 40 per cent tax is payable up-front as an incentive for greater engagement by the taxpayer with the ATO. And then to the extent that an amended assessment occurs, there is a reconciliation between the DPT and the normal income tax to make sure that there is no double taxation.

Senator BUSHBY: So, how does Australia's introducing the DPT compare with the measures introduced by other countries—for example, the United Kingdom's Google tax and the like?

Mr Raether: Australia and the UK are the two jurisdictions internationally that have introduced a diverted profits tax. In the Australian context, as I mentioned, the Multinational Anti-Avoidance Law, or the MAAL, forms the first arm of the UK's diverted profits tax. And in our context we have the MAAL, and what we call the diverted profits tax is related more to those types of transfer pricing cases, for example, that you were mentioning.

Senator BUSHBY: I have only one more question. I have a whole heap here on the MAAL—Multinational Anti-Avoidance Law—and also on the Tax Avoidance Taskforce. So, maybe you could answer one question where you provide a summary of what we are also doing under the MAAL and the Tax Avoidance Taskforce—which may well be a question for the ATO.

Mr Raether: Yes, on the Tax Avoidance taskforce the ATO would be in a better position, because that—

Senator BUSHBY: I will put it out there as one question, and then—

Ms Mrakovic: I think the experience with the MAAL is also something best taken up by the—

Mr Jordan: Yes, with Jeremy Hirschhorn of the public group. But the MAAL has been extremely effective in engaging taxpayers and changing behaviour. Most effective taxpayers realise that they need to change to book sales here in Australia, and we are progressing well in terms of quite a distinct and positive change in behaviour with respect to the MAAL. In my opening statement for the tax avoidance task force I mentioned how we are progressing well on those seven large cases that we think we will finalise by 30 June and will raise around \$2 billion in liabilities. Some are settled and some will potentially go to court. Is there anything extra, Jeremy? I think from your perspective it has been very positive.

Mr Hirschhorn: Yes. I think the MAAL has been extraordinarily effective. We have previously said that we identified 175 companies potentially in scope of the MAAL. We have engaged with pretty much all of those companies. We have confirmed that 90 or so are not within the MAAL, which leaves about 80. Of those we are looking closely at about 70 companies where we think there is a MAAL operation or there is a medium-to-high risk of a MAAL operation, so we are doing specific review activity. There are about 25 companies that have already changed their models to acknowledge a taxable presence in Australia and so will be paying tax in Australia on their selling activities in Australia. That behaviour is clearly influenced by the introduction of the MAAL. As the commissioner said, we are engaging

closely with some very significant companies not just in relation to the post-MAAL phase but in relation to whether they had a taxable presence in Australia before the introduction of the MAAL.

Senator BUSHBY: One final question: there has been reporting which you would be aware of over the recent months about large Australian companies with huge turnovers that do not pay any tax in Australia. Are any of those companies caught up in those companies that you mentioned, basically because they were not paying tax because of these arrangements, and now will be paying tax?

Mr Hirschhorn: There will be an effect on the published tax data as a result of the MAAL. The companies which are already on the list are those companies which have disclosed income in Australia historically of more than \$100 million or \$200 million. So those companies have already acknowledged a taxable presence in Australia. What the MAAL will do is that some of these companies which have not previously acknowledged a taxable presence in Australia will now be incorporating Australian subsidiaries, returning the income in Australia and will now start appearing on that list.

Senator WILLIAMS: Let's go gold digging. Could you please give the committee a progress report on Operation Nosean? How much money has been recovered? Have any criminal charges been laid?

Mr Olesen: Mr Dyce is here. While he gets comfortable perhaps I will give you the headline. We have raised in the order of \$700 million worth of liabilities in connection with these schemes.

Senator WILLIAMS: You have raised?

Mr Olesen: We raised that in liabilities.

Senator WILLIAMS: So you are saying you have recaptured \$700 million that was rorted?

Mr Olesen: That is liabilities; not necessarily the amount we have collected yet. Some of that is in dispute.

Senator WILLIAMS: So you are saying about \$700 million is owing to the ATO, you think.

Mr Olesen: \$700 million worth of liabilities. Some of that is subject to dispute and we will not be seeking to collect that while we are going through the court process. Some of it has been collected already. In addition to that we have a range of audits that we are continuing to work through. In addition we have some refunds we are continuing to hold that would otherwise have been due. We think we have a grip on the issue to the extent that we have introduced a voluntary reverse charge mechanism earlier this year, and we have released a new tax determination on second-hand goods. That seems to be reverting refund arrangements in relation to the gold industry back to the kinds of levels seen earlier rather than in this most recent period.

Senator WILLIAMS: Mr Dyce, do you have something to add?

Mr Dyce: Yes, thank you. The second part of your question was in relation to what more serious actions might have unfolded. We have referred one brief of evidence to the Commonwealth Director of Public Prosecutions.

Senator WILLIAMS: Good.

Mr Dyce: I will give you some specific details; I know you want that. That affects two people. We have eight other referrals that are currently being assessed that affect 11 people, with a view to hopefully referring those to the Commonwealth Director of Public Prosecutions.

Senator WILLIAMS: Another eight in total you may refer to the DPP?

Mr Dyce: Yes.

Senator WILLIAMS: Good.

Mr Dyce: We have also had one referred to and accepted by the Serious Financial Crime Taskforce. I will give you a breakdown of what that referral relates to. It relates to six different, let us call them, chunks of individuals or groups—three syndicates—there are a number of people involved in each of those syndicates—one refiner, one gold bullion dealer and one associate of a gold bullion dealer. There are a number of entities now that are currently under very active examination by a range of Commonwealth agencies; some are already with the Commonwealth Director of Public Prosecutions and others at different stages with other organisations. Those numbers do not duplicate either. They are all different people.

Senator WILLIAMS: You have done well.

Mr Jordan: I think also there was a recent AAT case—

Mr Dyce: Yes.

Mr Jordan: that we were successful in, so that was a nice expose of the sort of scheme, and the finding was in our favour.

Mr Dyce: It confirmed the commissioner's view about the inappropriateness of the arrangements.

Senator WILLIAMS: The ATO would be aware that from 2011 to 2016, scrap gold market turnover in Australia grew from \$150 million a year to \$1.8 billion a year. Since you have withheld the GST, there has been a significant drop again. Is that correct?

Mr Dyce: That is correct.

Senator WILLIAMS: That clearly shows the scam, doesn't it?

Mr Jordan: If I recall accurately, there was a newspaper article—I think an AFP-type situation—where they talked about two foreign students—

Senator WILLIAMS: Was it two or three? I thought it was three.

Mr Jordan: Maybe it was three; maybe you know the article, Senator.

Senator WILLIAMS: Gold-diggers—they were very busy!

Mr Jordan: They picked up investment-grade gold on a Tuesday—

Senator WILLIAMS: Bullion?

Mr Jordan: The bullion, yes. They took it to the house, redid it to rough it up—

Senator WILLIAMS: They smashed it up a bit?

Mr Jordan: and smashed it up a bit. And they took it back on a Thursday for them to refine it back into investment grade. And so this is the carousel; they just kept going around.

Senator WILLIAMS: How long did those students do that for? Do you have any idea—12 months, or was it longer?

Mr Jordan: It was so blatant, that Tuesday and Thursday—

Mr Dyce: Not long periods of time, because what was happening in the industry was people were coming in and going out, coming in to the country even, and going out of the country.

Senator WILLIAMS: Does it show that the refineries were working with some of these shonks, if I can call them that?

Mr Jordan: Our impression is that it would be very difficult not to know what was going on when a couple of foreign students turn up every Tuesday and Thursday—

Senator WILLIAMS: Familiar faces come in every few days with damaged bullion—

Mr Jordan: and buy this extraordinary amount of gold, and then sell it back to them two days later.

Mr Dyce: We have certainly said to the industry that they should know their supply chains—

Senator WILLIAMS: Of course they should.

Mr Dyce: and we expected that they should have known their supply chains, and possibly did.

Mr Jordan: It was uneconomic, by the way—if you included GST to be remitted to us, the economics did not make sense. The only way it worked was to not remit the GST and split the price, sometimes between the refiner—'I got a good deal on the purchase of this gold'—and the people that then roughed it up and put it into a different state. That is the implication.

Senator WILLIAMS: If the shonks and the refiners got together, it may have been the case that there was no gold; there was just a piece of paper changing hands.

Mr Jordan: That is an issue that is relevant to our inquiry.

Senator WILLIAMS: It could have happened, couldn't it? I am going to ask you a scary question—have you seen any signs that the profit from these gold-laundering criminal activities has gone overseas? I am asking that question because I am wondering, has there been any sign of the profits from this whole scandal feeding to places like the Middle East or Syria, or anything like that?

Mr Dyce: Senator, we have not seen any evidence of that. It might be a question you need to ask other agencies perhaps, but we have not seen evidence of it.

Senator WILLIAMS: Do you work with other agencies to chase that up?

Mr Jordan: I understand that there was some evidence of an organised crime syndicate actually financing the carousel and then taking the cut—the 70 per cent of the 10 per cent—and they were organised criminal syndicates who actually ran the scheme. And that is where we say—the refiners—it is very difficult not to understand how they went from \$150 million in the market to \$1.8 billion in a matter of four years.

Senator WILLIAMS: A big improvement in production, isn't it?

Mr Jordan: Money for jam apparently.

Mr Dyce: It has moved back significantly though.

Senator WILLIAMS: Since you have jumped on it—that is very good. My concern was that there might be terrorist groups tied up with this and money was leading to the last places we want money to go. Obviously you will work with the agencies to see if you can trace any of that and work it out.

Mr Jordan: Absolutely.

Senator WILLIAMS: Good on you for your good work. Now what is the solution? I suggested to the Treasurer that he remove GST off gold except the finished product because then you could not scam the GST through its processing systems. He paid a lot of attention to that. What is your solution to stop this happening again? It happened in the UK and Europe. It has been a scam going on for a long time.

Mr Jordan: We are looking at those proposals in terms of what is called a reverse charge, so there is a netting off at the refiner level. They are not paying GST to the missing person and then selling it GST free; they actually net the two off within themselves.

Senator WILLIAMS: Hence the ATO is not turfing money out in big volumes.

Mr Dyce: Absolutely.

Senator WILLIAMS: So that will be the solution? That is working obviously.

Mr Dyce: It has worked in other jurisdictions. It is similar to what we have implemented at an administrative level. So far industry are happy that it allows them to operate on legitimate business.

Senator WILLIAMS: Just the honest people in the industry, Mr Dyce. The dishonest people would not be happy at all.

Mr Dyce: Yes, and the ATO is happy because risks are being much better managed by industry as a result of this.

Senator WILLIAMS: We are talking \$650 million or \$700 million and perhaps \$1 million being laundered that should have been going to the states to run their schools, hospitals et cetera. That is where the GST goes.

Mr Dyce: It is a large amount of money and we are working very hard to recoup as much of that as we possibly can, as Mr Olesen said.

Senator WILLIAMS: You are probably like politicians in that you do not get much praise, but thank you for your good work and good luck in the future.

Mr Dyce: Thanks, Senator.

CHAIR: We will break for 15 minutes.

Proceedings suspended from 16:02 to 16:17

CHAIR: The committee will resume. We will resume consideration of the Treasury portfolio, with questions continuing for the Department of the Treasury Revenue Group, the Australian Taxation Office and the Australian Charities and Not-for-profits Commission. We will start with Senator Roberts. Senator Roberts, I understand that you want to table a document.

Senator ROBERTS: Yes, with subsequent questions.

CHAIR: The committee agrees to table that document. Go ahead, Senator Roberts.

Senator ROBERTS: Thank you all for being here. After visiting Queensland last week and south-west Queensland, I saw just how important taxation is in this country. I think it is the biggest issue facing us. Having said that, and because I could see the damage being caused by a very old taxation system, I want to ask a couple of simple questions. What was the top marginal rate for personal tax and corporate tax in Australia from 2004 to 2016?

Ms Mrakovic: We will take that on notice.

Senator ROBERTS: Okay. Secondly, how internationally competitive is Australia on tax, noting that large tax cuts are flagged in the USA and in Britain as well as criticism from the IPA that it is a myth that Australia is a low-tax country? In other words, how do Australia's taxation rates compare with major developed nations and our competitors?

Ms Mrakovic: That is a very broad question. I think some of it was answered earlier, but let me just go to the salient points. Within the tax system there are different types of taxes. Obviously there is personal tax and corporate tax and then indirect taxes—the most notable of which is obviously the goods and services tax. I am limiting my answer to the Commonwealth level of taxation. On the corporate tax side, the data seems to suggest that the OECD average corporate tax rate is around 25 per cent. That compares with Australia's corporate tax rate of 30 per cent. So, relative to other OECD countries, our corporate tax rate is quite high—certainly at the current 30 per cent. The government's announcement in the 2016-17 budget is designed to reduce the corporate tax rate to make it align with the current OECD average.

As you have pointed out, there have been a number of announcements in other countries, including in some OECD countries, around reducing the corporate tax rate. The most recent and perhaps most significant of those is the conversation that is currently happening in the US around the new President's reference to lowering the corporate tax rate, and we have seen in the press figures 15 per cent referred to. We have also seen some discussion around perhaps what you might call more radical moves to things like a destination based cashflow tax, which is actually approaching the issue of taxation in a somewhat different way.

Regardless of whether we are talking about a significant reduction in the corporate tax rate under the existing system to something like 15 per cent or discussing moving to a destination based cashflow tax, or border adjustment tax, as it is called, this is quite a significant reduction in the level of corporate taxation, and it certainly raises issues around the competitiveness of Australia and the implications for Australia of such moves. We are already seeing that play out in the rates in the UK, which I believe are currently at 20 per cent.

Mr Raether: The UK is currently at 20 per cent and has plans to go to 17 per cent. I think Theresa May has a broad aim of perhaps going even lower.

Senator ROBERTS: Could you just describe very quickly—I do not need an explanation of it—the alternative tax system you talked about?

Ms Mrakovic: The destination based cashflow tax?

Senator ROBERTS: Yes.

Ms Mrakovic: It is a really interesting concept actually. It essentially incorporates two ideas. One is the cashflow tax. In that you are essentially allowing for immediate deductibility of all capital expenses. That compares with the current more classical tax systems which

basically make an allowance for depreciation or you essentially are allowed to deduct the capital in line with depreciation. The other component of it is destination based. Most corporate income tax systems are sourced based. It is where the goods are actually produced. A destination base basically transfers the focus to where the goods and services are consumed. So, between those two components, it is quite a radical change in the way that tax systems operate. We are not aware of any large countries that have gone down that road.

Senator ROBERTS: And, obviously, the GST has proven that there are alternative ways to capture tax.

Ms Mrakovcic: Indeed. One of the other issues for Australia is that if we rely more heavily on corporate tax relative to other OECD countries, our reliance on indirect taxes—specifically things like the GST or, in other countries, VAT systems—as a share of total revenue and as a share of GDP is significant less in Australia than in other countries.

Senator ROBERTS: I was not advocating for a change to the GST; I was just saying that it is proven that we can levy tax or collect tax in a different way than was traditionally the case.

Ms Mrakovcic: That is correct.

Senator ROBERTS: Which opens up possibilities.

Ms Mrakovcic: The destination based cashflow taxes are sometimes referred to as being very similar to a value-added tax with an allowance for credits for labour.

Senator ROBERTS: Thank you. My third question is: could a large decrease in Australian tax rates, even in the shorter term, lead to more government revenue due to a large increase in economic growth? President Kennedy proved that in the 1960s and there have been other times throughout history.

Ms Mrakovcic: It is certainly a concept that is flagged in the literature. Generally, there is a view that if you have a tax increase you gain more revenue and if you reduce taxes essentially there is a cost to revenues. The issue then revolves around: what is the behavioural response? How do economic agents react to that change in tax rates? By and large, there is an expectation that that behavioural change will offset some of the impact. Hence, where we talk about the 10-year cost of the corporate tax rate in Australia being around \$48 billion, we talk about that as being a first round effect, not taking into account the impact on economic growth, which substantially reduces that cost over the longer term. Whether or not you can have an increase in economic growth of the magnitude that essentially allows you to raise revenue—it is not impossible, but it is highly unusual; there have certainly been some cases where that has been highlighted. I have to say, we would not expect it. It would not be a general expectation.

Senator ROBERTS: My understanding is that President Kennedy reduced the tax rate and increased the tax take in the 1960s. That is significant. And, of course, you have already talked about the other factor right now: that if President Trump lowers his tax rate we may be forced to, otherwise we may see a flight of business—and then we will get lower tax.

Ms Mrakovcic: Indeed. It will be very interesting to see what the true cost is, because people have flagged that, in fact, you could be talking about quite a substantial cost to revenue of the proposals. The true cost will only really be known once you see what kind of

behavioural change and economic impact, in terms of investment flowing into the US, occurs. It may very well partially offset that.

Senator ROBERTS: Or completely offset it. I have a lot of respect for Senator Williams, and he highlighted some of the complexities and inefficiencies in the current tax system. I also have friends in the ATO and friends who have worked in the ATO, and it is very, very complex. So, in general, it would seem to be that simpler and lower may be more effective and more efficient.

Senator ROBERTS: I refer to section 11(b) of the Charities Act 2013, which excludes charities from promoting or opposing a political party or a candidate for political office. Are you aware of this provision of the act?

Ms Pascoe: Yes.

Senator ROBERTS: I understand that on 16 April 2016, or thereabouts, the charities commission gave advice to registered charities reminding them of their obligations under this section. Is that true?

Ms Pascoe: Yes.

Senator ROBERTS: Do you stand by this advice?

Ms Pascoe: Absolutely.

Senator ROBERTS: Is it correct that the charitable status of Catch The Fire Ministries has been revoked?

Ms Pascoe: Yes. I will pass over to my colleague David Locke, who has been overseeing the area of compliance. Murray Baird oversees the area of political advocacy.

Mr Baird: Catch The Fire Ministries was revoked on 13 January 2017.

Senator ROBERTS: Can you explain to the committee why it was revoked?

Mr Baird: Regrettably, I cannot. Having regard to the secrecy framework, the ACNC is not able to publish its reasons for decision.

Senator ROBERTS: What part of the Charities Act was contravened by Catch The Fire Ministries?

Mr Baird: Again, I am unable to explain the reasons for the decision.

Senator ROBERTS: So, would the registered Neo-Fascist charity—or so-called charity—the Australia Institute, which has got the ABN 90 061 969 284, have received the advice which your colleague Ms Pascoe confirmed?

Mr Baird: It was widely published on our website and drawn to the attention of all the registered charities on the register.

Senator ROBERTS: I refer you to an email sent by the Australia Institute dated 28 February 2017, which has been tabled to the committee. Have you seen that?

Mr Baird: I have not seen that. There is a sheet from the Australia Institute concerning the re-emergence of One Nation reshaping Australian politics.

Senator ROBERTS: In the interests of time, perhaps I can put these on notice. But, just to give you some background, as you can read, this Neo-Fascist organisation has sent this email asking for donations to complete research into Pauline Hanson's One Nation Party with

clear intent to oppose our political party and political candidacy. One article by the Neo-Fascist Australia Institute was published today about a member of my staff in *The Guardian*, a fake news outlet. It was a vile hit piece with 39 errors with the intent to oppose our political party—

Honourable senators interjecting—

CHAIR: I think we are going a little bit too far here, Senator Roberts. If you have a question for the group, that is one thing, but I do not think we need the editorial that goes with it.

Senator ROBERTS: Thank you, Chair.

Senator DI NATALE: Chair, point of order!

Senator ROBERTS: Is this email a breach of the act in that, if it opposes a political party—

CHAIR: If it is a question about tax, then that is appropriate.

Unidentified speaker: No, it is what he is saying: Neo-Fascist.

Senator DI NATALE: Point of order! It is referring to an organisation that is not here as Neo-Fascist.

CHAIR: That is what I said, we do not need the editorial that goes with it. Senator Roberts, withdraw.

Senator DI NATALE: I would ask Senator Roberts to withdraw that accusation.

CHAIR: Senator Roberts, I think that is actually fair and reasonable. Could you withdraw that description?

Unidentified speaker: He did it three times.

Senator ROBERTS: Okay, I will refer to it as the Australia Institute.

Unidentified speaker: Yes, and that is what its name is.

Senator ROBERTS: It was a vile hit piece with 39 errors, with the intent to oppose our political party and a candidate for office. That is clear. Is this email a breach of the act in that it opposes a political party and/or candidate for office?

Mr Baird: The first inquiry we would make is whether the Australia Institute is on the charities register. If it were and if we have concerns expressed, either formally or informally, we would examine the situation to see whether there was a contravention of the act.

Senator ROBERTS: What sanctions could the commission impose on this organisation?

Mr Baird: There would be a number of sanctions if it were what is known as a federally regulated entity, which is a constitutional question. But, in all cases, the ultimate sanction would be revocation of charity status, if it were on the register.

Senator ROBERTS: That has answered the next question. Could the commission require this organisation to refund donations it has already received?

Mr Baird: The commission only has specified powers in its act. It would not have those powers. An application might be made to a court in relation to those matters, but the ultimate sanction really is revocation and removal from the register, which is the gateway to tax concessions.

Senator ROBERTS: I take it now you will be able to investigate this.

Mr Baird: We welcome concerns expressed about charities on the register, and we take all concerns seriously.

Senator ROBERTS: This will suffice to be a complaint for you to act.

Mr Baird: We would prefer if a detailed concern was sent to our office, but now that it has been drawn to our attention, we will take it seriously.

Senator ROBERTS: Thank you.

Senator SIEWERT: I have some questions for the ACNC. I am particularly interested at the moment in looking at the review of the Australian Consumer Law and the proposals to clarify fundraising. Have you looked at those proposals? Have you made a submission or been involved in those discussions?

Mr Locke: Yes, we made a submission to the review of Australian Consumer Law. The essence of our submission was that we thought that this would be a very positive and useful vehicle by which to regulate fundraising, and our view was that a number of the provisions in the ACL already apply in respect of fundraising, so we welcomed the opportunity to make that submission and we thought it was a positive way forward.

Senator SIEWERT: At the moment, have you done any work on or do you know what percentage of charities are currently compliant with all the national and various fundraising rules that operate around Australia?

Mr Locke: We do not know precisely, but we do believe that there is a high level of noncompliance. Certainly, what we do have are details of the registered charities that have told us through their annual information statement that they are operating in a particular state, and we also know from the state government the number of organisations in each jurisdiction that have a fundraising licence and what percentage of those are charities as well. Certainly, a piece of work that Queensland University of Technology have done—mapping, for example in Queensland, the charities with fundraising licences against the ACNC data—shows a significant discrepancy. So we have approximately 10½ thousand charities that say they are operating in Queensland: 2½ thousand, we understand, have fundraising licences. One would assume from that there are a number of those 8,000 that actually are operating without a licence. I think that would be a fair assumption.

Senator SIEWERT: And that is in Queensland.

Mr Locke: And we understand that picture is pretty similar, really, across the country, although we have not done that mapping work. But certainly, when we look at the numbers of charities in different jurisdictions that have fundraising licences, it is a similar sort of discrepancy.

Senator SIEWERT: Thank you. I have some questions that I will put on notice, but I would like to follow this issue for a little bit longer. Do you think ACNC has a role in looking at the compliance around fundraising, given the other work that you are doing around compliance?

Mr Locke: Certainly the proposal is that this would continue to sit with state jurisdictions. But there will be issues where the activities of the organisation could be in breach of the governance standards. Really, we regulate according to the governance standards and the

ACNC Act, and the states regulate fundraising. I think the proposal, if the Australian Consumer Law applies, is that the state fair trading and consumer affairs offices would regulate that, as they regulate other activity under the ACL. But clearly, if there are governance failings or breaches in relation to fundraising, then we may be regulating those. And we clearly need to work with each state to ensure that we are not duplicating, and are joined up.

Senator SIEWERT: Would the proposals that are being floated—the changes to the Australian Consumer Law—assist you in that process?

Mr Locke: If this were to be taken up, it would lead to a very significant reduction in red tape for charities. And we think that the ACL would enable state regulators to be able to address issues of abuse in fundraising successfully as well. But they would not have to rely upon the licensing and reporting regime that is in place at the moment that causes so much of the headache and red tape.

Senator SIEWERT: Thank you. I will put the rest of my questions on notice.

Senator KETTER: Firstly, I have a question to Revenue Group in relation to the issue of GST and the low-value threshold and changes that have been introduced there. I am interested in the thinking behind the removal of the \$1,000 threshold for the imposition of the GST. Previously, the Productivity Commission has recommended that the threshold not be lowered until it is cost-effective to do so. Can you tell us what factors have changed since the PC report?

Mrs Purvis-Smith: The \$1,000 threshold is not actually being removed. The \$1,000 threshold is remaining and, in conjunction with the \$1,000 threshold, there is another system being put in place. When this was first looked at by the states and territories and the Commonwealth, different models were looked at, and there was in-principle agreement, very initially, for a vendor registration model. A vendor registration model was agreed to because it does not stop things at the border. By maintaining the current system with a \$1,000 threshold, and then for goods below \$1,000 having a separate vendor registration model—where the GST must be applied by the vendor when the consumer purchases the good—it allows that to be done in an efficient way. There was some work on different models. There was a Productivity Commission report, I think, that said that if you implemented a system whereby you mirrored the current system of charging GST at the border, then the cost of implementing that system would outweigh the revenue that would be gained per good. And so the model that was decided upon was not to stop things at the border, to maintain the \$1,000 threshold—for that system to remain in place—and, in conjunction with that, implement a separate system which is a vendor registration system.

Senator KETTER: Can you just explain how the tax is collected under the vendor registration system?

Mrs Purvis-Smith: A vendor registration system would mean that overseas suppliers of goods below \$1,000 would need to charge GST upon sale of the item. Consumers would then pay for the GST when they purchase the good online, and then the GST would be remitted to the ATO by the suppliers and by the vendors.

Senator KETTER: Were there are other collection models considered, such as looking at the logistics companies? I understand there are only about half a dozen logistics companies in

Australia that are involved in the delivery of goods purchased online: did you consider using them in that process of tax collection?

Mrs Purvis-Smith: There were a range of models investigated and looked at when the vendor registration model was decided upon. The vendor registration model was decided upon because it was thought to be one of the most efficient ways of collecting the GST.

Senator KETTER: There is an argument to suggest that it is simpler to collect GST from half a dozen logistics companies—rather than from potentially thousands or tens of thousands of companies overseas where we have no jurisdiction.

Mrs Purvis-Smith: There are pros and cons of every model. I think one of the benefits of the vendor registration model is that consumers will be paying it at the time. It does not stop things at the border, and one thing that was given thought to was to make sure that goods flowed across the border and flowed to consumers without a bottleneck. So the vendor registration model was decided upon as the most efficient way to collect the GST.

Senator KETTER: Can you confirm whether Australia is a 'first mover' in relation to this vendor registration system?

Mrs Purvis-Smith: Australia is a first mover in terms of a vendor registration model. It has been looked at—and indeed, the European Union is reviewing its low-value thresholds and is looking at a vendor registration model. The OECD has also looked at ways of collecting the GST in the most efficient and simplest way possible for low-value goods, and has looked at vendor registration models in that sense as well.

Senator KETTER: Do you have an estimate of low-value imports at the border?

Mrs Purvis-Smith: I would have to take that on notice.

Senator KETTER: Okay. Can you tell us which online-platform providers were consulted in relation to the operation of the new law?

Mrs Purvis-Smith: We have done a range of consultations. Some of them were confidential consultations and we also did public consultations where we received submissions. We have consulted with overseas suppliers as well as online retailers, domestic retailers, online platforms and electronic delivery platforms, as well as transport companies and associations.

Senator KETTER: Can you tell us what entities are considered 'redeliverers' under the proposed law?

Mrs Purvis-Smith: In general, redeliverers are usually those entities in an overseas country—so some companies, for example, do not export the good to Australia. So you may be able to purchase it online but not get it delivered to Australia. Redeliverers allow consumers to have an address within the country of purchase, so that company sends a good to a redeliverer with a domestic address, and that redeliverer then sends it on to Australia.

Senator KETTER: Can you tell us which redeliverers were consulted in relation to the operation of the new law?

