



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

WEDNESDAY, 1 JUNE 2011

CANBERRA

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**SENATE
ECONOMICS LEGISLATION COMMITTEE**

Wednesday, 1 June 2011

Senators in attendance: Senators Abetz, Back, Bernardi, Birmingham, Brandis, Bushby, Boswell, Cameron, Cash, Colbeck, Coonan, Cormann, Eggleston, Heffernan, Hurley, Joyce, Ludlam, Parry, Pratt, Ryan, Siewert, Williams and Xenophon

TREASURY PORTFOLIO

In Attendance

Senator Wong, Minister for Finance and Deregulation

Senator Sherry, Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation, Minister Assisting the Minister for Tourism

Department of the Treasury

Dr Martin Parkinson, Secretary

Outcome 1—Informed decisions on the development and implementation of policies to improve the wellbeing of the Australian people, including by achieving strong, sustainable economic growth, through the provision of advice to government and the sufficient administration of federal financial relations

1.1—Macroeconomic Group

Dr David Gruen, Executive Director, Domestic

Mr Tony McDonald, General Manager, Macroeconomic Policy Division

Mr Steve Morling, General Manager, Domestic Economy Division

Mr Simon Duggan, Principal Adviser, Forecasting, Domestic Economy Division

Mr Patrick Colmer, General Manager, International Finance and Development Division

Mr Bill Brummitt, General Manager, International and G20 Division

Mr Steve French, General Manager, Corporate Services Group

Mr Rob Donnelly, General Manager, Financial and Facilities Management Division

Ms Pamela Henderson, General Manager, Human Resources Division

2.1—Revenue Group

Mr Rob Heferen, Executive Director

Ms Brenda Berkeley General Manager, Indirect Tax Division

Mr Michael Willcock, General Manager, Personal and Retirement Income Division

Mr Trevor Thomas, Principal Adviser, Personal and Retirement Income Division

Mr Paul McCullough, General Manager, Business Tax Division

Mr Geoff Francis, Manager, Resource Tax Unit

Mr Hector Thompson, Manager, Industry Tax Policy Unit

Mr Tony Regan, Manager, Company Tax Unit

Mr Tom Reid, Chief Adviser, Business Tax Division

Mr Paul Tilley, Chief Adviser, Tax Systems Division

Mr Mike Rawstron, General Manager, International Tax and Treaties Division

Mr Gerry Antioch, General Manager, Tax Systems Division

Ms Maryanne Mrakovcic, General Manager, Tax Analysis Division

Mr Phil Gallagher, Manager, Retirement and Intergenerational Modelling and Analysis Unit

Mr Colin Brown, Manager, Costing and Quantitative Analysis Unit

Mr Marty Robinson, Manager, Household Modelling and Analysis Unit

Mr Jyoti Rahman, Manager, Revenue Analysis Unit.

Mr Phil Bignell, Senior Adviser, Indirect Tax Division

3.1—Fiscal Group

Dr Martin Parkinson, Secretary

Mr Nigel Ray, Executive Director

Dr David Guren, Executive Director Macroeconomic Group

Ms Peta Furnell, General Manager, Social Policy Division

Mr Peter Robinson, Principal Adviser, Social Policy Division

Mr Chris Foster, Principal Adviser, Social Policy Division

Mr Damien White, Principal Adviser, Social Policy Division

Ms Luise McCulloch, General Manager, Industry Environment and Defence Division

Mr Rob Raether, Principal Adviser, Industry, Environment and Defence Division

Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division

Ms Jan Harris, General Manager, Budget Policy Division

Mr Russ Campbell, Principal Adviser, Budget Policy Division

Mr David Woods, Principal Adviser, Budget Policy Division

Ms Angela Baum, Manager, Budget Estimates and Analysis Unit, Budget Policy Division

Mr Matthew Quilinan, Manager, Budget Priorities and Reporting Unit, Budget Policy Division

Ms Elizabeth Clegg, Manager, Assets and Liabilities Analysis Unit, Budget Policy Division

Ms Sue Vroombout, General Manager, Commonwealth-State Relations Division

Mr Steve French, General Manager, Corporate Services Group

Mr Rob Donnelly, General Manager, Financial and Facilities Management Division

4.1—Markets Group

Mr Richard Murray, Executive Director

Ms Sue Vroombout, General Manager, Retail Investor Division

Mr Geoff Miller, Principal Adviser, Markets Group

Mr Andrew Sellars, Manager, Financial Services Unit, Retail Investor Division

Dr Richard Sandlant, Manager, Financial Advice Reform Unit, Retail Investor Division

Mr Christian Mikula, Consumer Credit Unit, Retail Investor Division

Mr James Chisholm, General Manager, Corporations and Capital Markets Division

Mr Daniel McAuliffe, Analyst, Governance and Insolvency Unit, Corporations and Capital Markets Division

Mr Ronita Ram, Analyst, Corporate Reporting and Accountability Unit, Corporations and Capital Markets Division

Ms Alix Gallo, Manager, Financial Markets Unit, Corporations and Capital Markets Division

Mr John Lonsdale, General Manager, Financial System Division

Mr Justin Douglas, Principal Adviser–Banking

Mr Ian Beckett, Principal Adviser–Banking

Mr Jonathan Rollings, Principal Adviser–Superannuation

Ms Kanwaljit Kaur, Manager and Principal Adviser–Insurance

Mr Jerome Davidson, Senior Adviser–Insurance

Mr Paul McBride, General Manager, Competition and Consumer Infrastructure, Competition and Consumer Division

Mr Bruce Paine, Principal Advisor, Competition and Consumer Infrastructure, Competition and Consumer Division

Mr Brenton Thomas, Principal Advisor, Infrastructure, Infrastructure, Competition and Consumer Division

Mr Angela Woo, Principal Advisor, Cities, Housing and Planning Unit, Infrastructure, Competition and Consumer Division

Mr Simon Writer, Manager, Consumer Policy Framework Unit, Infrastructure, Competition and Consumer Division

Mr Andrew Deitz, Manager, Competition Law and Policy Unit, Infrastructure, Competition and Consumer Division

Foreign Investment and Trade Policy Division

Mr Jim Murphy, Executive Director, Markets Group

Ms Deidre Gerathy, General Manager, Foreign Investment and Trade Policy Division

Mr Frank Di Giorgio, Principal Advisor, Foreign Investment and Trade Policy Division

Mr John Hill, Senior Advisor, Investment Review Unit, Foreign Investment and Trade Policy Division

Ms Biljana Waldron, Manager, Investment Review Unit, Foreign Investment and Trade Policy Division

Mr Mike Rosser, Senior Advisor, Foreign Investment and Trade Policy Division

Mr Michael Parkes, Manager, Compliance and Real Estate Screening Unit, Foreign Investment and Trade Policy Division

Ms Angela McGrath, Manager, International Investment and Trade Policy Unit, Foreign Investment and Trade Policy Division

Mr Nhon Tran, Senior Advisor, Foreign Investment and Trade Policy Division

Standard Business Reporting Management Group

Mr Greg Divall, General Manager

Australian Government Actuary

Mr Peter Martin, General Manager

Mr Michael Burt, Senior Advisor

National Competition Council

Mr John Feil, Executive Director

Takeovers Panel

Mr Allan Bulman, Director

Mr Alan Shaw, Counsel

Corporations and Markets Advisory Committee

Mr John Kluver, Executive Director, CAMAC

Australian Accounting Standards Board

Mr Kevin Stevenson, Chairman

Mr Angus Thomson

Auditing and Assurance Standards Board

Mr Merran Kelsall

Superannuation Complaints Tribunal

Ms Jocelyn Furlan, Chairperson

Ms Fiona Power, Director

Australian Bureau of Statistics

Mr Brian Pink, Australian Statistician

Mr Peter Harper, Deputy Australian Statistician, Population, Labour, Industry and Environment Statistics Group

Mr Trevor Sutton, Deputy Australian Statistician, Social Statistics Group

Mr Ian Ewing, Deputy Australian Statistician, Macroeconomics and Integration Group

Mr Denis Farrell, Acting Deputy Australian Statistician, Chief Operating Officer

Ms Jill Charker, Acting First Assistant Statistician, Population, Labour, Industry and Environment Statistics Group

Mr Michael Belcher, Chief Financial Officer

Mr Paul Lowe, Assistant Statistician, Population Census Branch

Ms Denise Carlton, Acting Assistant Statistician, Office of the Statistician

Australian Competition and Consumer Commission

Mr Graeme Samuel, Chair

Mr Brian Cassidy, Chief Executive Officer

Mr Scott Gregson, Group General Manager, Enforcement Operations Group

Mr Nigel Ridgway, Group General Manager, Compliance Operations Group

Mr Marcus Bezzi, Executive General Manager, Enforcement and Compliance Division

Mr Mark Pearson, Deputy Chief Executive Officer, Regulation

Ms Rayne de Gruchy, Deputy Chief Executive Officer, Competition and Consumer
Mr Adrian Brocklehurst, Chief Finance Officer
Mr Tim Grimwade, Executive General Manager, Mergers and Acquisitions Group
Mr Richard Chadwick, General Manager, Adjudication
Mr Richard Home, General Manager, NBN Engagement and Group Coordination Branch
Ms Michelle Groves, Chief Executive Officer, Australian Energy Regulator
Ms Michelle Patterson, General Manager, People Services and Management

Australian Office of Financial Management

Mr Rob Nicholl, Chief Executive Officer
Mr Michael Bath, Director, Financial Risk
Mr Pat Raccosta, Chief Financial Officer
Mr Andrew Johnson, Head of Reporting and IT
Mr Gerald Dodgson, Head of Treasury Services

Australian Prudential Regulation Authority

Dr John Laker, Chairman
Mr Ross Jones, Deputy Chairman
Mr Ian Laughlin, APRA Member
Mr Wayne Byres, Executive General Manager, Diversified Institutions
Mr Charles Littrell, Executive General Manager, Policy, Research and Statistics
Mr Ramani Venkatramani, General Manager, Central Region
Mr Keith Chapman, Executive General Manager, Supervisory Support

Australian Taxation Office

Mr Michael D'Ascenzo, Commissioner of Taxation
Mr David Butler, Second Commissioner
Ms Jennie Granger, Second Commissioner
Mr Bruce Quigley, Second Commissioner
Ms Francis Cawthra, Acting Chief Operating Officer
Mr Neil Olesen, Deputy Commissioner, Superannuation

Australian Securities and Investment Commission

Mr Greg Medcraft, Chairman
Ms Belinda Gibson, Deputy Chairman
Mr Shane Tregillis, Commissioner
Mr Peter Boxall, Commissioner
Mr Michael Dwyer, Commissioner
Mr John Price, Senior Executive Leader
Mr Warren Day, Regional Commissioner

Inspector-General of Taxation

Mr Ali Noroozi, Inspector-General of Taxation

Mr Andrew McLoughlin, Deputy Inspector-General of Taxation

Mr David Pengilley, Principal Adviser

Commonwealth Grants Commission

Mr John Spasojevic, Secretary

Mr Phil Parkins, Corporate Services

Productivity Commission

Mr Bernie Wonder, Head of Office

Dr Michael Kirby, First Assistant Commissioner

Mr Terry O'Brien, First Assistant Commissioner

Dr Ralph Lattimore, Assistant Commissioner

Committee met at 09:16

CHAIR (Senator Hurley): I declare open this public hearing of the Senate Economics Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2011-12 and related documents for the Treasury portfolio. The committee must report to the Senate on 21 June 2011, and it has set 22 July 2011 as the date by which answers to questions on notice are to be returned. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of the rules. I particularly 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, and which I now incorporate in *Hansard*.

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).

(Extract, Senate Standing Orders, pp 124-125)

The Treasury

[09:18]

CHAIR: The committee will begin the Treasury portfolio with questions for the fiscal group, and will then follow the order as set out in the circulated program. I welcome the Minister for Finance and Deregulation, Senator Penny Wong, and officers of the fiscal group. Minister or officers, do you have an opening statement?

Senator Wong: I do not, but I understand that Mr Ray does.

CHAIR: Mr Ray.

Senator EGGLESTON: Chair, before we begin, can I make a request on behalf of my colleagues?

CHAIR: Senator Eggleston.

Senator EGGLESTON: On behalf of the coalition I would like to formally request the attendance of the Secretary to the Treasury at these hearings this morning, as the coalition has a range of questions which we feel he should be in attendance here to answer. That is a formal request of the coalition, and we look forward to seeing Mr Parkinson here in a short time.

CHAIR: As Chair of the committee, I will point out that the committee decision is that the schedule should be that the Secretary to the Treasury should appear at the macro session tomorrow, and that he has undertaken to answer any questions on the fiscal area in the macroeconomics session.

Senator EGGLESTON: With respect, Madam Chair, the Clerk has advised that any senator has the right to request any witness, any public servant, to attend an estimates hearing. The coalition has formally requested the attendance of the Secretary to the Treasury, and his failure not to come would be regarded as a very serious issue.

CHAIR: Minister.

Senator Wong: Thank you, Chair. This is somewhat unusual.

Senator Brandis interjecting—

Senator Cameron interjecting—

CHAIR: Minister, would you continue. We will ignore the interruptions.

Senator Wong: The approach that Dr Parkinson has taken is consistent with the approach that Dr Henry took and which has consistently been applied in this committee. Maybe I will pause so that Senator Brandis can hear my response.

Senator EGGLESTON: Senator Wong, with respect, the Clerk has advised—

Senator Wong: Excuse me! I was pausing; I had not finished.

Senator EGGLESTON: Well, you did pause.

Senator Wong: I will start again. The approach that Dr Parkinson has taken to this is consistent with the approach that Dr Henry took under your government and under our government, which is generally to attend in macro and to consult with the committee about times for attendance. I understand that Dr Parkinson has done that, has indicated the times he will be available and has indicated flexibility to take additional questions. Obviously, it is appropriate that the committee has the opportunity to question him. I would make the point that under both parties of government, neither the Secretary of the Treasury nor the Secretary of Prime Minister and Cabinet has traditionally attended the entirety of the portfolio estimates, given, obviously, the nature of their positions and the importance of making sure that other parts of their jobs continue during the very lengthy period of estimates. So we generally have ensured, under us as under Mr Costello, that the Secretary of the Treasury attend for an identified period. I ask the coalition to perhaps consider that. There is no intention here for Dr Parkinson not to attend; it is a matter of timetabling and he has made himself available at the times we understood he would be required for.

CHAIR: Thank you. Senator Brandis.