Mrs Purvis-Smith: I do not have the list with me. I can take that on notice.

Senator KETTER: What safeguards are in place to ensure that redeliverers are liable for GST?

Mrs Purvis-Smith: I think that goes to the implementation and the ATO. We are working with the ATO, and the ATO are working with overseas suppliers, including redeliverers, to alert them to their obligations and what they need to do in order to be ready to implement their systems.

Senator KETTER: Mr Dyce, do you have a comment?

Mr Dyce: We have a very active engagement program with a range of organisations in other countries, including redeliverers, to help them understand their obligations and to help them comply with them. This includes a simplified registration and payment process to make it as easy as possible for them to comply with their obligations.

Senator KETTER: So the safeguards are facilitating and making this as easy a process as possible?

Mr Dyce: We genuinely believe that most large organisations will want to comply with the legislation. They have similar but not identical obligations in other jurisdictions. It is a charge that is passed on anyway. The conversations we have already have indicated their willingness. Where organisations do not comply, we think that, at first instance, it may be because they are not aware of an obligation, and we will help educate them. We will adopt more vigorous approaches in the small number of situations where noncompliance occurs.

CHAIR: Who can tell me how much extra funding the ATO is going to receive, or has received, to assist it implementing the GST on low-value imported goods?

Mr Dyce: I will have to take that on notice. I do not know the figure off the top of my head. I may well mislead you if I give you a figure. I can see a 1 and a 9, but I am not sure if it is \$1.9 million or \$19 million. There is a significant difference!

CHAIR: But you do know that the ATO has been funded to implement that measure?

Mr Dyce: The ATO has been funded. Part of that funding is not just the ongoing administration of the low-value imported goods regime but also to help educate and encourage organisations in other countries to enter into the system as simply as possible.

CHAIR: Just off the top of my head, does the figure \$13.8 million ring a bell at all?

Mr Dyce: It is not my 1 and 9, so I will have to take it on notice.

CHAIR: Okay. Thank you very much.

Senator KETTER: I see Mr O'Halloran has stepped up to the plate. I am going to use deputy commissioner Hirschhorn's name in vain in relation to this particular question. I understand that you have done some modelling in relation to the so-called tax gap in relation to unpaid superannuation. Can you confirm the existence of a three-page briefing document and covering email that, in part, relates to the estimates of the superannuation gap? I understand that this was subject to a freedom of information request.

Mr O'Halloran: I take it you mean the superannuation guarantee gap discussion?

Senator KETTER: Yes, but I think the terminology, the modelling approach, is the tax gap approach.

Mr O'Halloran: Yes, I am aware of what I believe is the document you are referring to.

Senator KETTER: So it exists. Could you confirm that, on 30 November, acting second commissioner Mr Hirschhorn informed the House of Representatives Standing Committee on

Tax and Revenue that the estimates provided were evaluated as being too low or of very low reliability? Can you confirm that?

Mr O'Halloran: I probably cannot confirm that personally.

Senator KETTER: Mr Hirschhorn has—

Mr Olesen: It sounds like you have the transcript in front of you, Senator, in any event.

Senator KETTER: I am wanting to verify that that is the case, that it is low or very low reliability.

Mr O'Halloran: As you are aware, I have given evidence in other hearings that, certainly at least for the superannuation gap, we did put forward a position that it was not released on the basis that it would need further work to increase its level of reliability and the term 'credibility' was used, and consistently for perhaps other gaps as well. That has been the ATO position. As soon as we can improve that level of reliability, obviously we will then be in a much better position to release it.

Senator KETTER: Would it be the case that the limited number of stakeholders who are interested in that type of material would understand the caveats under which it is to be viewed?

Mr O'Halloran: That is a broad statement. I think there is a slight difference when the ATO issues a gap in terms of the authority and the prudence that should be brought forward. That is why the ATO, across all of its gap program work, has invested in seeking certainly feedback from appropriate expert panel members. You are obviously right that there are clearly judgements that need to be made on this, but perhaps compared to other gaps that are released in the public media, I think, the ATO and the commissioner, if I may, I have a responsibility to get it as right as we can in the circumstances. There will always be assumptions that need to be built in, but equally there are also figures and contexts that are often not picked up in the media and people perhaps do not go to the detailed assumptions that identify a sensitivity of what is in and what is out, and some of those sorts of points. So I think the ATO have a responsibility to get it as right as we can in the circumstances.

Senator KETTER: I understand what you are saying, but would it not also be appropriate in the public interest for that information to be released with appropriate guidance and caveats so that people looking at the document could interpret it appropriately, so we can at least have some starting point for discussion?

Mr O'Halloran: Certainly, if I had model the one that is in the public arena in terms of GST, the intention has been and will continue to be that there would be a couple of level documents that are published at the same time that would give some of those detailed assumptions for different audiences. In relation to the SG gap, we think that we can improve it going forward and that would then be the appropriate time to release it, we feel.

Senator KETTER: Okay. I am going to put in a little plug for our committee hearing on Friday—

Mr O'Halloran: I look forward to it.

Senator KETTER: and I am going to ask whether you could possibly consider whether that information could be provided to the committee on Friday?

Mr O'Halloran: I assume I will take that on notice, if that is the correct.

Senator KETTER: Thank you.

Senator DI NATALE: I have some questions around the electorate allowance—a slight tangent—and around the ATO ruling on the electorate allowance and so on. I am not sure who I direct those to.

Mr Olesen: Do you mean the travel allowance?

Senator DI NATALE: No, I mean the \$32,000 or so that is provided to MPs; I think it is slightly more if you are in a larger electorate. Firstly, in terms of any tax rulings around the electorate allowance, I understand that it is to cover incidental expenditure incurred in discharging a member's electorate responsibilities. How do you define electorate responsibilities?

Mr Mills: We do have a ruling, as you would be aware, on MPs allowances generally and it was most recently under review in relation to travel and in relation to allowances, but it does also address some aspects of the electoral allowance that you are referring to. If you want to go to the absolute detail of exactly what is covered, I will have to take it on notice, but it is in the nature of things such as mail-outs and those kinds of expenses.

Senator DI NATALE: Does it include buy a suit?

Mr Mills: No, that would not normally be considered to be deductible—

Senator DI NATALE: I think we probably do need to take it on notice because I think it is very, very broad and I am interested as to—

Mr Mills: The allowance may be broad but what is deductible against the allowance may be—

Senator DI NATALE: No. There is a \$32,000 payment made to members of parliament that is also being described colloquially as a backdoor top-up to MPs' pay because it can be taken as salary—the unspent can be taken as salary. So I am specifically asking about the \$32,000 electoral allowance that is provided to members of parliament.

CHAIR: It is fully taxed.

Senator DI NATALE: I know it is fully taxed, but I am also wondering what the money can be spent on.

Senator Cormann: Maybe to assist you we can get a copy of the ruling and table it. Essentially, that \$32,000 has to be declared as income in your tax return.

Senator DI NATALE: If it is not spent.

Senator Cormann: No, the whole allowance has to be declared. If you are not declaring whole allowance you might want to take advice from your accountant. You have to declare the full \$32,000, but then there are some allowable deductions that are specified—

Senator DI NATALE: That is what I am talking about.

Senator Cormann: That is different. You do have to declare the whole amount.

Senator DI NATALE: Okay.

Senator Cormann: The question then is whether or not there is a net taxable income component. That depends on what your deductions are.

Senator DI NATALE: That is the question I am getting it.

Mr Jordan: Suits, shirts, ties, shoes—

Senator DI NATALE: Do you have a list of things that are deductible?

Senator Cormann: There is a ruling that we can table. There you go. It is actually on the website, I think you will find.

Mr Jordan: It gives a number of examples of deductibles and that sort of thing.

Senator DI NATALE: Just to be clear, the \$32,000 is declared as income?

Senator Cormann: If you look at your income tax return, it will say, 'Declare any allowances,' on top of your PAYG income, and you would be expected to declare the whole amount. This ruling will give you guidance as to what expenses you may be able to claim by way of deductions, which would then be offset against that income.

Senator DI NATALE: We keep a separate account and we spend it all on what are clearly electorate-related responsibilities.

Senator Cormann: And you would declare that as part of your return?

Senator DI NATALE: Yes—well, my accountant would take care of that, so I am sure that is what is done. But the question I would like to ask is what level of auditing is proactively done by the department? Do you audit that?

Mr Olesen: We look at all the returns, including MP's returns, for indicators that there might be something that requires closer attention.

Senator DI NATALE: But would you proactively look at conducting an audit into claims around electoral allowance expenses?

Mr Olesen: If we saw an indicator. With the ability of the digital world, we can scan pretty much every return and run models over them to find signs of irregularities.

Senator DI NATALE: So you would adopt the same principles that you would adopt for any audit?

Mr Olesen: Absolutely. If we found something irregular, we would then look into that.

Mr Jordan: And something irregular might be if you had \$32,000 of income and claimed \$130,000 of deductions. That might pop out of the system against that, as to why you are claiming so much more than the allowance.

Senator DI NATALE: In terms of the electoral allowance, it is considered income by the department and deductible allowances are, basically, able to be deducted from that?

Mr Mills: Deducted expenses against the allowance, yes.

Senator DI NATALE: So why is it separated and called an electoral allowance? Are the rulings for what can be declared as a business expense different to what ordinary salary—

Mr Jordan: I think that is more a matter for the Remuneration Tribunal or—

Senator DI NATALE: I am just interested in understanding it, because, as I said, our party adopts a protocol that says this is money to be spent specifically on electorate duties, and we have a list of things that we consider to be appropriate.

Mr Jordan: It is not up to us to categorise the payments—the way that you are paid. That is through the Remuneration Tribunal, which sets, at least, the salary. I am not sure if they set

the electoral allowance or not, but if they did not I do not know who would; I presume it is there. The allowance is an indication of a reasonable estimate, I assume, of what—

Mr Mills: In a similar way that unions may negotiate with employers around allowances for clothing, protective—

Senator DI NATALE: Sure, but can they be taken as salary?

Mr Mills: If it is a separate allowance, it is supposed to be included in the income and expenses are claimed against it—if there is a difference between the two; if you have an excess deduction or an excess amount of income. So it is exactly the same principle, from a tax point of view.

Senator DI NATALE: For the ruling around electoral allowances, is what is deductible against the electoral allowance different to what is deductible against ordinary salary?

Mr Mills: No. In essence, if there were no separate allowance and it were simply a matter of members of parliament receiving salary and expending things in the normal course in relation to their activities as a member of parliament in their electorate, those things would be deductible in the same way.

Senator DI NATALE: So there is no separate ruling for the electoral allowances compared to ordinary salary?

Mr Mills: There is a separate ruling to give guidance, but there is not a separate rule within the tax law.

Mr Olesen: That ruling is an application of the one principle, in this case to MPs.

Senator DI NATALE: For business or work related expenses for MPs?

Mr Olesen: Correct.

Senator DI NATALE: Regardless of whether they are claimed against their electoral allowance or ordinary salary?

Mr Olesen: Correct, and we can do similar ones for teachers and similar ones for doctors, as we do.

Senator DI NATALE: That clarifies the matter for me. Do you have any information about how much of the electoral allowance will be taken as salary? Would you have that information? In other words, if the total value of deductions is less than the total electoral allowance, do you have that information?

Mr Jordan: I was going to say, as the minister said, that you get your salary and then add that together with what you put in the box underneath that talks about allowances; that is income. Then you would claim the allowable deductions against that total income. It is not about how much goes into salary; income is more the term. You will have salary and you will have allowances, both of which become income.

Senator DI NATALE: So you classify the electoral allowances as income?

Mr Jordan: Yes.

Senator DI NATALE: I suppose I can ask the question again in a slightly different way. While you classify the electoral allowance as income, obviously we do not treat it in that way, hence it is called an electoral allowance, not income. Would you have total information on MPs' work related expenses in general, on average and for each individual MP?

Mr Olesen: Yes, we would probably be able to find that to pull a report for MPs as a category.

Mr Jordan: I am not sure.

Senator DI NATALE: Why?

Mr Jordan: You are starting to mingle it with other deductions. I do not think there is a box for MP allowance deductions.

Senator DI NATALE: That is the question I am very specifically asking.

Mr Jordan: We could go through manually, pull every MP's tax return and look at what they claimed as deductions, if that is the sort of thing that you want, but it is manual. There is no box on the return that says 'MP electoral allowance offsets and deductions.'

Senator DI NATALE: No, just work related expenses.

Mr Jordan: We could get a list.

Senator DI NATALE: Perhaps I can give you a clearer picture.

Mr Jordan: Yes, what are you getting at?

Senator DI NATALE: There is \$32,000 allocated as electoral allowance. I think it is not called salary; it is called electoral allowance.

Senator GALLAGHER: But it is paid as salary, and you pay tax on that salary.

Senator DI NATALE: Yes, but it is called an electoral allowance.

Senator GALLAGHER: It is for work related expenses.

Senator DI NATALE: It is a decision for each individual MP to decide whether they use it as an allowance and spend it on electorate related activities.

Senator BUSHBY: Subject to what? It is for expenses as a politician.

Senator DI NATALE: We have a framework for how we decide we are going to use it, and we have made a very clear decision that it is not to be taken as salary.

Senator GALLAGHER: Sorry, who is 'we'?

Senator DI NATALE: The Greens. So I am just interested—

Senator GALLAGHER: Right.

Senator McALLISTER: Are you speaking on behalf of everybody?

CHAIR: Sorry, this is getting a little out of order here.

Senator DI NATALE: No, I am asking—

CHAIR: I do not know whether this is the right place to be seeking tax advice.

Senator DI NATALE: I am not seeking tax advice.

Mr Jordan: I know what you are saying.

Senator DI NATALE: It is funny how everyone gets very touchy when it comes to MPs' pay.

CHAIR: I am not at all touchy; I am talking about the time.

Mr Jordan: You are focusing on this allowance. The tax system is that assessable income minus allowable deductions equals taxable income. That is what you pay it on.

Senator DI NATALE: But we have this great thing called electoral allowance.

Mr Jordan: That is part of assessable income.

Senator DI NATALE: Yes, I know, but the question is, 'should it be?'

Mr Jordan: It has to be.

Senator DI NATALE: That is a political question for us, not for you.

Mr Jordan: Under the system now, you get it is as an individual member or senator and it is yours, so that is income.

Senator DI NATALE: Ask an ordinary punter about what an electoral allowance should be spent on and whether or not it should be taken as salary. That is my point.

Mr Jordan: I think it is designed as an estimate of what you might well have to spend.

Senator DI NATALE: It might be an estimate, which is why I want to get from you information about average work related expenses for members of parliament.

Mr Mills: We can take parliamentarians as a group based on occupation code. That would not differentiate between federal parliamentarians and state parliamentarians.

Senator DI NATALE: Can you do that?

Mr Mills: No, I do not think we can. That would be a group, and then we would be able to give group figures for the expenses. I am not sure that we would be able to draw out the differences between federal and state allowances.

Senator DI NATALE: That would be a start.

Mr Jordan: The only way we would be able to do it is manually pull every person's tax return, take the label and add them up.

Senator DI NATALE: I am not asking for that.

Mr Mills: We can run a report on the whole.

Senator DI NATALE: Again, I get the principle, and I am not asking you to—

Mr Mills: We could take that on notice.

Mr Jordan: It is really up to yourselves to work out if you want to change a system, but the current system—

Senator Cormann: Bear in mind that the income arrangements under the current system, according to legislation, are not set by the parliament. We do not set our own terms and conditions; they are set independently by the Remuneration Tribunal.

Senator DI NATALE: We did have legislation only a few weeks ago that made some very clear decisions around that. We have the capacity to do whatever we want, as we did a few weeks ago.

Senator Cormann: The terms and conditions of the parliamentary income arrangements are determined by the Remuneration Tribunal.

Senator DI NATALE: Not when it came to the Gold Pass, for example.

Senator Cormann: That is not pecuniary. That is not part of your terms and conditions of employment income. I may stand corrected, but I do not believe the Gold Pass is taxable income.

Mr Mills: It is not part of the individual's taxable income; it may well be subject to fringe benefits tax, but that is a different question.

Senator McALLISTER: I want to ask you about the 'Tax Integrity—improve the transparency of taxation debts' measure in the MYEFO at page 113. I want to understand a little bit more about how the measure is going to work, how it is going to be implemented, and how the ATO is managing some of the risks that might come up in the measure. I have a number of questions, but we can probably move through them quite quickly.

Ms Smith: The measure is currently under the consultation phase with Treasury, so we are still engaging with small business and industry in exploring exactly these questions.

Senator McALLISTER: You might be able to tell me a little bit about that in a moment. I understand that the measure principally sees a handing over of debts to a credit agency where they are 90 days in arrears, exceed \$10,000, are not engaged in a payment plan or have defaulted, and are not genuinely in dispute. So there are a lot of criteria, a lot of hurdles you have to leap before you are eligible.

Ms Smith: I would clarify. It is not that these debts or cases will be handed over to an agency for collection; the transparency measure gives us the ability to advise the credit reporting bureaus of clients who have disengaged with the tax system. This is simply for reporting purposes. That is only subject to a number of criteria.

Senator McALLISTER: Which are those I just read out?

Ms Smith: There are a number. First of all, they have to be disengaged with us. We have a very exhaustive process that we go through to ensure that a debt is repaid, and in fairness, over 95 per cent of taxpayer debt is paid within 90 days. We are talking about this five per cent that is not part of that.

Senator McALLISTER: Is that five per cent applicable to the small and medium enterprise sector, or is that aggregate across all taxpayer debt?

Ms Smith: The five per cent I talk about relates to all taxpayer debt.

Senator McALLISTER: Do you have a similar number for small and medium sized enterprises only?

Ms Smith: Our small business debt normally sits at about 65 per cent of our total debt owed.

Senator McALLISTER: Of those, is it the same proportion where 95 per cent resolve it within 90 days and five per cent run over? Is that proportionately about—

Ms Smith: No, I am actually talking about the five per cent that run over. I would have to take the question on notice to understand. Of the 95 per cent that get paid within 90 days, I am not too sure if that is a 65-35 split. The five per cent that is not paid within the 90 days, which becomes collectable debt for the ATO, is 65 per cent attributed to small business and 35 per cent to individuals.

Senator McALLISTER: Great, thank you. You were talking about an exhaustive process to establish whether or not someone is disengaged, or at least stepping through before someone would be considered disengaged. Can you very quickly tell me, not in great detail what that looks like?

Ms Smith: Sure. It starts, obviously, with making contact with the individual. We use behavioural insights to actually ensure that contact is going to give us the best chance of a response by making sure that letters that we send—correspondence—is actually structured and addressed in the right way. We then have a number of procedures that we move through subject to response to that query. We have a program that tailors that response to the individual. Let me give you an example: if you or I experienced cashflow concerns, and we had no history of late payment, you and I would receive a letter from the tax office explaining—or maybe even an SMS—that they have not received the payment when they normally would have. If you and I had a history, however, of not having paid tax or having a debt that has been part of a debt repayment program for many years, then probably a phone call would be more appropriate than sending a letter. The tax office can also move to more proactive measures, such as garnishing assets. The point I am making is that the level of action that we take with our clients is determined by what we believe is going to give the best outcome, and it is tailored to the individual.

Senator McALLISTER: How long does that process take? What is the window of time in which someone might be offered the opportunity to re-engage with the debt?

Ms Smith: To answer that: it depends. I am trying to help here as much as I can. The transparency measure is quite specific about us not advising the credit reporting bureaus unless that debt is at least 90 days old. That debt also cannot be in dispute, so it cannot be subject to a discussion. It also cannot be debt where there is a payment plan that has been established. For the purposes of that measure, we are talking 90 days. The measure also gives the ATO the ability—but does not insist—to actually pass through all details. We are now in consultation to determine what the best way to phase this in is. An obvious start would be any debt that is currently in litigation—that is public knowledge now. There are different grades of debt, and that is what we are working through now to ensure that we actually introduce this in a way that is not only efficient but also fair. The final point I just want to squeeze in before your next question is: we actually will advise a taxpayer of our intent to advise the credit rating bureau, which I think is also very important to give them a chance to react to that.

Mr Jordan: Can I just add that, in all likelihood, it would be way longer than 90 days because there would be a whole lot of attempts to engage, set-up a payment plan and see if the payment plan was being met. I cannot see it ever really being a period of 90 days. It would be months before that would ever get anywhere. Often we are put last on the list because there is no impact on their credit rating. Unfortunately, a lot of these circumstances are going underwater, and they are giving the debts to other suppliers. We often get the feedback, 'If I knew they had this big debt owing to you, I would've been asking for cash on delivery or something.' Contractors or suppliers who are other small businesses often say, 'It would have been good to know that they had that big debt to you, because I just went further underwater as a result.' It is trying to level the playing field a bit there but with the big proviso that they have every opportunity to engage. On that last point, it is really important to say: 'We're about to refer this now to a bureau. Do you want to give us something?'

Ms Smith: But it does not mean we would stop pursuing the debt either. We would still continue that course into litigation for cases where it made sense to do that.

Senator McALLISTER: There has been some public commentary. I appreciate your remarks that you are essentially using some sort of risk framework to assess what the response to a debt might be, depending on the likelihood of default.

Ms Smith: Yes.

Senator McALLISTER: There has been some criticism of the scheme indicating that, the minute that the person was named in this way, suppliers would stop supplying and banks would stop lending. Most enterprises would simply go out of business. I appreciate your point about the supply chain issues and the obligations you feel you may have in terms of transparency, but are you concerned that this may put a level of pressure on some of these enterprises that makes the situation worse rather than better?

Mr Jordan: No. I think it does focus the attention of the businessperson, in that they just cannot keep knocking up debts to us. Some of the times that debt might be pay-as-you-go withholding, or it might be super guarantee for employees. Often they are the sorts of debts because they are losing money anyway, so it is not income tax on profit. They do not have profit. It is withholding on employees; it is not their money anyway. It is the failure to pay the superannuation for the employee, and it is not their money anyway. That is often the case we find. They are in loss, so it is not a tax on profit.

Senator McALLISTER: One of the other issues that have been raised is, I guess, criticisms that have been made of the ATO previously that it is a difficult organisation for small and medium-sized enterprises to engage with. That was particularly in the Inspector-General of Taxation's report back in 2015, which went to this issue. One of the things that would be important, obviously, is to have some procedures and safeguards to provide recourse for business when the enforcement action was not appropriate. Have you considered that in the design of the letter?

Ms Smith: Yes, I believe that that is being considered as we speak, as well as ensuring that, once the taxpayer has engaged with the system, we are working to: how quickly can we make sure that their name is no longer reported? It is very important to look at all of those aspects of it.

Mr Jordan: I should say that I absolutely reject the proposition that the tax office is difficult to deal with for small and medium businesses. We get incredibly positive feedback from relevant stakeholders who represent small businesses, not the isolated small business who might have had a dispute with us, who is a loud voice often, who disproportionately represents the situation. Any significant organisation in the small-business area will speak positively of the way we fall over ourselves to be easier to deal with and flexible in our arrangements with them.

Senator McALLISTER: Perhaps I can just finish up by asking a couple of questions about the consultation process you said you had been through. What is the structure of that consultation process?

Ms Smith: The consultation process is currently in train. I do not have the detail with me around exactly who is engaged—which industry bodies. I can give you some examples that I know have been engaged, but, if I can take that on notice, we can come back to you with an outline of exactly how we have been approaching this.

Senator McALLISTER: Can you give me some indication of it? I am not asking you to provide a list of everyone you have ever talked to, but is it by invitation? Are you having any open processes? Is it with small and medium enterprises themselves or their representative organisations? Just some sense of the structure of it would help.

Mr Jordan: I think Treasury is actually running the consultations.

Senator McALLISTER: I am sorry. Is anyone in Treasury able to just run through that with me?

Mr Jordan: Is that true? Are you running it?

Mrs Purvis-Smith: I will have to take that on notice.

Senator McALLISTER: Is there no-one in the room who could do it?

Mrs Purvis-Smith: No, but we will take it on notice.

Senator McALLISTER: Could you also take this on notice. It would be helpful to understand what kind of feedback you are receiving through that consultation process. It is a measure in the MYEFO, so I would have expected to be able to talk to someone about it. I do not want a great deal of detail, and I would have thought answers today would have been reasonable.

CHAIR: As there are no more questions for this group, you are free to go. Thank you very much for your attendance here today. The committee will now begin consideration of Treasury portfolio questions for the Department of the Treasury Fiscal Group. We are only an hour behind! Welcome to the Fiscal Group. Thank you very much for joining us today. Deputy Secretary, would you like to make an opening statement?

Mr Brennan: No, thanks.

CHAIR: I might just take the chair's prerogative and kick off the questioning. There has been some discussion already today about housing affordability, and I understand that you are the right group for us to discuss this with. I want to particularly focus on the affordable housing bond aggregator task force. I am wondering whether you can enlighten the senators as to how this task force will assist in the provision of more affordable housing.

Mr Brennan: Chair, I will also ask Mr Robinson to the table as well. I will give a few introductory remarks and then hand over to Mr Robinson. The work in relation to the bond aggregator essentially came out of some resolutions from the CFFA, as we call it, the Council on Federal Financial Relations, essentially the Treasurer's ministerial council, late in 2015. It was keen for the respective departments to look into the issue of how we might unlock more private sector finance in relation to the provision of affordable housing via, if you like, innovative financing models.

We put out an issues paper early in 2016, took consultation on that and continued with work cooperatively. A task force was formed that involved us and the Department of Social Services and also representatives from the Victorian Treasury, the New South Wales Treasury and the WA Treasury. We also had extensive liaison with housing departments or offices of housing from those respective states. It culminated in a report which went to the CFFA late last year, which was then released.

The issues paper had looked at a couple of options as to how you might unlock some private financing. One was social impact investing in general. One was to look at a social

housing trust model. But the model which gained the most support from private sector stakeholders was this bond aggregator, which is essentially a financial intermediary which would assist with developing a bit of scale for community housing providers to access debt markets.

CHAIR: Is this similar to the UK model?

Mr Brennan: Yes, it is very similar to the UK model. That is the model that essentially got the most support and was, if you like, the preferred recommendation. Since the time of that meeting, which was in late November or early December last year, the resolution of the CFFA was that more detailed work on the feasibility of that model ought to proceed, and that is essentially where we are now. But, with that slightly more longwinded than intended introduction, I might ask Mr Robinson to give a few thoughts.

Mr M Robinson: As Mr Brennan just mentioned, the next phase of the work, which was commissioned as part of the recommendations that the CFFA considered late last year, is just getting underway, and that is the establishment of a task force to look more specifically at how a proof of concept of this bond aggregator model could be developed, along with an implementation road map. We are in the process of establishing that task force at the moment. That task force will go through and consider a range of issues around the proof of concept and establishment. It will look at things like the capacity of the community housing sector to sustain a bond aggregator, additional supply and the demands for debt. It will look at things like what sorts of governance structures might need to be put in place for the bond aggregator model and what sorts of supporting complementary reforms might need to be considered by governments in supporting the bond aggregator model. We will be looking to report back to the heads of Treasuries by the middle of this year.

CHAIR: Certainly the housing affordability issue is something that has come up over a number of years, and I know that the federal government already provides states and territories with some support. Can you tell me how much that is each year to support affordable housing and homelessness?

Mr M Robinson: The predominant forms of support from the Commonwealth to the states are under the National Affordable Housing Agreement. There is a national affordable housing specific-purpose payment which is currently around \$1.3 billion a year, and that is to support social and affordable housing. There is also a national partnership payment under the National Partnership Agreement on Homelessness, and that is \$115 million, which is currently funded through to the end of June 2018. Together, those payments form the main basis of support from the Commonwealth to the states for social and affordable housing and homelessness.

In addition to that, the Commonwealth provides a lot of direct assistance to lower income households in the form of Commonwealth rent assistance. This year, we are expecting that the Commonwealth will be paying out about \$4½ billion under the Commonwealth rent assistance to—

CHAIR: That is \$4½ billion on top of \$1.3 billion on top of—sorry?

Mr M Robinson: \$115 million. It is important to recognise that the Commonwealth rent assistance is a direct support to support people in the private rental market as well as those in

social and affordable housing. In fact, the vast majority of that assistance goes to people on lower incomes in the private rental market.

CHAIR: Do we measure outcomes for that investment in those programs on a state-by-state basis, and, if so, what have those outcomes been?

Mr M Robinson: Under the National Affordable Housing Agreement, there are only broad benchmark targets that have been set.

CHAIR: 'Broad benchmark targets'?

Mr M Robinson: Broad benchmark targets—that is correct. I have here—

CHAIR: What are the broad benchmark targets?

Mr M Robinson: Yes. I have that here somewhere. There was a recent COAG performance report on national agreements. Under the National Affordable Housing Agreement there are four benchmarks. The first one is a headline around nationally reducing the proportion of low-income renter households in rental stress. In 2007-08, around 35.4 per cent of low-income households were in rental stress. The latest figure, as at 2013-14, was 42½ per cent. So, the progress report indicated 'not on track' with that measure.

CHAIR: So housing is actually less affordable, despite the investments that have been made.

Mr M Robinson: The measure of households in rental stress is based on the 30-40 rule. It looks at households in the bottom 40 per cent of incomes that are spending more than 30 per cent of their gross household income on rent each week. So, yes, that measure has declined over that period.

CHAIR: So that is one broad benchmark that we have failed on.

Mr M Robinson: The second benchmark was looking at nationally reducing the number of homeless Australians. In 2006 the report indicated 89,728 people were homeless and in 2011, which was the latest figure that had been reported, the figure was 105,237. I think that is reported on the basis of census figures. The next figure, which will be available as part of the 2016 census results, will probably be available later this year.

CHAIR: So again, the money invested in homelessness has actually resulted in an increase in homelessness. Is that what you just said? There are more people who are homeless now, despite the fact that more money has been involved.

Mr M Robinson: I do not know that I would say that money invested in homelessness has led to an increase. You could probably argue that it was perhaps lower than it might otherwise have been.

CHAIR: Potentially that is true, but we are not actually succeeding in meeting these broad benchmarks with the money that has been invested.

Mr M Robinson: That is correct. The third benchmark was the measure, nationally, of the proportion of Indigenous households owning or purchasing a home. In 2008 the measure was 32½ per cent of Indigenous households owning or purchasing. That declined slightly to 31.7 per cent in 2012-13.

The final benchmark was around a reduction, nationally, in the proportion of Indigenous households living in overcrowded conditions. That measure was 13.4 per cent in 2008, and has declined to 11.2 per cent in 2012-13, so the progress marker on that one was 'on track'.

CHAIR: Do you think that the NAHA—

Mr M Robinson: National Affordable Housing Agreement.

CHAIR: I know what it stands for—is it achieving its goals?

Mr M Robinson: I guess that on those headline benchmark figures you would have to say there have, obviously, been declines in those key measures.

CHAIR: It is quite a significant investment. How long has it been running for?

Mr Brennan: I think since 2009.

Mr M Robinson: That is right, 2009. To date there has been about \$9 billion invested through the national affordable housing specific purpose payment.

CHAIR: Hopefully this affordable housing aggregated task force will address the situation and make some improvements.

Senator CAMERON: Thank you. Mr Robinson, what discussions has the Treasury had with state and territory governments in relation to the future of the NAHA special purpose payment?

Mr M Robinson: The future of the NAHA SPP has been raised in a couple of different forums. Our colleagues at the Department of Social Services have raised the future of the National Affordable Housing Agreement. It has been discussed in the housing state portfolios forum. There have been some discussions as part of the Treasury's forum as well, through the deputy heads of Treasuries discussion groups.

Senator CAMERON: DSS do not have ultimate responsibility for this. It is Treasury; isn't it?

Mr Robinson: Treasury is responsible for making the payments. The negotiation around the original agreement, I think, was led by the Department of Social Services back in 2000.

Senator CAMERON: But Treasury would have been involved? Treasury would not have turned a blind eye; would they?

Mr M Robinson: I was not involved at that time. We would probably need to take on notice what level of involvement Treasury had back then.

Senator CAMERON: Okay. Take it on notice. What states and territories have Treasury had discussions with?

Mr M Robinson: As I said, there have been some broad discussions as part of the two forums I just mentioned. So all states and territories are represented within those forums.

Senator CAMERON: Could you give me details of those forums? What were the outcomes of those forums? Was there any correspondence between the states and Treasury or DSS in relation to these forums?

Mr M Robinson: It is probably fair to say that it was just high-level discussions at this stage, nothing in the way of concrete outcomes.

Senator CAMERON: Where did these meetings take place?

Mr Brennan: Perhaps I could step in here, Senator, just to reinforce that the government has made it clear that no decision has been taken in relation to the future of the National Affordable Housing Agreement or the national specific purpose payment that sits underneath it.

Senator CAMERON: That is not what I am asking.

Mr Brennan: Pardon?

Senator CAMERON: That is not what I am asking.

Mr Brennan: No, but it is just relevant in the sense that—so, we have had discussions with the states in multilateral fora. So we have had a meeting of the heads of Treasury and a meeting of the deputy heads of Treasury and, as Mr Robinson mentioned, DSS has had its housing equivalent.

Senator CAMERON: So high level?

Mr Brennan: High level, and not in the context of any actual or pending decision by government but, I guess, prompted by, you would have to say, some public speculation around the future of these agreements. So that has been the catalyst for the discussions around—

Senator CAMERON: All right. So can you get me on notice which states and territories you have had discussions with, when the discussions took place and which specific issues were discussed. Has the department been able to provide a clear view about the government's intentions on NAHA? Are there any further discussions about the future of NAHA scheduled with states and territories? And, if so, when?

Mr Brennan: Yes. We can take all of that on notice.

Senator CAMERON: Do you need to take the last one on notice—is there further discussion scheduled to your knowledge?

Mr Brennan: There is nothing scheduled at this point with the states.

Senator CAMERON: Under the terms of NAHA it is not open to the Commonwealth to unilaterally terminate it; is it?

Mr Brennan: The NAHA is an agreement and the—not so much the NAHA itself, but there is a specific purpose payment that sits underneath it, and that has legislative force so that is effectively tried in the Federal Financial Relations Act.

Senator CAMERON: So the Commonwealth cannot terminate NAHA without agreement; is that correct?

Mr Brennan: I will take the specifics of that on notice. But, broadly, yes; the agreement lasts in perpetuity. It is not an agreement that lapses, and the specific purpose payment that sits underneath it is enshrined in legislation. So there is a dimension in relation to both the states and the parliament in respect of that agreement and the payment that sits underneath it.

Senator CAMERON: Does that mean that the Commonwealth can terminate unilaterally or not?

Mr Brennan: I will take the particulars on notice but I guess the point is that there is legislative force—the payment is underpinned by legislation. So parliament could legislate.

Senator CAMERON: Parliament could legislate to terminate but the Commonwealth cannot make a decision unilaterally without legislative change?

Mr Brennan: I will take the specifics on notice, because there is a distinction between the NAHA, which is the agreement, and specific purpose payment that sits underneath it.

Senator CAMERON: But one flows from the other. You cannot have one without the other; can you?

Mr Brennan: They are related.

Senator CAMERON: They are related?

Mr Brennan: Yes. So as to whether it is possible to unilaterally pull out of the agreement, I think I will take that on notice just in the interests of getting it absolutely accurate.

Senator CAMERON: There has been speculation about NAHA—the government unilaterally walking away from that—speculation. So you have come here and you are not in a position to tell me whether you believe that it can be unilaterally terminated. I do not believe that. Really?

Mr Brennan: I am not aware that there has been speculation that the government would unilaterally walk away from the NAHA—

Senator CAMERON: In *The Australian* you referred to it yourself.

Mr Brennan: I think the speculation has largely been around a degree of dissatisfaction with the outcomes generated under the NAHA and the associated payment and the fact that the payment is untithed.

Senator CAMERON: Yes.

Mr Brennan: Whether that amounts to speculation that the Commonwealth would like to unilaterally terminate the agreement or a level of dissatisfaction with the way the agreement has worked to date—

Senator CAMERON: Whether there is satisfaction or not is immaterial. There is an agreement that basically requires all the states and the Commonwealth to agree to terminate. That is how I read it.

Mr Brennan: Yes.

Senator CAMERON: Is that right or wrong?

Mr Brennan: No, I think that is basically right. But I just want to check the detail about—

Senator CAMERON: That is good. We got there.

Mr Brennan: I just want to check the detail about—

Senator CAMERON: Can I go to the rental stress benchmark—the issue that is being raised here. There are a number of issues that go to rental stress that are outside the control of the states; aren't there?

Mr Brennan: Yes, I think that is right.

Senator CAMERON: Because the implication from the previous questioning was that the states are not meeting their obligations under the agreement. So what are the implications for the levels of rental stress of the historically low rate of wage growth, which we are seeing across the labour market? Does that have an implication?

Mr Brennan: I would probably defer a bit to my macroeconomic colleagues on that. I do not know whether Mr Robinson has a view particularly.

Senator CAMERON: So what are the implications of low wage growth for rental stress? Surely—

Senator Cormann: We went through the issues around current wages growth in some detail this morning, including in the context of the housing affordability discussion. And, as I indicated this morning, wages growth could be boosted if the parliament legislated the reduction in the business tax rate from—

Senator CAMERON: You are kidding me.

Senator Cormann: 30 to 25 per cent because—

Senator CAMERON: Minister, do not give me—

Senator Cormann: As Ken Henry and Bill Shorten and Chris Bowen and others have said—

Senator CAMERON: that nonsense.

Senator Cormann: As Chris Bowen and Bill Shorten and Ken Henry and others have previously said, the more competitive tax rate will boost investment, boost productivity and, over time, increase real wages. In fact, Bill Shorten said that as the Assistant Treasurer in the parliament. I am sure you are not suggesting that he misled the parliament when he made that comment.

Senator CAMERON: I am suggesting that you are misleading the public—

Senator Cormann: I will send you the quote if you like. The specific quote is on *Hansard*. The position is just rubbish.

CHAIR: Senator Cameron, perhaps you could just finish—

Senator CAMERON: So again, whether it was dealt with this morning or not, we are here talking about housing now, so what are the implications of the penalty rate cuts for housing stress? For the 700,000 low paid workers. What are the implications there?

Senator Cormann: The issue in relation to penalty rates was also discussed in great detail in the context of the Treasury macroeconomic group. In fact, Senator Gallagher spent quite some time testing both the Secretary to the Treasury and myself in relation to these matters. I do not believe the fiscal group has got anything to add to our macroeconomic considerations.

Senator CAMERON: So are you telling them they have nothing to add? Is that what you are saying?

Senator Cormann: I am not telling them anything. The fact that—

Senator CAMERON: Okay. Well, Mr Robinson,

Senator Cormann: this was dealt with in a different part of Treasury estimates earlier today—in the right area.

Senator CAMERON: Let's go to the analytical and Treasury approach on this, not the rhetoric that you are running. So, Mr Robinson, if there are pay cuts to 700,000 low paid workers as a result of the penalty rate cuts, surely economically that means that they are in increased rental stress; doesn't it?

Senator Cormann: This is Fiscal Group; this is not the Macroeconomic Group of the Treasury.

Senator CAMERON: This is where you deal with housing.

Senator Cormann: This is not where you deal with macroeconomic considerations, which you are raising.

Senator CAMERON: These are housing issues. They may be macroeconomic, but they are specifically on housing, and it is about this agreement and about stress. Nobody said to Senator Hume that she should not be raising these issues when the Dorothy Dixers were going up on it. So I am entitled to ask these questions at this group.

Senator Cormann: Well, I am not sure this group will be able to assist you with something where you are essentially going into the Macroeconomic Group area of Treasury.

Senator CAMERON: Mr Robinson, do you say there are no implications for low-paid workers who lose penalty rates in terms of their capacity to afford housing?

Mr M Robinson: Similar to Mr Brennan, I want to defer to my Macroeconomic Group colleagues on that one.

Senator Cormann: Mr Brennan may be able to assist you somewhat.

Mr Brennan: Firstly, I think you mentioned losing penalty rates, and I do not think that is in contemplation—

Senator CAMERON: Reduced penalty rates.

Mr Brennan: Yes. As to the impact of—

Senator Cormann: It is adjusting some penalty rates for some awards.

Senator CAMERON: It is reduced penalty rates for 700,000 workers.

Mr Brennan: The basic answer here is that it is impossible to know how that is likely to work out and work through in relation to overall household income for relevant workers, so—

Senator Cormann: People might be able to work more—

Senator CAMERON: Work longer hours?

Senator Cormann: because businesses will be able to stay open on a Sunday, when currently they cannot.

Senator WHISH-WILSON: What about the Fair Work Commission?

Senator Cormann: That was the judgement of the Fair Work Commission, which is of course presided over by a former ACTU official. The Labor Party is very disappointed that he did not do the bidding of the Labor Party. He made an independent decision.

Senator CAMERON: The reality is that 700,000 workers have had penalty rates cut. They have less income—

Senator Cormann: A former ACTU official made that decision.

Senator CAMERON: and more housing stress. So I am asking Treasury: have they factored that in when they want to talk about rental stress?

Senator Cormann: That specific question was raised this morning. As we put the next budget together, all sorts of information and data and many factors about the economy are taken into account. And judgements are made about the economic parameters and all of the

relevant information that underpins our assumptions and our various forecasts. That is very much an issue that was directly addressed by the secretary of the Treasury this morning.

Senator CAMERON: So I need to go to Social Services, and I need to come here, to Fiscal Group—

Senator Cormann: I am sure they would not have told you to come to Fiscal Group. They may have told you to come to Treasury, but we dealt with many of these issues this morning.

Senator CAMERON: This is about the agreement.

Senator Cormann: Feel free to ask questions about the agreement.

Senator CAMERON: Senator Hume led the questioning on stress.

Senator Cormann: You can ask questions about the agreement, but—

Senator CAMERON: I am asking questions about the agreement.

Senator Cormann: You are not asking questions about the agreement.

Senator CAMERON: Part of the agreement goes to the rental stress benchmark.

Senator McALLISTER: I could assist, because I was here for the questioning this morning and what was actually discussed. It is true that the Treasury secretary and the members of the committee had an extended discussion about the way that the wage outcome may or may not be considered as part of budget considerations. We did not have a discussion in any way about how that decision would be factored into a national partnership agreement or indeed translated into any adjustments to this benchmark.

Senator Cormann: If I may correct you there, obviously the fiscal implications of a national partnership agreement, like any other item of expenditure and any other program in the budget, is influenced by judgements made on parameters and relevant data included into the forecast assumptions and the like. So while the Treasury secretary did not go through every single program impacted by judgements Treasury makes about forecast assumptions and economic information and judgements on economic parameters and the like, it was obviously implied that that goes across the whole budget, including relevant national partnership agreements. That does not prevent Senator Cameron from asking questions in relation to the relevant agreement, of course, but he is framing the questions in a way that is going into an area that is not relevant to this group.

Senator CAMERON: I know you are great at covering this up, but anyway. Mr Robinson, this group is responsible for the National Affordable Housing Agreement, correct?

Mr M Robinson: That is right.

Senator CAMERON: Okay. I draw your attention to clause 11(d)—financial sector regulations and Commonwealth taxation settings that influence housing affordability—of the Commonwealth responsibilities under that agreement, which is your responsibility. Within that, in terms of financial sector regulations there are a range of issues that go to your responsibility to respond and your responsibility for the agreement. You were quite happy to respond to Senator Hume when she was raising issues about housing stress. I am simply putting to you that penalty rate cuts have got an effect and that historically low rates of wages growth have an effect. You have agreed on that. What about the decline in real value of Commonwealth rental assistance? That would have an effect that states could not do anything about, wouldn't it?

Mr M Robinson: There are a number of elements that affect Commonwealth rental assistance. There has been quite substantial growth in Commonwealth outlays around rent assistance. Part of that has been due to increases in the number of households that have become eligible for Commonwealth rent assistance—

Senator CAMERON: and a transfer of housing from state to the social housing sector.

Mr M Robinson: Yes.

Senator CAMERON: That is not where I am going. I am going to the value of the Commonwealth rent assistance. That is declining, isn't it?

Mr M Robinson: It is probably fair to say that there has been an increase in the proportion of households in receipt of Commonwealth rent assistance—

Senator CAMERON: Yes, but is the value declining?

Mr M Robinson: I think the overall settings around Commonwealth rent assistance have indexation arrangements factored in there. There are questions around the extent to which the indexation of the Commonwealth rent assistance settings have kept pace with rental costs for households.

Senator CAMERON: What are the implications for levels of rental stress with the level of Newstart and youth allowance payments? Is there an implication for rental stress?

Mr M Robinson: As part of the measure of rental stress, as I indicated earlier, the definition of 'rental stress' that is used is that 30-40 rule, so it looks at the 40 per cent of households with the lowest incomes, and then any households that have rental costs more than 30 per cent of their gross incomes are considered to be in rental stress. Given that Newstart allowance makes up the income of some households, that would be relevant.

Senator CAMERON: And youth allowance?

Mr M Robinson: And any of the other Commonwealth support payments.

Senator CAMERON: What about the levels of rental stress of cuts to family tax benefits and changes to indexation of the age pension? Would that affect rental stress?

Mr M Robinson: Again, the family tax benefit is paid to households beyond those who are reliant on income support. As you describe, middle-income households can also receive family tax benefit, so that question really goes to the distributional effects. You can see there are a range of distributional impacts from changes to family tax benefit policy.

Senator CAMERON: You say there are a range of impacts, so one of those impacts could be increased stress?

Mr M Robinson: To the extent that there are changes which reduce the benefit to households, that might be an outcome.

Senator CAMERON: What about the indexation for age pensions?

Mr M Robinson: The indexation of age pensions is well established with rules around growth in line with the higher of the CPI and the pensioner and beneficiary living cost index. There is then an adjustment relevant to the wage growth.

Senator CAMERON: What are the implications of scrapping the energy supplement? That could increase stress as well, couldn't it?

Mr M Robinson: I guess, if you are going to list a long list of possible impacts from payments, there are obviously a range of impacts that could affect household incomes.

CHAIR: Senator, I am going to start wrapping you up because you have had 20 minutes. I have the Greens, and Senator Leyonhjelm would like to ask his questions before dinner.

Senator CAMERON: Okay. As I have got limited time, I will put the rest of my questions on notice.

CHAIR: Thank you. Senator Rice.

Senator RICE: I want to ask about the asset recycling fund and its current status. I understand it was wound up in MYEFO. What is the current status of projects that have been funded or negotiations? I understand the Victorian allocations for the asset recycling fund have yet to be finalised.

Mr Brennan: You are talking specifically about the Asset Recycling Initiative?

Senator RICE: Yes.

Mr Brennan: I will make a few introductory remarks and then hand over to Mr Dunn. The Asset Recycling Initiative basically came to completion on 30 June 2016. That was always built into the original national partnership arrangement. That was the period—there was about a two-year period from the signing of the original NP by all the jurisdictions and the termination date—within which states and the Commonwealth had an opportunity to strike bilateral deals which would be enshrined as a schedule under the NP. Three jurisdictions finalised bilateral deals. That was New South Wales, the ACT and the Northern Territory.

The situation in relation to Victoria was that, both between government and at officials level, a lot of work had gone into trying to strike a bilateral deal. Victoria was clearly keen to be involved inasmuch as they had two asset sales. They had the Port of Melbourne privatisation and they also had the Rural Finance Corporation sale. They had some projects which they were interested in recycling that money into. Unfortunately, it was not possible in the end to finalise an agreement with Victoria prior to the 30 June 2016 end date. Prior to that, in May 2016 the Commonwealth Treasurer had written to his Victorian counterpart, proposing a possible schedule which would involve paying the 15 per cent asset recycling incentive in respect of the sale of the Port of Melbourne and the sale of Rural Finance, with the money being recycled into the Murray Basin Rail Project and the Melbourne metro rail project. That was not taken up by Victoria, but the value of the incentive under that arrangement would have been \$877 million, from memory. The decision taken at the point where the NP terminated was that that \$877 million would, effectively, be quarantined for Victoria and set aside to spend on Victorian projects not under the Asset Recycling Initiative, because it had ended, but under future bilateral engagement.

Senator RICE: Right. Even though that was quarantined, it is not officially going to be considered as part of the Asset Recycling Initiative?

Mr Brennan: That is right.

Senator RICE: It is carried over.

Mr Brennan: That is right. That, in effect, liberates the jurisdictions a bit to determine which projects that might go to, which is a bit independent of the rules that had prevailed

under the Asset Recycling Initiative, which were a bit more specific about both timing and even the nature of the projects that the money could go into.

Senator RICE: Given that the initiative has now wound up, how much of the money that was allocated to the initiative ended up being allocated?

Mr Brennan: My recollection is there were a couple of revisions as we went. There was an initial allocation of \$5 billion to the scheme as a whole. Some reduction was made early in order to help fund the Northern Australia Infrastructure Facility initiative.

Senator RICE: What did that bring it down to?

Mr Brennan: You might chime in, Mr Dunn.

Mr Dunn: It was \$2.3 billion.

Senator RICE: It was taken from five down to 2.3?

Mr Dunn: That was what was subscribed to.

Senator RICE: It is under half of the initial. So that is 2.3. How much of that ended up being allocated under the initiative? Was all of that 2.3 allocated under the initiative?

Mr Dunn: Yes.

Senator RICE: So essentially that \$5 billion initial allocation was split between the Northern Australia fund and the three jurisdictions that took up the offer?

Mr Dunn: That is correct.

Senator RICE: Was there any further amount that was not allocated?

Mr Dunn: Correct—funds were allocated to the Northern Australia fund. In addition, it was a first come first served basis so those three states took the funding of the \$2.3 billion and, as Deputy Secretary Brennan said, there was an allocation which we highlighted for Victoria, which has yet to be allocated.

Senator RICE: So what happened to that Victorian allocation under the initiative? Was it reabsorbed into the budget bottom line?

Mr Dunn: In the current MYEFO it is stated that there is an allocation available to Victoria.

Senator RICE: So even though that allocation in Victoria now is not considered as part of the initiative, it was originally allocated and fits within the \$2.3 billion of the Asset Recycling Initiative?

Mr Dunn: It is in addition to the \$2.3 billion.

Mr Brennan: The \$2.3 billion is the amount that went out under the Asset Recycling Initiative itself. That is the amount that flowed to New South Wales, the ACT and the Northern Territory. The Victorian money is over and above that.

Senator RICE: And the remainder—\$5 million minus \$2.3 million minus \$877,000—went to the Northern Australia Infrastructure Facility? Is that how it adds up?

Mr Brennan: Just about. I would have to take on notice whether there was any other residual amount, but if there was it would be relatively small.

Senator RICE: Does the government think that the Asset Recycling Initiative was a success?

Mr Brennan: I cannot speak for the government.

Senator Cormann: It was a great success, but what we have found is that we are able to give effect to it without actually passing legislation to establish the specific fund.

Senator RICE: What were the criteria for its success, then?

Senator Cormann: It has been successful in encouraging microeconomic reform in some states, and it has been successful in leveraging additional investment into productivity enhancing infrastructure, in particular, and it has been successful in encouraging states like New South Wales, in particular, to recycle tied up capital and reinvest it in infrastructure for the future, which of course is precisely what was intended.

Senator RICE: But it did not take up the full \$5 billion that was initially on offer, so there was not the take-up you had hoped for.

Senator Cormann: That is a bit of a misrepresentation. The government has made decisions to reprioritise and reallocate expenditure given competing priorities and given that we are operating in a fiscally constrained environment. These were all publicly announced in the relevant budgets and budget updates, so it is true that we have not ultimately allocated the full \$5 billion that was initially anticipated, and that is because we had to reprioritise government expenditure to take into account revised government priorities.

Senator RICE: What were the details of the WA allocation?

Mr Brennan: There is no Western Australian allocation under the Asset Recycling Initiative itself.

Senator Cormann: But there is a great \$1.2 billion investment that the Commonwealth has made in one budget and a subsequent budget update, to the Perth Freight Link project, which I know the Australian Greens enthusiastically support, which will help to take trucks and traffic off suburban arterial roads, which will help reduce congestion, improve safety and get Australian products to market at a lower cost. I am looking forward to the Greens offering their enthusiastic support for that project.

Senator RICE: You will be waiting for a long time! So, basically, some states had to take up the bribe of encouraging privatisation; other states did not need to?

Senator Cormann: The incentive. It was an incentive.

Senator RICE: Given the project was being touted as being the main investment in public transport across the country—we are always told that public transport projects were not being funded except through the Asset Recycling Initiative—what is going to happen now for funding for public transport investments?

Senator Cormann: It is entirely a matter for state governments, but of course you also know that the Prime Minister has a strong interest in public transport infrastructure—

Senator RICE: That has not been funded.

Senator Cormann: and these opportunities are always under review. If the government have got announcements to make in this space, we will make them.

Senator RICE: Is the government aware of the reports that our US ambassador has been briefing the Trump administration on the asset recycling initiative?

Mr Brennan: I was not aware.

Senator Cormann: It would not surprise me, because my very good friend Joe Hockey was an outstanding Treasurer. He is doing a great job as the Australian ambassador to the United States.

Senator RICE: So he has not got any advice from you?

Senator Cormann: From an Australian government's point of view, and I am sure it is also from an Australian point of view generally, we always are happy to share our experiences and insights with our American friends.

Senator RICE: But did he get any prior briefing from either the department or from you, Minister?

Senator Cormann: Not from me personally, no, but you would not expect me personally to provide a briefing in relation to this. It is not in my area. What I would say is that of course our ambassador to the United States has got very good firsthand knowledge of the operation of the asset recycling fund and initiative as a former distinguished Treasurer of the Commonwealth.

Senator RICE: But do you have any understanding of what the nature of that advice was?

Senator Cormann: The nature of which?

Senator RICE: Of the advice that Mr Hockey was giving to the Trump administration?

Senator Cormann: I have just heard you refer to it. It is the first I have heard of it myself. I am happy to take it on notice, to see whether the Treasurer wants to add to what I have said so far.

Senator RICE: That would be excellent; thank you.

Senator LEYONHJELM: I have a series of questions about national partnership payments. I confess I do not know much about them; I am relying on one of my staff, who knows a lot more about it than me. I am hoping that somebody at the table does know something about them.

Mr Brennan: Hopefully Mr Rollings, who runs the Commonwealth-State Relations Division, will be in a position to help.

Mr Rollings: I am happy to see if I can help.

Senator LEYONHJELM: Thank you. This information I have—I am relying on one of my staff who knows a lot more about this than me, so I am hoping that he is accurate. He has told me, and I understand, that national partnership payments to the states are made on a roughly monthly basis and that the Treasurer signs determinations that set out the amounts to be transferred, and these determinations state that payment will be made on a date a couple of days after the date that the determination was made. Is that right?

Mr Rollings: That is broadly correct. There is a range of determinations the Treasurer makes under the Federal Financial Relations legislation. We split those across a couple of payments each month and he makes determinations in relation to those so that is probably accurate, yes.

Senator LEYONHJELM: I understand that these determinations are typically lodged on the Federal Register of Legislation some months after the determinations are made. Is this correct?

Mr Rollings: I think that is correct. We certainly do put them on the register.

Senator LEYONHJELM: I have a list of determinations that were lodged somewhere between one month and nine months after they were made—would that seem right?

Mr Rollings: Nine months after they were made does not seem right. I am not saying it is not right, but I could take that on notice just to check that. It does seem—

Senator LEYONHJELM: I could give you the numbers here: Nos 94 to 103 were made from between June 2015 and February 2016 and were registered in late March 2016. So that is a maximum of nine months from the first one to the registration date. Now I am relying on this information here, so if that is not correct—

Mr Rollings: I will take that on notice to check that out.

Senator LEYONHJELM: Are you aware the legislation act states that the minister 'must lodge an instrument for registration as soon as practicable'? Aren't these delays violating the legislation act?

Mr Rollings: Again, I will take that on notice.

Senator LEYONHJELM: According to the Legislation Act, an instrument is not a legislative instrument if it is not registered, and, according to the Federal Financial Relations Act, you need to make a legislative instrument for a payment to be authorised. Does this not mean that you regularly make payments without authority at the time that you make the payment?