Senator BRANDIS: The committee has been furnished with a document which I am told by the Deputy Clerk was prepared by Treasury, and it puts forward Dr Parkinson as being offered by Treasury as a witness for every part of these estimates—microeconomic, revenue, fiscal, markets and so on. Now, Senator Wong, with respect, you misstate the position. The secretary of a department is answerable for the whole of the estimates of that department. But it has been the practice, for the sake of the convenience of busy officials, for opposition senators in particular to say that they only require, in fact, the secretary for some and not all of the evidence. But the secretary is, in fact, answerable for the whole of his estimates. And

Treasury, by its own document—which I think is with the committee’s papers so I do not need to table it; you can see the document yourself—puts Dr Parkinson forward as its primary witness for all groups of Treasury. So may I join with Senator Eggleston, on behalf of opposition senators, in asking for Dr Parkinson to present himself here, as through this document he has undertaken to do, to be answerable to Treasury estimates.

Senator Wong: If I could—

Senator BRANDIS: I am speaking! The coalition will be reasonable. We understand that he is very busy, but we have questions for him in this part of his estimates.

Senator Wong: I have a number of points. The first is that is a witness list which—

Senator BRANDIS: is prepared by Treasury.

Senator Wong: If I can finish now.

Senator BUSHBY: Miaow!

Senator Wong: Oh, yes. Why don’t you miaow when a woman does that. That’s a good idea. It is just extraordinary.

Senator CAMERON: Point of order, Chair.

Senator Wong: The blokes are allowed to yell, but if a woman stands her ground you want to make that kind of comment. It is sort of schoolyard politics, mate.

Senator BRANDIS: We just want to ask the Secretary of the Treasury about Treasury estimates.

Senator Wong: No, I am not talking to you, Senator Brandis; I am talking—

CHAIR: Order!

Senator Wong: It is just extraordinary.

Senator BRANDIS: Let us get back to the issue, shall we.

Senator Cameron interjecting—

Senator Brandis interjecting—

CHAIR: I think we need another private meeting if this discussion is going to continue. I would like some order, please.

Senator Brandis interjecting—

Senator Eggleston interjecting—

CHAIR: Senator Eggleston, I have not called you. I am asking Senator Brandis to cease interjecting so that we can get on with the topic of discussion and get on with questions. I am advised by coalition members that there are many questions on this topic. I do not want to prolong it. The minister had the call from before we started these interjections.

Senator Wong: First, Senator Brandis, as is his occasional want, draws a very long bow. The document he is drawing from, which he asserts is some undertaking from Treasury, is simply the witness list, which has the secretary on it. That is unsurprising. The second point I again make is that it is normal practice and has been since I have been in the Senate for nine years that the Secretary of the Treasury not be required for the entirety of the portfolio estimates.

Senator BUSHBY: It's not. It's not actually.

Senator Wong: Do you want me to make a rude comment about you now, Senator Bushby?

CHAIR: Senator Wong, please continue.

Senator BUSHBY: Go for it.

Senator Wong: Don't tempt me.

Senator BRANDIS: Being a bit sensitive this morning, Senator?

CHAIR: Senator Brandis!

Senator Wong: No, Senator, I just get irritated with the way in which moderates like you allow that kind of behaviour from blokes—

Senator BRANDIS: I want the Secretary of the Treasury to answer—

Senator Wong: No, that's not what I am annoyed about.

CHAIR: I repeat that if I am going to have constant interjections during this I will go back to a private meeting. Minister, would you continue your comments.

Senator BRANDIS: Minister, you are demeaning your office.

CHAIR: Senator Brandis, you will come to order, please.

Senator Wong: The demeaning of the office was Senator Bernardi's blog on this issue, Senator, and you know it.

Senator BERNARDI: Penny, if you want to get into this debate, let's have a look at your—

CHAIR: Minister, would you continue on the topic of discussion.

Senator EGGLESTON: Madam Chair, this becomes a matter of contempt of the Senate.

CHAIR: Are you calling a point of order, Senator Eggleston?

Senator EGGLESTON: Let us resolve it and simply call the Secretary of the Treasury in.

Senator Wong: Can I finish? This is a debacle.

CHAIR: I will call a private meeting if we are going to have this discussion between senators.

Senator EGGLESTON: We do not need a private meeting, Madam Chair.

CHAIR: I will say it one more time: there will be no more interjections. The minister has the call and we will stick to the topic of this discussion.

Senator Wong: Thank you, Chair. Perhaps the committee could do Dr Parkinson the courtesy of indicating precisely what it is seeking he be available for, in terms of time.

CHAIR: According to the program which was agreed on Monday morning, the Secretary of the Treasury will appear at the microeconomics session tomorrow.

Senator EGGLESTON: Madam Chair, with respect—

CHAIR: No. Senator Eggleston, I have not called you.

Senator EGGLESTON: It was based on the premise that the secretary would be present. I am the Deputy Chair of this committee, Madam Chair, and I would insist—

Honourable senators interjecting

CHAIR: I think we need a private meeting. I adjourn the meeting and ask that the room be cleared for a private meeting.

Proceedings suspended from 09:27 to 09:34

CHAIR: The committee will recommence. Mr Ray, I think you were making an opening statement.

Senator Wong: Chair, before he does, I just spoke to the secretary. I understand that Senator Eggleston spoke to him and he has indicated that he will make himself available.

CHAIR: Thank you, Senator Wong.

Senator BRANDIS: Well done, Senator Eggleston.

Mr Ray: I would just like to make a brief opening statement addressing the issue of correspondence between the Commonwealth and state and territory governments on the proposed resource super profits tax, the Minerals Resource Rent Tax, state royalties and the impact of state royalties on the GST revenue sharing arrangements. On 30 May 2011, which was Monday, Senator Cormann wrote to Dr Parkinson to advise that he intended to ask questions about all communications between the Commonwealth and the WA governments on these issues throughout 2010 and 2011. Dr Parkinson replied to Senator Cormann later that day advising him that these issues fall across both fiscal and revenue group in the Treasury, and to assist the committee, relevant officers from both groups would attend the fiscal group session. These officers are here this morning. Since receiving Senator Cormann's letter, we have conducted a search of our files. To assist the committee, I propose, subject to your agreement, to table all relevant correspondence between the Commonwealth and state and territory governments discovered in that search. I do not propose to table submissions to Commonwealth reviews and inquiries made by state governments where those submissions are already publicly available on the relevant website.

CHAIR: Thank you, Mr Ray. I take it that the committee agrees to those documents being tabled.

Senator CORMANN: Do those documents include file notes of any meetings that have taken place?

Mr Ray: No. This document is correspondence between state and territory governments and the Commonwealth. There are seven documents and a schedule. I have a schedule of those documents, which I will give the committee secretary in a minute. Just to inform the committee, the seven documents are a letter from the Western Australian Treasurer at the time, Mr Buswell, to the Commonwealth Treasurer of 18 March 2010; a letter from the Western Australian Under Treasurer, Mr Marney to the then Secretary to the Treasury of 11 May 2010; a submission to the policy transition group on the Mineral Resource Rent Tax from the Western Australian Department of Treasury and Finance of 7 October 2010, which has attached to it a letter from the Western Australia Premier, Mr Barnett to the Prime Minister on magnetite iron ore of 14 July; a letter from 16 November 2010 from the Western Australia Under Treasurer to Dr Henry; a letter from the Queensland Treasurer, Mr Fraser, to the Chair of the Commonwealth Grants Commission, Mr Henderson, of 9 February 2011; a letter from Mr Henderson to Mr Fraser of 17 February 2011, which responds to Mr Fraser's letter; and a letter which is dated 18 May 2011 but the fax was received on 19 May 2011 from the Western Australia Treasurer, Mr Porter, to the Commonwealth Treasurer.

CHAIR: Thank you. Senator Cormann.

Senator CORMANN: I understand that the agreement is that we will deal with the carbon tax matters first; however in the statement that Mr Ray has just made, you listed a series of pieces of correspondence from the state governments to the Commonwealth, but you haven't listed any responses from the Commonwealth to the state governments in response to those letters.

Mr Ray: There are none on our files. I say that carefully because one of the pieces of correspondence that is on our files is a letter to the Prime Minister. We do not know whether the Prime Minister replied to that letter.

Senator CORMANN: Sure, but successive correspondence from the state government at a Treasury level—that is, from WA Treasurer Buswell on 18 March, from the Under Treasurer on 11 May, from the Under Treasurer again on 16 November. Treasury or the federal government has not responded to one of those letters—

Mr Ray: Correct.

Senator CORMANN: which raise serious concerns about the impact of the mining tax on royalty arrangements and the interaction with GST sharing arrangements. You said 'correct' before.

Mr Ray: It is correct that there is no reply to those pieces of correspondence. That is correct.

Senator PRATT: Can we get a list of those correspondences.

CHAIR: The correspondence has been tabled.

Mr Ray: And I have tabled a schedule of that correspondence.

Senator CORMANN: Thank you. I propose that we now go into the carbon tax as we agreed. But I will get back to this once we have had a chance to look through that correspondence.

Senator Wong: Can I just clarify something, Senator, if I may? Senator Cormann just said that the agreement is to deal with the carbon tax first. If I can just be clear, because obviously we have officials also from revenue group here to deal with mining et cetera. Is there a not-before-time that those officials could be advised of, because coalition and other senators might be focused on something else? That would be most convenient.

CHAIR: I do not think we can, Minister, I am sorry. I know it is inconvenient but I do not think it is possible, and they may get called back if other senators come in.

Senator Wong: That is fine.

Senator CORMANN: I am just trying to work in with what I was advised by the secretariat and you.

Senator Wong: I am not aware of those arrangements.

Senator CORMANN: Ms Quinn is at the table, so I understand that Treasury has the expectation that we start with carbon tax modelling as well. Could Treasury provide updates on modelling and analysis on the government's proposed carbon tax, including any impact on cost of living?

Ms Quinn: Treasury is currently undertaking a range of scenarios and modelling for the input into the government's decision making.

Senator CORMANN: You are undertaking a range of scenarios, but you have not landed with any conclusions yet, have you?

Ms Quinn: That is correct. The modelling is ongoing.

Senator CORMANN: Yet Treasury estimates in February indicated the overall impact of a carbon tax of \$320 a tonne would be \$16.60 a week, or about \$860 a year. Do you still stand by that figure? Is that one of the scenarios that you are modelling?

Ms Quinn: The information you refer to was based on parameters at the time of the Carbon Pollution Reduction Scheme, so those figures stand as economic implications for the Carbon Pollution Reduction Scheme. But at the moment we are undertaking a range of scenarios. The government has not made final decisions around the carbon price.

Senator CORMANN: When you say 'based on the parameters for the Carbon Pollution Reduction Scheme', that also includes the parameters in place then about international action, which assumed that countries like the US and other economies would have targeted and participated in international emissions trading from 2010, with developing economies gradually joining the scheme—China in 2015, India in 2020 and complete coverage from 2025. Scheme participants were assumed, of course, to have similar emissions trading scheme policy settings to Australia. So is that one of the parameters that you will now have to update when you go through your revised assessment of the impact of a carbon tax, a price on carbon or an emissions trading scheme, on cost of living and other aspects of the economy moving forward?

Ms Quinn: We have to update all the assumptions in all of the different components of the modelling. So we have gone back to the start and looked at what is happening in the international community with international economic growth, productivity, distribution of growth across countries and different mitigation policies that may be in place or are in prospect. In terms of the domestic analysis, it is the same thing for the Australian economy: what is happening to different sectors of the economy, productivity, population and mitigation policies. Then we move to different potential design elements of putting a price on carbon. There are different components to the economic modelling, which require different types of assumptions. When we look at the impacts on households in terms of the increase in prices faced by households, the key input there is the structure of the emission intensive economy—the structure of consumption, shares of different goods in the consumption basket and the carbon price and the design elements within Australia. It is fair to say that there is not a direct link between international action and that one-off price increase except for the carbon price itself.

Senator CORMANN: That is a long way of saying yes, isn't it? So one of the parameters that you have to revise from your CPRS modelling is the assumptions that you used around international action in the economies, as I have mentioned?

Ms Quinn: That is correct.

Senator CORMANN: That is correct. When you say that the \$860 a year is based on the CPRS modelling, that is based on modelling that assumes that the US and others will be part

of international emissions trading from 2010, which of course they are not—China from 2015 and India from 2020. That is also correct, isn't it?

Ms Quinn: Not necessarily, no. There is not a direct link between the international action and the impacts in Australia. In that analysis—

Senator CORMANN: That was not my question. My question is: when you said that the modelling in February indicates that the overall impact of the carbon tax at \$30 per tonne is \$860 per year, you said that that was based on the assumptions according to the Carbon Pollution Reduction Scheme.

Ms Quinn: In terms of the domestic policy framework in the Carbon Pollution Reduction Scheme.

Senator CORMANN: Sure.

Ms Quinn: But \$30 was not the price in the CPRS.

Senator CORMANN: I understand.

Ms Quinn: And so the analysis that draws the link between the \$30, the \$20 and the \$10 in that table that you are referring to does not require assumptions about international action. It is the implications on a morning after of putting a price on carbon in Australia, irrespective of what happens in the rest of the world.

Senator CORMANN: Sure. Will the revenue raised by the carbon tax be equal to the compensation paid out to households to offset the increased costs from the carbon tax?

Ms Quinn: That is a matter for government policy that has not yet been made.

Senator CORMANN: I expected you to say that. So no decision has been made in relation to that?

Senator Wong: The government has not finalised its policy in relation to the carbon price, Senator. So you are asking the officer to comment on decisions which have not yet been made and are not yet announced.

Senator CORMANN: I asked a very specific question around whether a policy decision has been made—whether the revenue raised by the carbon tax would be equal to the compensation paid out to households to offset the increased costs from the carbon tax.

Senator Wong: Minister Combet—and this is probably a matter for the other estimates—has made public statements at the National Press Club about the proportion of revenue that would at least go to households, which is more than 50 per cent. That is on the public record, Senator. But obviously Ms Quinn cannot take questions on the actual design any further.

Senator CORMANN: Treasury has done the modelling on the impact of a \$30 per tonne price. Obviously Treasury would have done the modelling of how much revenue would come in and how much the impact on the cost of living is going to be. The question then is: will people be 100 per cent compensated for the impact of cost-of-living increases as a result of the carbon tax by redistribution of the relevant carbon tax revenue?

Senator Wong: That is not a modelling question; that is a question of policy.

Senator CORMANN: And you have not made that decision.

Senator Wong: What I am saying is that the way in which households are assisted to deal with the impact of a carbon price is a policy question. And it is probably a policy question that should go to the climate change estimates, which have finished.

Senator CORMANN: Ms Quinn, when after the last election were you or Treasury first asked to provide information on the implementation of a carbon price or tax?

Ms Quinn: On the implementation of a carbon price tax? I would have to take that on notice, unless my colleagues have anything to say.

Senator CORMANN: Was it September?

Senator Wong: She has taken it on notice.

Senator CORMANN: Was it towards the end of last year or was it early this year? Take on notice a specific date, but I am looking for an indication of whether it was something that was asked of you last year, post election, or whether it was something that came up only this year.

Ms Quinn: In terms of implementation of the carbon price, I cannot answer that.

Senator CORMANN: Sorry, let me rephrase that. What time was Treasury first asked by the government to provide information in the context of pursuing a carbon price or a carbon tax?

Mr Ray: Senator, are you asking when after the election did we first provide advice to the government?

Senator CORMANN: Yes.

Mr Ray: The day or the day after the government was formed. It is a matter on public record.

Senator CORMANN: Sure.

Mr Ray: It is in our incoming government brief.

Senator CORMANN: Let me rephrase that. What you did in your incoming government brief was obviously self-initiated by Treasury. I am looking for when you first provided advice on a price on carbon or a carbon tax at the request of the government—that is, not initiated by Treasury.

Mr Ray: That is a complex question because we would have to work out whether it was self-initiated or not.

Senator CORMANN: Why is it a complex question?

Mr Ray: Well, because we provide advice on a whole host of matters all the time—sometimes at the request of the Treasurer or his office, and sometimes on our own initiative. So we would need to check whether a particular piece of advice was on our initiative or at the initiative of the Treasurer. Ms Quinn has already taken it on notice, and we need to take it on notice.

Senator CORMANN: Sure. If you could, that would be great. But, very specifically, what I am looking for is when you were first asked by the government to provide advice on a carbon price or a carbon tax for Australia after the last election.

Mr Ray: I understand.

Senator JOYCE: When did it become evident that the Prime Minister was going to break her word?

Senator CORMANN: Thank you for that clarification, Senator.

Senator Wong: That is not a question for officials, Senator, and I do not accept the question.

Senator CORMANN: I think I put it in the appropriate context for officials, Minister. Senator Joyce is just much better at speaking plain English than I am. Ms Quinn, we have previously had discussions about when and whether the Treasury updated its analysis of carbon prices on the Australian economy since the 2008 modelling. And, of course, both in February and March this year you told me that the Treasury had not done any further updates. In fact it appears subsequently that on 1 February 2011, three weeks before the carbon tax was announced, the Department of Climate Change and Energy Efficiency, on behalf of the Minister for Climate Change and Energy Efficiency, requested information from you and you, of course, did the modelling, which was released under FOI. Why did Treasury not disclose the results of this modelling to the parliament when we asked about it in February and March?

Ms Quinn: I believe this has been addressed in the correspondence between yourself and the Secretary to the Treasury. As outlined in that letter, there is range of modelling is undertaken in Treasury. In estimates, the question was put to me about the modelling—that is, had the modelling released in October 2008 been updated? There had been clarification during the day about the types of questions and the types of modelling that you were interested in. In particular, there was clarification about whether it was related to the economic analysis of the impact of carbon pricing on the Australian economy. In that context, I answered that we had not updated that analysis relating to the macroeconomic modelling. There had been, through time, different updates of the impact of various carbon prices on the consumer price index and household cost of living, and those announcements had been provided in public all the way to late 2008 and 2009. So that was clarified in the correspondence between yourself and the secretary.

Mr Ray: I think it might help, though I did not bring ten copies—

Senator CORMANN: I have the letter here.

Mr Ray: of Dr Parkinson's letter to Senator Cormann, because that is a considered response to this question.

Senator CORMANN: Sure, I am very happy with that. To clarify and understand, because in his letter, Dr Parkinson makes a distinction between household analysis and economic modelling. Are you suggesting that household analysis is not part of economic modelling?

Ms Quinn: The analysis of a price on carbon on households is part of the economic modelling. The question was put as to whether we had updated the parameters around carbon pricing in terms of the price, the implications for international action and the implications for the Australian economy given developments since 2008. All of that analysis had not been updated at that point. The question about the impact of different prices on carbon on consumers was re-examined within the same policy parameters and using the same economic tools. So, in a sense, it comes down to what you mean by 'updated analysis'. A re-providing of the same analysis. There was no intention to mislead the Senate. This information about the

impact of carbon prices on households had been published all the way through 2008 and 2009. The question was in the context of updated modelling from 2008.

Senator CORMANN: The original question that precipitated the discussion—and to be fair, you were not there at that point—was from Senator Bushby in the revenue group. Dr Parkinson in his letter said, ‘Modelling of the impact of a carbon price on households and the implications for household assistance is undertaken within the tax analysis division in revenue group.’ Given that statement by Dr Parkinson, why was Senator Bushby not allowed to ask questions about the impact on households in revenue group at the last estimates?

Ms Quinn: The officials at the table at the time asked for clarification about the types of questions that Senator Bushby wished to ask, and he raised issues around the price of carbon and the implications for the economy. The official specifically asked about whether that meant you wanted to look at general equilibrium impacts on the economy and the reply was, ‘Yes’. That was why it was passed to estimates later in the day—so officials could be present to answer those questions. There was no intention to direct the committee in an inappropriate way. It was purely seeking clarification.

Senator CORMANN: But, Ms Quinn, I just want to know that we can trust the evidence that is given. We have had a pretty longstanding interaction on these issues, and I respect your knowledge in relation to all these matters. Let me just go—

Senator Wong: But Senator, you have made a bit of an imputation there—

Senator CORMANN: No, I haven’t.

Senator Wong: about trusting the evidence that is given. You may have—

Senator CORMANN: You are interrupting me, Minister. I was pursuing a question—

Senator Wong: I am interrupting you because I take issue with the question, Senator.

Senator CORMANN: Well, you may want to let me finish my question and then I think you would be okay.

Senator Wong: I am making the point, because you have put something on the record, and I am now going to put it on the record.

Senator CORMANN: It stands as its own statement of absolute proper fact that obviously it is important for Senate committees like this to be able to trust the advice from senior officials in the Treasury as we pursue our job, Minister, of scrutinising the activities of government. In that context, it is quite important to establish exactly what has happened.

Senator Wong: And if I can respond to that point, Senator, and Mr Ray may have something to say as well. Firstly, how you articulated what should occur, is correct. Officials have an obligation to answer correctly to the best of their ability before these estimates, and these people do. Any imputation that you may or may not have intended is firmly rejected. Ms Quinn has outlined the reasons why the answers were given in the previous estimates. You may disagree with those answers, Senator, but I think that that is a different issue to the issue of whether the evidence can be trusted. Mr Ray may wish to respond also.

Senator CAMERON: You can trust them a lot better than Joe Hockey’s budget papers.

Senator BUSHBY: I hope he’s not going to get any questions later because of his interjections.

Mr Ray: It seems to me, not having been present in the revenue group estimates last time, but being present in the fiscal group estimates, that there was some confusion between the committee and us as to the nature of the questions that Senator Bushby wanted to ask. One of the things that we have done at these estimates as a result of that is to ensure that we have here today officers from fiscal group, from macroeconomic group and from revenue group who have expertise, particularly the last two groups, in different elements of this climate change modelling exercise so that we can address all the questions on time.

Senator CORMANN: Thank you for that, and I really appreciate the Treasury's efforts to assist the committee in this regard. Ms Quinn, to conclude on this issue, on 24 March when you appeared before the Senate Select Committee on Scrutiny of New Taxes, you specifically included analysis of household implications in your definition of what Treasury's economic modelling covers. Reading the Hansard, you said,

In terms of the approach that we are taking, the methodology that we are applying, the types» «of» «economic» modelling that we are using in the analysis, it is substantially the same. We are looking at international economic implications, domestic implications, sectoral implications and household implications.

Why then was the committee not advised about the work that Treasury was doing about household implications when we asked about it at two different committees both in February and in March?

Ms Quinn: The question was 'Had the modelling been updated?' That was taken to mean, 'Had the parameters of the model been reviewed, had the input assumptions been changed, had the policy questions applied to the models been changed?' It was in the context of updated. None of those things had been done substantially, and so that was the context in which the answer was provided.

Senator CORMANN: But what you had done is that you essentially put different possible carbon prices into the model and you came out with a household impact outcome. Is that what you did?

Ms Quinn: Into one of the components of the modelling there had been an assumption about stylised carbon price based on previous government parameters. The underlying components of the model had not been formally updated or finalised; they are still in the stage of preliminary updates. It certainly was not final, which we have made clear in the document to which you refer.

Senator Wong: Excuse me, Senator, if you could give us one minute. The correspondence that Dr Parkinson has provided you, which I have only just seen, does clarify the work that appears to be controversial from your questions. This is referred to in the February 2011 minute. It was on the basis of coverage and parameters from the policy design of the CPRS as negotiated by the government with the opposition November 2009. Those policy parameters were utilised again—just to put it in context. As I understand this—and Mr Ray may wish to add to it—but from Dr Parkinson's evidence in this letter, he is indicating that the existing parameters were used, there was some work done in relation to that, but those parameters were not updated to reflect any change in policy.

Senator CORMANN: Thank you, Minister. The more fundamental point here—and I move on from this now—is not just in relation to carbon tax modelling; it was also in relation to modelling done on the MRRT. I work on the fact that Mr Ray this morning tabled all of the

correspondence; that is fantastic. On too many occasions Senate committees like this one have asked questions about MRRT modelling, for example, broken down between iron ore and coal, and carbon tax modelling. We are told that there is nothing that can assist the committee, only to find out some time later all of that information is released under FOI at the request of journalists and various news outlets. As a general point, it is not acceptable from the Senate committee's point of view, when questions like this are asked, to be told that nothing can be done to assist the committee, only to find out that the information that was sought is readily made available in the context of FOI requests.

Senator Wong: With respect, Senator, I do not accept the premise of that question and the assertions in it.

Senator CORMANN: I do not expect you to.

Senator Wong: If I could finish—with respect, I do not accept the assertions in that question. Ms Quinn has explained what occurred and what questions were asked. I think part of the difficulty here, if I may proffer some suggestion, is that senators in this committee have used 'modelling' in a very broad sense, whereas for the people at this table 'economic modelling' has a particular meaning. If you are asking Ms Quinn, 'Have you done any further modelling?' and by that—and she clarified—updated the parameters under which the modelling is constructed, that is a different question.

Senator CORMANN: Believe you me, Minister, Dr Henry and Mr Parker at the time were very clear about what I was after when I was looking for modelling of MRRT revenue estimates, broken down by iron ore and coal.

Senator Wong: We are not on that set of questions.

Senator CORMANN: That was information that was readily released under FOI some time later and it was not made available to relevant committees of the Senate. I am moving on from this now.

CHAIR: When you say 'moving on'—from that issue or from climate change?

Senator CORMANN: No, not from climate change. This letter has now been tabled. In the context of the modelling that was done around the CPRS and the impact on jobs back in 2008, Dr Parkinson in his letter says: 'the modelling reflected a technical assumption that the Non-Accelerating Inflation Rate of Unemployment (NAIRU)—'NAIRU'; that is interesting—is fixed in the long-run.'

Senator Wong: It is 'I', not 'U', Senator.

Senator CORMANN: Well, it is written in the letter 'NAIRU'.

Senator Wong: It is not the same as the island.

Senator CORMANN: Minister I am just quoting from the letter—please.

Senator Wong: I was being light-hearted.

Senator CORMANN: Given your mood this morning, I am finding it a struggle.

Senator Wong: I am fine.

Senator CORMANN: I struggle to get your sense of humour.

Senator Wong: I am fine. I have a cold, but my mood is fine. I just object to rudeness.

Senator CORMANN: Well, that's good to know. Ms Quinn, can you explain in plain English what it means when you say that the modelling reflected 'a technical assumption that the non-accelerating inflation rate of unemployment is fixed in the long run'?

Ms Quinn: The economic models that we have used to look at the impact of carbon pricing and other policies make an assumption that, in the long run, real wages adjust. If something is put into the model that requires re-adjustment in the economy, eventually real wages adjust such that employment returns back to the unemployment rate that it was prior to the policy examination.

Senator CORMANN: Exactly. If I can just add a little word there, what you have assumed in your CPRS model is that real wages will adjust downwards to ensure that in the long run the equilibrium rate of unemployment is maintained. If I can put it in my own words—and tell me if I am wrong—what you have included in your modelling as an assumption is that the employment growth rate, for want of a better word, remains unaffected by the introduction of a price on carbon through the CPRS or otherwise, but that any adjustments happen by a reduction in real wages to ensure that the rate, the trend, remains unaffected by the introduction of a carbon price; is that right?

Ms Quinn: Almost.

Senator CORMANN: Well, correct me—in plain English.

Ms Quinn: In plain English, the assumption is that in the long run, which is significantly into the future, the unemployment rate will remain unchanged and there will be an adjustment in real wages. The issue is that real wages slow; they do not fall.

Senator CORMANN: Sure, I understand. So they would be lower than they otherwise would be in the reference scenario; I understand that. The point is though, when people talk about how the modelling shows that employment will continue to grow, that is not actually a modelling result. That is an assumption that is embedded in the model which says that in the long run the trend will continue as if nothing happened; any adjustments are going to be in terms of a reduction in real wages—not a reduction compared to where they are at but a reduction compared to the reference scenario; is that right?

Dr Gruen: Part of what economic modelling is, is applying economic principles in a model. As you would be aware, there is enormous structural change in an economy over a long period of time. If you compare what the economy looks like now with what it looked like in 1900, there is an enormous change in the things we do. However, the unemployment rate is not materially different from one decade to the next. There have been some significant moves over time, but they are not as a consequence of major structural change. Over a long period of time, structural change does not manifest itself in a rise of the unemployment rate. The point of my intervention is simply to say that it is not true to say that this is imposed on the model, unless you are going to make the argument that the structure of economic models imposes economics on them. That is absolutely true.

Senator CORMANN: Dr Gruen, thank you for that intervention. It did not answer my question. My question is in this context: in the debate, assertions have been made, as if it is the result of an assessment or as if it is a modelling result, that the Treasury economic modelling shows that employment is going to continue to grow. My point—I am inviting Ms

Quinn to correct me—is that that is not the result of modelling, it is the result of a modelling assumption being included that necessarily leads to that outcome.

Dr Gruen: One of the features of the sorts of models that we work with is that economies adjust to structural change in such a way that they do not, in the long run, change the unemployment rate. You could argue that that is an imposed assumption, or you could say that that is an economic principle that is part of standard economics that goes into the models.

Senator CORMANN: Sorry, Dr Gruen, I am quoting here from Dr Parkinson's letter. Rather than describe it as 'an economic principle', he described it as a technical assumption that the non-accelerated inflation rate of unemployment is fixed in the long run—a technical assumption in the model. I am not even suggesting it is wrong to include that technical assumption. What I am saying is that you cannot then draw as a conclusion that the modelling shows that employment is continuing to grow in the long run at the same trend level. You have to be honest about the fact that you have told the model that employment is going to continue to trend at the same level as it did before the introduction of a price on carbon, and that the only adjustment is going to be a reduction in real wages compared with the reference scenario. That is correct?

Dr Gruen: We should not be tripped up by language, I don't think.

Senator CORMANN: Now you tell us!

Senator CAMERON: He is an economist.

Dr Gruen: We also impose this assumption on the *Intergenerational report* and have done since we started publishing intergenerational reports—

Senator CORMANN: Why are you going well beyond what I am asking for?