Mr Rollings: I will take that on notice, but I have a reasonable level of confidence that we are operating appropriately.

Senator LEYONHJELM: I was very tempted to lodge all of this on notice, to be quite honest, because I thought you might say that. The Legislation Act says an instrument can commence before the date of registration if it imposes no liabilities and it is to no-one's disadvantage. Do you rely on this provision when you make payments before the determination is registered?

Mr Rollings: To my knowledge, we are not relying on that; to my knowledge, we are operating in accordance with the legislation—but, again, we will check it out on notice.

Senator LEYONHJELM: In that case, because I appreciate that it might be a bit unfair to hit you with this, I will put the rest of my questions on notice and give the other senators a chance to ask their questions. I look forward to your response. Thank you very much.

Senator WHISH-WILSON: I asked this question earlier to the Markets Group—has there been any work done at all in the social policy division around the inadequacies of CPI as a cost-of-living index and whether alternative indexes might be better able to inform us around social issues? You probably understand that there are a number of criticisms around CPI decoupled from house price and land price, for example and a whole range of other factors that affect cost of living. I could name more if you like, but I am sure you are familiar with them.

Mr M Robinson: In terms of work that we have done specifically, there has probably not been a great deal done in recent times, but I would point to some of the work that has been, effectively, done through commissioned work by governments. The McClure review of the social security system went into some analysis of indexation arrangements for payments, and

prior to that, in 2009, the Henry tax review also looked at indexation arrangements around different social security payments. I think, if my memory serves me correctly, that led to some changes in the indexation arrangements for the age pension and the introduction of the Pensioner and Beneficiary Living Cost Index.

Senator WHISH-WILSON: Those considerations were around whether it was a fair benchmark to use for reflecting costs of living?

Mr M Robinson: That is right. One of the key findings at the time was that the composition of the Consumer Price Index is not necessarily the best sort of measure as a living-cost index, which is what led to the adoption of the Pensioner and Beneficiary Living Cost Index. As I mentioned earlier in one of my responses to Senator Cameron, pensions are indexed to the higher of the growth of the CPI and the Pensioner and Beneficiary Living Cost Index and, of course, are benchmarked against a wages benchmark as well.

Senator WHISH-WILSON: Okay. I will put a number of questions on notice specifically around that, but just to finish off: I asked the Treasury secretary today about the kind of detailed work you are doing around housing inequality, especially for young Australians. He said that you have a behavioural modelling section where you look at behavioural changes in economics. Are you able to provide information around what kind of detailed work you are doing, at the very least trying to quantify the number of young Australians who are actively trying to access the housing market, the amount of times they get knocked back for loans, what kind of basic deposits they need, their income to house price ratios—just some basic quantitative data?

Mr M Robinson: It is probably fair to say that the majority of the work that we have been focusing on recently relates to the affordable housing work that I discussed previously—in particular, the work that we are doing around looking at the innovative financing mechanisms for social and affordable housing and the bond aggregator task force that I spoke of recently.

Through the course of that work we do of course look at a range of research and statistics that are available, mainly in the public domain, about what is happening with house prices, first home ownership and the like. It is probably fair to say that there are figures out there indicating that there has been a decline in younger age groups for first home ownership—in the 35-39 and 40-44 age groups.

Senator WHISH-WILSON: There have been time series data looking at that in previous years—

Mr M Robinson: That is right, so it is—

Senator WHISH-WILSON: Has there been any qualitative assessment on top of that, as to what might be a contributing factor? That is probably the multibillion dollar question. Have you gone the next step to look at what those key variables might be that are influencing that and how, potentially, we can tackle those variables?

Mr M Robinson: There is a range of factors at play. Of course, house prices are obviously going to be a key influencing factor there. As many would be aware, there has been quite strong house price growth nationally, and particularly in markets such as Sydney and Melbourne. Other factors would be the long-term growth in wages and, I guess, the relativity between house price growth and wages. There are also employment levels—

Senator WHISH-WILSON: Is there an occasional paper or some kind of study that Treasury has done on this particular issue?

Mr M Robinson: We have not published any papers as such. A lot of the work that we do draws on research that has been undertaken by other organisations. Like many others, we track figures that are put out by organisations like the Housing Industry Association and RP CoreLogic. There are quite a number of organisations that publish affordability, ownership and house price information.

Senator WHISH-WILSON: I actually wanted to get this on record anyway: when I was asking the secretary today, he made a comment that when he was younger his generation's mindset may have been different. Unfortunately, I probably should have asked him what he meant. For his sake, I do not know whether you want to take that on notice, but I would be interested if there were any—

Senator Cormann: I think that he would be able to think about an answer—

Senator WHISH-WILSON: I thought he would not want to second-guess what the secretary meant—

Senator Cormann: We will take that on notice.

Senator WHISH-WILSON: Perhaps you could ask—

Senator Cormann: We will take that on notice, and—

Senator WHISH-WILSON: I will finish that off, because it is quite important. Obviously, he may have been relating to all sorts of demographic differences between generations. But, given the Bernard Salt avocado comment that has caused so much controversy, it would be interesting to hear from him as to what he was referring to there and whether you are studying those issues. Obviously, young people are different between generations and have totally different habits, but that is no doubt going to play a big part in the kinds of policies that we need to target this issue.

Mr M Robinson: We could take that on notice. One thing I would point out is that there has been research by organisations like the Australian Housing and Open Research Institute, AHURI, that has looked at some of the demographic changes around couple formation and people, effectively, getting married later in life, deferring having children and those sorts of things. Some of that seems to be among the factors that are influencing people's decisions to purchase. There is a range of factors.

CHAIR: I am afraid we have more question to this group but it is time to break, so we will suspend for just under one hour and come back at quarter past seven.

Proceedings suspended from 18:19 to 19:15

CHAIR: We will resume. At the desk we have Department of Treasury Fiscal Group again.

Senator KETTER: In relation to Commonwealth government securities, I am interested in the recent trends in public debt interest and debt-servicing costs for the Commonwealth. What are the trends there, and what are the implications?

Mr Brennan: In broad terms, the net interest payments at the moment are in the order of \$12 billion a year. That is my recollection. I will get some background on the recent trend. Is there a specific figure that you would be interested in, Senator?

Senator KETTER: Maybe let us start with the general direction of interest rates.

Mr Brennan: Of interest payments?

Senator KETTER: Yes.

Mr Flavel: As was outlined in MYEFO, net interest payments over the forward estimates are on average about 0.7 per cent of GDP. In each update, government publishes a weighted average cost of expected rates applying to future issuance. I think from memory at MYEFO that weighted average was 2.7 per cent, so that was slightly higher than the figure that prevailed at budget last year in May, which was 2.5 per cent.

Senator KETTER: Can you tell me what the face value of total Commonwealth government securities, subject to the Treasurer's direction, is sitting at?

Mr Flavel: I can give you the figure that I have for, effectively, the end of February. It was around \$475 billion.

Senator KETTER: So that is up from 460 at MYEFO?

Mr Flavel: I am not sure I have the MYEFO number in front of me, but that would probably be about right.

Senator KETTER: Do you agree that the most recent MYEFO update shows gross debt going beyond \$500 billion by the middle of this year?

Mr Flavel: At each update, there is a debt statement produced which actually outlines the peak for expected face value of debt on issue, and that shows that by 30 June for this current financial year it is expected to be \$496 billion and then would be higher than that—in other words \$500 billion—sometime in 2017-18 financial year.

Senator KETTER: It is perilously close.

Mr Flavel: As I said, it is currently 476. So that is just extrapolating out those assumptions about future financing requirements through the year.

Senator KETTER: You have said that you expect it to go through the \$500 billion sometime in the next financial year. Can you pin that down to a particular week or month?

Mr Flavel: No. If it is helpful to you, I think later this evening you have the Australian Office of Financial Management appearing. They are actually formally responsible for issuing debt. I suspect that what they will tell you is that these are based on projections of debt issuance, maturities of debt and expectations of lumpy payments. There will always be a degree of variability around that, so I expect they will be reluctant to pin down specific weeks or months for when particular numbers might be achieved.

Senator KETTER: So you would expect that there would be a need to update the Treasurer's direction?

Mr Flavel: Yes, under the Commonwealth Inscribed Stock Act, there is a direction that essentially places a limit on the amount of debt which can be on issue. That is currently \$500 billion. In order for the AOFM to continue to comply with that direction, to the extent that debt needed to go above \$500 billion, a new direction would need to be issued.

Senator KETTER: When do you expect that to happen?

Mr Flavel: I cannot say. The Treasurer has been asked this publicly before, but he said that it is an issue that will be under consideration over the coming period.

Senator KETTER: Can you tell me why the direction from the former Treasurer in December 2013 only allowed borrowings of up to \$500 billion?

Mr Flavel: I am not sure I can, actually.

Senator KETTER: Would it have something to do with the 2014 budget projections at that time?

Mr Flavel: My recollection is that it was actually set in the latter part of 2013, which would have in fact preceded the 2014-15 budget.

Senator KETTER: Since the 2014 budget, have there been changes in projected peak gross debt which show debt increasing to now well beyond the \$500 billion?

Mr Flavel: It is a matter of record that each update the government publishes a set of medium-term projections to cover the underlying cash balance and net debt and also gross debt on issue, and that shows that the path of debt in nominal terms continues to rise across the medium term.

Senator KETTER: Will Treasury provide a briefing to the Treasurer before June 2017 in relation to a new direction to allow debt borrowings to go beyond \$500 billion?

Mr Flavel: I expect that our advice will be sought. I cannot give any more guidance as to when and what form that might take. Sorry, to come back, if you go to the two charts on page 33 of the MYEFO, one is gross debt projected out over the medium term. That shows, as a proportion of GDP, what is happening to debt. Equally the historical tables at the back of the documents outline the face value of debt on issue, which shows you that—as I said earlier—it is expected to be just under \$500 billion by the end of this financial year.

Senator KETTER: When would you ordinarily expect a direction to be given to the AOFM, under section 51JA of the CIS Act that you have just talked about?

Mr Flavel: Again, there is probably an issue worth raising with the AOFM. They have vast experience in managing the Commonwealth's cash flows both in and out. The fact that we might be approaching that of itself does not necessarily create any particular operational issues for them.

Senator KETTER: At what point would it be published in the gazette? It is presumably after the direction is given. What time frame are we looking at there?

Mr Flavel: Sorry, I will have to take that on notice. I do not have that particular part of the Commonwealth Inscribed Stock Act there. That outlines the fact that it is a non-disallowable direction, from memory. But I do not recall the language in the act about the period within which that direction has to be tabled.

Senator KETTER: Has Treasury had discussions with AOFM in relation to any potential new directions at this stage?

Mr Flavel: The AOFM and Treasury liaise a very regular basis on a whole range of issues. It may well have been discussed just as part of those ongoing discussions we have with them.

Senator KETTER: What are the legal impediments or consequences of having Commonwealth government securities above the Treasurer's direction?

Mr Flavel: Put simply, it is not. The AOFM would be in breach of the Commonwealth Inscribed Stock Act if it did in fact issue debt that would have the face value outstanding above the existing direction limit of \$500 billion.

Senator KETTER: Just to confirm to make this clear: can AOFM and the Treasury have a total Commonwealth government securities above \$500 billion without an updated direction from the Treasurer?

Mr Flavel: No.

Senator KETTER: I have some questions about the Bell Group and in relation to GST. The Prime Minister made the announcement on 10 April last year that the Commonwealth would invest an additional \$490 million into Western Australian infrastructure in 2016-17. The Prime Minister indicated that the spending was to ensure that Western Australia's share of GST would be effectively maintained at its 2014-15 levels. Can you tell me when the Treasury first became aware of that announcement?

Mr Brennan: I would have to take that on notice, because it is going back some time. We would have to check with the office as to when the Treasurer—the Treasurer, did you say—first became aware.

Senator KETTER: Yes, but when Treasury first became aware.

Mr Brennan: Yes, Treasury. I would have to take that on notice.

Senator KETTER: Were there any other options being considered to satisfy Western Australia about the distribution of the GST revenue?

Mr Brennan: Again, I would have to take that on notice. It is quite possible that there were other options mooted.

Senator KETTER: You can come back to me what those options were. When was the option of the \$490 million in infrastructure spending decided upon?

Mr Brennan: Again, we might take that on notice. This was the announcement made on 10 April 2016, is that right? In relation to the \$490—

Senator KETTER: I have got \$490.

Mr Brennan: Yes, which was in the 2015-16 year.

Senator KETTER: Yes.

Mr Brennan: We will take that on notice.

Senator KETTER: Just finally, in relation to that, why was the option of the \$490 million in infrastructure spending chosen?

Mr Brennan: Again, I will take that on notice and see what information we can provide. Some of that goes perhaps to the nature of advice to government. The \$490 million, you may recall, was the second such instalment of payments to Western Australia. The first such payment was made in the 2014-15 year, which was a not dissimilar amount: it was \$499 million. Broadly speaking—possibly not absolutely to the dollar, but in the broad—these amounts the difference between the Western Australian GST relatively, so their share of a per capital allocation, in those years relative to what it had been in 2014, which was in the order of 37.8 or thereabouts. It fell as low as just under 30 per cent—0.299 or so. The nominal sums broadly were equivalent to that gap.

Senator McALLISTER: Was there an agreement to make an ongoing adjustment with Western Australia?

Mr Brennan: No, there is no agreement with ongoing force. Both of those decisions have been made essentially on a case-by-case basis. In each case, it would be unwise or perhaps imprudent to make a commitment when the annual GST relativity comes out around March of each year. It is somebody gets assessed on the merits of the case once that occurs. That has been the pattern for the last two years.

Senator McALLISTER: It is relatively recent.

Mr Brennan: It has happened for those two years.

Senator McALLISTER: Senator Ketter, I apologise for interrupting.

Senator KETTER: I might mislead you when I mentioned those questions related to the Bell Group. That was not correct. They are just in relation to GST. There is not need to cross reference that. Now, in the interests of time, as I know Senator McAllister has some questions, I would just like to talk about the bond aggregator that we touched on earlier. I understand that a task force was established to work on the design of the bond aggregator. Has the task force been appointed? If so, when? Can you take us through that?

Mr Brennan: Sure. I will get Mr Robinson to fill out the detail. The task force, essentially, is within the Treasury. It is Treasury staff essentially being allocated to this task. In addition to that, we will seek some outsourced or contracted advice as well. I will turn to Mr Robinson for the detail.

Mr M Robinson: As Mr Brennan indicated, the task force will be run out of Treasury, basically with a small secretariat within the Treasury. We are also in the process of looking to engage some consultants. In fact, in the 2016-17 Mid-Year Economic and Fiscal Outlook there was a measure that was indicating some funding to assist with the task force. We are in the process of evaluating tenders at the moment and hoping to engage a consultant shortly. In addition to the secretariat and the consultants, there is also an expert panel that will be appointed. That is yet to be finalised and announced, but we are hoping that will be done shortly. We are basically looking to have some relevant experts from the government, community housing and finance sectors that will be able to provide the expert input into that task force. As I mentioned earlier, the task force will then go about undertaking work to look at the development of the proof of concept for this bond aggregator model and report back to heads of treasuries by the middle of the year.

Senator KETTER: Just a couple of further process questions: it is entirely within Treasury, so there is no formal appointment dates for members of the task force?

Mr M Robinson: No, that is right. We are working closely with our colleagues from the Department of Social Services. There are a couple of other recommendations in the affordable housing working group report that was considered by treasurers and heads of treasuries last year. Some of those recommendations worked to look at supporting measures that might assist with supporting a bond aggregator and also looking at what sorts of current and future policies that the states might be considering that might have scope to support a bond aggregator as well.

We have got a further working group, which is the reconstitution of the working group that was put together to develop the report to heads of treasuries last year. That working group has

representatives from Commonwealth Treasury, the Department of Social Services and the New South Wales, Victorian and Western Australian treasuries. That working group will also undertake the sort of parallel activities and also report back the heads of treasuries by the middle of the year. That work will obviously involve quite substantial consultation with the other states and territories. In the development of our report to heads of treasuries last year, we undertook substantial public consultation. We held round tables in Sydney and Melbourne and also a workshop with the states and territories. I anticipate there will be a similar sort of engagement with the states throughout this process.

Senator KETTER: And the secretariat for the task force is from within Treasury?

Mr M Robinson: Yes, that is right. It is operating from within Treasury. As I said, we are working closely with our colleagues from the Department of Social Services as well.

Senator KETTER: It is a full-time task force?

Mr M Robinson: As I mentioned, the bulk of the work, given the very technical nature of the work—we are talking about the establishment of an entity that would be issuing bonds to the wholesale market and assessing requests for loans for community housing providers, and so forth—we are anticipating that the majority of work will be undertaken by consultants with those sorts of skills and that the work within Treasury will be a small secretariat supporting that work.

Senator KETTER: Obviously it is still very early days, but have there been any organisations or individuals that the task force has consulted with at this stage?

Mr M Robinson: Yes, we have. We are in the process of the evaluation of tenders for consultants. Given the nature of the procurement process, I will decline from making further comments given the commercial nature of the dealings we are in at the moment. Of course, during the course of the consultation we undertook with the Affordable Housing Working Group and in the development of a report last year, we have maintained contact with a number of organisations and individuals that we have discussions with on a regular basis.

Senator KETTER: Is it too early to determine what type of entity is under consideration as a design for the bond aggregator? Is it going to be a corporate Commonwealth entity or a not-for-profit financial institution?

Mr M Robinson: We have not made any determination at this stage. That will be one of the things that the task force will investigate. I think I mentioned earlier, when Senator Hume was asking me about this, that the work of the task force will look at a range of issues: the ability of the community housing sector to support a pipeline of supply; call for debt aggregation—which is what this entity would be looking to do—looking at governance arrangements for the entity; looking at the structure, frequency and size of debt issuance to the market; and assessing investor appetite, and so forth. There will be a range of activities that the task force will undertake including governance arrangements.

Senator KETTER: Finally, I want to confirm that the task force will report to the heads of Treasury?

Mr M Robinson: That is correct. I would imagine, similarly to our report last year, it would shortly thereafter be considered by Treasurers.

Senator KETTER: I think that was to be the middle of this year?

Mr M Robinson: That is right. Mid-2017 was what we had in our recommendation that was agreed to by Treasurers.

Senator GALLAGHER: I have a series of questions on a number of different topics that, hopefully, I can move through pretty quickly. In relation to the government's fiscal strategy—I asked this of the Finance Minister yesterday so I am expecting the same answer—does it remain the government's strategy to have a budget surplus of at least one per cent of GDP as soon as possible?

Mr Flavel: Yes, as outlined in MYEFO, that remains part of the government's fiscal strategy.

Senator GALLAGHER: On current projections, with the current assumptions in place, when will a budget surplus of one per cent be reached, all things being equal?

Mr Flavel: As outlined in the MYEFO, the budget is projected to return to balance in 2021 and then remains in surplus throughout the remainder of the medium-term period.

Senator GALLAGHER: Yes, but it does not get to the one per cent in the table that is outlined in MYEFO, so my question is: with the fiscal strategy in place, which is that spending must be offset, and with the tax cap in place, at what point would the budget reach a surplus of one per cent of GDP?

Mr Brennan: Essentially, it does not in the medium-term projection period.

Senator GALLAGHER: As outlined in that table?

Mr Brennan: Correct.

Senator GALLAGHER: So you have not modelled beyond that?

Mr Brennan: No, we have not modelled beyond that, and it would not be our—

Senator GALLAGHER: Beyond 2026-27?

Mr Brennan: That is correct, and it would not be our practice to model beyond that except in the context of an *Intergenerational report*, which we do, obviously, every five years or thereabouts.

Senator GALLAGHER: But perhaps you would keep adding in another year into that as the new budget—

Mr Brennan: Each year you add a new year.

Senator GALLAGHER: So it remains a fiscal strategy, but we are not sure when we will reach that?

Mr Brennan: I think that is a fair reading of chart 3.1.

Senator GALLAGHER: All right. I notice that the MYEFO documents also show—there is not really an explanation; the explanation is what I am after—that the tax cap, or tax to GDP ratio, of 23.9 per cent is pushed back a year. Is that right? Is my reading of it right?

Mr Brennan: The 23.9 per cent tax to GDP ratio is reached in 2022-23, so that is one year later than was projected.

Senator GALLAGHER: Yes, exactly. So can you just tell me what the reason for that is and whether that change has any implications, for example, for the underlying cash balance

over the medium term because of that movement. Does that one year have any consequential impact?

Mr Brennan: Basically, the reason for that shift in year is the revenue writedown that occurred in the 2016-17 MYEFO. In the 2016-17 MYEFO, tax receipts were written down by in the order of \$30 billion for the four years over the forward estimates. So by 2019-20—I cannot recall precisely the annual figure—tax receipts were substantially lower than was projected in the PEFO in nominal terms and a bit lower as a percentage of GDP. I can get that figure for you, but basically that just meant the whole trajectory was a bit lower, and it takes longer to get to that 23.9 per cent cap.

Senator GALLAGHER: Does it have any implications, say, for the underlying cash balance?

Mr Brennan: The writedown in tax receipts certainly does, because the receipts were written down by, as I say, about \$30 billion. Partially offsetting that, payments over the four years were written down—reduced by of the order of \$16 billion over that period. Policy made a small positive contribution to the bottom line, so a net reduction in payments of a couple of billion. So, in aggregate, there was about a \$10 billion reduction in the underlying cash balance over the four years between the PEFO and the MYEFO.

Senator GALLAGHER: You would not believe how long Mathias—or Minister Cormann—would not utter those words yesterday. But I get it. Thank you. I have one question on the Future Fund, just around Treasury's involvement in Future Fund decisions, particularly around when drawdowns are to commence. Are you involved? This is just a general process question. What is Treasury's involvement there?

Mr Brennan: The date at which drawdowns can commence is essentially enshrined in legislation. The date at which drawdowns can commence is either 2020 or the point at which the assets of the Future Fund meet the unfunded liabilities. That latter precondition has not been met and will not be met by 2020 on the best projections, but from 2020, under the act, drawdowns from the fund are possible to meet the government's annual superannuation costs. So that, in essence, is the starting point: from 2020, drawdowns are allowed.

Senator GALLAGHER: What would Treasury's involvement be in that?

Mr Brennan: Jointly with the Department of Finance, we would provide advice to our respective ministers, or the two ministers jointly, about what the drawdown policy might be.

Senator McALLISTER: Have you started that conversation?

Mr Brennan: Broadly speaking, yes. Without going into the detail of advice provided to the government, that sort of consideration around drawdowns has commenced.

Senator GALLAGHER: And do you lead that work? Does Treasury lead that work?

Mr Brennan: It is, really, shared. Is that a fair characterisation?

Mr Flavel: Yes. Both the Treasurer and the Minister for Finance are the responsible ministers under the Future Fund Act. As you probably know from your involvement in the finance committee, formerly the Future Fund is in the Finance portfolio. Finance has a branch within its structure that actually is involved in doing a lot of liaison between Department of Finance and the Future Fund agency.

Senator GALLAGHER: So you will be interested, presumably, in the drawdowns?

Mr Flavel: The Treasurer is the responsible minister, as well as the Minister for Finance—that is right.

Senator McALLISTER: There are only two agencies. Have you formalised it into a working group? Is there any structural response to this? Or is it, at this stage, informal?

Mr Brennan: It is informal, but the two departments work pretty closely, as you can imagine, on a range of things.

Senator McALLISTER: Have you recently briefed over the finance minister or the Treasurer? Without going into the contents of those briefings, have briefings been provided?

Mr Brennan: We have certainly provided some briefings over recent times. I would have to take on notice the specific time frames.

Senator GALLAGHER: Presumably, that would be in the lead-up to the drawdowns—the informal work would be formalised, I imagine. Is that—

Senator McALLISTER: There has been some indication that it would be settled in this budget, so that presents some deadline. Is it being considered in a broader context of the budget decision making?

Mr Brennan: I would not care to comment about—partly, because that goes to what announcement strategy there may be. And I am not really privy to that.

Senator GALLAGHER: In relation to the omnibus bill that, I think, is currently before the parliament, was Treasury involved in putting that bill together? Are there any costings in relation to the bill? Do you have a role?

Mr Brennan: Not closely involved, Senator. Unlike the previous omnibus savings bill, where we had the primary carriage for the drafting of the bill itself, that was not the case for this omnibus bill. The costings of the individual measures, as always, is a matter for the Department of Finance.

Senator GALLAGHER: Do you have the financial information that is contained in the bill in terms of underlying cash balance terms as well as the profile over the forward estimates?

Mr Brennan: I do not have it at hand.

Senator GALLAGHER: Could you provide that if we ask on notice?

Mr Brennan: Yes.

Senator GALLAGHER: With the decision to link the savings proposed in the omnibus bill to the National Disability Insurance Scheme, was Treasury involved in that decision or aware of that decision—that the savings would be then linked into the special purpose account for the NDIS?

Mr Brennan: It was a decision of government.

Senator GALLAGHER: Okay. You know you have reached estimates peak when you start answering your own questions—which is where I am right now! I do not think we are going to get very far with that. I have questions around actuarial certificates. Is this the right group for that?

Mr Brennan: In relation to superannuation?

Senator GALLAGHER: Yes.

Mr Brennan: Yes, it is.

Senator GALLAGHER: It has been raised with me that the proposed changes around the requirements for actuarial certificates are going to have quite a significant impact in terms of inaccurate claims for tax exemptions. I presume Treasury has looked at this. Could you provide me with your views on that claim that has been put to me?

Mr Brennan: We can provide you with an update. I might ask Ms Wilkinson to—

Ms J Wilkinson: I think the most relevant update, really, is: the government made a decision in the context of the superannuation package last year to consider whether there was an ongoing need for actuarial certificates to be provided in particular situations where the calculations were reasonably straightforward to conduct. The requirement for actuarial certificates is in regulation. So we have just been consulting on a raft of regulations associated with the package, one of which includes the need to provide actuarial certificates. Consultations on all of those regulations closed about Friday week ago, so we are considering all of the comments that have been provided through that process, and there have been quite a number that have been provided on this issue of actuarial certificates and whether or not they should be provided.

Senator GALLAGHER: So what is the process? Are you going to release a draft regulation? You have done the exposure draft, haven't you?

Ms J Wilkinson: Yes. The draft regulations were released mid-December, from my recollection. Consultations have now closed, and the government is committed to making a decision on the regulations and getting them made as soon as possible.

Senator GALLAGHER: So well before 1 July?

Ms J Wilkinson: Absolutely. We are well progressed along that route.

Senator GALLAGHER: Can you tell me how many actuarial certificates you believe will be required under the new—

Ms J Wilkinson: I cannot tell you how many. The consequence of the government's decision that people who have balances above \$1.6 million would have to use a proportionate method rather than having the option of using segregation methods—these are the technicalities of how you can calculate your tax within an SMSF. The consequence of applying the \$1.6 million would mean that more people will be in that situation, or may be in that situation. It depends on whether they decide to actually split their funds or whether they decide to just have one account, or one fund within which the two accounts would sit. So it is a little bit hard to judge, but we certainly expect that there would be more people who would have to provide an actuarial certificate than has been the case in the past.

Senator GALLAGHER: The reason I am asking is that it was put to me that, for the people who provide actuarial certificates, there was going to be a significant reduction in the volume of their work under the new arrangements. Can you address that?

Ms J Wilkinson: The government has not made a decision. As you know, the draft regulations are out. If the government removed the need to provide actuarial certificates, then there would be a reduction in the requirement for those actuarial certificates to be provided.

Senator GALLAGHER: So basically it is wait to see what the regulation looks like. No doubt I will hear back from people if concerns remain about that. I will watch that space.

Just in relation to the unpaid super working group, I note the minister's release says that Treasury, the Department of Employment, ASIC and APRA are on the working group. Is there a chair of the working group?

Ms J Wilkinson: The ATO is chairing the working group.

Senator GALLAGHER: Has it had its first meeting?

Ms J Wilkinson: Yes. It has met several times. I think it has met three times since it was formed in mid-December.

Senator GALLAGHER: Three?

Ms J Wilkinson: I think so, yes.