Dr Gruen: I am trying to make a point.

Senator Wong: He is trying to answer the question.

Dr Gruen: If someone says to me: 'Will the ageing of the population lead to a rise in the unemployment rate in 40 years' time?', my answer is, 'No, it will not.' If you could come back to me and say, 'But you have just imposed that on the *Intergenerational report*', I would respond: 'Yes, we have, and the reason we have imposed it is because we regard it as a reasonable and sensible economic principle to impose'. That is true of the *Intergenerational report*, it is true of our modelling of climate change and it is true of all the long-run modelling we do. You can come back and say that this is not what the modelling says, and I guess I am going to respond by saying that the assumptions we impose on the modelling are assumptions that we have thought about and think are reasonable ways to think about the longer run. They would be the same whether it was ageing we were looking at, or whether it was introducing a carbon price—or, for that matter, a lot of other changes.

Senator CORMANN: With all due respect, Dr Gruen, it is not the same. Obviously, one of the significant issues with introducing a price on carbon in Australia as part of a carbon tax or an emissions trading scheme is that in the absence of an appropriately comprehensive global agreement where other economies introduce similar carbon taxes or emissions trading schemes there clearly is an impact on international competitiveness, there clearly is a potential impact on jobs. What has been happening in the debate is that there is a fudging as to what the implications in terms of employment are going to be in the long run. Your modelling includes

a technical assumption that the employment rate will continue to trend over the long run, irrespective of a carbon price, based on an assumption that the US will have an emissions trading scheme by 2010, China by 2015, India by 2020, and everybody by 2025. You are including an assumption that the adjustments are going to be a reduction in real wages compared to the reference scenario. With all of those assumptions and with all of that context—I am not criticising you for having done what you have done—my point is we cannot draw any conclusions from your modelling in terms of the impact on jobs across Australia of a price on carbon because you have not assessed it in the context of an Australian economy that is part of a global economy and the flow-on implications and the impact on international competitiveness that come from introducing a price on carbon in Australia in the absence of an appropriately comprehensive global agreement on pricing emissions.

Senator Wong: We do not accept the propositions there.

Senator CORMANN: You do not accept that proposition. I do not know that Treasury can disagree with what I have just said, Minister.

Senator Wong: I will let them speak for themselves.

Dr Gruen: Senator, if you think about ageing, ageing has a very much more substantial impact on the growth rate of living standards in the future than does a carbon price. It is a lot bigger. Countries age at differential rates. You might argue that that would have an impact on our long-run unemployment rate. I would disagree. There is a lot going on out there in the economy. If we are talking about these sorts of changes, it is not just an assumption plucked out of thin air; it is an assumption based on economic principles and very much standard economics that the economy will adjust to economic changes like this. We have a very strong evidence base that that is indeed the case. The structural changes that have occurred in Australia over the last 50 years are enormous, and they have not led to a secular rise in the unemployment rate. The structural change we are seeing because of the rise in the terms of trade again is substantially bigger than the structural change that we estimate would be a consequence of imposing a carbon price. What I am saying to you is that there are an awful lot of other things going on that are quantitatively much bigger than a carbon price. We would come back to you and say, ‘They will not change the unemployment rate, so why should something which is a much smaller change to the economy; namely, a carbon price? Our estimates say that a carbon price does much less to the economy than a sustained high level of the terms of trade. We do not think the sustained high level of the terms of trade, which after all is hurting the competitiveness of lots of parts of the economy that are not attached to the mining industry—it is doing that very clearly—will raise the unemployment rate in the long run. We likewise do not think that the introduction of a carbon price will change the unemployment rate in the long run. It is not simply a technical assumption. It is an understanding of how economies work.

Senator CORMANN: Well, you are now changing the advice by—

Dr Gruen: No I am not.

Senator Wong: Excuse me, Senator. Dr Parkinson is here. I would ask that we move directly to the questions that you need him here for. Is the committee able to indicate how long they will require him?

CHAIR: I will ask the committee.

Senator Wong: There are a number of things happening today in terms of the national accounts, so it would be useful if we could—

Senator CORMANN: So will we get back to the carbon tax?

Senator Wong: You asked him to come. If we could deal with him expeditiously I think that would be courteous.

Senator EGGLESTON: We invited him in for Treasury questions for today, Senator.

CHAIR: Our understanding was you had specific questions directed at—

Senator EGGLESTON: We had that drafted—

Senator Wong: Dr Parkinson is not going to be available for the entirety of the day Senator Eggleston, and you would not expect—

Senator EGGLESTON: The issues are embodied in the questions.

Senator Wong: That is—

Senator CORMANN: Hang on; I want to continue this line of questioning for the moment.

Senator Wong: That is quite discourteous. As a matter of courtesy he has made himself available. The national accounts are coming out today. It is not unreasonable for the Secretary of the Treasury to be available to do his day job.

Senator CORMANN: We will get to it expeditiously.

Senator Wong: I just think that is extraordinary.

Senator CORMANN: I am on a particular point, Minister and you are interrupting the question.

Senator Wong: That is extraordinary. Your colleagues demanded, in a highly theatrical display, asserting we were showing contempt for the Senate, one of the most senior public servants in the country, the Secretary of The Treasury, to down tools and come here to attend estimates. I made clear that it is not the practice under any government—we never sought this in opposition—for the secretary of either Prime Minister and Cabinet or Treasury to be here for the entirety of the portfolio estimates. As a matter of courtesy, despite the fact that the committee had indicated a different time slot, Dr Parkinson has made himself available. He is not going to sit around all day waiting for coalition senators to decide they want to ask him questions. That is unreasonable and discourteous. He has made himself available now. My suggestion to the committee, and Chair, you may wish to have a private meeting about it, is that if you wish to take the opportunity to question him for a period of time, we have made him available. But, obviously, there are other matters he needs to attend to today.

CHAIR: I propose that we ask Mr Parkinson to come in straight away and he will be available until our morning—

Senator CORMANN: Chair, are we—

CHAIR: Could I finish please. I am putting a proposal that he attend until our morning tea break at 11 o'clock.

Senator EGGLESTON: Can I just say something? The proposition as put by Senator Wong is not actually what the coalition's position was.

Senator CAMERON: It changes every minute.

Senator EGGLESTON: If you do not mind, I would just like to have the opportunity of putting the coalition's proposition—

Senator Wong: You are treating these proceedings—

Senator EGGLESTON: You are being extremely rude, Senator Wong, which is quite unlike you. You are generally a very polite and courteous person.

Senator BERNARDI: Good *Hansard* notes, Senator Eggleston.

CHAIR: We have a proposition—

Senator EGGLESTON: Please, let me finish.

CHAIR: Senator Eggleston can you address—

Senator EGGLESTON: The coalition questions for fiscal were predicated on the basis that Mr Parkinson would be here for this session, for the fiscal session. It is not a simple matter—

Senator CAMERON: You are making this up as you go along.

Senator EGGLESTON: I am sorry, Senator, I know you do that all the time in the union movement but this is not the case here. Our Treasury questions are predicated on the basis that the secretary would be present for the fiscal session. It is not a matter of a few definitive questions—it is a broad sweep throughout fiscal. That has been our position all along, Senator Wong. You may not have understood that. I now correct your impression.

Senator Wong: I would ask that the committee perhaps—obviously it is a matter for you, if you wish to—have a private meeting.

Senator EGGLESTON: We do not wish a private meeting.

CHAIR: Minister.

Senator Wong: Thank you. As a matter of courtesy, given the position of the coalition senators, despite the fact that the committee indicated something different, Dr Parkinson has made himself available.

Senator Eggleston interjecting—

Senator Wong: I had not finished, Senator Eggleston. It is unreasonable—and completely without precedent for this committee at any time that I have been in these estimates—to expect the Secretary of the Treasury to hang around for the entirety of a portfolio estimates.

Senator EGGLESTON: Senator, it is up to senators to request, and we have requested him to attend.

Senator Wong: I had not finished, Senator Eggleston. I had not finished.

Senator EGGLESTON: We do not want to persist; you are wasting time—

Senator Wong: I had not finished, Senator Eggleston!

Senator EGGLESTON: She is wasting time.

CHAIR: We are again descending into a general discussion.

Senator EGGLESTON: I have a point of order issue, Chair.

CHAIR: I am suspending the committee now and we will have a private meeting.

Senator EGGLESTON: I am entitled to a point of order.

Proceedings suspended from 10.21 to 10.25 am.

CHAIR: We will recommence. The decision of the committee has been that Senator Cormann will finish off his particular question on the climate change modelling, and then we will have questions for the Secretary of the Treasury.

Senator Wong: Could I ask, Madam Chair, that in future we please have resolved, prior to estimates, the times for which the secretary will be required on the next occasion.

CHAIR: I think that is the general view of the committee.

Senator Wong: I would appreciate that; thank you.

CHAIR: Senator Cormann.

Senator Wong: So you want him to wait?

CHAIR: No. If he could come in now while we are just finishing off this question, that would expedite proceedings. It will be until the morning tea break at 11 o'clock.

Senator Wong: Okay.

CHAIR: Senator Cormann?

Senator CORMANN: Thank you. This is obviously completely relevant to the secretary because it is, of course, his letter that we are talking about. Dr Gruen, you talked about structural changes in the economy that have been pursued in the past. All of those changes in the past were designed to improve Australia's international competitiveness, whereas introducing a price on carbon in the absence of an appropriately comprehensive global agreement on pricing emissions will reduce Australia's international competitiveness. In that context you cannot use the same assumptions that you might have used in the past. I note that you say it is not just a technical assumption; it is an economic principle. It was the Secretary of the Treasury, who has just joined us, who in his letter to me said: 'The modelling reflected a technical assumption that the non-accelerating inflation rate of unemployment is fixed in the long run.' Do you disagree with the Treasury Secretary?

Dr Gruen: Senator, I might start and the Treasury Secretary might join in. I guess the important thing is that it is a technical assumption but it is a technical assumption based on evidence. There are lots of changes that an economy goes through. There are changes to economic policy, you have natural disasters and you have wars—a huge number of things that affect an economy both in ways that improve the way the economy functions and in other ways which do other things. It is a much broader principle than one that applies simply to economic reform. There are enormous changes in an economy over the sort of period we are talking about. It might be the discovery of some new technological advance which hurts some parts of our economy because it is an advance that occurs overseas. It might be a disease. There are a vast number of things. To make the argument that the only thing that this principle applies to is economic reform designed to improve the functioning of the economy is to misunderstand the nature of what we are talking about.

Senator CORMANN: Thank you for that answer, Dr Gruen. Wrapping all of this up in terms of the impact of a price on carbon pollution reduction scheme on jobs, I am right to say, though, that you have not assessed the impact of a carbon pollution reduction scheme or a

price on carbon on jobs? You have included a technical assumption that employment rates are going to continue, according to trend, over the long run with adjustments being reductions in real wages compared to the reference scenario. I am not arguing with you as to whether you are justified to do that or not, I just want to come to the final understanding that you have not actually assessed the impact of a price on carbon, the impact of a carbon pollution reduction scheme, a carbon tax, an ETS—call it what you want—on jobs in Australia?

Dr Gruen: The analysis very much goes to the question of the sectoral impact on jobs—I am answering the question—across different industries. So the modelling does ask the question: what will be the impact on jobs for different industries? Then it imposes, as you have said, an assumption that the aggregate unemployment rate in the long run will not change.

Senator CORMANN: But what you are saying there—

Dr Gruen: Could I finish my answer, Senator?

Senator CORMANN: Sure; but I do not want you to make the Secretary wait for too long.

Senator Wong: Senator, he is part way through his answer and he is entitled to answer.

Senator CORMANN: You go for it.

Dr Gruen: In imposing the assumption that the introduction of a carbon price will not affect the unemployment rate in the long run, we base that assumption on a vast range of other changes to the economy of all sorts which are quantitatively much bigger than the impact of a carbon price. Based on the evidence that we see, those changes have not changed the overall unemployment rate in the long run. It is on that basis that we impose that technical assumption.

Senator CORMANN: Dr Gruen, you have imposed a technical assumption across the whole of the economy, and when you say 'aggregate', you mean across the whole of the economy—

Dr Gruen: Yes.

Senator CORMANN: that employment is going to continue to grow according to trend and all of the things that I have said before; I am not going to go through all of it again. Then you say that you have assessed the impact on jobs on a sector-by-sector basis. But, given your overall assumption that there is not going to be any impact and that employment is going to continue to grow according to trend, irrespective of a price on carbon, other than an impact from a real adjustment downwards in terms of wages compared to the referenced scenario, you then get fluctuations between sectors. Imposing a technical assumption, necessarily then you will see moves from one sector where there might be a significant reduction to another sector—not because you have assessed the impact on employment but only because you have assessed the relativities in the context of an overall rule that there will be no impact on jobs.

Dr Gruen: But you are making it sound as though we have plucked this out of thin air. The assumption that the NAIRU over the longer run is not changed is not an assumption that we have plucked out of thin air; it is an assumption that we have applied, apparently uncontroversially, in all the long-term modelling we have done. I have not had to sit here and explain to previous committees why we assume that the NAIRU does not change with ageing,

despite the fact that ageing, according to our estimates, has five times the impact on the growth rate of living standards that introducing a carbon price does. If it is controversial to do so for carbon pricing, it should be massively more controversial to do so for ageing.

Senator CORMANN: The reason that it is controversial for carbon pricing—I am going to finish on this point—is because of the international dimension. It is because of the impact on Australia's international competitiveness, because of the potential for jobs to be lost overseas and because of the assumptions in your modelling that the US would have an emissions trading scheme by 2010; China by 2015; India by 2020, and everybody by 2025.

Senator Wong: There are a number of things that you could make the same argument about, Senator.

Senator Cameron interjecting—

CHAIR: Senator Wong.

Senator Wong: Thank you.

Senator Cameron interjecting—

CHAIR: Senator Cameron!

Senator Wong: There are a number of things you could make the same argument about, Senator. I assume that, when former Prime Minister Howard adopted a carbon price as his policy—

Senator CORMANN: Everybody thought the US would have an emissions trading scheme by 2010 then.

Senator CAMERON: No, that is not true.

Senator Wong: Perhaps I could finish my answer at some point.

CHAIR: Minister.

Senator Wong: When former Prime Minister Howard adopted a carbon price, he probably considered some of these issues as well. You could make the same argument about competitiveness around a whole range of things, Senator. You could talk about the terms of trade, you could talk about where the dollar is and you could talk about Australia's labour costs and so forth. I think the point that Dr Gruen was making earlier was the relative impact. The point that you clearly do not agree with—but I think it is an important one—is about the future competitiveness of the Australian economy in a world that will become increasingly carbon constrained.

CHAIR: Senator Joyce.

Senator JOYCE: Just out of curiosity, Dr Nigel Ray calls it 'climate change modelling'. So, of all the other things, did you model how much the climate was going to change; and, if so, how much will it change?

Ms Quinn: Perhaps I could take that question. The Treasury looks at the economic implications of climate change mitigation, and we have been very clear about that in terms of the skill sets and the types of analysis that we look at. We do not look at the science of climate change. We have not looked at the implications of climate impacts on the Australian economy.

Senator JOYCE: Do any of these models give any sort of prediction about any sort of change in the climate?

Ms Quinn: That is a question you would have to ask a climate scientist.

Senator JOYCE: Why do you call it 'climate change modelling', if you have no idea of what it is going to do to the climate?

Ms Quinn: We call it 'climate change mitigation modelling'.

Senator JOYCE: So how much is it mitigating the climate by?

Senator Wong: Senator, those questions should go to Climate Change.

Senator JOYCE: I am just curious. It just seems peculiar to go through all of these things and they do not actually do anything for the climate.

Senator CAMERON: Do you still do—

Senator Wong: Perhaps I can finish.

Senator JOYCE: With the reduction in the GDP in the first—

Senator Wong: Senator, I had not finished.

Senator JOYCE: Could you hurry up, because we do not have much time.

CHAIR: Minister.

Senator Wong: Thank you, Madam Chair. Those questions go to Climate Change; I think some of them were asked. Treasury, as Ms Quinn has outlined, is undertaking economic modelling in relation to mitigation policy.

Senator JOYCE: Marvellous stuff. We have had a negative quarter of growth, Dr Parkinson; why is that?

Dr Parkinson: We had a negative quarter of growth in 2001; is that what you are talking about?

Senator JOYCE: Aren't we just announcing figures today that are going to show—

Senator Wong: The national accounts will be announced at 11.30.

Senator JOYCE: Sorry?

Dr Parkinson: The national accounts will be out later today.

Senator JOYCE: Everybody knows about them. I can even tell you the figure.

Dr Parkinson: If you know the figure, I am sure that the statistician will be interested to know that—

Senator JOYCE: Would you be surprised if we had a negative—

Senator Wong: Senator Joyce, he had not finished.

Dr Parkinson: because that would be a violation of the way in which—

Senator JOYCE: It was in the paper.

Dr Parkinson: It might be reported in the paper, Senator, but I—

Senator JOYCE: Well, how did it get out?

Senator Wong: Senator—

Dr Parkinson: Senator, excuse me!

Senator Wong: Chair, can the secretary finish his answers before Senator Joyce asks another question?

CHAIR: Yes. I would ignore his interjections, Dr Parkinson.

Senator Wong: Officials should not have to be in the position of ignoring interjections.

CHAIR: Please go ahead, Dr Parkinson.

Dr Parkinson: The statistician will release the national accounts later this morning.

Senator JOYCE: How is it reported in the paper? How did it get out, Dr Parkinson?

Dr Parkinson: Senator, what has got out?

Senator JOYCE: Apparently we are heading towards a negative quarter of growth, at about 0.4 per cent?

Dr Parkinson: That is your estimate, is it, Senator?

Senator JOYCE: Well, that is what is in the paper; is that right?

Dr Parkinson: Senator, I do not believe most things I read in the paper.

Senator JOYCE: It will be interesting to know around where it is, because the question will be: how did it get out?

Dr Parkinson: Senator—

CHAIR: Senator Joyce, do you have another question? We have other senators waiting.

Dr Parkinson: Senator, you are actually making a very, very serious allegation. I do not know whether you realise it, but you are implying that somebody has leaked the national accounts. If you have any evidence, I would have thought it was incumbent upon you to report that to the AFP and the Statistician.

Senator JOYCE: Then I would report to them that they should read paper, Dr Parkinson, because that is where it is!

Dr Gruen: Senator, what are reported in the paper, at least as I have read it, are market economists' estimates of what they think will be the March quarter outcome. That has been reported in the papers on the morning of the national accounts release for as long as I have been reading these things—which is quite a long time. There are a large number of partial indicators that have already been published; for instance, the balance of payments was published yesterday. There are a large number of partial indicators that enable market economists to make an educated guess of what they think the national accounts will be. There are a range of estimates. Many of those, as you correctly state, are that real GDP will have fallen in the March quarter; that is all true. That is different from saying, as we have taken you to say, that the papers report on what the national accounts will be. They simply report on what private market economists are estimating will be the national accounts for the March quarter.

Dr Parkinson: And, if you read the papers in the week or the two weeks beforehand you will see quite a number of estimates, as market economists change their own forecasts for what they expect to see in the national accounts. But I go back to my point: if you believe the national accounts have been leaked, I think that is a very serious issue and I would urge you to raise with it with the Statistician and with the AFP.

Senator JOYCE: ComSec predicted correctly back in January that we were going to have a blow-out in the deficit. That was obviously before the implications of the floods. So what drove the blow-out in the deficit and how did ComSec get it so right?

Senator Wong: We cannot comment on the latter; you would have to ask them. But I am sure that someone at the table can speak to you about the impact of the natural disasters, both domestically and abroad, on the economy.

Senator JOYCE: But this was before the disasters happened. Before the disasters of the tsunami, of Yasi, Swanny, Oakshotty we had a blow-out in the deficit. Obviously, we are not getting our revenues to meet our expenses. Is that right?

Senator Wong: I was part way through my answer, Senator. I am sure that someone at the table can speak to you about the impact on the budget figures, including in this year, of the various natural disasters, both domestically and abroad. You would also have seen the balance of payments figures yesterday, which did indicate the impact on exports, in particular. You may be interested to know the extent of revenue write-downs in the 2010-11 and 2011-12 years. But I think I will throw this to Mr Ray.

Mr Ray: Does that mean that we have finished the climate change questions?

Senator CORMANN: No, we have not.

Senator JOYCE: I will finish with one question. Dr Parkinson, just in your own mind, what would happen if we do not extend the debt ceiling to a quarter of a trillion dollars?

Dr Parkinson: I could not imagine that the parliament would be so foolish as not to do so. Were that to be the case, it would have serious ramifications for the operation of government. I would imagine that the government, in those circumstances, would be forced to find other ways to reduce outlays. That would not obviate the need for the parliament to make decisions because, if the government were to go down that route, it would have to bring those decisions, presumably, to the House and the Senate for passage and then the parliament would have to make decisions on further savings.

Senator JOYCE: Why can't you just get some of that magical 'net' amount that you always talk about and put it in your account?

Senator Cameron interjecting—

Dr Parkinson: Chair, I know that I am constantly cautioned not to rise to Senator Joyce, but this is simply a clarification of fact. What did you mean by that, Senator?

Senator JOYCE: You always talk about your 'net debt'. I wondered why, instead of extending your debt, you do not just grab some of that spare cash that is magically out there and put it in the account.

Dr Parkinson: Senator, it may have missed your attention, but this is my first appearance in front of this committee. I have not been sitting here talking to you about net debt—and I still do not understand the question.

CHAIR: I think we need to go on. Hopefully there are questions for Dr Parkinson on fiscal areas. Senator Cormann.

Senator CORMANN: Dr Parkinson, welcome to this Senate estimates committee hearing. We do appreciate your making yourself available for the fiscal group. There are some issues that we think are important to explore with you; in particular in the context of the

speech that you gave in the week after the budget. So we are very grateful for your attendance this morning. Maybe I will kick off straight away with an issue that you spent quite a bit of time talking about in your speech; the structural budget position. You make the point that there are difficulties in measuring structural budget positions. But do you accept that there are also difficulties in estimating the simple cash budget position? I am thinking of the large revisions between the November MYEFO and this year's budget regarding the estimates of the budget deficit in 2010-11 and 2011-12, which totalled \$18 billion. So there are difficulties on both sides. Is that a reason not to measure and publish the structural budget position?

Dr Parkinson: There are difficulties in doing both things, but they are orders of magnitude different. The structural budget balance is an interesting and useful conceptual tool. The problem is that, once you try to estimate what the structural budget balance actually is, all of the issues arise that you confront in trying to estimate what will be the actual budget. But they are then overlaid on top of a whole series of much more difficult questions which go to issues of what is the longer trend of the economy and what are the structural terms of the trade. If you make even small changes in some of those estimates, you can change quite significantly what the estimates of the structural balance are. As you note correctly, I spent a lot of time in my ABE speech simply saying to people that these are the things that you need to be conscious about, because people focus on the structural balance estimate without acknowledging or indeed, in most cases, even recognising the caveats that need to be put around it.

Senator CORMANN: Do you see some value though in publishing the structural budget position? Are we falling behind best practice in the world? The UK is now publishing its structural budget position. This government published its structural budget position back in 2009-10.

Dr Parkinson: As you will recall, in the speech I mentioned the UK specifically. Prior to the GFC, the UK thought it was in structural surplus. Post the GFC, under the same circumstances, the UK concludes that it is in structural deficit. That is a huge swing. The question you have to ask yourself is: in those circumstances, how useful is it as a specific guide to policy? Let me give you another example. The IMF Fiscal Monitor from April suggests that in 2012 Australia will have a very, very, very small structural deficit. The OECD structural deficit estimate for the same year is a very, very small surplus. The Access Economics estimate, though, suggests that the structural deficit is actually around minus 0.6 of a per cent in 2012-13. There is a huge gap. There is at least 0.6, 0.7 per cent—so three-quarters of a percentage point—of GDP just in that same set of estimates. So, as a conceptual tool I think it is useful. As a specific guide as to how we should target policy, I think it has very limited use. That has been the Treasury view for a very, very long time. I can recall having discussions on that very issue back in about 2001-02.

Senator CORMANN: Except that in 2009-10 the government decided to publish structural balance estimates. That is the only time that happened. So that was a foolish thing to do then, was it, in 2009-10?

Dr Parkinson: I was not involved. I have no idea what the rationale was.

Senator CORMANN: A Treasury paper was released, I think in November last year—

Dr Parkinson: That is right.

Senator CORMANN: which indicated that the budget at that point in time was expected to be in structural deficit until to 2019-20.

Dr Parkinson: That is correct.

Dr Gruen: Senator, that is precisely what Dr Parkinson was talking about. You have stated the outcome under one set of assumptions, and there is a long part in that paper which makes the point that Dr Parkinson just made, which is that you can get very different answers depending on the assumptions. The statement that this paper established that the budget was in structural deficit until 2019-20 is not a correct statement—

Senator CORMANN: Thank you for that.

Dr Gruen: I have not finished yet.

Senator CORMANN: Yes; but I am asking questions of the Secretary, with all due respect.

CHAIR: Yes; but Dr Gruen is clarifying.

Dr Gruen: You made the statement that we had published a paper which established that the structural budget position was in deficit until 2019-20 and I was responding to that statement of yours.

Senator CORMANN: Thank you. But can I just clarify in that context so that we know what we are talking about? Obviously, every budget is based on assumptions. Long-term projections are based on assumptions that are increasingly less reliable; that is a given. So, when I make a statement that this Treasury paper talks about a structural deficit position until 2019-20, and Dr Parkinson said that is exactly what—

Dr Parkinson: No; Senator. Just to clarify: I started to say that. Dr Gruen jumped in. I never finished my sentence.

Senator CORMANN: Sure.

Dr Parkinson: You are far more articulate than I, but do not infer from what I said that I was agreeing with you. I was about to make the point that Dr Gruen made. Yes, there is a number in there that says that. But as you know from the ABE speech, I went into some detail to explain that the caveats to that were not being recognised.

Senator CORMANN: Sure; I completely concede that point. But you would have to concede that every budget is based on a whole series of assumptions and it is a best guess or a best estimate at a given point in time. After the event, we can then review to what extent what we thought would happen did happen and we can measure performance against what was planned. Obviously, I am not suggesting that the projections, the estimates, are based on assumptions that, all other things being equal, by 2019-20 we are going to be in structural deficit, that that is an outcome that we have assessed after the event. It is something that we are looking at long-term ahead; I understand that. But, given the assumptions that were made in that Treasury paper, and given that based on those assumptions we were expected to be in structural deficit in 2019-20, and given the deterioration in the budget position since MYEFO—based on all the same assumptions—how long would we be in structural deficit for now?

Dr Parkinson: You have just highlighted the exact problem with the structural deficit estimates. You have just noted that, given the deterioration in revenue, you have concluded—

and I do not want to put words in your mouth—that the implication is that it would be longer before we are back in structural balance. As I pointed out on page 13 of the speech, while it is well understood that an increase in the terms of trade, everything else being equal, should improve the underlying cash balance for the same structural balance, it is not well appreciated that the same underlying cash balance with lower capital gains tax receipts implies that the structural balance is actually higher than it would otherwise have been. Given the role of capital gains tax receipts and the like in explaining the deterioration of a deficit, everything else being equal, that says that we are closer to structural balance, not further away. That seems counterintuitive to a lot of people.

CHAIR: Senator Cormann, Senator Xenophon has some questions, so you only have a couple of minutes.

Senator CORMANN: On this structural deficit question, can you then tell us: on any assumptions that Treasury thinks are reasonable, are we in a structural budget deficit or a structural budget surplus position over the forward estimates?

Dr Parkinson: The whole point of the ABE speech was to reinforce to people that you cannot undertake these estimates with sufficient precision to be able to draw hard and fast conclusions like that, particularly if you are going to try to use them as a guide to policy. As a conceptual tool, I fully agree that it is a useful device. But, as I pointed out with the IMF, OECD and Access numbers, they range from plus 0.1 to minus 0.6.

Senator CORMANN: I am just quoting here from the 2009-10 budget, which—

Senator Wong: Senator, I appreciate your focus on this. I would make the point to you, as one of those on that side I think who understands some of these issues—

Senator CORMANN: Flattery will not get you everywhere, Minister.

Senator Wong: Flattering people has never been one of my strengths; I do not know whether you have noticed that.

Senator Xenophon interjecting—

Senator Wong: Thank you, Senator Xenophon, for that rousing endorsement.

Senator XENOPHON: I am not going to say anything.

Senator Wong: I am clearly amongst friends! Now you have all had a laugh at my expense, I would make the point that, if you do care about the structural position of the budget, I would hope that those of you on your side who have an interest in these matters might consider the coalition's position both in relation to the, I think, some \$6½ billion worth of savings that you are currently blocking and the savings measures in the budget, because I do not think the coalition can legitimately say that it cares about the structural position of the budget while it opposes savings measures which are designed to assist in bringing the budget back to surplus.

Senator CORMANN: Thank you, Minister. The chair is about to take the call away from me and there are heaps of questions that I would like to ask.

Senator Wong: That is all I was going to say.

Senator CORMANN: We will explore these things during the course of Treasury estimates. Secretary, I would love to explore this with you longer, but I gather that your time

here is very limited. So I have a separate question in relation to Dr Henry. Is Dr Henry contracted by Treasury to provide services to Treasury?

Dr Parkinson: No.

Senator CORMANN: He is not?

Dr Parkinson: No. He is on leave.

Senator CORMANN: I am sorry?