Senator GALLAGHER: I will not hold you to that, but roughly three. Has there been any consultation with the superannuation sector or stakeholders?

Ms J Wilkinson: There have been no formal consultations, but—

Senator GALLAGHER: Not formal?

Ms J Wilkinson: Not formal consultations, but, in the course of the discussions that we all have with members of the superannuation industry, I am sure there are a range of discussions which have taken place. In particular, the working group is of course taking note of the submissions that have been provided to the Senate committee that is looking at the same issue. Those submissions are raising questions and options, and, as is the normal course of events, we either have talked or are very likely to talk to people about their submissions.

Senator GALLAGHER: So basically you are watching what is happening in the committee and coming through the committee and seeing that as part of the consultation process, rather than doing your own formal—

Ms J Wilkinson: We are doing both. We have not launched a formal separate consultation process, but we are obviously working in parallel.

Senator GALLAGHER: So is the working group on track to provide a final report at the end of March, is it, or during March?

Ms J Wilkinson: The commitment is that the report would be provided in March.

Senator GALLAGHER: Do you know if it will be released?

Ms J Wilkinson: That is a matter for government.

Senator GALLAGHER: I was not sure whether there had been any public commitment to release it. Is there any interim report for this working group?

Ms J Wilkinson: Minister O'Dwyer noted in her press release that there was an interim report that was provided. I cannot remember exactly when.

Senator GALLAGHER: But not released?

Ms J Wilkinson: No. It has not been released.

Senator GALLAGHER: We might put that on notice, or we will pursue that through the inquiry.

Ms J Wilkinson: The working group has met five times, roughly.

Senator GALLAGHER: That is good. We will hold you to that, then.

Senator McALLISTER: I want to ask about climate and energy policy, which I think is with your group rather than anywhere else in Treasury.

Mr Brennan: That is the case as of now. They will transfer to the new structural reform group. They have been within the remit of this group.

Senator McALLISTER: Will the structural reform group displace the energy working group that the secretary made reference to this morning?

Mr Brennan: No. I think that energy working group will be subsumed within the structural reform group.

Senator McALLISTER: That is what I mean.

Mr Brennan: It will be under that umbrella.

Senator McALLISTER: So that expertise is being brought together in a single place?

Mr Brennan: Correct.

Senator McALLISTER: But you have been involved in the energy working group up to this point, I imagine.

Mr Brennan: Yes.

Senator McALLISTER: And leading it from this branch?

Mr Brennan: From this group, yes. Mr Dunn and McDonald are probably best placed to answer questions on energy.

Senator McALLISTER: Minister Frydenberg has announced a review of climate change policies. It is being done under the banner of the Department of the Environment and Energy. Are you involved in that in any way?

Mr McDonald: We are involved in that. We go to interdepartmental committees on that.

Senator McALLISTER: So there is an interdepartmental committee structure specifically for the review, or more generally?

Mr McDonald: Specifically for the review.

Senator McALLISTER: That is just a process question. Separately, has your group done any work on the Australian gas market?

Mr Dunn: No. We have done no work specifically on the gas market. I note that there is a review, and the work is being done by the COAG Energy Council. Dr Burdekin is looking at that.

Senator McALLISTER: What about analysis around new coal-fired power stations?

Mr Dunn: We have done no specific analysis of new coal-fired stations?

Senator McALLISTER: No analysis of the relative costs of different generation sources?

Mr Dunn: We look at the whole range of energy supply and demand factors. That would include a whole range of energy mix.

Senator McALLISTER: Can you talk to me in very broad terms about what the work—if you have not been working on gas, and you have not been working on coal-fired power stations, what is the focus of your area?

Mr Dunn: It is a relatively new area, if I may put it that way. The energy issue is new for the team. What we have been doing is—

Senator McALLISTER: When you say 'new', is it in the last three months?

Mr Dunn: Yes.

Senator McALLISTER: So you have been tasked with this in the last three months, and prior to that there was not anybody working on it?

Mr Dunn: No, it is not correct to say there was nobody else working on this in the past. In the past we have always had a watching brief. It has come to a higher level now because the Energy Committee of cabinet now has been formed, which Treasury is part of. So we are taking a more in-depth analysis and having to look at the issues.

Senator McALLISTER: What is your work plan? What are your major projects? You do not need to tell me the content of the advice, but what are the broad things that are occupying you?

Mr McDonald: Broadly, we provide advice to the Treasurer as part of his participation in the Energy Committee of cabinet, and that goes to advice on ways to promote affordability, reliability and sustainability of electricity.

Senator IAN MACDONALD: On that last issue, has Treasury ever done any analysis on the change that carbon emissions cause to the world climate on the basis that Australia's emissions are less than 1.2 per cent of the world's carbon emissions? I am wondering if you have ever done an analysis on the cost to the Australian economy of dealing with so-called climate change, bearing in mind that, quite frankly, nothing we do in Australia, with an emission of less than 1.2 per cent, is ever going to make any difference to the world's climate. I am just wondering if Treasury has ever done a model or analysed the cost to the Australian economy for all the work we are doing to try and reduce Australia's 1.2 per cent of emissions by 2030 or even 50 per cent on the basis that even if we reduce it by 50 per cent the impact on the world's climate is going to be absolutely negligible. So I am wondering if anyone has ever looked at those figures from an economic point of view?

Mr Dunn: I will have to take that question on notice because you say 'ever'. I am sure that we have been involved in the development of emissions trading schemes, carbon tax and everything in the past. That is quite a long time frame. We would have to take that question on notice to see if we have done any work on the climate impact.

Senator IAN MACDONALD: Thanks for that. There is so much in the chatter these days about clean coal and renewables and the cost of renewables that I just thought that it might have been an opportune time for Treasury to have a relook at the cost to the Australian economy of all of those things, with the underlying principle that nothing Australia does is going to make any impact on the world's climate change, if you accept it is change.

Mr Dunn: We have not done anything in recent times on the points you raise.

Senator IAN MACDONALD: Could I suggest to the minister that perhaps that might be something that the minister might ask the Treasury to have a look at. There is so much emphasis on this change, this expense of renewable targets, but it surprises me that Treasury has not done an analysis of the costs and benefits—it would be negative, not benefit—of doing that, when it is going to make absolutely no difference, at that 1.2 per cent, to what the emissions of carbon might do to the world's climate change.

Senator McGrath: I will take that on notice.

Senator ROBERTS: Thank you for attending tonight. I travelled through western Queensland last week. We always travel somewhere in Queensland between sessions. People are really hurting—farmers and small businesses are really hurting. Energy prices have come forward as the number one issue from every single person except one town. We will get onto that one town. How much has electricity CPI increased in Australia since publication from September 1980 to December 2016?

Mr McDonald: We will have to take that on notice.

Senator ROBERTS: I can tell you that it is a 678 per cent increase over that period. Electricity prices have gone up seven times. How much gas CPI increased in Australia since publication from September 1989 to December 2016?

Mr McDonald: We will have to take that on notice.

Senator ROBERTS: I would like to see what you come up with in the annual figures, but in the total, over that period, there has been a 255 per cent increase, with more than half in the last eight years. That is devastating to people in the cities as well as in rural Queensland. Given our vast quantities of untapped energy resources and human entrepreneurship, creativity and initiative, are there government policies and interventions driving up electricity and gas prices, especially since the late 2000s?

Senator McGrath: I think that is something we might have to take on notice.

Senator ROBERTS: Are you aware of the greatest miracle in human civilisation, that in the last 160 years we have lifted billions of people out of poverty, given them independence from nature's extremes and created unparalleled comfort, longevity and health? Are you aware of that?

CHAIR: That is a very broad question, Senator Roberts. Perhaps you have some more specific questions for the fiscal group.

Senator ROBERTS: I think of economist Professor George Reisman, who said in his book, 'The achievement of a fully free market in energy would ensure a resumption of the growing abundance and declining real cost of energy that has characterised the Western world in the 200 years prior to the 1970s.' That is a remarkable achievement. As Senator Macdonald said, is there cost-benefit analysis applied to the policies of your department?

Mr Dunn: We have not done any analysis on this, but if you are making a statement that affordable and reliable energy helps people out of poverty and improves their living standards, I would have to agree.

Senator ROBERTS: Are there any cost-benefit analyses done on the policies?

Mr Dunn: For global?

Senator ROBERTS: For Australian policies with regard to energy?

Mr Brennan: In a way this goes to Senator Macdonald's question from earlier. For example, has there been an assessment of the overall impact of the Australian economy of, for example, meeting Paris targets and the like.

Senator ROBERTS: This is not just about climate, though. This is about government intervention in the markets—government legislation.

Mr Brennan: Yes. The answer is that we have not undertaken that work, as the answer to Senator Macdonald's question suggested. Work was done. The broad point I would make is that managing to find an assessment of a policy on the economy—what the overall impact on GDP is—is a fairly complex exercise. It normally requires purpose-built modelling capability to do. It is the sort of the thing that was done—and this is what we will take on notice—but I suspect we will find that it was done back in 2009 or thereabouts, when the CPRS, the carbon price, was under active consideration. Also, the Garnaut report certainly did some work on trying to make an assessment on what the overall cost to GDP was. But it has to be a significant policy that has whole-of-economy consequences, and the modelling itself is complicated and challenging and requires significant investment to do it. Some of the sorts of policy interventions that you might be referring to are not necessarily always amenable to that sort of whole-of-economy modelling that would generate a reduction or increase in GDP and the like. That is not to say that analysis cannot be done, and quite rigorous quantitative analysis about the impact on prices and that sort of thing, but in terms of a cost-benefit analysis or a CGE model which would try to work out the overall impact on the economy, it requires probably a policy intervention of greater scale.

Senator ROBERTS: I appreciate your courage in attempting to answer the question and in saying that it is complicated, but when I am sitting in the Balonne Shire Council at St George and they are telling me that 100 houses in the town of Dirranbandi's 300 houses are possibly vacant because of policies inflicted on them from this, I get very concerned, and I want to know why. Mr Brennan, I genuinely appreciate you jumping in, but one of the things is that there is virtually no accountability, from what I can see, coming out of business in this parliament. That disappoints me. It concerns me greatly when you see so many people pushed around in western Queensland.

CHAIR: Is there a question, Senator Roberts?

Senator ROBERTS: No, there is not. I am just complimenting him and appreciating his courage in jumping in. How many pieces of legislation—that is red, blue and green tape, blue tape being the UN—have been cumulatively passed federally in Australia from 1970 to 2016?

Senator McGrath: We might have to take that on notice. In the interests of time, we might need to take a lot of these questions on notice.

Senator ROBERTS: I have two more and they are both pretty quick.

Senator McGrath: Okay.

Senator ROBERTS: Thinking of farmers and small business, how many pieces of regulation have been cumulatively passed, federally, in Australia from 1970 to 2016?

Senator McGrath: We will have to take that on notice.

Senator ROBERTS: This is the last one. How much of an economic cost in, say, money terms per household is the accumulation of legislation and regulation to Australia—that is, the financial impact on people?

Senator McGrath: We will have to take that on notice as well.

Senator Roberts: Thank you.

CHAIR: I am very conscious of time but I do want to ask a couple of questions of this group on my particular hobbyhorse, which is social-impact investing. As you would be aware,

the Commonwealth released a discussion paper on social-impact investing in January this year. My understanding is that it closed for submissions earlier this week. For the benefit of this committee, I am wondering whether you could outline exactly what social-impact investing is and how it promotes and informs investment, particularly in social services delivery?

Mr M Robinson: As you indicated, we released a discussion paper earlier in the year inviting submissions on the issue of social-impact investing. The period for submissions closed on Monday just gone, 27 February. I am pleased to say we have had quite a good response. In fact, there were 56 submissions—

CHAIR: Terrific.

Mr M Robinson: and a few requests for some late submissions. Essentially, we are setting out to try and do three things with this discussion paper. The first is to seek views from the community on the potential role for the Commonwealth government in the social-impact investing market—that is, to look at things like what the Commonwealth could be doing to create an enabling environment for social-impact investing and to look at opportunities to fund or co-fund with the states and the possible outcomes that could be achieved with that.

The second area is to look at setting out some principles for social-impact investing—that is, giving consideration to some of the objectives you might look to achieve. There are things like seeking value for money from investment and things like that. The third area is to look at potential regulatory barriers. Part of that came as a result of recommendations from the financial system inquiry and the McClure review, which made similar sorts of recommendations, around wanting to see what sorts of things the government could do to help facilitate the social-impact investing market and remove barriers that might be holding up investment.

To give you a sense of what social-impact investing is about, typically, governments have had a key role in delivery of services and a range of different sorts of government services. What social-impact investing does is look to get involvement from the private sector, the not-for-profit sector and, in particular, with backing from private investors to look at the development of different ways of delivering services. Really, we see it as a way that can complement the sorts of services governments are delivering and, potentially, in such a way that it can produce savings or foregone costs for government. That provides an opportunity for sharing in some of those savings or foregone costs with service delivery providers. That is one form of social-impact investing.

Another form is social enterprise. It is looking at a typical business proposition but, rather than just entering into business for commercial return, it is looking at the broader sorts of returns to the community, the social benefit that might be generated for the community. It can also take other forms—things like the area of green bonds are seen as another form of social-impact investing and ways of delivering foreign aid. So it is quite a broad spectrum.

CHAIR: Of the different types of social-impact investing, there are a couple of clear avenues for government's involvement. One is in that social-impact bonds space and another one is in that social-impact investment fund space. But the social enterprises one does seem to be the realm of the private sector. Some of the feedback I have had is that there are some legislative or regulatory barriers in that social-enterprise space, because those organisations

that have both profit and purpose missions find their obligations towards shareholders make it difficult to recapitalise or, potentially, can cause liability issues for directors. Is that some of the feedback you have had from this discussion paper?

Mr M Robinson: The consultation period for submissions closed only on Monday—

CHAIR: And you haven't read them all!

Mr M Robinson: and you might find it hard to believe that we have not got through all the submissions yet, but we will be assessing the submissions. One of the things we were seeking some comments about from the community was in relation to corporate structures and looking at the idea that some businesses that might want to have a more altruistic purpose locked into their purpose or mission might help to facilitate that better with a more established and formal structure. We will be looking at what sorts of ideas and thoughts are being put forward.

CHAIR: This is a particularly exciting area of policy development. I know it has taken off in the United States and the UK and even in countries like Italy. There is so much opportunity there and I am very excited to see what it is that you come up with. Thank you very much for that. As there are no more questions, this group is free to go.

Australian Competition and Consumer Commission

Australian Energy Regulator

[20:19]

CHAIR: I welcome representatives of the ACCC and the AER to the table. I was remiss in welcoming Senator McGrath to the table too this evening. Welcome.

Senator McALLISTER: We do have officers from the AER, is that correct?

Mr Adams: Yes, you do.

Senator McALLISTER: Hello, Mr Adams. Can I start by asking about the gas market. There has been quite a lot of media coverage this week about warnings from various employer groups and union groups about a looming gas shortage. Is it your view that there is a problem with the Australian gas market?

Mr Sims: I think that is probably one for us.

Senator McALLISTER: That is one for you? Thank you.

Mr Sims: It is confusing, I realise, but we did the gas review. But I missed the last bit of the question, sorry.

Senator McALLISTER: Is there a problem with the Australian gas market, and how would you characterise it?

Mr Sims: The Australian gas market is short of gas—on the east coast, we are talking about, not the west coast—and does not have enough competing gas suppliers. So we really do have a problem. This is something we highlighted in the market study we did of the gas industry. There are a lot of manufacturing companies, particularly—industrial companies—that are dependent on gas, either because they use it as a feedstock or because they use it as a source of energy and it is hard to change. I think the current issues in the gas industry, particularly the very high prices and the difficulty of getting gas, are going to cause manufacturing a very big problem.

Senator McALLISTER: In your answer I think you made reference to current problems but also future risks. Your final remark was: 'It is going to cause manufacturing a problem.'

Mr Sims: Yes. I think it already is, and it will get worse, probably.

Senator McALLISTER: The discussion today has been about potential gas supply shortages over the next year or two. Do you share that assessment?

Mr Sims: Yes. Well, we felt, when we did our study, that there was a potential for shortage from about 2019, but some of the assumptions that that relied upon have not come to fruition. Some projects that were part of those projections have not gone ahead. We understand there are some shortages out there at the moment. It is hard to know exactly, but it is an extremely tight gas market and, at a minimum, users are going to be facing much higher prices for gas.

Senator McALLISTER: I wanted to ask quite separately about reliability in the NEM. Obviously we have had a big discussion about that. Should I ask Mr Adams?

Mr Sims: Yes, indeed you should.

Senator McALLISTER: Very good. So what are the measures that you use in assessing system reliability? What are the metrics that the AER uses?

Mr Adams: To be clear: first, the Australian Energy Market Operator is responsible for managing the security and reliability of the power system. There are standards that are set by the reliability panel, related to both security and reliability. The NEM operates to a—

Senator McALLISTER: And the reliability panel sits within the AEMO, does it?

Mr Adams: No. The reliability panel was established by the Australian Energy Market Commission, the third institution in the arrangements. The reliability standard is based on an unserved energy level, and the current standard for that is 0.002 per cent unserved energy on an annual basis.

Senator McALLISTER: Does the NEM meet that standard overall?

Mr Adams: Yes. I think, generally speaking, over the 16 or 17 years that the NEM has been operating, it has. There have been instances in the past where the 0.002 per cent has been breached, but I can only think of one or two.

Senator McALLISTER: Is there a trend in terms of performance against the reliability standard or is it fairly stable over the period of the NEM? I note there are some spikes and some failures, but is there a trend?

Mr Adams: I think we have been able to consistently meet the reliability standard over the long term. The standard, as you would appreciate, does include unserved energy. So the standard does say that there will be some level of unserved energy.

Senator McALLISTER: That risk cannot be entirely eliminated from the system?

Mr Adams: Correct.

Senator McALLISTER: I think I am just trying to understand whether we should say that reliability has been deteriorating or improving over the 17 years, or whether it is not meaningful to say that, given the actual statistics before us.

Mr Adams: I would tend to agree: I do not think it is a reasonable way of characterising the issue, to be frank. I think the way the framework works is: the panel establishes a

standard; the market operator works to that standard so that that standard is met. And history tells us that, over a number of years, that standard has generally been met.

Senator McALLISTER: Has the South Australian system been less reliable than other states since the establishment of the NEM?

Mr Adams: Each of the jurisdictions—each of the regions within the NEM—has certain characteristics, and they present various different challenges. There have been instances in South Australia, as you would be aware, where the interconnection with the eastern states has meant that they have to rely on their own resources at a local level. In that sense, South Australia has had some issues that probably are not felt, for example, in Victoria, which is connected to a number of neighbouring regions, so they are at the end of the supply chain.

Senator McALLISTER: So it is a consequence of being at the end of the supply chain. Is it also the case that, being at the end of the supply chain, South Australia has always had relatively higher wholesale electricity prices than the other states, on average?

Mr Adams: There have been periods where other jurisdictions have had higher annual average prices, if that is what you are referring to?

Senator McALLISTER: Yes.

Mr Adams: And there have been periods where South Australia has experienced higher average annual prices—at the wholesale level, I am referring to.

Senator McALLISTER: Yes. I am interested in wholesale prices, so we can stay on that. But the relative price difference predates the renewable take-up in South Australia?

Mr Adams: I think that is true. I think there have been periods throughout the evolution of the NEM where the supply-demand balance has been tighter in various jurisdictions. As you would expect, prices would rise during those periods in those jurisdictions. New entrants have entered the market at various times, and price profiles have changed as a result.

Senator McALLISTER: In that context, does adding renewable generation itself directly put upward or downward pressure on the wholesale electricity price?

Mr Adams: Does the question relate to renewable energy?

Senator McALLISTER: Yes. Specifically, does adding renewable generation capacity to a region, or to the NEM as a whole, put upward or downward pressure on wholesale electricity prices?

Mr Adams: Well, obviously when the wind is blowing, for example, and there is a large proportion of wind with a relatively low cost, that generally puts downward pressure on the wholesale price.

Senator McALLISTER: What state currently has the highest wholesale electricity price?

Mr Adams: On what basis? On an annual basis?

Senator McALLISTER: Average. On an annual average basis.

Mr Adams: In the current financial year to date the wholesale prices see South Australia at \$124 a megawatt hour; in Queensland it is \$111 a megawatt hour. So there is not that much difference, I would suggest—and that is based on volume-weighted average wholesale prices in the 2016-17 financial year to date.

Senator McALLISTER: Okay, so not a full year. On something quite separate, a number of senators have been involved in a Senate select inquiry looking at the reliability and stability of the NEM. One of the things that has been brought to the attention of the committee is the possibility of anticompetitive behaviour, particularly in periods of peak demand. Is that an issue that the AER is taking an interest in at the moment?

Mr Adams: There is a provision in the electricity rules that specifically says anticompetitive conduct, like for every industry in the Australian economy, is the bailiwick of the ACCC. So there is specifically a carve-out for that. Having said that, in December last year the AER was given a new function that requires us to report on the competitiveness of the wholesale market. That has just been introduced into the national electricity law. We are in the process of establishing the framework and approach with which we will undertake that. We have specifically been asked to look at Hazelwood power station when it shuts down—expected to be later this month—and the impact that might have. So, in response to your question as to whether the AER will have an interest, yes, we have that new role and we are currently gearing up to deliver that. The outcome of that process will be a biannual report to the COAG Energy Council.

Senator McALLISTER: Mr Sims, could you explain your role, then, in monitoring competitive behaviour of individual firms in the NEM?

Mr Sims: It is the same as in every other sector. We look to see whether there is any cartel behaviour or anticompetitive agreements. In our business one has to distinguish very much between breaches of the act and on the other hand just the use of market power. For example, going back to the Queensland market, you have two generators up there that supply basically two-thirds of the electricity, and that does give them market power at times, which it is not illegal to exercise. So I would argue—but Peter is the expert—with Queensland having higher prices, but we have not seen anything that looks like a breach of the act. We have seen people having market power just because of the level of demand and where they sit on the cost curve, and using that market power, but not a breach of the act.

Senator McALLISTER: That is a really interesting distinction to draw, because the market is entirely constructed—it is the artefact of a great deal of policy work by a whole lot of people—and the possibility is always there to redesign that market so that the rules create a more competitive environment than might otherwise be the case. I know the AER has looked at rule changes that would bring such a thing into effect. Are there any rule changes before the AER the moment that seek to improve competition in the wholesale market?

Mr Adams: Rule changes before the AEMC?

Senator McALLISTER: Yes, the AEMC.

Mr Adams: No, not that I am aware of.

Mr Sims: And if I could just say that when you have two plants, two generation companies, with 66 per cent of the generating capacity I am not sure any rule change is going to solve that. The problem is that there used to be three and now there are two. That was an unfortunate change in the market structure.

Senator McALLISTER: I might leave that one for another time!

Mr Sims: Indeed—very wise.

Senator McALLISTER: We have been told by some of the transmission and distribution networks that they have received no guidance about how to incorporate into their planning frameworks climate change risks arising from extreme weather events and more significant heat, particularly in the context of your role as a price regulator. Is that correct?

Mr Adams: There are a number of limbs to the AER's role. In regard to our economic regulation role, a network business will come to the AER with a proposal for revenue for a five-year period. The role of the AER is to assess that proposal and make a decision on whether the revenue they are asking for adequately satisfies the requirements of the rules and their expenditure requirements. That is our economic regulation role.

Senator McALLISTER: I am specifically asking about a situation where networks seek to improve the resilience of their network in the face of a changed risk profile in relation to natural hazards. They are saying that they have received no guidance from you about how to approach that in the context of your price regulation role.

Mr Adams: If a network business forms a view that there is a requirement for augmentation to their network, for whatever reason, and it may include the reason you are suggesting, there is a process under the rules where the network business can apply what is called the regulatory investment test. The test is designed to allow a cost-benefit analysis of those proposals to be publicly consulted on and allow input from other interested parties. The AER's responsibility is to establish the test and give it to the network businesses to apply and allow them to get feedback from industry. If it passes the regulatory test, then the network business has the right to go ahead and build that asset. Generally speaking, there are two limbs of that process. One of them could be to satisfy a need—for example, the demand in a particular area is growing and the network business has decided that they need additional infrastructure to meet that demand. The other option is where there are market benefits. Where there are market benefits that can apply across the market, that is a legitimate reason for building extra infrastructure. Those market benefits need to be quantified and there is a process in place to allow that. You may be aware that the COAG Energy Council has recently run a process related to the regulatory investment test. That review was completed only a month or so ago. It requires the AER, as part of that process, to develop some extra guidelines, which we are required to do throughout 2017. We will be conducting that review of the guidelines, which are currently out there but need to be reviewed.

Senator McALLISTER: Some of the responses or solutions might not be associated with a new asset or a new capacity. It might be to do with the approach taken to operations and maintenance. That is not part of the regulatory investment test, though, is it?

Mr Adams: No.

Senator McALLISTER: These are the issues that were being raised—that where these kinds of regimes need to change to respond to changing natural hazards, there is insufficient guidance from the AER about how to approach that. I will just leave it with you. You obviously feel that the situation is adequate but, for what it is worth, that is the feedback.

Senator XENOPHON: Late last year, Richard Goyder, the CEO of Wesfarmers, challenged the poker machine industry by saying, 'the 3,000-plus machines at Coles would consider going down the \$1 bet path, as recommended by the Productivity Commission', but when they wrote to poker machine manufacturers all of them told them that they would not

participate in a trial of \$1 bets in order to facilitate that approach, which the Productivity Commission said would lead to a significant reduction in harm. Is the fact that the five other poker machine manufacturers all refused a request by Wesfarmers, by Coles, to provide this service to make the poker machine safer something that the ACCC may have jurisdiction of in terms of possible cartel conduct? Would there be potential provisions within competition and consumer law that might provide a remedy to Wesfarmers from the refusal of all the poker machine manufacturers to allow them to modify the machines, which I understand is a pretty straightforward software change?

Mr Sims: It is certainly something we would be interested in having a look at. It conceptually could be an issue that breaches the act. We would really need to get to understand the facts—

Senator XENOPHON: Of course. We are asking, cautiously, what sort of provisions may potentially be invoked? Would it be cartel provisions—

Mr Sims: It would be agreements that substantially lessen competition. I will pass the question to the expert.

Mr Bezzi: It could be cartels. It could be anticompetitive agreements or understandings. It could be a range of things. It really depends on exactly what is going on.

Mr Sims: But we would be very happy to have a look at it.

Mr Bezzi: I understand that a number of the manufacturers that you might be referring to are members of an industry association. Sometimes we find that there are discussions that go on in the contexts of industry association meetings that go over the line. That would be an angle that might be worth looking at closely.

Senator XENOPHON: I will not take that any further, but those \$1 trials could have a profound impact on the industry and on problem gambling.

Mr Sims: We will have a look at it.

Senator XENOPHON: Thank you. I will put in a formal request—

Mr Sims: That would help.

Senator XENOPHON: I would imagine that Wesfarmers may well also do so.

Mr Sims: That would also help.

Senator XENOPHON: Going to an issue that appeared in my local newspaper, *The Advertiser*, concerning criticism of fuel pricing. The headline is: 'RAA prevented from revealing on their website where Adelaide's cheapest petrol is'. The article reads, in part:

The motoring body has been prevented from providing site specific fuel prices on its website since mid-September because of a deal between the fuel industry and ACCC, which aimed to provide greater fuel price transparency but instead unintentionally reduced the availability of price information.

In other words, the RAA, a highly regarded body—I am a member; I think half the state is a member of the RAA—are blaming you, the ACCC, for preventing this greater price transparency in fuel prices. Can you comment on that, please?

Mr Sims: I think that is not correct. Mr Bezzi might want to follow up on this as well. As you well know, because we have discussed it here before, we took Informed Sources and most of the petrol companies to court for the price-information sharing that we felt they were doing. We ended up settling the case with them all on the basis that they would provide real-

time information to consumers, and they also had to make that information available on sensible commercial terms to those who wanted to buy it. As I understand it, other state motoring organisations have reached an agreement—obviously not New South Wales, which has FuelCheck, but certainly the RACV in Victoria has reached agreement. I think it is very much a commercial issue in their discussions with informed sources. I do not think it is anything to do with us. In fact, there is more information available than they were providing before.