Dr Parkinson: He was on leave and now he has been appointed to a position by the Prime Minister.

Senator CORMANN: He has been appointed to a position by the Prime Minister?

Dr Parkinson: Yes.

Senator CORMANN: So that is not through Treasury, then?

Dr Parkinson: No.

Senator CORMANN: When you say that he is on leave, he is actually still on your books?

Dr Parkinson: No. He was on leave and then he was appointed to a position.

Senator CORMANN: Until when? When did his leave finish?

Dr Parkinson: I do not know.

Senator XENOPHON: Dr Parkinson, welcome. I think I have all of four minutes with you. I need to take up these issues with you tomorrow, but if I may start: under the interim carbon tax, is there a plan for permit imports?

Dr Parkinson: I was asked to come and speak about matters around fiscal issues, so I would defer to my colleagues who have been working on the carbon tax issues. But, as you know, the government has not made a decision.

Senator XENOPHON: But, given your former position as Secretary of the Department of Climate Change—

CHAIR: Senator Xenophon, we did make clear—

Senator Wong: If you ask questions, Senator, and we will see who can answer them.

Senator XENOPHON: Yes, why don't we just do that. On the issue of permits, if there are no import of permits, won't that mean either a greater carbon price or a lower target? Is that fairly axiomatic?

Dr Parkinson: It is axiomatic that if you have a specific target and no import of permits, over time—it does not have to be in any particular year—you will get at least the same price that you would have got if you had allowed permits. But, more likely, you would get a higher permit price.

Senator XENOPHON: So there is that cause and effect. Just in terms of general fiscal principles, in terms of the tax interaction effect, how is that taken into account in terms of the design of a carbon tax? My understanding is that pre-existing taxes already create economic distortions that could discourage investment, consumption and labour. If you impose an additional tax, you need to take that into account, otherwise you could have a multiplicative effect, not an additive effect, on the impact it has on the economy.

Dr Parkinson: Any tax can introduce a distortion. That is why so much effort is spent making sure that taxes are designed appropriately.

Senator XENOPHON: Sure. But the tax interactive effect is multiplicative, isn't it?

Dr Parkinson: It depends on how the tax is designed. The issue is in the macroeconomic modelling, where we are looking at what are the impacts on our growth, and that will pick up any distortionary effects of the tax.

Senator XENOPHON: The US think tank Resources for the Future have said in terms of the economic cost of the tax interaction effect, you would get a better result by looking at a clean energy target type scheme that was announced by President Obama in his State of the Union Address, which was to look at—putting it crudely—a combination of a kind of a GGAS scheme and a renewable energy target to achieve a better environmental outcome at least in the short to medium term, compared to a—

Dr Parkinson: I have not seen that report, but I find that highly, highly implausible, the reason being all the experience we have had to date in this country with GGAS, with GGAP, with the various schemes that would have to be—I am going to use the words 'direct action', but it is not meant to be a political reference—with any sort of approach where you try to buy particular types of abatement. As you know, I am on the record and the Department of Climate Change is on the record as saying that our professional opinion is that you cannot use those things to deliver the target that is bipartisan. Indeed, Senator Cormann invited me to appear before his new taxes committee and we had an excellent discussion on that very issue there. In my view, it is not possible to do it. Even were it possible to do it, it would come at massively greater economic cost than using a market-based instrument.

Senator XENOPHON: Finally, I mention resources for the future. It is a US think tank, but I understand it is one of the groups assisting the productivity commission in their assessment of an implied cost to the government price.

Dr Parkinson: I would have to have a look at what RFF said. It is a very respected think tank. As you see in Australian debate, they are respected people who have views that differ.

Senator XENOPHON: I will leave it there for now. Thank you.

CHAIR: Thank you. It is 11 o'clock. Senator Eggleston?

Senator EGGLESTON: Dr Parkinson, the coalition would like to thank you for attending. I am sorry about the misunderstanding earlier in the morning. We did have questions to do with the fiscal area which we particularly wanted to have your input into. Time was lost; nevertheless, we thank you for coming down when personally requested to do so. We look forward to a cooperative relationship with you in the future. We congratulate you on your appointment.

Dr Parkinson: Thank you very much, Senator.

CHAIR: The committee will now break for morning tea. Thank you, Dr Parkinson, for coming. We will resume with the fiscal group and climate change modelling.

Proceedings suspended from 11.01 to 11.16

CHAIR: Senator Cormann.

Senator CORMANN: If I may assist the committee: Senator Birmingham will conclude the questions on the carbon tax modelling on behalf of the coalition. If any other senator still

has questions on the carbon tax modelling, we are happy to deal with that. After that we will deal with fiscal more generally and the mining tax issues that arise out of the correspondence that was tabled.

CHAIR: Yes, all right.

Senator BIRMINGHAM: Ms Quinn, have any scenarios been modelled to a point of conclusion at this stage?

Ms Quinn: The modelling is ongoing, so no scenarios are fully complete at this stage.

Senator BIRMINGHAM: No scenarios have been modelled to a point of conclusion—okay. Is the model itself complete?

Ms Quinn: We use several models. It is a suite of economic models. As I have explained before, there are lots of different components to the analysis that we do. There is an international component. There is an aggregate national Australian component. Then there is detailed bottom-up modelling, as we call it, of particular sectors, which includes the transport sector, the electricity generation sector, the agriculture sector and the forestry sector. There are different models used for different purposes which are then joined together as a whole to provide information about a particular scenario. I am not quite sure what you mean by 'are any of the models complete?' The models have a structure and they have parameters and they have data. As we evaluate them in terms of the scenarios we often re-examine different elements of the models. It is a little hard to be definitive. The models themselves are fairly complete, I would say.

Senator BIRMINGHAM: The core structure of them is set, the core assumptions under which they work are set and then there is a range of input factors that are the variables to spit out different outcomes?

Ms Quinn: That is right. Because we have different models and we have to put them together as a whole, things arise at different points. If we try different sorts of scenarios and look at different types of policy mechanisms, we have to re-examine the way that we use the models. We use models that are provided from external sources. In that sense, they are complete and available for other people to look at.

Senator BIRMINGHAM: Thank you. I will put some questions on notice about the structure of the models and what those variables are. Has the Treasurer, the Minister for Climate Change and Energy Efficiency or the Multi-Party Climate Change Committee asked you to model particular scenarios?

Ms Quinn: Yes.

Senator BIRMINGHAM: What are the different parameters in those scenarios?

Ms Quinn: It is difficult to answer that question without going to the substance of the policy question. We have been asked to examine the impact of putting a price on carbon in Australia. That requires making assumptions all the way through from international economic developments to detailed views around what might happen to particular sectors. It is difficult to be more precise at that point, given that it is still a matter of ongoing work and a matter of government policy.

Senator BIRMINGHAM: In terms of the requests for the particular scenarios, where have they come from at present?

Ms Quinn: From the government.

Senator BIRMINGHAM: From the department of climate change or through to your department, or have all requests come through the Treasurer?

Ms Quinn: Formally the Treasury works for the Treasurer, so all requests for our input into the policy making process come through the Treasurer. They may well be jointly with other ministers, but the formal direction comes from the Treasurer.

Senator BIRMINGHAM: How many times has the Treasurer requested specific scenario modelling?

Ms Quinn: I would have to take that on notice. There has been an ongoing series of discussions about scenarios at different points in time. I would be happy to take that on notice to come up with a precise number. Certainly it has been more than once. As things move through time we get asked to do different things.

If I was going to take it on notice I would like to have clarity as well. When you say 'scenarios', in the context of this morning's discussion, I understand it is difficult to be precise in the answer if I do not know precisely what the question is. The big picture scenarios are different from costings of lots of different various components of any policy package. The word 'scenario' is not precise enough for me to know exactly what you are asking.

Senator Wong: The word 'scenario' does not have a particular meaning.

Senator BIRMINGHAM: Certainly, Ms Quinn. To get a more clear picture of the advice you have been asked for, I would be looking for scenarios based on different pricing mechanisms, obviously, for a carbon tax, also whether you have been asked to complete work specific to not just the consumer price impacts but also in terms of other economic impacts, job impacts, and whether you have been asked to model different scenarios in relation to compensation packages.

Ms Quinn: We are certainly examining all those aspects across a range of different scenarios. We look at the international connections of Australia with the rest of the world, Australia at a national level and all the way down to households and other sectors. We certainly have been examining all the questions in that context. Not all of them go to all of those different components, but it is certainly the case that we have been looking at the whole suite of models for the analysis for the government.

Senator BIRMINGHAM: In terms of the core assumptions that you have taken that underpin the models, are there core assumptions that you have taken in relation to international action on climate change?

Ms Quinn: The views about international action on climate change do form part of the analysis that we are doing. We have to make assumptions about international action, yes.

Senator BIRMINGHAM: Are you modelling on various scenarios of international action or a fixed scenario of international action?

Ms Quinn: We are looking at a range of scenarios.

Senator BIRMINGHAM: What are those scenarios?

Ms Quinn: That is a matter for government policy so at this stage, unfortunately, I cannot provide that information.

Senator BIRMINGHAM: So you are modelling on different scenarios based on what the government has asked you to model on?

Ms Quinn: Yes.

Senator BIRMINGHAM: This is a request that has come from who in terms of what the government has asked you to model on as to different international scenarios?

Ms Quinn: The discussion about what we have been asked to do is a matter for government. The instructions that come to Treasury come through the Treasurer. He has discussions with his colleagues and we work closely with other departments across the Public Service for the analysis that we do. Formally the instructions for the scenarios that we model come through the Treasurer.

Senator BIRMINGHAM: You are not looking at a fixed outcome internationally such as, say, taking all of the commitments made under the Copenhagen Accord and simply applying them as the most likely international outcome; you are actually applying a suite of potential different international actions?

Ms Quinn: We are looking at a range of scenarios both on international and domestic situations.

Dr Gruen: I might just add a bit more to that. When we do this work, to the extent that we are trying to do this, we take into account what the Copenhagen pledges are in terms of putting this together. It is not done in isolation from that.

Senator BIRMINGHAM: I understand it is not done in isolation. It seems as if there is not a singular picture of what international action may be either, that the government is accepting there is a spectrum of potential action on the international stage and is modelling that spectrum.

Ms Quinn: It is fair to say that there is uncertainty about the precise evolution of international action on climate change. In the modelling that we did in 2008 for the government we explored different scenarios regarding international action. We are looking at a range of scenarios in the system as well.

Senator BIRMINGHAM: In terms of those different scenarios and your experience of the CPRS modelling, where do those different scenarios most manifest themselves in terms of different outcomes for the Australian economy or impacts on the Australian economy?

Ms Quinn: It is difficult for me to answer that question, given that we have not completed the modelling at this stage.

Senator BIRMINGHAM: I was asking given the experience of the CPRS.

Ms Quinn: I am not quite sure I understand the question. If you are asking what implications does different international action have for carbon pricing in Australia then it is the case that different international action is likely to manifest itself in different international carbon prices, and different international carbon prices to achieve different environmental outcomes will have different implications for Australia. That is what the modelling in general finds. If the world was to take greater action to reduce emissions then you require a higher carbon price, a higher carbon price has implications for Australia, potentially higher economic costs, but you achieve a greater return on the environmental benefit as well.

Senator BIRMINGHAM: In those scenarios have you also modelled beyond a carbon tax into a trading scheme as to the extent to which permits would be purchased offshore?

Ms Quinn: In the CPRS modelling, we certainly looked at what the implications would be for trade between different nations if there was a price on carbon through allowing international trade.

Senator BIRMINGHAM: Are you doing that work again in this modelling?

Ms Quinn: That goes to the design of the scenarios that we have been asked to model. At this point we have not finished that modelling.

Senator BIRMINGHAM: You have to forgive me for keeping trying with this, Ms Quinn. Have any of the scenarios that you have modelled been at the request of the Australian Greens?

Ms Quinn: We work at the direction of the government. To the extent that other members of the Multi-Party Climate Change Committee might desire input then that comes through the government to us. We have been asked to explore elements of policy that have come from members of the Multi-Party Climate Change Committee.

Senator BIRMINGHAM: And non-government members of the Multi-Party Climate Change Committee?

Ms Quinn: Yes.

Senator BIRMINGHAM: Thank you. Are you able to tell me what those scenarios are that perhaps do not relate to government policy because they have come from non-government members of the Multi-Party Climate Change Committee?

Senator Wong: It is still the direction of the government.

Ms Quinn: We are still working at the direction of the government and the Multi-Party Climate Change Committee has discussion in confidence. Under that confidence the same rules apply in terms of my ability to provide that information.

Senator BIRMINGHAM: If, again, you could provide some details on how many requests have specifically come from the Multi-Party Climate Change Committee and when those requests were made of the Treasury.

Senator Wong: Senator, we will take that on notice. Just to clarify my understanding of Ms Quinn's evidence, and she can jump in if I have it wrong, her indication is obviously the government—that is, the Treasurer—would seek or request certain work to be done. It may or may not be something that Treasury is aware of, nor indeed should answer what request goes from the MPCCC to the Treasurer. In other words, Ms Quinn can tell you what the Treasurer sought but what has led to his decision to seek that may not be something she can answer.

Senator BIRMINGHAM: I imagine on some occasions there may be ambiguity in that regard. On other occasions it may be crystal clear as to where the request has come from. Obviously I would expect the answers to reflect those different scenarios. Has Treasury provided specific advice on modelling to the Multi-Party Climate Change Committee?

Ms Quinn: Yes.

Senator BIRMINGHAM: You have provided outcomes from some of our models and scenarios that have been run to the Multi-Party Climate Change Committee?

Ms Quinn: No, because the modelling has not been completed yet. We have not provided specific outcomes and specific scenarios to anyone at this point.

Senator Wong: If your party had joined the multiparty committee you too could be privy to all of this.

Senator XENOPHON: You didn't want me.

Senator BIRMINGHAM: I am not feeling unloved, Senator Wong, but clearly Senator Xenophon is.

Senator XENOPHON: I am clearly unloved.

Senator Wong: Senator Xenophon knows—

Senator BIRMINGHAM: I am happy to ask my questions here—

Senator Wong: I have a deep and abiding affection for him.

Senator BIRMINGHAM: I am quite happy to ask my questions here, even if I am not getting answers that perhaps are to the satisfaction that I would seek—not that that is Ms Quinn's fault, Minister; feel free to intervene and assist at any stage.

Senator Wong: I always try to be helpful.

Senator BIRMINGHAM: Did Treasury provide specific advice to the Multi-Party Climate Change Committee ahead of its weekend love-in that just occurred—

Mr Ray: Specific advice on what, Senator?

Senator Wong: Senator, you cannot ask an official to comment—can you try and rephrase the question about 'love-ins' prior to this weekend? Really!

Senator BIRMINGHAM: Prior to the weekend meetings—

Senator Wong: It is still not up to Ms Quinn to have to respond to stuff like that.