Senator XENOPHON: I am not sure whether there are discussions with Informed Sources, but you say the principle that the ACCC has been accused of blocking this transparency is not true?

Mr Sims: No, it is not true.

Senator XENOPHON: Can I go to an issue raised by consumer group CHOICE, which says that Australia's domestic airlines are ripping consumers off in terms of a no-refund policy; exorbitant cancellation fees; a lack of accountability when flights are delayed or cancelled, with some consumers being offered no remedy at all; zero responsibility where airlines do not deliver flights on time, despite charging a premium price for peak flight times; not being given access to credit on future flights if there is a cancellation; and ticket voids—people who miss a leg of a flight are having multiple tickets voided. Obviously this affects millions of Australians, and I hear these complaints all the time. Is the ACCC looking at these practices of airlines, which many consumers find quite unfair?

Mr Sims: Yes, we are—not all of those issues. I gave a speech a week or so ago outlining our priorities for 2017 and mentioned that we would be focusing on consumer guarantee issues. As part of that focus we will be looking at that in relation to airlines, so we will pick up some of those issues. For example, if you have a discount fare and it says 'no refund', you may in fact in certain circumstances be entitled to a refund.

Senator XENOPHON: Is it false and misleading conduct on the part of an airline if it says 'no refund'?

Mr Sims: It is a consumer guarantee issue, but, yes—if they blanket say 'no refund', there can be circumstances where you can get one. It depends how it is said. What they really mean of course is that you cannot change your mind and get your money back, but we are going to look at how those statements are made and how in fact the statements are followed through with by the airlines to see whether in fact there may be a misleading issue in relation to consumers' guarantee rights.

Senator XENOPHON: I will move on to other issues—I am ripping through these, Chair. Firstly, I want to ask about the substantial transformation test—this is country-of-origin food labelling—and the laws being changed. You may want to take some of this on notice. I will just go through them. What guidance has the ACCC published to help businesses understand the revised substantial transformation test? Further to that, does the ACCC have the capacity to make determinations as to whether a product has undergone substantial transformation given the phrase 'fundamentally different in identity, nature or essential character' can be highly subjective and open to interpretation? Thirdly, what are your views of the concerns raised by the Australian Made Campaign Limited that there is currently no mechanism by which manufacturers could obtain a definitive answer regarding country-of-origin claims?

Mr Sims: I will give three quick answers and then pass over to others if they want to add to it. We are putting out guidance on these issues in March, so I think that answers the first question. Secondly, I think we do have the capacity to make these judgements. Indeed, these judgements have been made under the existing arrangements.

Senator XENOPHON: A very low threshold though.

Mr Sims: But judgements have had to be made in the past.

Senator XENOPHON: Sure.

Mr Sims: I will pass to Nigel.

Mr Ridgway: The guidance that we are developing is broadly going across a range of product categories in the market. There is a particular focus of course at the moment on food, but our guidance goes more widely than that. We have engaged with a number of interested parties who have raised some specific questions about what 'substantial transformation' means when it goes to products that they have an interest in. We are engaged in analysing those specific issues right now, and we expect in the not-too-distant future to be able to provide guidance to those individuals on that issue.

Senator XENOPHON: Can I very quickly ask you—and you might want to take this on notice—how you resolve a dispute? It may be in the guidance note that you provide later in March. Will any of the mechanisms made available to assist businesses have any administrative force or give any protection to manufacturers? I ask this in the context of what would happen if a manufacturer goes online, ticks all the boxes in good faith and it comes up saying they have reached this threshold, but then they are involved in a legal dispute, perhaps even with the ACCC—what protection do they have from that, assuming of course that they answered the questions honestly and in good faith?

Mr Ridgway: The approach we take here is the approach we take across the rest of the consumer law, which is that we identify issues and we approach them by rule of reason. If businesses take our guidance and apply it reasonably in their circumstances and feel that they have got that right, in the event that an issue comes to our attention and they are to show us that they have done everything that they could with due diligence, that is taken into account in terms of what outcome we feel needs to occur.

Senator XENOPHON: Whether you launch a prosecution or not?

Mr Sims: Absolutely. We usually take people who are blatantly doing the wrong thing.

Senator XENOPHON: So it would provide some protection but not a legal protection as such, in terms of the online forms for substantial transformation?

Mr Ridgway: We do not have a regime of issuing determinations such as the tax office might with tax rulings and so forth.

Senator XENOPHON: So it is a discretionary issue. That may make some manufacturers nervous, but that is at least helpful. Finally, this goes to the issue of telecommunications. The government intends to repeal division 2 and division 3 of part XIB of the Competition and Consumer Act. The ACCC, in its submission to the department's review of part XIB, dated 6 October 2016, addressed to Senator Fifield, supported the repeal of part XIB if the changes to section 46 are made. However, in the previous month, the ACCC commenced a

market study of competition involving communications markets. In paragraph 2.2 of the issues paper that was released for the purpose of this market study, it states:

This will inform how we undertake our role under Part XIB ...

I am just trying to understand. Why is the ACCC supporting the repeal of division 2 and division 3 of part XIB, subject to the parliament passing amendments to section 46, if it is currently being reviewed in the issues paper? Maybe I have missed something quite obvious.

Mr Sims: There is a particular part of XIB that was put in place when we were having a lot of issues with Telstra, and they are very strong powers in terms of our ability to issue competition notices and fine them \$1 million a day. We just felt that, with where the telecommunications market is now, if the current section 46 changes go through then we have got all the adequate powers. So the other things we are looking at are different sorts of issues.

Senator XENOPHON: The last competition notice was issued in April 2006. Do they play an important role in resolving disputes about anticompetitive conduct in communications markets?

Mr Sims: We do not judge that there is any reason to have the communications market treated differently to other markets. That is the bottom line.

Senator XENOPHON: How many investigations have the ACCC commenced in the last three years in relation to possible contraventions of part XIB? Is that something you can advise?

Mr Cosgrave: Those are conducted by my division. In terms of an absolute number over a three-year period, I would have to take it on notice, but I would indicate that matters are considered across all of the powers of the ACCC and to talk solely in terms of XIB versus other instruments we might have might be difficult, but we will do our best to be helpful in the response.

Senator XENOPHON: If you could, provide that on notice. Thank you, Chair.

Senator IAN MACDONALD: I am a Queenslander, so you will excuse my parochialism here. Could you tell me what the average wholesale price for electricity in Queensland is so far this year? Do you have those figures on you?

Mr Adams: As I indicated before, in the financial year 2016-17, the financial year to date, the average wholesale electricity price—and that is only the wholesale component—is currently \$111 a megawatt hour.

Senator IAN MACDONALD: Do you have statistics on how many times this calendar year so far the wholesale electricity price has reached the spot market cap, or close to that cap, of what I understand is \$14,000 per megawatt hour?

Mr Adams: I can certainly get access to those numbers relatively quickly, but I would like to take the question on notice.

Senator IAN MACDONALD: Does the cap figure of \$14,000 per megawatt hour accord with your understanding?

Mr Adams: Correct. The current price cap at the wholesale end of the market is \$14,000, to rise to \$14,200 come 1 July of this year.

Senator IAN MACDONALD: Okay. If you could get for me how many times this calendar year the electricity prices got to that or near that. Are you aware if that has happened at all?

Mr Adams: Yes, I am aware that it has happened. The AER is currently in the process of preparing two reports. The AER has an obligation to report whenever the wholesale spot price goes over a \$5,000 threshold. We are in the process of preparing two reports for events on 13 and 14 January this year, where that price threshold was breached and there are a series of other periods between that time and 12 February where the spot price in Queensland—that is the wholesale spot price—breached that threshold of \$5,000 a megawatt hour.

Senator IAN MACDONALD: As far as you are aware, it got close to \$14,000 per megawatt hour?

Mr Adams: There are periods where the 30-minute average spot price could go to \$14,000—correct.

Senator IAN MACDONALD: And this is compared to what you just told us of the average price for the financial year at \$111?

Mr Adams: The current financial year to date—correct.

Senator IAN MACDONALD: So at times it has jumped from \$111 to close on \$14,000?

Mr Adams: That is correct.

Senator IAN MACDONALD: I suspect you will not have this with you: can you tell me how that compares with the same period of time over the past five years? Just so I can compare apples with apples, say, 1 January to 1 March over the last five years; is that easy enough to get?

Mr Adams: It certainly is easy enough to provide. I will take the question on notice and I will provide that information for you. As I mentioned, we have an obligation to report when the spot price goes above a \$5000 per megawatt hour threshold and there have been periods in history where the price in Queensland has exceeded that threshold more times than it has in the current period.

Senator IAN MACDONALD: Do you have any idea on what would account for those incidents where it almost reached the cap so far this year?

Mr Adams: The circumstances that drive the spot price movements are wide and varied. They can depend on the amount of demand that is required at the time. They can be influenced by the amount of energy that can be transferred from neighbouring regions. They can be influenced by the availability of generation in the region. Our threshold reports, as required by the rules, break down all the conditions and circumstances that drove to those—

Senator IAN MACDONALD: Your reports do that?

Mr Adams: Yes, they do.

Senator IAN MACDONALD: So you are investigating it. Do you supply this to the government?

Mr Adams: We publish the reports on our website and, as I mentioned, the first two of those reports—13 and 14 January—are due to be published on 14 March. There are a series of other reports that will follow through to reporting dates of around 10 April. So we do publish.

Senator IAN MACDONALD: So these above \$5,000 spikes happened on 13 and 14—is that what you are saying?

Mr Adams: Correct. They are the first two reports that we are currently working on to produce those.

Senator IAN MACDONALD: Have there been others subsequent to that between 14 January and now?

Mr Adams: Yes, there have.

Senator IAN MACDONALD: But you will report on them at some later stage?

Mr Adams: That is right. So the rule requirements place an obligation on the AER to produce those reports within 40 business days. As you will appreciate, the number of high prices across the national market during a summer period tends to be higher than shoulder periods. We have a number of those reports that we are currently producing. I might add that this particular period is not an unusual outcome. Over the history of the National Electricity Market there have been a number of times when the wholesale spot price—and this is not the price that customers pay—has gone above that threshold.

Senator IAN MACDONALD: You say it is not what the customers pay, but the customers pay the wholesale plus a margin or a service to the retailer.

Mr Adams: I guess what I was trying to imply was that on a five-minute basis, which is the way the prices are set, the domestic mum-and-dad customers do not pay that wholesale price. Certainly the wholesale price is one component of a retail price, but there are a number of other factors that go into the make-up—

Senator IAN MACDONALD: Is this all explained in your report that you will release in March?

Mr Adams: We certainly have some elements of explanation of how the wholesale operation works, yes.

Senator IAN MACDONALD: Has there been excess capacity at the same time?

Mr Adams: Do you mean more capacity than demand?

Senator IAN MACDONALD: Yes.

Mr Adams: Yes, that is true. If there was not then the situation would be much worse. For all the events I am referring to here there is always enough capacity to meet supply, if that is the question.

Senator IAN MACDONALD: I am specifically asking about Queensland because I am a Queenslander. How does that compare? Has the same thing happened in other states in the same period?

Mr Adams: Yes. There have been events where we are required to report for these prices in New South Wales and South Australia during that same period.

Senator IAN MACDONALD: So those reports will go up on your website?

Mr Adams: Absolutely.

Senator IAN MACDONALD: Will I wait for the website to get this information or would you be able to give me a sneak preview or at least simple answers to my simple questions?

Mr Adams: We are working exceptionally hard to get those reports published. I would be very happy to provide some background information that would help explain how the wholesale electricity market works, if that would be helpful.

Senator IAN MACDONALD: I am more interested in how many times since 1 January—the first two months of the year—this has occurred in Queensland.

Mr Adams: I can certainly provide relatively quickly to you the number of times.

Senator IAN MACDONALD: January and February are obviously hot. Is that the worst time of the year or is November-December just as bad?

Mr Adams: It really depends on the circumstances. We have had significant weather driven events prior to the December-January period. Typically over the long run the summer period is when you would expect the supply-demand balance to tighten—that is, as demand rises because air conditioning load rises the balance between supply and demand gets closer and you would expect the wholesale price to rise during those periods. In answer to your question: yes, summer is the time you would expect that. Having said that, some of the jurisdictions around the National Electricity Market have winter-peaking periods—for example, New South Wales—and so you would expect as demand rises in winter in New South Wales to see high wholesale prices as well.

Senator IAN MACDONALD: In summer is the increase in usage more in Queensland or in the north of Australia than it is elsewhere because of air conditioners?

Mr Adams: Certainly Queensland has a high penetration of air-conditioning load; that is true. Other jurisdictions also have high penetrations of air-conditioning load. Each of the regions of the National Electricity Market have varying levels of demand: Queensland and Victoria are similar; New South Wales has the largest demand; and South Australia and Tasmania have lower demands.

Senator IAN MACDONALD: Do your records or your reports identify different parts of a state or is the whole state a region for your purposes?

Mr Adams: The national electricity market is structured on a regional model, so in each state or geographic area there is one regional reference price and there is one location within that state where that price is set. For example, our reports could not provide information on a price in North Queensland compared to the price at Brisbane. That is not how the national market is structured.

Senator IAN MACDONALD: You pre-empted my next question, so I will not have to ask it.

Senator BUSHBY: Thank you, Mr Sims and the ACCC, for assisting us this evening. I have a couple of questions about something I have asked about before, and that is the agreement on access to service and repair information for motor vehicles. I understand that the government has asked the ACCC to undertake a study into this, so I was curious as to where that is at. Will the ACCC market study go into new car retailing?

Mr Sims: This was a study we initiated looking at consumer guarantee issues, access to information and spare parts and, thirdly, emissions standards. The government said, given that we were looking at something very similar to what they had undertaken there would be a review of, it made sense to get us to look at how the voluntary access to information regime

was working. So that was naturally, easily folded into our study. We are well underway. We are hoping to have a draft report out in the middle of the year and a final report out well before the end of the year.

We have had a lot of interest in the access to information. We had a forum late last year where we heard both sides of the argument, and we are following up with those people to find out whether indeed you can get access to information or not. Clearly you can get access to some, but whether you can get information to the access you really need to be able to provide competitive servicing of vehicles is something we are looking into. Also in that forum they referenced a number of regimes that work overseas, so we are looking at how they work as well. So we are very much into this. Indeed, my people were just chatting to one of the large repairers of vehicles today, following up on those issues—or maybe it was yesterday. So we are well into that issue.

Senator BUSHBY: So your study is looking further than the voluntary agreement. You are looking at broader issues that you were already looking at and you incorporated into that an examination of the voluntary agreement.

Mr Sims: That is right. We named three issues that we were dealing with, and one of them—I was not aware personally at this time—completely covered what the government said they were going to review, and so it made sense to get us to pick up that review. So it is one of the three issues.

Senator BUSHBY: You said the final report will be out later this year. When do you think that will be? Do you have a time line?

Mr Sims: I think around November would be my guess, give or take a bit.

Mr Ridgway: There will be out late this year, so November—

Senator BUSHBY: Novemberish. Are you looking at the solutions to these issues that have been employed in other countries?

Mr Sims: Yes, we most certainly are. There was a lot of discussion about the US system and we are looking at that, but I think we are looking at others as well.

Senator BUSHBY: Are you able to elucidate on what the US system is? I have heard that put to me before as well and it sounded quite an attractive proposition, but what is your understanding of how that works?

Mr Sims: As I understand it, it is a compulsory system where information must be made available through certain portals. Do you have a better idea?

Mr Ridgway: It might be a question we need to take on notice.

Mr Sims: Yes. But it is a more compulsory regime than what we have here. We are told it works very well and that the non-dealership repairers to get access to the information. So it is more of a forcing device than we have in our current arrangements, as we understand it. But we are happy to get back to you on notice.

Senator BUSHBY: In the interests of time, I will leave it there, but basically we have danced around the issue, in a sense. You know what it is and I know what it is, but it is about people who own motor vehicles being able to have a choice over where they take those vehicles and the repairers who then do the work having access to the knowledge that they need, in a highly computerised vehicle world, to be able to do the work on it. In some

circumstances, as I understand it, there are spare parts that you can buy now and unless you plug them into a computer and switch them on you cannot even fit them to the car.

Mr Sims: That is right.

Senator BUSHBY: It goes to the extent where there are difficulties which impose anticompetitive options on consumers, who want to get their cars serviced at a reasonable price.

Mr Sims: We were discussing those very issues this afternoon, including that device. We are also discussing whether there are electronic logbooks that are only available to the dealers and others cannot get access to them. Whose data is it? Should it really belong to the consumer? So we are right in the middle of it. We have a lot of information that we are still working our way through and we are liaising with both sides of the argument, as it were.

Senator BUSHBY: I look forward to hearing further about how that goes.

Mr Sims: It is a very important issue. Thanks for your interest in it.

CHAIR: It will come as no surprise to learn that Senator Bushby is the Senate's resident revhead.

Senator KETTER: Mr Sims, I have three areas and I will try and be as quick as I possibly can. Firstly, there is the vexed issue of petrol prices. You have done some good work in the past with those three regional market studies. Your priority areas for the year do not suggest that this is a particular priority, but you did indicate that you will continue to look at market studies. To cut to the chase, what would it take to do a market study in Queensland? There are a lot of confused and frustrated motorists in Queensland who would like to see some transparency in fuel prices.

Mr Sims: We are hoping to complete our Cairns study soon. We have a lot of smaller players in Cairns and the neighbouring town, which we are using as one of the comparators. We are having trouble getting data, but we are hopeful of completing the study fairly soon. That has taken about a year. These things do take a long time, because we are using compulsory information-gathering powers to get complete transparency of where the money is made and what costs are, to see whether petrol prices are reasonable or not.

To come to your question directly, we are hoping that after we complete the Cairns one—and that will be the fourth one—we can come up with some form of ready reckoner that could be of value right across the country. It would say how much petrol prices should be affected by distance from the terminal and how much they should be affected by the amount of fuel put through the service station, because obviously the quantity of fuel affects the unit cost. Our remit is to look at various regional areas, and we chose Cairns because there are a lot of anomalies. It has, in our view, the most anomalous pricing in Queensland. Indeed, we had the Queensland government writing to us nominating Cairns as the town that we should look at. So we are hoping that, once we have done the four, the ready reckoner can give people what they want.

Following the discussion with Senator Xenophon, now that we have real-time pricing out there, we are trying to urge motorists to shop around. Previously, without that information, you would just drive past a service station and buy your petrol. Now that we have the real-time information, you can travel around and see where the cheapest petrol is. On virtually all occasions, in a reasonable drive there are different prices of petrol. The more people seek out

those more competitively priced petrol sources, the more discounting you will get. So we are trying to promote that with our ready reckoner.

The trouble with continuing to do these price studies is they are enormously resource intensive. It has taken us a year to do the Cairns one. As you say, we have done four, but it has taken a lot of resources to do that. But with the Cairns one, we are not only doing a comparison with a neighbouring country town which is much smaller and seems to have lower prices—so that is interesting—we are also doing a comparison with Brisbane. Brisbane has frustratingly high petrol prices; they are 3c to 4c higher than in the other capital cities. We have said that we see no reason for that, apart from higher margins for petrol retailers. We have asked the petrol retailers to explain why their petrol prices are higher. We are looking forward to that response. So, as part of the Cairns study, we will also look at Brisbane as a comparator. We hope that it will shed a lot of light on the issues that you are talking about, and then we will see where we go from there.

Senator KETTER: Thank you for that. When do you expect the outcome of that study to be available?

Mr Sims: I am reliably informed that it will be May. I had hoped it would be earlier, and I had said publicly that it would be earlier, but now I am reliably informed and very much hoping that it is going to be in May.

Senator IAN MACDONALD: Can I just add one question to that line you are talking about? When you are assessing Cairns, can you have a look at my home town of Ayr, which is about 80 kays south of Townsville? Inexplicably, for the last three or four months—or I might say it has been since a big, new Shell service station opened in town—the prices have been remarkably low. And bear in mind that the petrol will either come through Townsville or Brisbane to travel to Ayr. But it has been remarkably low. In fact, people were driving the 80 kays down from Townsville to fill up because the price was so cheap.

Mr Sims: Fantastic.

Senator IAN MACDONALD: It may have been because there was this big, new service station. You would not have time to go in and do a full assessment, but as you are looking at Cairns, which would be similar to Townsville, I was wondering if you might just do a desktop look at Ayr and why the prices are so low?

Clearly, I am not complaining about that!

Mr Sims: I was going to say, we do not get too many complaints of that nature!

Senator IAN MACDONALD: No, it is not a complaint. But why are they so high in Townsville when 80 kays down the road they are just stupidly cheap?

Mr Sims: In Armidale we found that when a new player opened up which was offering much more competitive prices, it took about 6c or so a litre—I cannot remember exactly—off the price of petrol in Armidale. So one player coming in can make a lot of difference. But, yes, we will keep that in mind.

Senator IAN MACDONALD: Thank you. Thanks, Senator Ketter.

Mr Cosgrave: As part of the Cairns study, people have raised Ayr with us.

Senator IAN MACDONALD: It is quite possible—

Mr Sims: Yes, that is true too. I was not quite sure of that.

Senator KETTER: I have a second issue: the dairy inquiry that you are looking at. Are you able to give us just a very quick update? I have a couple of concerns. We have a Senate inquiry running parallel and we have a few issues that we have identified, but can you tell us how you are going with your consultations?

Mr Sims: This is the dairy market study?

Senator KETTER: Yes.

Mr Sims: Look, very well, I think. I was in Warrnambool on Monday and I have been up to Toowoomba; other commissioners have been to other places. There is a tremendously high level of engagement by people and they have raised a lot of very interesting issues which I think do seem to be the sorts of issues we should be able to add value to and help address. People are frustrated and emotional, but they are also extremely well informed, so we got a lot of clarity about a whole range of issues. It has been very valuable.

We have done three now in Victoria and we are going to South Australia, Tasmania and Western Australia. Then we have done that part of it. We also have information requests out to the processors, the supermarkets and others. Because we have information-gathering powers here we will assess where the money is made and not made and then we will do some formal hearings, particularly with the processors. So we are well underway and it is going very well.

Senator KETTER: Have you come across situations which are described as 'milk swaps', where processors are swapping suppliers between them? Have you come across that?

Mr Sims: Yes, that issue has come up a number of times. It is something that we are going to have a look at. It is the beauty of the forums; that was not on our radar before, but with the forums it now is. I think the concern—the way that it is put to us—is, 'Rather than compete for my milk, I can't move from processor to processor. For various reasons I am stuck with one processor and so if they are short of milk they just trade amongst themselves.' It is a good example of an issue that we will have a look at. It is not completely obvious what we can or should do about it, but it is certainly an issue worthy of a very close look.

Senator KETTER: And the issue of processors negotiating with retailers, particularly in relation to the dollar-per-litre milk situation—agreeing to that in exchange for shelf space or other arrangements: I take it that is something you will be looking at?

Mr Sims: Yes, indeed.

Senator KETTER: And the extent to which those contracts between the processors and the retailers have an impact on farm gate prices?

Mr Sims: We are going to look through time at before and after \$1 milk and see where the money has flowed. In a sense I think we will get to what you have just asked.

Senator KETTER: Okay.

Mr Sims: There is a lot of work to do, as your list of issues indicated.

Senator KETTER: Finally, just in relation to the issue of competition law. I am interested in your view as to whether small business remains at a disadvantage with regard to access to justice?

Mr Sims: Others may have views here as well, but I think that access to justice is always an issue when you are the smaller player dealing with larger players. It is an extremely

difficult issue to solve, but it has been something we have looked at for some time. Do you want to add anything, Rayne?

Ms de Gruchy: Obviously, it is an issue that is within a policy domain about how to try to remedy issues of access to justice. But, certainly, there are some opportunities, hopefully, for lower-cost jurisdictions to assist in this area. Obviously, there would need to be some cooperation across the country in relation to that. It is an issue for small business, as it is for consumers: having access to justice.

Senator KETTER: Have you made representations to the government and/or Treasury about access to justice for small business litigants?

Mr Sims: We have had discussions. It is an issue that Treasury has looked at as a policy issue. We have provided input to that. Again, my colleagues on my right are the experts, but every time I have been involved in it, it is just a very complex issue to solve. Some jurisdictions do it through having low-cost court systems where people can get access to various tribunals, and that helps. So it has been looked at, and we have provided input into that, but it is very much a policy issue, as Rayne said.

Senator KETTER: And what about the concept of a 'no-adverse-cost order'. Do you think that has any merit?

Mr Sims: It is a tricky one. As I understand it, the courts can come to that conclusion. How you might determine that up-front is tricky, particularly when you are dealing with very complex competition cases, because it may well be hard to form a view around whether you can make such an order up-front, given the complexity of the cases.

Senator KETTER: Are there circumstances where you would recommend that type of approach?

Mr Sims: I will defer to my colleagues, if they have any comment on that.

Ms de Gruchy: The difficulty is that if you have a complex case, for example, a competition case under part 4 of the act, it is very difficult for a small business to obtain the evidence needed to meet the various tests that under the act. That inevitably would mean that the small business has to incur quite a bit of cost and may still not have the information necessary to put before a court. They are very difficult issues. With cases under part 4 of the act, even from our own experience, they take a long time in investigation, using compulsory powers. Also, the cases themselves are expensive and run for a long time.

Mr Sims: If I could add: we ourselves are keen to run those cases. If we see a small business on the receiving end of anticompetitive conduct, that really goes right up our priority list. So if we see those cases we are very happy to take those on ourselves and, obviously, we are well equipped to do that.

Mr Bezzi: I might add that we have also had lots of discussions with government and made submissions to the competition policy review about ways in which the law could be improved. We are particularly keen on the law being improved in relation to section 46, the misuse of market power provision and also the concerted practices provision. The business unfair contract terms law is also a significant reform that is likely to greatly benefit small businesses.

Senator KETTER: Is the risk of large legal bills as a result of an adverse cost order still a strong possibility even under the government's proposed effects test legislation?

Mr Sims: The changes to 46, in our view, as we have said many times are necessary to make the law workable; the law now is pretty much unworkable. We are keen to see that change so that we run some cases. Most of the cases under part 4 have always been run by us. There are not that many that have been run by others. There are large companies that have run those cases but very few small companies. I think the essential problem is they are complex. We have cases that run 10 years. We have cases that have cost us \$10 million. They are very complex. Our priority really is to get a set of laws where we can run those cases because we are very keen to do that with small business in particular.

CHAIR: You have answered most of my questions there, Mr Sims. I understand the benefit of amendments to section 46 for small businesses but what are the potential outcomes for consumers?

Mr Sims: I think when you get a more competitive economy, that is a benefit to consumers. Section 46 is all about trying to have new players challenge incumbents. It is often put as a small business issue. By definition, the small businesses are the ones doing the challenges. But the more that incumbents can be challenged and that large firms cannot keep their competitors out, the more competitive the economy will be and that will benefit the consumers. Ultimately, that is the bottom line.

CHAIR: I understand that the opposition have introduced a bill into parliament on access to justice issues. Do you think that the amendments to section 46 will essentially be a better solution than that bill that is before parliament now in preventing potentially frivolous lawsuits or vexatious lawsuits or ill-prepared lawsuits?

Mr Sims: If I understand you correctly, we think the changes to 46 are necessary to make that workable. Without changes to 46, there is not much point anybody taking a case. Access to justice is a different issue. We think it is an important issue and we are happy to work on it with people but we are not sure we have seen a very straightforward solution to it. I am not sure I have fully addressed your question.

CHAIR: I am sorry, I should have been more specific. Will the amendments to section 46 at all provide small businesses better access to justice? Just by the fact that the cases are easier to run, I would assume that would be the case.

Mr Sims: They are almost impossible to run now. The changes to section 46 make it possible for a whole lot of people to run those cases. We are the most likely ones to run them but at the moment a small business, whatever the access to justice problems are, could not run a case because section 46 is virtually impossible to use. At the moment, with the current 46, only in rare circumstances could you use the current law.

Senator GALLAGHER: I have a couple of questions, one on debt management or debt vulture firms. Are you doing any work around those?

Mr Sims: Around debt?

Senator GALLAGHER: Around debt management firms, you know, credit-washing companies, debt consolidation, debt collection.

Mr Sims: I will get Mr Gregson to respond to that, but we were certainly are.

Mr Gregson: We work closely with ASIC in relation to debt management firms. This is one of those areas where financial services are with ASIC; other services with the ACCC. It is not always black and white. We share responsibility and we work closely. In fact, we met with them just today and got an update on our work in debt management. We are also working through the CDRAC forum, which is the forum of all states and territories and ASIC, and we are actually looking at providing some information to ministers through that forum on the types of issues that are coming out in debt management.

Senator GALLAGHER: Are you too busy to report at the end of this?

Mr Gregson: It is not entirely clear at this stage what we will produce. We are looking at the issues in debt management, whether they are being currently covered by the legislation and any other issues that come out. Where there are grey areas in the jurisdictions, we have got the capacity to cover those with delegations and they exist for debt management.

Mr Sims: We have also taken some recent court action.

Mr Gregson: On debt collection, that is correct.

Mr Sims: Yes. We have got a couple of cases and at least one big one in court.

Mr Gregson: So where a debt arises outside of the financial service environment, we can take that action. We have taken on ACM company in relation to allegations around the way in which they have enforced things.

Mr Sims: They are one of the biggest debt collection companies.

Senator GALLAGHER: Perhaps we will ask you next estimates where that work is up to. Add-on insurance: I saw about 10 days ago or week and a bit ago you were declining an authorisation for the cap on commissions at 20 per cent. I think you flagged a final decision on that in March. Is that correct?

Mr Sims: It is fairly soon because the time limit is being reached, if I have got the right issue. Mr Greiss is the expert witness.

Senator GALLAGHER: We are in March now.

Mr Sims: Have I got the timing on that one right?

Senator GALLAGHER: Did you give reasons about why you were declining? Or was it: we are declining it and we are going to report fully in March?

Mr Sims: We put out a draft decision saying that we do not think there are many benefits in the cap on commissions because it does not address the problem as identified by ASIC but we do see some detriment in competition issues so we have put out a draft decision rejecting the authorisation.

Mr Greiss: That is correct. Our scheduled final determination is due in March.

Senator GALLAGHER: So you put out a draft determination, and stakeholders, no doubt, will be in contact with you and you will finalise that in March?

Mr Greiss: That is correct.

Senator GALLAGHER: So the final outcome would be whether you go ahead declining the authorisation. Is that right?

Mr Sims: That is right, whether we stay with the draft of change it.

Senator GALLAGHER: And you are working with ASIC on that as well?

Mr Sims: We have had a lot of engagement with ASIC because they fundamentally did the work that identified the problem so we have been discussing with him the extent to which what has been proposed addresses the problem.

Senator GALLAGHER: There were a couple of areas like the standardised pricing and things like that. Is that more in your area than some of the other areas that were identified in that report, where they identified a lack of competition as one of the six or seven major issues in the add-on industry?

Mr Greiss: Standardised pricing and the lack of competition was a factor for consideration but was not in itself a topic that we are dealing with now.

Mr Sims: It is up to them. If the draft were upheld and final, it is up to them to come back with other proposals that they might have to deal with those issues.

Senator GALLAGHER: I have got a few more but I will put them on notice.

Proceedings suspended from 21:28 to 21:39

Productivity Commission

CHAIR: Welcome to the Productivity Commission. Do you have an opening statement?

Mr Harris: No opening statement, Chair.

CHAIR: Terrific. We might open the questions with Senator Ketter, then.

Senator KETTER: Thank you, and thanks Mr Harris for being here, and apologies for running late tonight. Firstly, in relation to reports in *The Australian* that the government was going to ask you to review the state of competition in the financial system by the end of 2017. These were reports in April of last year in *The Australian*. Have you been requested to conduct this inquiry?

Mr Harris: No, we have not been formally asked yet. But we, like you, are aware that that is the government's intention. It has stated so in its response to the Financial System Inquiry, the Murray inquiry. We have a pretty full book at the moment, but I think it is the end of 2017, so the government still has 10 months or so to get us into action. I think we expect to be doing that at some point in that time frame.

Senator KETTER: Roughly speaking, how long does it take your organisation, from the time it receives a request, to release an issues paper, a draft report and then a final report?

Mr Harris: If we are aware that the proposition is coming to us, we will often have the issues paper as close as possible ready to go. In my time, we have got them out less than two weeks after receiving the terms of reference. In part, it is affected by the time of year. If terms of reference turn up in the second week of December, it is pointless putting the issues paper out on Christmas Eve; no-one will pay any attention. The idea of the issues paper is to attract submissions, so we do consider timing. In terms of the Financial Services Inquiry, if it comes off in the course of this year, I am pretty sure we would have an issues paper out within a short period after that—within weeks. The terms of reference would usually tell us how long the government expects us to take to do the inquiry. The usual proposition is that it takes us longer to do the draft than it does to turn the draft into a final. A rule of thumb might be that two-thirds of the time will be taken to get to a draft and one-third to get to a final. That can

vary a bit. It is up to the government how long it will give us. If that is the angle you are looking at—how long it will take in total—we do not determine that; the government tells us.

Senator KETTER: There is not much you can do until you get the terms of reference?

Mr Harris: We can do as much preparation as possible, but I do not try to direct our staff, particularly when we are as busy as we are right now, on to prospective pieces of work for fear that they evaporate—as they do from time to time.

Ms Davidson: Just to add further clarification, in its response to the Financial Systems Inquiry, the government, in indicating that we would be doing this work, also indicated that it would task us with the work by the end of this year, rather than it being something we would deliver by the end of this calendar year.

Senator KETTER: I think the quote is 'to review the state of competition in the financial system by the end of 2017'.

Ms Davidson: Our understanding is that rides to the tasking of that work.

Senator KETTER: It was three years ago.

Mr Harris: That is why I said that, from our perspective, they still have 10 months to ask us. The timing of it, I am sure, will be influenced in part by the government looking at what they have got us working on at the moment. As I said, it is a good thing from my perspective. We have pretty much a nearly full book.

Senator KETTER: Okay. I would like to move on to the penalty rates issue. Since we last spoke, we have had a decision from the Fair Work Commission. One of the key points in your report on the Fair Work Commission was that—I am paraphrasing what you said—while the Fair Work Commission undertakes many of its functions well, there are some areas of improvement. You called for a change in institutions and in practices; for the wage regulation function of the commission to be separated out; for the existing Fair Work Commission to concentrate on tribunal and administrative functions; and for a new body, the Workplace Standards Commission, to be dedicated to determining minimum wages and award regulation. Do you intend to file a written submission in response to the Fair Work Commission's decision in regard to transitional arrangements?

Mr Harris: No, we do not.

Senator KETTER: You recommended that there be a 12-month delay if there were to be any change to penalty rates. Can you tell us why you suggested that?

Mr Harris: Business systems will have to adapt, in the first place. It is a relatively rare event to have a reduction. So people will need to know, first, whether they want to undertake that step. That was made clear in our report. We referred to the possibility that changes such as reductions in penalty rates may not bibe, as we call it—in other words, it may not induce an employer to change their current wage pattern. They are not obliged to do so; they can, as you know, pay above the award. So that adjustment of both systems and business responses is the first step.

The second step is to the extent that it has an impact on individuals, individuals should now that change is coming and have the chance to adjust. In the set of industries that are affected by this decision there is a very high rate of turnover and, according to quite a useful survey of employees in this industry, quite high prospects for people to get employment with another

employer in that industry if they do not believe that they are being supported in the way they expected to be supported—a very high level of confidence in comparison with non-hospitality and retail kind of employees. That adjustment effect would not take place within that 12-month period. In other words, people may well choose to change jobs if their employer decides to make a change.

I know it sounds dreadfully simplistic to say it, but this is the kind of market based response that you would see in the inverse when wage rates get up—that people get the chance to make a decision and decide whether or not that shift will benefit them. A different set of people are affected here, but 12 months seems a reasonable adjustment period to us. I have not read the commission's judgement, but I do not think they have yet determined a period for transition. But I do think that they had said that they intended to have one.

Senator KETTER: This next question is probably most appropriately put to the minister. I want to ask about the Productivity Commission report on industrial relations which was released in December 2015. The government promised to respond to that report before the election, and the government still has not responded to that report. Will the government ever formally respond to this review?

Senator McGrath: I think it is best if I take that question on notice.

Senator KETTER: I will also put these on the record as well. What was the point of the view, given that the government appears to have ignored it? How much did the review cost? Why hasn't the government responded to the review? Given that the Fair Work Commission partially adopted the Productivity Commission recommendation on the Sunday rates, does the government consider that it was worthwhile?

Senator McGrath: I will take all those on notice.

Senator KETTER: Thank you. I do not have any further questions.

Senator GALLAGHER: Thanks for appearing so late this evening. It is greatly appreciated. I have some general questions around the workload of the Productivity Commission. At last estimates, I think you were working on nine to 10 inquiries at the time and it seemed that that was pushing the workload of staff. Could you provided an update on that—how many inquiries you are working on, do you have sufficient staffing, how many references would you be in a position to accept from the government and whether you are aware of any new references coming your way from the government, other than the banking one which we have discussed?

Mr Harris: Yes, last year, we had the highest workload that we had in a particular snapshot of time—and I think we did talk about that a little bit in this committee. We have finished a couple of those, but they have been replaces. We currently have nine active still. As I was saying earlier to Senator Ketter, it is nearly a full book. We have also started a piece of research work on trends in trade policies globally. So, between that piece of research work and nine other active pieces of work, we are pretty much full book right now. We will finish two of them quite soon and, if they are not replaced, we will be back to what I call a comfortable level. So we will probably be fully occupied but comfortable through the middle part of this year. Then, in the later part of this year, we will be able to take on more work.

Senator GALLAGHER: So you will be able to take on new references later this year, you believe?

Mr Harris: Through the middle part of this year onwards, yes.

Senator GALLAGHER: Are you aware of any new references coming your way?

Mr Harris: We were just talking about the financial—

Senator GALLAGHER: Yes; aside from the banking one.

Mr Harris: There are a couple of pieces of work that have been informally debated at the bureaucratic level. As far as I am aware, I do not think any of them have ministerial endorsement.

Ms Davidson: The one to note would be one that we also talked about at the last hearings, and that is stage 3 of superannuation work.

Mr Harris: We are taking that into account here because we are doing stage 2 at the moment and stage 3 will follow. So it is a follow-on piece of work.

Ms Davidson: The reference is yet to come and the timing of that is to be determined, but that is another one.

Mr Harris: Since I have been chairman we have a process by which we exchange ideas with Treasury on possible pieces of work. Those are socialises—I like to call it—through the bureaucracy that a committee of the Treasury has set up for that purpose. It is quite normal now for us to be in this phase where the government has not endorsed any work, but we will be putting forward prospective pieces of work and they will, in some cases, that they do not think that is desirable and someone else will do that and that sort of thing. But, as far as I am aware, the government do not have any specific intentions of referrals to us beyond the financial systems inquiry.

Senator GALLAGHER: I thought I had read somewhere about a mental health—

Mr Harris: Mental health has been mentioned by a number of groups and individuals who have been very keen for us to look at mental health as a topic.

Senator GALLAGHER: Are you having any discussions with Treasury or the Department of Health about whether that is possible?

Mr Harris: Not at the moment. I have to tell you that, from my perspective, health is probably the one clear area where we have been long absent—and interestingly so.

Senator GALLAGHER: Absent from any health referrals?

Mr Harris: Yes.

Senator GALLAGHER: Is that by choice?

Mr Harris: No. We did a piece of work when I first came into the job—

Senator GALLAGHER: It is too hard?

Mr Harris: We would never accept that anything, along as it is in the microeconomic sphere, is too hard. Health would clearly, in my view, fall into that sphere. It is just an area where I guess there has been a history of governments going through independent inquiries, as it were. We would call ourselves independent, but I think that term generally means 'We select a group of people to run our form of independent inquiry.' As I am sure you are aware, there has been a history of those in the health area. There was inquiry under the previous government.

Senator GALLAGHER: Yes, I am aware of that. It will be interesting to see. I think one in mental health would be an interesting piece of work. So we will watch that space. One of my questions was around sufficient staffing for the workload. Are you able to manage the referrals you have or do have to go outside for consultants and contractors to assist?

Mr Harris: We tend not to go outside to consultants and contractors. Occasionally we will buy a piece of data, but we do not tend to buy human beings. We do borrow from other agencies and bureaucracies, and that has two benefits: we tend to get an expert and, as a consequence of that, we are much better informed straightaway and that person, because they are borrowed, can be returned and we do not have the long-term staffing cost liability. We are pretty much right on the margin of our budget most years. We tend to come in, but only just come in, under budget. We run a pretty tight ship at the Productivity Commission, as you would, I am sure, expect of us.

Senator GALLAGHER: How many staff are there? Sorry, if I had the annual report I would look at it, but—

Mr Harris: There are 160-odd.

Ms Davidson: There are 165.

Senator GALLAGHER: So it is a modest operation?

Mr Harris: We are quite tiny. Most divisions and most government departments are bigger than us.

Senator GALLAGHER: Do you have, usually, a set number on each reference or do you have a flexible workforce that moves across as required?

Mr Harris: It is definitely flexible. It is definitely a flexible workforce. We have two major offices at Canberra and Melbourne. We do try and share across Canberra and Melbourne, so teams do breakup and reform according to topics. If you look at the org structure, you will see that there is a thing which says, 'Inquiry A, B, C and D.' It is a very nice set of boxes that does not really apply, in my view, at all to the way we work. We have a set of branch heads who form teams. We have a set of people, who are capable, who work underneath them—different kinds of analysts. Every year we employ graduates, and we compete quite strongly with the likes of the Reserve Bank for the kind of graduate that we need at the Productivity Commission.

Senator GALLAGHER: I just have a couple of questions on your inquiry into the efficiency and competitiveness of the superannuation system. Is that what you are calling all the tranche work or is that just stage 3?

Mr Harris: The efficiency one was phase 1. Its efficiency is—

Ms Davidson: Developing the criteria to assess efficiency and competitiveness was stage 1.

Senator GALLAGHER: Yes, and then looking at alternative default models is stage 2?

Mr Harris: Right now, yes.

Senator GALLAGHER: What is stage 3?

Mr Harris: The entire system, really.

Senator GALLAGHER: But that is where you are going to be assessing the efficiency, from the work done in—

Mr Harris: That is where you apply it and then say, 'What is a consequence of those measures that we are discovering that may need to be addressed in a policy sense?'

Senator GALLAGHER: Why has it been staged that way? It seems a little odd that you are looking at alternative default models prior to assessing the efficiency of the system.

Mr Harris: The default models belong to the default members and, therefore, are not a pansystemic—

Senator GALLAGHER: Well, the alternative default models—sorry.

Mr Harris: question. Therefore, they are not an efficiency measure per se, except for a particular group of people. I would not say there is anything inconsistent about looking at default measures separate to efficiency measures, but the sequencing is ultimately a question, and the government decides what to give us in terms of references. We will give them views back. I am not saying we just sit there quietly, but, in the end, it is the government's decision to say, 'Phase it this way and end up with'—

Senator GALLAGHER: It seems an odd phasing to me. If you found, as part of stage 1 and 2, that the system was operating efficiently and well—and I am not saying that that is what you would find, but, if you did—then surely assessing alternative default models would not necessarily need to be progressed if you had found that a stage—

Mr Harris: Really, they are both pieces of preparatory work before the major inquiry itself.

Senator GALLAGHER: Stage 1 and 2?

Mr Harris: Stage 1 and 2 are both—

Senator GALLAGHER: And then you go into stage 3?

Mr Harris: pieces of preparatory work.

Senator GALLAGHER: All right. Are you are required to report this month on stage 2 work?

Mr Harris: It is pretty soon, yes.

Senator GALLAGHER: Is that timetable going to be met?

Mr Harris: Yes. I am on that inquiry and my staff are putting the cattle prod into me right now!

Senator GALLAGHER: It would not be a very good look for the Productivity Commission to be late with their reports!

Mr Harris: Well, I have told people, 'If we have to take another week or two in order to get it right, we write to the Treasurer and ask for another week or two.' The Treasurer tends to be quite happy to do that. But, yes, we do try and meet on time.

Senator GALLAGHER: As part of that work, you were asked to look at, I think, the Chile, New Zealand and Sweden models.

Mr Harris: Yes.

Senator GALLAGHER: Have you done that? Did you have to visit the countries?

Mr Harris: I went to Chile, but I was there for other reasons as well. I was doing some other work. I was in London as well, and we talked to an expert at the London School of Economics and Political Science who has done a review of the Swedish system, so we have access to his work. But we do other work as well besides that. We have looked at each of those systems. I did not go, but the team and my deputy chair went to New Zealand last week. So we are looking at those models because the terms of reference ask us to do so. But throughout this particular segment of the superannuation arrangement inquiries there has been a presumption that, for example, because we were asked to look at those we must be preparing to use those models. That would be an inaccurate presumption. It is part of the development of the work to look at what other people do, but that does not necessarily mean we plan to adopt anything from any of those systems.

Senator GALLAGHER: Just out of interest, where would Chile, New Zealand and Sweden be ranked for the performance of their pension systems? Are they top performers or is it giving you a range?

Mr Harris: They are a bit different. Chile is a rapidly developing economy, but for example it has far less formalised a workforce than any developed country would have—there is a lot of informal work and a lot of opting in and out of the workforce. Its pension system is quite different to ours. It is fit for purpose for Chile, but it is quite different to ours. With the Swedish system, you would say Sweden has a developed workforce and a developed economy, but it has a particular approach to social services policies generally that is quite different to ours, and that system is somewhat more reflective of the Scandinavian model than ours might be. The Australian system is very much an investment at your risk. The New Zealand system, because it is optional rather than mandatory—as ours is—and I guess in part reflective otherwise of characteristics of the New Zealand economy, is a little different to ours too.

The reason they are relevant to this is that we are looking at the default system—so, a subset of how members choose to make their investments—and each of them have a different method for selecting how the default provider or providers are made available to members of super funds who do not make any choices—that is, default members. We are looking at them because each of them represents a different kind of structure, and logically that is what you would do if you were doing our kind of work. I have to assure you—and it might have been at the last estimates where I was assuring another senator—that if they had not been in terms of reference we would have looked at all three of them anyway.

Senator GALLAGHER: Would you look at other pension systems as well, like Denmark and the Netherlands?

Mr Harris: We looked at the Dutch in particular, who have a quite attractive return on their system, and it is pretty significant. Canadians have a system with some parallels to ours. We have looked at the US 'thrifts' model. We look where we can to find potential signs of useful public policy ideas and then we decide on whether it can be applied the Australian environment. That is why I started answering the question with this description of how the local environment should be reflective of your model—and indeed is, in the case of those three that you originally asked about in your question.

Senator GALLAGHER: Okay, sure. I take your point around the default arrangements. Look at what has happened in Chile, though, where there has been some concern from the

community about pension schemes in particular, and at what is on offer for the general community as opposed to some of the others. I saw some footage of quite large demonstrations around their pension schemes. You cannot in isolation just assess the default and not look at the picture of how that scheme operates as a whole, because the default could lead to some of the problems that have forced people out onto the streets in Chile.

Mr Harris: I would not want to comment on Chile and its governance per se. Everybody's pension system is a little different because of the expectations that are created either by the design or by conscious statements from governments at the time systems are put in place, and often both of those things. Meeting expectations is crucial in all of this. Sometimes where you see demonstrations, as you have alluded to, it is about the expectations that people had of what might be there and those expectations not being met. It applies in developed economies as well as developing economies—people express their disappointment. We have seen that even in Australia with some recent decisions on superannuation. People do express their disappointment—perhaps not by assembling in the streets, but by other methods.

Senator GALLAGHER: I think there is a lot of anticipation about stage 2.

Mr Harris: I think people will be very intrigued with what we put out.

Senator GALLAGHER: Intrigued?

Mr Harris: Intrigued.

Senator GALLAGHER: A nice word. That will keep us guessing.

Ms Davidson: We are already intrigued.

Senator GALLAGHER: We are even more intrigued now by that.

CHAIR: I look after a lot of country Victorian areas, and I know you are doing an inquiry into the regional Australian economy. I want to get an idea of the consultation process: where you are on that, interest from stakeholders and whether you have done any regional visits.

Mr Harris: Yes, there have been visits undertaken and roundtables organised. Some of those were done in conjunction with our universal services obligation inquiry, which is going on at the same time. In other words, if we were out in the bush talking about USO and we had the chance to also convene a group to talk about the regional inquiry, we did do that. The commissioner who is running that has just come off the agricultural regulation inquiry, so he has context from that as well which is relevant to the regional adjustment inquiry. We have done some contact in different areas of Australia already on regional. The reason we are not proceeding to do any more right now is that we have to give the government an interim report in April, which is a very rapid time frame from our perspective. Moreover, the task which we have been asked to do has in the terms of reference some quite specific requests which are quite difficult to do in such a rapid time frame. Really, the ranking of regions and their capacity to adjust to the mining boom is quite a difficult empirical task. Empirics will only get you so far, in any event. We have done what we can for early public consultation, but we are now in a phase which is about developing the work in order to give the Treasurer back the interim response in April.

CHAIR: Thank you. I am looking forward to April. I now call on the Australian Office of Financial Management.

Australian Office of Financial Management

[22:08]

CHAIR: Good evening, gentlemen. Thank you very much for joining us this evening. Do you have an opening statement for us?

Mr Bath: No, Chair, we do not.

Senator KETTER: I wonder if you were present when I was questioning the Fiscal Group of Treasury about the issue of debt levels?

Mr Bath: No, we were not.

Senator KETTER: We were able to establish a couple of points. This is in relation to the \$500 billion cap on gross debt. We have ascertained that you have not yet received a direction from the Treasurer under section 51JA of the Commonwealth Inscribed Stock Act 1911 to increase the maximum face value of stocks and securities above \$500 billion. I understand that the trajectory we are looking at is \$494 billion at 30 June. Is that correct?

Mr Bath: We have got it projected to be at \$496 billion at 30 June this year, based on MYEFO.

Senator KETTER: Once a direction is given—I understand that there will be a direction in the next financial year. Is that your expectation?

Mr Bath: That would be my expectation, yes.

Senator KETTER: If and when you receive a direction, can you tell us when that is generally published in the gazette?

Mr Bath: I think there are some rules about it. It is a non-disallowable instrument. I think that there are a number of days that it has to be tabled. It might be 14 days that it has to be tabled in parliament. We might have to take that one on notice. There will be some rules that we will have to look up for that.

Senator KETTER: Okay. Have there been any discussions with Treasury and you in respect of the changes that might be occurring next financial year, or is it too early for any discussions to take place in respect of a further direction from the Treasurer?

Mr Bath: Yes, there have been discussions with Treasury. We discuss things regularly with them. We have regular meetings with them, and the capacity within the existing debt ceiling is one of the things we regularly discuss with them.

Senator KETTER: So they foreshadowed to you that there will be a new direction in the next financial year?

Mr Bath: Well, that is a matter for them to advise the Treasurer on, but clearly we speak to Treasury about our views on these matters.

Senator KETTER: Do you have any views as to when you might expect to receive a new direction?

Mr Bath: Before we hit \$500 billion, I would imagine.

Senator KETTER: You do not have a month of the next financial year when you would expect that to occur?

Mr Bath: Sorry, could you repeat the question.

Senator KETTER: When would you expect to receive the new direction in the next financial year? Do you have a particular month when you are expecting this to occur?

Mr Bath: I would expect it to occur before July, but there is a bond maturity in July, so it is possible that we might not approach \$500 billion in July. But we would expect to get close if we were at \$496 billion on 30 June.

Senator KETTER: So, before July 2017, you are expecting to—

Mr Bath: Sorry. Before the end of July, I would expect that we would be getting pretty close if we were at \$496 billion. To put that into context: we issued \$11 billion worth of paper in one day a week ago, so \$4 billion is not a huge difference from the ceiling.

Senator KETTER: Could you tell us: what are the legal impediments or consequences of having Commonwealth government securities above the Treasurer's direction?

Mr Bath: Well, it is a hypothetical question for us, because we just would not take it above the legal limit. We would stop issuing.

Senator KETTER: So you would not be able to comply with the Treasurer's direction if there—

Mr Bath: No, I am not saying that at all. We would absolutely comply with the Treasurer's direction, because it would be a legal and binding instrument on us, so we would stop issuing.

Senator KETTER: Can you and Treasury have Commonwealth government securities at face value above \$500 billion without an updated direction from the Treasurer?

Mr Bath: Technically, yes, because there are about \$2.5 billion of Commonwealth government securities that are not subject to the direction. So, technically, we can be at \$502.5 billion of Commonwealth debt outstanding, while still being at or below \$500 billion of debt that is subject to the direction.

Senator KETTER: Just going back to my earlier question: if you stopped issuing bonds, what implication would that have for the government if it could not meet its payments? Would the government default on some of its—

Mr Bath: It would not automatically mean that the government would not be able to meet its payments. We carry a significant precautionary cash balance in the form of term deposits with the Reserve Bank, and there are other alternatives such as repurchasing soon-to-mature debt. As I said earlier, there is a bond maturity on 15 July—actually, let me check that. I beg your pardon: 21 July. That is of about \$13.9 billion. So we could potentially buy some of that back with our current cash holdings with the Reserve Bank if we absolutely needed to, but my expectation is that we would receive a direction prior to that becoming an issue.

Senator KETTER: So what sort of buffer do we have?

Mr Bath: A precautionary asset buffer—so a term deposit balance at the moment. We currently have about \$27.7 billion worth of term deposits with the Reserve Bank, but that fluctuates day to day. That is our main cash management instrument to deal with the mismatches between government revenue and expenditure.

Senator KETTER: Okay. But, based on what you have said, that could last for a couple of weeks depending on the circumstances.

Mr Bath: And then some. Essentially, I would expect it to last more than the three weeks into July, at which point the July 2017 bond would mature and we would be paying \$13.9 billion at that point. So it is not an issue for us. It is not something that keeps us awake at night.

Senator KETTER: What is it that stops you from issuing the bonds in the absence of that direction from the Treasurer?

Mr Bath: In the absence of a new direction from the Treasurer? The fact that the existing direction has a limit of \$500 billion. That is what stops us.

Senator KETTER: Okay. That is all the questions I have.

CHAIR: I just have one follow-up question. Recently Australia locked in a government bond deal of about \$11 billion. Is that correct?

Mr Bath: Yes.

CHAIR: How does the size of that bond deal compare to previous deals?

Mr Bath: That is the largest single issue we have done. The next largest one was issued on 18 January, and that was \$9.3 billion. Then I think the largest before that was about \$7½ billion or \$8 billion; \$7.6 billion springs to mind. We issued a 30-year bond in October last year that had a face value of \$7.6 billion.

CHAIR: What was the value of the orders placed for that \$11 billion bond issue?

Mr Bath: For the \$11 billion one, at the market clearing price—there is a process that we go through to set a price on this thing, and some bids drop out as that price discovery process occurs—once we had set the price, the amount in the book was \$20.9 billion.

CHAIR: So nearly double.

Mr Bath: That is correct.

CHAIR: That is a very encouraging number. It demonstrates a confidence in the Australian economy, doesn't it?

Mr Bath: Yes.

CHAIR: That is very exciting. Why do you think that there is so much investor interest in Australian government bonds?

Mr Bath: It is a pretty good story. We have a good creditworthiness. We have AAA ratings currently from the major rating agencies. The outlook is good, and the yield is pretty competitive compared to other similarly rated sovereigns.

CHAIR: That is a very good news story. Thank you very much, Mr Bath.

Senator BUSHBY: I have one question. I know you have not been here for a few estimates, but when you used to come I used to ask about yields, and you used to come along with a graph for me. I do not know whether you have done that this time.

Mr Bath: I am afraid I did not. I did think about it at about three o'clock this morning: should I print out the graph? But I thought no.

Senator BUSHBY: That was three o'clock this morning. You did not print it out during the day?

Mr Bath: I did not do it during the day, no. I thought the chances of us being asked for it might be low, but when I saw you sitting here I thought I should have gotten up and printed it out. So I apologise.