Senator BIRMINGHAM: of the Multi-Party Climate Change Committee?

Senator Wong: My experience of climate change is that there aren't a lot of love-ins in this place.

Senator BIRMINGHAM: There seems to be a lot of love between the government, the Greens and the Independents nowadays.

Senator Wong: There was a bit of love between Mr Turnbull and me for a period of time, believe it or not.

Senator XENOPHON: He hasn't been good to you, Senator Wong.

Senator Wong: He said nice things about me and I said nice things about him. But then you got rid of him, so that was all gone.

Senator BIRMINGHAM: Because you said nice things about him.

Senator Wong: Quite possibly. I should have said mean things about him then maybe he might not have—sorry, Nigel.

Mr Ray: Are you asking whether we provided specific advice on modelling scenarios ahead of last weekend to the multiparty committee?

Senator BIRMINGHAM: At the end of last weekend's meetings of the Multi-Party Climate Change Committee—we can take it as a generic question first and then attempt to

break it down—did the Treasury provide specific briefings or advice to that meeting of the multiparty committee?

Ms Quinn: The multiparty committee's communiques and minutes of the multiparty committee meetings over the last few months have made references from time to time to Treasury modelling. There had been discussions in the committee from time to time about the process of Treasury modelling and what we were doing, where things were up to and those sorts of things. To my understanding that was not a specific briefing. There were discussions at the committee. Treasury did provide input into the weekend meetings of the Multi-Party Climate Change Committee.

Senator BIRMINGHAM: Did Treasury participate in any presentations at the weekend meetings?

Ms Quinn: It provided an oral briefing to the committee.

Senator BIRMINGHAM: Who provided the oral briefing?

Ms Quinn: Dr Gruen and myself.

Senator BIRMINGHAM: Dr Gruen and yourself, Ms Quinn. So that was an oral briefing on the status of modelling, one would assume?

Ms Quinn: Yes. That was one element of the discussion.

Senator BIRMINGHAM: Did you provide information, either in writing prior to, at the meeting, or in your oral briefing about the results of the modelling work you have undertaken to date?

Ms Quinn: As I have previously said, the modelling is not completed. There was discussion about the general approach that Treasury was doing and various other elements of the economic modelling. There were no specific outcomes of the modelling that were discussed in relation to putting a price on carbon.

Senator BIRMINGHAM: Could you just repeat that last bit, Ms Quinn? I did not quite catch that.

Ms Quinn: There was a discussion about Treasury economic modelling. As the modelling is not completed, the carbon-pricing scenarios have not been completed. There was no specific advice or discussion around outcomes because that information is not available.

Senator BIRMINGHAM: Were you asked to model any new or additional scenarios out of the multiparty committee?

Ms Quinn: No, not to my knowledge.

Mr Ray: Can I—

Senator BIRMINGHAM: Certainly, Mr Ray.

Mr Ray: Senior officials of the Treasury from time to time do attend, mainly as observers, meetings of the Multi-Party Climate Change Committee and have, on occasions, been asked for information. We have also from time to time participated in other discussions with members of the multiparty committee.

Senator BIRMINGHAM: Thank you, Mr Ray. Ms Quinn, what deadline does Treasury have for the completion of the modelling work?

Ms Quinn: We are doing scenarios at the direction of the Treasurer, so it is a bit hard to give you a precise deadline. It depends on the evolution of requests for advice from the Treasurer.

Senator BIRMINGHAM: In the requests to complete the different scenarios that have been made of Treasury there has been no instruction of a time line to date?

Ms Quinn: It is usually as soon as we can do it.

Senator BIRMINGHAM: As soon as you can do it. Have you given the Treasurer feedback on how quickly you expect to be able to do it?

Ms Quinn: Various elements of different things. When we finish will be a function of what we get asked to do. The modelling is ongoing at this stage.

Senator BIRMINGHAM: You expect further requests for different scenarios?

Ms Quinn: It is difficult to predict the future.

Senator BIRMINGHAM: Ms Quinn, the government are working to a theoretical tight time frame in relation to this. It beggars belief they have not set some sort of time line for Treasury to complete this modelling work for the scenarios that have been asked of it so that it can be presented to the multiparty committee, the cabinet and whoever else the Treasurer deems it appropriate to present it to.

Senator Wong: That is an opinion question. You asked her if it beggars belief. My experience of Ms Quinn is that she works as fast as she can generally.

Senator BIRMINGHAM: I am sure she does. Minister, can you provide any comfort or assurances on the government's ability to meet the time lines it has set publicly in this regard, if the Treasury has been given no time lines to complete its own work or modelling?

Senator Wong: Senator, I am not sure that the evidence is no time lines. I think the evidence was as quickly as possible in relation to particular requests. Obviously I am not the relevant minister either on the modelling or on the climate policy. What I can say to you is the importance that the government placed on economic modelling and the thoroughness of it I think was demonstrated through the CPRS process. The document *Australia's low pollution future* was, I think, the largest modelling exercise the Treasury has undertaken. I think it set a benchmark by world standards. It is a very good piece of work which is being built on now.

Senator BIRMINGHAM: At the weekend meeting were you requested to report back at the next meeting or at a specific time to the multiparty committee on the status of the modelling work that has been undertaken?

Ms Quinn: No. We work; we get asked questions. The scheduling of future meetings happens over time. At that meeting we were not specifically requested to reappear. That is not to say that we will not be; it is just that we were not specifically asked.

Senator BIRMINGHAM: Have new requests for different scenarios slowed down the work that the Treasury has been doing at all?

Ms Quinn: That is a difficult question to answer. It suggests a counterfactual in some way. We get asked to do things in an interactive way as the policy development phase goes through. We work closely with other colleagues across Treasury and across the Public Service on the policy questions that the government is facing. There is not a fixed number of scenarios that we may examine or a fixed number of questions that we may get asked. It is an

evolutionary process. It is difficult to have a counterfactual—slower compared to what? Obviously if there are fewer policy questions then there is less work to do and that can happen in a quicker time frame. That is just an axiomatic statement. I am not quite sure what your question is.

Senator BIRMINGHAM: In terms of completing the body of work that you have been asked to do, when you get a new request from the multiparty committee that has stemmed from the Greens, Mr Oakeshott, Mr Windsor or somebody, that, of course, adds to the workload of the Treasury and slows down the overall process of responding to all of the body of requests of different scenarios.

Ms Quinn: It very much depends on the type of question. Sometimes there are questions for clarification and sometimes there are questions for additional work. As I mentioned before, there are lots of different elements to the modelling that we are doing across international all the way down to households. So it is not the case that all elements of the modelling are all in progress at the same time, at the same pace and in the same way. Some require inputs from others. So I do not think it is a fair characterisation to say that all additional requests require additional time. It depends on the precise nature of the questions and what the resources are that are required to answer the question.

Senator BIRMINGHAM: Is it the Treasury's intention to use the report of the Productivity Commission on the comparative costs of carbon pricing or carbon prices in key economies, which was handed to the government yesterday?

Ms Quinn: Is it our intention to?

Senator BIRMINGHAM: Is it your intention to use that report as input for your modelling and to update or change the scenarios of different international actions, based on the information in that Productivity Commission report?

Ms Quinn: Questions about scenarios are a matter of direction from government.

Senator BIRMINGHAM: Have you been asked to look at the Productivity Commission report?

Mr Ray: We have received copies of it. All of the people who are relevant to it have been sitting here all morning, so I do not think we have yet had a chance to look at it.

Senator Wong: It is only today, isn't it?

Senator BIRMINGHAM: Yesterday I think it was handed to the government.

Ms Quinn: It is fair to say that, as a modelling exercise, Treasury draws on a wide range of inputs from a wide range of sources. We have had discussions with the Productivity Commission, as we have had discussions with other experts within Australia and internationally. So we will be looking at the Productivity Commission's report and drawing on information in that that is relevant for our modelling exercise, as we would the release of information from the Garnaut review or release of information from other experts in the field on lots of different topics.

Senator BIRMINGHAM: Thank you, Ms Quinn. Lastly, can I just ask: the government has stated—Mr Combet and Mr Swan in their 23 March joint media release—that it is the government's intention to release modelling upon its completion. This is probably more a question for the minister. Can we have some certainty that 'upon its completion' means upon

its completion and provision to government in the multiparty committee and not, as has become the case with the Productivity Commission report, that it is completed and handed to government and we do not know when we will actually see it?

Senator Wong: Senator, that PC report was provided yesterday, and you are already making those sorts of assertions. I do not have anything to add to what the relevant ministers have already said. But, if there is anything further that I can assist you with, I will take the question on notice and get back to you.

Senator BIRMINGHAM: Thank you.

Senator XENOPHON: I have a number of questions in relation to modelling and further to the questions I have asked of the Secretary to the Treasury. Under the interim carbon tax, is there any plan for permit imports?

Ms Quinn: It is my recollection that, in the broad architecture statement that the Multi-Party Climate Change Committee released, they talked about a fixed price period.

Senator XENOPHON: Yes.

Ms Quinn: In the fixed price period, there was not a definitive answer, but the presumption was that imports would not be allowed in that period. But that was, as you know, a statement of principle; it is not a final position of the government.

Senator XENOPHON: But given that it seems to be a statement of principle that no imports would be allowed under the interim carbon tax, doesn't that mean either you expect the carbon tax to be higher than the carbon price under the CPRS or, alternatively, global emissions will be higher since we will not be importing permits?

Ms Quinn: The principle statement was that in a fixed price period there potentially would not be the importation of permits. So given that the price is set by the government, there is no feedback from imports or no imports on the price of carbon, because it is fixed by the government.

Senator XENOPHON: If you do not have imports, you will not meet your target or you will push up the price of the carbon tax.

Senator Wong: The price is fixed.

Ms Quinn: The price is fixed by the government. The price is fixed and whether there are or are not imports is—

Senator Wong: Your proposition works, Senator, in the realm of a floating price. Obviously, if you allow open trade and you allow imports, that would have, all other things being equal, an effect on price.

Senator XENOPHON: I understand that. So, if you have a fixed price for an interim period without imports, doesn't that mean of necessity that there will be higher emissions and that you will not meet the target?

Ms Quinn: It depends on the level at which you set the price.

Senator XENOPHON: That is right. So, if the price were fixed at what was proposed under the CPRS, that would mean of necessity, without imports, you would have higher levels of emission. It is just a cause-and-effect thing, isn't it?

Ms Quinn: It kind of depends on what you mean by emissions. If the price were fixed at the same price that was modelled through, for example, the CPRS and everything else were unchanged, you would get the same emission outcomes within Australia.

Senator XENOPHON: How could that be without imports? Under the CPRS—

Ms Quinn: Because imports are not emissions in Australia; you are purchasing a permit from overseas.

Senator Wong: You are purchasing abatement—

Senator XENOPHON: Which means that, if you do not—

Ms Quinn: Which is a net emissions target. But the gross emissions, as in the amount of emissions produced in Australia, would be the same.

Senator XENOPHON: But that means that global emissions would be higher in the absence of the importing of permits.

Ms Quinn: It means that Australia would not be buying permits from overseas—

Senator XENOPHON: Which means that global emissions—

Ms Quinn: It would depend on what someone else was doing.

Senator Wong: Someone else might buy them.

Senator XENOPHON: But that would tend to indicate that emissions would be higher in the absence of Australia buying permits. I think it would.

Senator Wong: So you are saying 'excluding Australia's domestic emissions'.

Senator XENOPHON: No. I am saying that, under the CPRS, in the Treasury modelling on the CPRS in 2008, domestic emissions were projected at 585 megatonnes compared with an emissions target of 525 megatonnes. The difference, 60 megatonnes, was to be met through permit imports. That is correct, isn't it, in terms of the modelling?

Ms Quinn: Yes.

Senator XENOPHON: So, if we are not going to be trying to buy permits, it means that global emissions will effectively be higher.

Ms Quinn: It very much depends on the length of the fixed price period and what happens to the targets and trajectories after the fixed price period. It may well be the case that Australia has a particular target, which is the government policy, of a five per cent reduction of 2000 levels. There are a lot of 'ifs' in that question. It is one possibility. There are other things that could happen between now and 2020 such that the net cumulative purchases and things like that are the same.

Senator XENOPHON: In regard to Frontier Economics, the minister knows that I—

Senator CORMANN: Who?

Senator XENOPHON: Frontier Economics. Do you want me to say it again? This is a consultancy that has given advice to—

Senator CORMANN: Who?

Senator XENOPHON: This is a group that has given advice to Labor and Liberal governments in this country on energy—

Senator CAMERON: They are the magic pudding mob—

Senator XENOPHON: Ms Quinn, I am sorry. Perhaps I could refer to a submission they made last month to the Senate Select Committee on Scrutiny of New Taxes, chaired by Senator Cormann, headed 'Magic pudding is vanilla economics'. They asserted that, in the absence of importing permits, rather than CPRS minus five, a five per cent reduction in 2000 emissions, if the carbon tax were maintained until 2020, Australia could be facing an equivalent target which is closer to CPRS plus seven. They are concerned about the distortionary effects of the way the tax could be structured. Are you able to comment in terms of the modelling of that, in that we could end up with high levels of emission depending on the architecture of the scheme?

Senator Wong: We can certainly say that, in the absence of a carbon price, Australia's emissions will be higher.

Senator XENOPHON: Minister, the issue is: how do you get—

Senator Wong: That is true, but I am just making the point.

Senator XENOPHON: You know where I stand on this. How do you get the best bang for taxpayer dollars in terms of maximising—

Senator Wong: We know it is a price; it is not purchasing abatement.

Senator XENOPHON: No; it is also the way it is structured, though, isn't it?

Senator Wong: The policy design is important, which is why the government worked very hard both previously and currently to ensure that the policy is carefully considered and tested.

Senator XENOPHON: Perhaps I could ask Ms Quinn: Frontier Economics use the same economic modellers that Treasury used. I think it was the Monash centre. Was it the Monash centre for—

Ms Quinn: Just to be clear, there is a model that is used by many people in the Australian economy. That is not the same as saying that we use the same modellers or the same model. There is a base model that lots of different people use.

Senator XENOPHON: I understand that Frontier actually went to the same modellers and used the same model as Treasury did. That is my understanding.

Ms Quinn: That is not my understanding.

Senator XENOPHON: Okay. But the same model was used; we can agree on that.

Ms Quinn: A version of the same model may well have been used. I do not know whether that is—

Senator XENOPHON: Can we just go to the issue of the tax interaction effect? In their report to the US Senate, Resources for the Future said: 'The first round impact of a carbon tax is to increase the distortions a tax system creates. That first round impact arises from what economists refer to as the tax interaction effects. These occur when a new tax aggravates the harm existing taxes do to the incentives to work and save.' I think that is a fairly standard definition that Resources for the Future used in their report to the US Senate. To what extent has a tax interaction effect been taken into account in the context of the modelling that has been done in relation to this?