Senator BUSHBY: In general, then, is there any trend in terms of the yields? Is it fairly stable or looking up?

Mr Bath: Yields have gone up since—

Senator BUSHBY: I know there is a whole range of different yields.

Mr Bath: Sure. I think, broadly speaking, yields probably reached a low around July or August last year, and there has been a gradual sell-off between that time and early November, when the US election occurred, so there was probably about a 50-basis point sell-off. So yields rose, and then since that time there has been another 50 basis points or so of rise in yields. So there is probably maybe 80 to 100 basis points worth of yield increases since the low of around about July-August last year. I can give you some rough numbers now, if you like?

Senator BUSHBY: That is fairly consistent across all the term of issue of the bonds?

Mr Bath: Yes, I think so. I think the yield curve might have steepened a little bit. I was referring specifically to 10-year bonds but they might have sold off a little bit more than, say, the shorter bonds. The shorter-end bonds tend to be anchored to short-term expectations about cash rates and they are relatively steady at the moment. The 10-year bonds tend to move more in line with global bond rates such as the US.

Senator BUSHBY: They factor in a few more uncertainties?

Mr Bath: Yes, that is right. But overall, the spread to the US 10-year has compressed to about 40 basis points, and probably when we last met that would have been 100 basis points or so, which means Australian government bonds have outperformed US government bonds over that time.

CHAIR: Thank you very much for your attendance this evening. I apologise for keeping you so late.

Australian Bureau of Statistics

[22:21]

CHAIR: Welcome, gentlemen. Again, I apologise for keeping you so late this evening. Do you have an opening statement you would like to make, Mr Kalisch?

Mr Kalisch: No, I do not, Chair.

Senator KETTER: Mr Kalisch, I might take you back to the 2016 census. Are you aware that the Digital Transformation Agency has indicated it plans to review, monitor and, where it judges necessary, intervene in poorly managed government IT projects?

Mr Kalisch: I am aware that they have been commissioned to do a review of IT programs.

Senator KETTER: Are you familiar with the Digital Transformation Agency and the type of work that it does?

Mr Kalisch: Yes, I am aware that the agency has been established and transformed from the Digital Transformation Office and they have a new remit and further action.

Senator KETTER: Do you consider that had there been oversight by the DTA the Census issues could have been avoided?

Mr Kalisch: We can speculate about a whole range of things. I suppose the one thing that the bureau itself recognised was that we could have overseen the census system aspects better ourselves irrespective of whether the DTA or the DTO or whoever was around. We recognise that there were some aspects of the census process that we could have done better.

Senator KETTER: Do you consider that an intervention by the DTA could have restored services more quickly?

Mr Kalisch: The restoration of services was really something where we made a judgement, I think, working with the Australian Signals Directorate, working with some of the commercial suppliers, and wanting to make sure that the system was robust because the one thing that we recognised is that it was difficult having an online outage for one time, but having an online outage for a second time would have been very, very difficult. As we saw, getting it up and running about 40 hours later, we then had millions of households that then used the online system once it was up and operating.

Senator KETTER: Have you sought the assistance of the Digital Transformation Agency?

Mr Kalisch: No, I have not.

Senator KETTER: Do you consider that that agency has the capability to review and intervene in the ABS's technology projects?

Mr Kalisch: I am not aware of their specific expertise, but I am sure that we will have a good collaborative arrangement with them, as will every other agency that has large IT programs.

Senator KETTER: I will just move on to the issue of the National Survey of Mental Health and Wellbeing. You produced a summary of results from the 2007 National Survey of Mental Health and Wellbeing. We are now in 2017. Are you intending to conduct another survey?

Mr Kalisch: I will ask Dr Paul Jelfs, who is Acting Deputy Australian Statistician and overseeing our statistical program.

Dr Jelfs: Thank you, Senator, for the question. There is quite a large range of demand for mental health information, and we have been working with a whole range of the stakeholders in that field in the government sector—for example, the Department of Health—and we have been also working with the Department of Veterans' Affairs and the Defence portfolios to examine the options in that space. We have also been working with the formal government committees in that space to establish what is required. At this point in time, there is no formal plan for a survey to be conducted. However, we continue to work with those stakeholders.

Senator KETTER: Are you finding that there is some appetite for another survey?

Dr Jelfs: Yes, that is correct.

Senator KETTER: I do not have any further questions, but I understand Senator Moore has some questions.

Senator MOORE: Mr Kalisch, I want to talk about the sustainable development goals and find out who in the Bureau of Statistics is working on those issues.

Mr Kalisch: There are a number of us working on those issues.

Senator MOORE: Could you tell us how you are doing it? I imagine that there is someone from the Bureau of Statistics representing the department on the interdepartmental committee.

Mr Kalisch: There are probably two aspects where we should talk about the engagement that the Bureau of Statistics has around the SDGs. There is the domestic process and then there is an international one as well. In terms of the international dimension, following the political agreement to the establishment of the SDGs, the international group of statisticians was given the task of developing the indicator set and looking at measurement issues, and that was one of the key dimensions that was considered, discussed, debated and progressed at the last United Nations Statistical Commission, which took place in March last year. I attended that meeting with Trevor Sutton, and we also had some support from DFAT. It was where the international statistical community came up with a number of indicators and a number of targets that would be measured and some indication of how that would be measured. Dr Jelfs is involved with the process in terms of the domestic activity with DFAT and with a number of other agencies including the PM&C. They are the two aspects that we are mainly involved with. There is going to be a further reprise at the United Nations Statistical Commission next week where we are receiving some update on some further activity that has been taking place internationally.

Senator MOORE: You are attending that?

Mr Kalisch: Yes.

Senator MOORE: So you have got the direct, international UN responsibility in the professional way, which is across the whole area, but then, at the domestic level, you are also represented on this interdepartmental committee, which PM&C and DFAT are working on together. Is that correct?

Mr Kalisch: Yes.

Senator MOORE: Do you have a special unit that has this responsibility, or is it added onto pre-existing structures in the department?

Mr Kalisch: We have a pre-existing social reporting area within the bureau, but I would have to say that one of the main challenges of the SDGs is actually the breadth and depth of the measures that are being talked about. One of the aspects that we will need to keep in mind is which measures are most appropriate for Australia and which measures are ones that we should report on, because, quite frankly, there are a plethora of measures. I think one of the potential difficulties with the SDGs is one of scope creep. One of the aspects that we are particularly mindful of is the reporting burden, which may not be so much on developed countries like Australia but on developing countries. They could spend their entire budget reporting on these initiatives.

Senator MOORE: I would imagine that is the kind of thing that this next international meeting will be looking at. It is early days, but nonetheless we are 18 months down the track from the commitment—you know, Vision 2030.

Mr Kalisch: I will just say one thing: as we understand the reporting arrangements, there is a lot of flexibility for countries on how they report back to the United Nations using this range of measures. They are not required to report on all of them and, quite frankly, we cannot report on all of them either. I will let Dr Jelfs provide a little bit more context about the domestic conversation.

Dr Jelfs: You are correct in that there are interdepartmental working groups. There is the interdepartmental committee that is at the deputy secretary level, which we are involved in, and there is a FAS working group as well, which I am involved in directly. To complete Mr Kalisch's answer, Australia, like other countries, will have to report twice between now and 2030 on a voluntary national review. Plans are underway within those working groups to try to plan out how and when we will do that report.

Senator MOORE: How many times have the groups met?

Dr Jelfs: Both of them have met once, and the working group will meet again on 8 March.

Senator MOORE: Out of that first meeting—I will be following up with DFAT tomorrow and I have spoken to PM&C—I have been told that there is a work program, but there are no dates in place yet. Is that how you see it?

Dr Jelfs: That is probably correct. I think the working group on 8 March will start to lock all of that down. That is the plan.

Senator MOORE: On International Women's Day—you know, the special meeting on the UN's SDGs.

Dr Jelfs: The date is locked in to try to get these people together.

Senator MOORE: Hopefully concentrating on Goal 5, but that is just my view. In terms of the process, I am trying to get a handle on how effectively we are moving toward the responsibilities we have in this space. I have spoken with people from other countries that seem to be much further developed in the agenda than we are. I am pleased to hear that there is an international statistical working group operating, because it is going to be based on effective data. If we do not have that right, we are not going to get anywhere.

Mr Kalisch: I have to say I did not get any sense that Australia was lagging behind other countries, particularly within the statistical environment.

Senator MOORE: That is important, yes.

Mr Kalisch: The support that we were receiving from DFAT at the mission in New York—

Senator MOORE: Did you get resourcing from DFAT? The budget issue is important. In your role in this particular exercise, do you have a special budget to cover the responsibilities in the SDGs?

Mr Kalisch: No, this is something that we do within our pre-existing resources. We did not receive any additional funding for this, but I would have to say that the support we received from the mission in New York as well as from DFAT in Canberra has been significant.

Senator MOORE: In terms of the expectation that you are finding in the groups, is there an expectation at stats because it is such a core part of the process? Will you have an extra role in educating other departments who have not had this experience before in the way this will work?

Mr Kalisch: I would not have thought so, because most of the other agencies—and just looking at the breadth of the SDG goals and targets—are familiar with the types of indicators and types of measures that are being considered in this environment.

Senator MOORE: And the reporting expectation?

Certainly, it is my understanding that people have felt that the previous processes were internationally focused around our overseas aid program for the MDGs, et cetera, but that this has a much wider expectation in terms of reporting as a nation, which is a big step forward.

Mr Kalisch: To some extent, although Australia does also have a good history of reporting about its domestic performance, its economy, its social dimensions, its environment and various other features. Past governments have had various reporting mechanisms in place. You just had Peter Harris here from the Productivity Commission, which does the report on government services. So there are some precedents around a number of these issues.

Senator MOORE: Do the working groups have minutes?

Dr Jelfs: Yes.

Senator MOORE: Do you know whether they are public?

Dr Jelfs: Not to my knowledge.

Senator MOORE: Do people go and do they have a responsibility of reporting to that group and then back to the department? Is that the expectation?

Dr Jelfs: Yes, that is correct. That is the expectation that they will represent.

Senator MOORE: At this stage, what do you believe will be expected in terms of meetings?

Dr Jelfs: I would expect that we would meet at least once a quarter with the working group for some time until we finalise the plan for reporting.

Senator MOORE: And then have signposts along the way in terms of that process.

Dr Jelfs: Correct.

Senator MOORE: Minister, I did request to have a briefing with stats just so I can have a longer time. This was a preliminary discussion.

Senator McGrath: I cannot imagine that would be a problem. I know you have asked previously.

Senator MOORE: It is the protocol that I ask the minister at the table and then we will follow up on that.

Senator McGrath: I am sure that will not be a problem.

Senator MOORE: Thank you very much. By the time we have the next estimates you will have had the 8 March meeting, which would firm things up and then we will go through from that process. You said the UN meeting is next week, is that right?

Mr Kalisch: Yes, it is next week. I think the main discussion around the SDGs is probably on the Tuesday, which I do not think is the 8th.

Senator MOORE: No, it is not. Thank you very much.

CHAIR: I have no questions for the ABS. Thank you very much for joining us this evening. I am sorry to keep us late.

Senator BUSHBY: Sorry, could I just ask one question? We have had a lot of discussion about the census last year. When are we likely to see results coming out from it?

Mr Kalisch: The main results from the census will be available in June—toward the end of June. There will be further detailed data on some of the more complex items, such as industry, occupation and journey to work in October. We will also have some initial information available in April. The census longitudinal data set will then be available in December. So there is a range of dimensions. One thing I should mention is that we are very confident that we will have good-quality data to release that will be fit for purpose for Australia. Despite the outage, we did get a very good response rate from the broader community. The quality of the data that we are seeing at the moment through our data quality checks is showing up as very good.

Senator BUSHBY: Thank you.

Senator GALLAGHER: I know you are doing a review about the census fail issues or the issues around the failure of technology on the night and following it. Do you also review the marketing and the approach you took separate to the issues about what happened after the failure of the IT system to see what worked and what did not work? Do you do that as a routine?

Mr Kalisch: It is routine whenever government funds a major communication campaign—the census is one of those examples—that they then evaluate that campaign itself. I think the second aspect I would note is one of our own internal perspectives, looking at the entire census experience, was that we and, I think, the funding underestimated the challenge of a new census approach—of moving from a drop-and-collect model and leaving a form at everyone's door to sending them a letter directed to the household with a login code. I think we did need to start the communication much earlier and start engaging with the community much earlier. I think there are some lessons for the 2021 experience.

CHAIR: Thank you, gentlemen. Sorry to keep you so late. Mr Kalisch, you look much more relaxed than the last time we saw you!

Inspector-General of Taxation

[22:39]

CHAIR: Welcome, gentlemen; thank you very much for staying so late this evening. It is always hard being the one who is scheduled last. Do you have an opening statement?

Mr Noroozi: No; we thought, given the hour of the night, we would just let you maximise your questions.

Senator GALLAGHER: Thank you for your attendance late this evening. I mentioned to the chair earlier that I did think it was unfair that you are always put on at the 10.30 to 10.45 slot.

Mr Noroozi: You are actually early tonight!

Senator GALLAGHER: Yes. And considering you travel as well to get here, perhaps that is something we can look at—

CHAIR: Senator Gallagher has recommended that you go first next time—9 am.

Mr Noroozi: Thank you.

Senator GALLAGHER: Yes, just to mix it up a little. I was looking at your work program—I will just bring it back up. It is actually a very informative website and easy to navigate, which is unusual for government websites. Were any of the reviews that you are commencing or have commenced in 2017—I note that a couple were referred from the Commissioner of Taxation. Did you have any ministerial referrals?

Mr Noroozi: No, we have not for this one.

Senator GALLAGHER: Is that unusual?

Mr Noroozi: It is not unusual, no. We do get it from time to time, and we have certainly had—in fact, historically they are more an exception rather than the rule if you go back through the number of work programs we have had. One of them, you may recall, was when there was the change program, the ATO IT upgrade. That was referred to us to do back in 2010. So, yes, it is not unusual.

Senator GALLAGHER: I note that you list, as part of your work program, 'Notable areas not included in the 2017 work program'. Do you choose to do that because you are acknowledging them as issues but you—I note that you do explain why you are not pursuing them, but I am interested in the approach there.

Mr Noroozi: For those that were fairly high on people's list, as in the number of people who requested it, we like to let them know we have heard them and to give them some reasons as to why we have chosen not to look at them. For example, one of them, from memory, was debt collection. We did a review into that not that long ago, so hence we thought it was to early—you would probably allow more time to pass before you look at it again. Other measures that people had raised, for example—one of them had not even been legislated yet. It had not been enacted yet, so it was a little early to be going there. What I have done this time, at least with the ones that were high on the list, is really try to give reasons as to why we have chosen not to look at them in this work program.

Senator GALLAGHER: In terms of the reports that have been completed, you have done a review into employer obligations compliance. I think you say on your website that was it was transferred to the minister on 2 December—is that right?

Mr Noroozi: Yes.

Senator GALLAGHER: That review has not been released yet.

Mr Noroozi: No, it has not. Because that review contains recommendations to government I am required by law to submit it to the minister, and she has 25 parliamentary sitting days within which to release it, so it has not been that long in terms of parliamentary sitting days.

Senator GALLAGHER: So it really might not be released until May or sometime around then?

Mr Noroozi: Yes, I have not quite done the maths—usually it equates to about six months in the ordinary course of events.

Senator GALLAGHER: That is in terms of public release, but the minister could progress issues around that within government in the meantime, I presume.

Mr Noroozi: Sometimes when they are released they come with a government response. Obviously, the minister would be better placed to answer that question than me, but I suspect that they would probably work out their response to some of those recommendations rather than actually start working on them.

Senator GALLAGHER: Would you normally meet with the minister over a report?

Mr Noroozi: We certainly provide them with the report, and we offer to have a face-to-face briefing. Sometimes that is necessary; sometimes it is not.

Senator GALLAGHER: Has there been any follow-up in relation to this report?

Mr Noroozi: Yes, there have been some discussions with the minister's office on this report.

Senator GALLAGHER: Which you are probably not able to go into?

Mr Noroozi: It is really the contents of the report—by law I am not able to speak about the report until it is publicly released.

Senator GALLAGHER: About any aspect of it, other than what we have already—we know the general areas that went into it, but—

Mr Noroozi: Yes. What is in the public domain that you can have a look at is the submission we made to the hearing that is on Friday—

Senator GALLAGHER: Yes, we will be speaking again on Friday.

Mr Noroozi: The parts relating to super guarantee are, at least to some extent, outlined in that submission.

Senator GALLAGHER: Yes, we will have further questions on that on Friday with Senator Ketter and Senator Hume.

Senator KETTER: I have some questions in relation to the IT failures at the ATO recently. Have you been following the failures of the ATO website and portals?

Mr Noroozi: Yes.

Senator KETTER: Have you received any complaints about them?

Mr Noroozi: Yes. First of all, we are getting briefings from the ATO, both the public ones and some that they have specially provided to us. Since the outages—there have been a couple and they took some time to get the system back up, so we do have some concern—some have formally lodged a complaint, others just want to know what is happening and when it is likely to go back up, and we have provided information accordingly.

Senator KETTER: You might want to take this on notice, but can you tell us the number of complaints and a breakdown of their entity type and complaint type?

Mr Noroozi: We would have to take that on notice.

Senator KETTER: Thank you. Do you have any estimates for the types of activities lost, including, for example, lost revenue collections, duration of outages et cetera?

Mr Noroozi: Probably the ATO, at this stage, would have a better idea. I do not know if you have put this question to them, but I suspect that they would have a better idea. We have not done a review into the area. Unless I am doing a review, I am not going to be asking for that information.

Senator KETTER: You would have to ask the ATO yourself?

Mr Noroozi: Yes, at least as a starting point, and then, of course, we would ask more questions depending on what they provide us with. If I understood your question rightly, you are talking about productivity lost at the ATO as opposed to what, for example, a taxpayer or a tax practitioner might suffer. Yes, we would start by asking the ATO those questions.

Mr McLoughlin: We have independent access to the ATO's systems, so we can verify and evidence what is available, but for analysis of that nature, or research of that kind, that has to be created from the data or the evidence that is available on the systems.

Senator KETTER: Will you be doing that type of analysis and investigation in terms of lost revenue collections?

Mr Noroozi: We have done reviews of this kind in the past. As I said earlier, I think it was back in 2010 when there was an ATO IT upgrade and there were failures, and the government at the time directed me to do a review into it. I guess, at this stage, we have not rushed into doing a review into this area. I am not sure how helpful that would be right now. I think our focus should be on supporting the ATO through this stage. There are a number of reviews. I think they have PWC doing a review. The ATO themselves are doing a review. Hewlett-Packard is going to be doing a review. And, also, the commissioner put out a public statement, a more or less ironclad guarantee, that tax time would not be affected. I think it would be premature for me to launch an extensive review at this time. If, for example, come tax time and there was a failure, that would be a definite indicator that there have been a number of reviews and there are still problems, and that maybe I should do a detailed review of what has gone on. But you have to bear in mind that, at the moment, all our focus should be on getting the systems back up and working as they ought to be, because what I would do is to try and look at what has caused the problem, to let the public know. I would not be in a position to rectify those problems, and I think it is important that the experts try to rectify those problems as soon as possible, rather than me getting in the way right now. I do not know if you think that is a sensible approach or not, but that is the course that we are taking at the moment. We are watching that space.

Senator KETTER: Are you aware of any cases of tax practitioners seeking compensation as a result of the outage?

Mr Noroozi: We have had a number of complaints raising those issues. There have certainly been at least one or two professional associations; you have seen it in the newspapers. If those have been reported correctly, then yes.

Senator KETTER: Do you have any feel as to the numbers?

Mr Noroozi: As I said, I would have to take that on notice.

Senator KETTER: Whilst you are doing that, would you be able to provide an estimate of the total potential compensation bill?

Mr McLoughlin: That is quite difficult. The reason I say that is that the Department of Finance oversee CDDA the scheme, but there is delegation to agencies to actually look after it, so application at first instance should go, fairly, to the agency. If people have a complaint about the manner in which their compensation claim has been dealt with, they are able to come to us, but for us to originate it I think is unfair to the agency—to not first have the opportunity to do that.

Mr Noroozi: When we did the previous review that I alluded to earlier, back in 2010, we did make some recommendations about compensation, but the main scheme available is the CDDA, and that is at the discretion of the agency head. All we can do is make sure that all the relevant factors have been taken into account. If they have not been, then we draw that to the attention of the ATO and we would say, 'You have taken A, B, and C into account, but what about X and Y? Please take those into account and reconsider your decision.' We can never be put in the shoes of the commissioner.

Senator KETTER: In December of last year, you referred to what you described as 'unintended delays or outcomes' arising from the IT issues in December of last year. Can you elaborate on what those were?

Mr Noroozi: Sorry, what context is this in?

Senator KETTER: In relation to the technical failures in December of last year.

Mr Noroozi: Yes.

Senator KETTER: You talked about 'unintended delays or outcomes' resulting from those IT failures back then.

Mr Noroozi: Sorry, in what context did I say that? Is that my comment?

Senator KETTER: Yes, I understand that is your comment.

Mr Noroozi: The only comments I have made may possibly have been in a press interview. I am not entirely sure—unless I have early signs of dementia—but that comment does not ring a bell. It may have been on a radio interview.

Senator McGrath: Do you want to take it on notice, just to be safe?

Mr Noroozi: Yes, sure.

CHAIR: That is probably a good idea. I do not think we have a reference.

Senator KETTER: I think it was from *The Sydney Morning Herald* article 'Inspector-General of Taxation Ali Noroozi says ATO needs to say 'sorry' for errors.'

Mr Noroozi: That is a completely different issue. That was to do with a report that we put out that was about taxpayer protections. Basically, the ATO has already apologised. I think we have said that. There is a recommendation in there about how that might be improved. We had already completed this review before the outage so it would not have been a reference to the outage. It may be that the article gives you that impression, but, I can assure you, the review we did, which was the review of the taxpayers' charter and taxpayer protections, was released in December 2016, and we would have completed our work some time before that because there is formatting and printing and so on.

Senator KETTER: Okay.

CHAIR: Senator Ketter, I am conscious of time and I know that Senator Bushby has a couple of questions.

Senator KETTER: On that article, as I understand it, it said:

... the ATO could 'set aside appropriate portions of the budget to account for potential compensatory payments'.

Do you know whether the ATO or the government have looked at that or implemented your suggestions?

Mr Noroozi: As I said, we did a review back in 2010. During that IT failure, one of the things we recommended was that for future IT projects they should put aside a fund for cases such as these; a contingency to compensate the people as necessary. So that was a recommendation from back then. We raised the same issue in this report, and I believe the ATO said they already have such funds in place.

Senator BUSHBY: In 2010, Hewlett Packard was the IT company involved then as well?

Mr Noroozi: No, at the time it was Accenture. But they also had two external assurers: one was Capgemini and the other was a smaller consultancy—the name escapes my mind. But they were just assurers. Accenture was the main contractor.

Mr McLoughlin: The other consultancy was mainly addressing the tax-time issue as part of an assurance for tax time itself. The other program was a much broader Accenture and Capgemini-type relationship.

Senator BUSHBY: The failure in 2010 was a broader failure. It actually impacted on tax agents and others as well, didn't it?

Mr Noroozi: One of the biggest problems back then was that they had switched off the old system at the same time as they switched on the new system, so that when the new system was switched on and there were problems, there was nothing to fall back on. So you had delayed refunds and delayed processing of returns—

Senator BUSHBY: So there were much more severe consequences than what we saw in December of last year.

Mr Noroozi: Yes. Certainly at this stage it appears to be so.

Senator BUSHBY: Now, Accenture—I might be wrong, but isn't that now part of Hewlett Packard? It might not be in your knowledge.

Mr Noroozi: We will take that on notice.

Senator BUSHBY: Fairly recently, in the last few years, your role was expanded to include direct complaints by taxpayers, not so much about their assessments but about the process and the administration that they deal with when they are dealing with the ATO and the TPB. How has that gone, and what percentage of the office's workload is now undertaken as a result of direct complaints by taxpayers?

Mr Noroozi: I think it is going reasonably well. In May this year we will have had two years of operation. It is going reasonably well. I would say that it is really the main bread and butter of the office—it is what keeps everybody busy—and the review work complements that. For example, if you look at our reviews this time, the GST refunds review and the one about PAYG, we are doing these reviews because of the feedback we have got largely through the complaints. Of course we have also had submissions into our work program on it as well. That has become very much the focus of the office, but it does not detract from our bigger view of doing larger reviews.

Senator BUSHBY: There is a synergy between the individuals and the more systemic stuff that you are doing?

Mr Noroozi: Absolutely, yes.

Mr McLoughlin: I think one of the advantages that we have as an office by building the office from scratch is that we have been able to develop a high level of tax expertise within our particular function in looking at complaints. Our staff are all highly skilled tax operators. We are also able to provide assurance to taxpayers with a high degree of integrity by being able to check the ATO systems directly when people are concerned.

Some people just really want to know independently that what the tax office is telling them is the right thing, without having to spend a lot of money by going to an external adviser. That is another function that we provide through the complaints handling. Some people are concerned about technology, and they are concerned about the nature of the system because it is quite complex for them to navigate, so that is a feature of what we provide as part of our service.

Senator BUSHBY: You attracted increased resources at that point to assist you with the individual interface. Is that working out okay? Have you got enough to do the work you need to do?

Mr Noroozi: Yes. At the moment we are doing well on that front. Of course, having only been in operation for less than two years, we still have a bigger job of letting the public know that we are there, and the numbers are likely to build. I have tried to do that through you by letting all the senators and members of parliament know where to come if they have got complaints, so we have had quite a lot of referrals from senators and members of parliament, which is great, but we need to do more town hall stuff. But of course that is a bigger job.

Mr McLoughlin: I think a really important aspect of our work program is that we never intend it to be completely static; there is flexibility. If members of parliament, particularly through the committee processes, feel that there is something that we should review, we are able to try to accommodate that wherever we can. It is not that we do set-and-forget arrangements in relation to our work program; we are seeking to be responsive to what sort of service support the parliament wants directly as well.

Senator BUSHBY: Thank you.

Senator GALLAGHER: We spoke with Treasury earlier about their MYEFO measure around small-business debts being provided to credit agencies, and we did get some more information about that campaign. I am just wondering whether you are going to keep an eye on that and whether you have had any concerns raised with you about that to date—basically, whether you have anything to say about that measure.

Mr Noroozi: Of course, to the extent that it is government policy, it is not in our remit, but we will be watching closely how the ATO implements it.

Senator GALLAGHER: I think that is the key. I think we all support the—

Mr Noroozi: The policy.

Senator GALLAGHER: Yes.

Mr Noroozi: We are getting briefings on it. In fact, a few days ago the ATO provided us with a further briefing on it. We are keen to see that every effort is made to make sure that only those who genuinely do not engage with the ATO repay their debts. We do not want anybody to be inadvertently exposed and their business reputation ruined. At the moment, we are watching it. We are being provided briefings by the tax office. It is a sensitive issue. Some have raised concerns with us about how it might be implemented and what safeguards there are. That is why we have asked the ATO to provide us with briefings.

Senator GALLAGHER: So 'watch this space', then?

Mr Noroozi: Exactly. We just need to make sure there are enough checks and balances that we avoid a situation where the reputation of a compliant business is not affected.

Senator GALLAGHER: Exactly. The consequences of an error or an unfair referral for whatever reason to credit agencies that report to them could be catastrophic for a business.

Mr Noroozi: Absolutely. As I have said at a previous time, one of the highest categories of complaint that we get in our office is to do with debt collection. Often the ones that we manage to resolve happily are because we were able to navigate a payment arrangement that people can actually pay to satisfy their debt. They may have defaulted otherwise. So we are keen to make sure that particularly people like that, with a little bit of accommodation, may be able to get back on their feet instead of not only not helping them back on their feet but—

Senator GALLAGHER: Blacklist.

Mr Noroozi: blacklisting them.

Senator GALLAGHER: Yes. We will talk about that again at another estimates, I feel.

CHAIR: As there are no more questions, I thank the witnesses very much for appearing before the committee today and for staying so late. The committee is now adjourned.

Committee adjourned at 23:07