Ms Quinn: It is correct that there are many interactions in the economy from putting a price on carbon, and one of those elements is its interaction with existing behaviours, including taxation in the Australian economy. So it is being taken into account in terms of the macroeconomic implications of pricing carbon, the resource cost and the restructuring between industries and between different factors of production.

Senator XENOPHON: It is the way that you design it to see whether it has a multiplicative effect or not.

Ms Quinn: It is certainly an element. There are other elements as well, such as the structure of the economy, the capital intensiveness of the economy and the elasticities of substitution between different sectors. So there are quite a lot of other things going on as well, but it is certainly an element.

Senator XENOPHON: Again going back to Resources for the Future, I understand they are giving advice to the Productivity Commission in their implied carbon price study. That is my understanding; I may be corrected on that. Yes, I think it is on the public record—

Ms Quinn: You would have to ask the Productivity Commission. They are drawing on people to provide inputs. I think the Productivity Commission has made clear that they are doing the analysis, with other people providing factual inputs.

Senator XENOPHON: Sure; and Resources for the Future is one of those. Their report to the US Senate in relation to the proposed clean energy standard announced by President Obama in his 2011 State of the Union Address states, in relation to a clean energy standard: 'In some important economic and practical regards a CES maybe a better first step than the cap-and-trade proposals floated in congress. It can be significantly more cost-effective and it avoids, at least initially, large increases in energy prices, which are a major political hurdle for emissions pricing policies.' Given that the carbon tax is seen as an interim measure to a cap-and-trade and given what President Obama announced as an alternative approach, which RFF says is a cheaper approach to reduce emissions, is that something that has been considered?

Ms Quinn: The things that we have been considering around the direction of the government are a matter for government policy. So it is difficult—

Senator XENOPHON: Sure, but—

Ms Quinn: And the analysis that is done in the United States is obviously a function of the United States government's policy and the structure of the United States economy in the structure of their tax system and many other things. I am not sure that you could directly translate a finding of policy effectiveness of one policy or another from another jurisdiction into Australia without having done the analysis in an Australian context.

Senator XENOPHON: I am not suggesting that. I am just saying that, in the United States, which is probably less energy intensive than our economy—

Ms Quinn: It is more a matter of how the tax interaction works across different sectors of the economy and how the electricity sector works.

Senator XENOPHON: I understand that. But, given President Obama's policy statement in the State of the Union Address and given that RFF is providing, at the very least, an input to the Productivity Commission, is Treasury looking at an alternative approach to reduce emissions that may be more cost effective than what is being proposed?

Ms Quinn: Once again, that goes to a matter of the policies and the scenarios that we are examining on behalf of the government; so it is a matter for government.

Senator XENOPHON: Sure. So you cannot say whether this is on the agenda—

Senator Wong: I am sorry; what is the counterfactual in the question? I do not understand, Senator. Your question is of Ms Quinn: are you looking at or is the government or is the Treasury looking at a more effective policy?

Senator XENOPHON: Perhaps I will rephrase it.

Senator Wong: So are you saying 'than what?'—than a carbon price or a fixed carbon price? What is the 'than'?

Senator XENOPHON: Than what is currently being proposed. The US is going down a path which, according to RFF, may be more cost effective at least in the interim with respect to abatement, with respect to emissions reductions. The question is: is the government actually looking at what the US is doing to see whether it has any applicability to Australia?

Senator Wong: Senator, obviously what occurs domestically in other economies is something the government is cognisant of. But I would make this point: I think the Treasury advice in the incoming government brief dating back prior to the TGET, the task group on emissions trading, together with, frankly, almost every other serious economist in this area would suggest that the lowest cost way to reduce emissions is to introduce a price on carbon. That is not to have a discussion about—

Senator XENOPHON: It is part of the cap-and-trade, though.

Senator Wong: It is not to have a discussion about how you might frame that. Obviously there are different models about how you price carbon. But it is not a new thing for people in this area to suggest that that is the lowest cost way. In fact, it was, as I recall, the reason in 2006, from memory, that the Business Council lobbied then Prime Minister Howard for a price on carbon.

Senator XENOPHON: I am not arguing with you, Minister. I am saying: what is the most effective way of achieving an outcome? I do not disagree with you. Can I just go then to Professor Garnaut? In his report released yesterday, he suggested using carbon revenue to reduce other taxes and suggested that this could substantially reduce the economic costs of an emissions trading scheme based on the modelling that has been conducted. Doesn't this tacitly acknowledge that there is a substantial economic cost of not using carbon revenue to reduce other taxes in order to minimise the distortionary effects of a new tax?

Ms Quinn: I am sorry; unfortunately, I have not had a chance to read that component of Professor Garnaut's report.

Senator XENOPHON: As a general principle, perhaps?

Ms Quinn: As a general principle, it depends a bit on what tax you are talking about and why you are raising it or reducing it. I am not a tax expert. There are others in the room much more capable of answering this question. But as a general principle, if you put a distortionary tax on the economy, then you create a distortion which has an economic cost. If you remove a distortionary tax, then you reduce the distortion and you lower the economic cost. The question is: how distortionary and what is the consequence of doing one thing or the other?

Senator XENOPHON: Perhaps in the limited time available I can go to the issue of whether a carbon tax increases certainty for investors. Historically, is there a risk that a carbon tax in itself does not actually reduce and may increase uncertainty for investors? In Switzerland, for instance, the carbon tax that was applied to fossil fuels was initially set at, I think, SwF12 per tonne in 2008; in 2010, the Swiss government increased that to SwF36 per tonne, when it became clear that Switzerland's Kyoto target could not be reached.

Senator Wong: Senator, if you take that proposition as saying a tax or a price is uncertain because governments may make a decision to change the tax—

Senator XENOPHON: As distinct from a market based mechanism.

Senator Wong: I will deal with that and then I will go to that point—then that applies across the entire tax regime. Governments obviously—

Senator CORMANN: The previous government—

Senator Wong: Your government introduced the GST and your government, in fact—

Senator CORMANN: And abolished eight taxes in the process.

Senator Wong: Dear me! We can talk about tax-to-GDP ratios and who is actually the highest taxing government.

Senator CORMANN: You know how many taxes—

Senator Wong: It ain't us. It is not us, so let us just remember that. I am trying not to get distracted, Senator Xenophon; I am trying to answer your questions.

Senator XENOPHON: Just ignore him.

Senator Wong: I am trying to.

Senator CORMANN: Not very well.

Senator Wong: Yes; I am not doing it very well. The point is that, if the proposition is that a tax is inherently uncertain because governments can change it, governments obviously and the parliament can make decisions about the tax regime. So I am not sure that that is a specific criticism of a carbon price in the form of a fixed price. In terms of a floating price, which was your counterfactual, I think, it is true that there are some benefits with that, which we have gone through, but I would make the point that the price under that sort of regime is also not certain, in the sense that it does depend on the market.

Senator XENOPHON: It also depends on the scheme's design—

Senator Wong: True.

Senator XENOPHON: Banking and borrowing were not allowed in the European scheme initially. I think the latest price in Europe is \$21 per tonne, which smoothed out, and you did not get the clashes because they allowed banking.

Senator Wong: The market operating within the regime is structured, but I am just making the point that it is not a fixed price.

Senator XENOPHON: No, it is not a fixed price; but it is smoothed out though, isn't it, if it is designed properly?

Ms Quinn: It is also true to say that the first phase of the European scheme was always a trial phase and that was—

Senator XENOPHON: Sure; and it got pretty messy there. But, Minister and Ms Quinn, given what you are trying to do here to try to drive investment in low-carbon alternatives, isn't there a greater emphasis or a greater policy premium on ensuring that there are incentives and there is some certainty for investors to say, 'We can invest in a solar thermal plant,' or, 'We're going to invest in a gas plant that's going to be 30 to 40 per cent cleaner than coal'? If there is a regulatory risk that governments could up the price on a whim rather than having some market-based mechanism, doesn't that carry with it some additional risks?

Ms Quinn: As a general proposition, if it were possible to wave a magic wand and create certainty, it is likely that the economic cost of decisions would be cheaper across all elements of the economy, whether it is responding to commodity prices, interest rates or a regulatory regime at the direction of the government. Certainty obviously causes economic consequences and usually to the detriment of everyone's well-being.

In terms of going forward, it is often a question about who is best placed to manage risk and who is best placed to factor that into their decision making. A carbon tax that could be changed in the budgetary cycle would have the possibility of being changed, but so too would targets and trajectories under an emissions trading scheme. It would come down to the framework under which the policy was put into place.

Senator XENOPHON: Sure.

Ms Quinn: There are many parameters that can increase or decrease uncertainty.

Senator XENOPHON: Can I just put this to you: in terms of CPRS5—I guess that is one way of putting it—and in terms of what Frontier has done, if Australia sets a carbon tax at the same level as the carbon price assumed for the CPRS, domestic emissions should be around the same level, about 585 megatonnes, assuming that the modelling is accurate. Is that a reasonable assumption?

Ms Quinn: Assuming that everything else is unchanged. But obviously whether a price that was envisaged at the time of the CPRS would produce the same amount of abatement in the future would depend on the structure of the economy and what happens internationally.

Senator XENOPHON: Sure. But I guess the whole nature of modelling is that you have to make some assumptions.

Ms Quinn: Sure.

Senator XENOPHON: Then you consider the variables.

Ms Quinn: And the world inevitably turns out differently from what we expect.

Dr Gruen: I think Ms Quinn was simply making the point that the structure of the Australian economy has changed somewhat. The terms of trade are higher and our assumptions about the future, in the absence of a carbon price, have changed materially.

Senator XENOPHON: I appreciate that, Dr Gruen. I guess that I am just trying to get—

Dr Gruen: I did not want to stop you.

Senator XENOPHON: No, that is not a criticism at all. I am just trying to understand this. Going on, the difference is that, under an emissions trading scheme, emitters would only be able to purchase 525 megatonnes of permits from the government and would have to purchase the additional permits from overseas.

Ms Quinn: In the CPRS modelling, it was their choice whether to reduce abatement in Australia or buy permits overseas. It was a function of the price; it was not a function of a cap from the—

Senator XENOPHON: But it was anticipated under the CPRS that there would be something like 60 megatonnes and by 2020 there would be permit imports.

Ms Quinn: That it would be efficient to buy them overseas, yes.

Senator Wong: That was an assumption about—

Ms Quinn: That was an outcome of the modelling.

Senator Wong: An outcome of the modelling; sorry.

Senator XENOPHON: Yes, and that is a fair enough assumption.

Senator Wong: An outcome of the modelling, I should say.

Senator XENOPHON: An outcome of the modelling. So that means that permit imports of 60 megatonnes by 2020 would have a value of around \$2.4 billion in that year alone, based on the assumptions. Under a carbon tax, wouldn't emitters have to pay this amount to the government rather than purchase from overseas?

Ms Quinn: Under a fixed price, the way a fixed price would work is that the government fixes the price and people have to buy permits from the government at that fixed price and they would buy an unlimited number of permits. That is one hypothetical way of how a fixed price might work, given that the government has not made any firm decisions on how it might work.

Senator XENOPHON: No; but given the architecture that has been suggested—I know that it has not been finalised yet—that we are not going to rely on importer permits, isn't the consequence that the government will be looking at getting in potentially \$2.4 billion in additional revenue? By virtue of the fact that we do not have permits, it will be a source of revenue to the government as an alternative to people purchasing—

CHAIR: Senator Xenophon, I really do not think that this is a question for fiscal group. That is not a modelling—

Senator XENOPHON: It is modelling though, Chair.

CHAIR: It is about the climate change policy, I think, rather than—

Senator XENOPHON: I thought it was a question in relation to the modelling of this scheme—what is being proposed now to what was being proposed previously and what the fiscal implications of that would be.

CHAIR: I will let Treasury officials—

Senator XENOPHON: That is my final question, you will be pleased to know.

Ms Quinn: I am sorry; under the architecture document released by the Multi-Party Committee on Climate Change, it was for a fixed price period, not for the long term. It was a short, fixed price period.

Senator XENOPHON: For how long, five years, 10 years?

Ms Quinn: Three to five years.

Senator Wong: Three to five.

Ms Quinn: So what happens in 2020 would be a function of what happens after the fixed price period has finished?

Senator XENOPHON: But you either buy permits from overseas or give the money to the government in order to achieve the targets.

Dr Gruen: In 2020?

Senator XENOPHON: Yes, or eventually.

Ms Quinn: There are not any other options available to the government than those two choices.

Senator Wong: Or you become more efficient and reduce emissions as well.

Senator XENOPHON: Thank you.

Senator Wong: It is not a zero sum game.

Senator CAMERON: Madam Chair, I was hoping that we could get through one estimate without a discussion about Frontier Economics—

Senator XENOPHON: Not while I am around..

Senator CAMERON: You had better hang around, Senator Xenophon. I have noticed that Frontier Economics are making headlines again. In the *Daily Telegraph*, the new Premier of New South Wales is reported quoting a Frontier Economics report that there would be a devastating impact on jobs. The argument is that 13,000 jobs would be lost in the Newcastle region alone and that New South Wales would lose \$1.2 billion in economic activity. This is from the *Daily Telegraph*. The Premier quotes directly from a Frontier Economics report. Ms Quinn, we have been through this before a number of times. It seems to me that it is extremely difficult if not impossible to start modelling job losses in a region. Even the Minerals Council modelling spoke about devastating impacts on jobs, because they had to concede that the 'job losses' were from the reference point and it was jobs that would otherwise have been created. Is that the position?

Ms Quinn: I am sorry; I am at a disadvantage, not having looked at the Frontier report that you are referring to.

Senator CAMERON: Actually, it is in the *Daily Telegraph* of 31 May 2011. That was yesterday.

Ms Quinn: That was yesterday. I have not had the opportunity to see that report, so it is difficult to be definitive. But I guess the first point I always make is that you need to look at what they have actually examined. The government has not made an announcement about its policy, so it is obviously difficult for people to make a pronouncement about the economic implications of something that has not yet been decided.

Senator CAMERON: Even Frontier Economics?

Ms Quinn: So it is very important, when you are thinking about the implications for different industries and different sectors, to have a view about what is happening in the absence of a carbon price. That is a very important component of the analysis for then looking at the implications of a carbon price. It is fair to say that the Australian economy is experiencing significant structural changes completely independent of pricing carbon, and it is important to disentangle those implications. That is why it is very important to talk about

'relative to what'. So when people say that there will be a loss of output or a loss of income, it is important to be very clear about what that is relative to. Often reports are misquoted that slowing in growth over the future is reported as a loss of income or a fall in income, when in fact it is a slowing of growth of income over the future and income is higher than it currently is today. So those sorts of issues arise in all modelling reports by all groups, and it is important to be clear about what the results do or do not say.

In terms of substate regional allocations of economic consequences, unfortunately the economic tools available to us today do not provide a robust basis to make quantitative statements about implications. It is very important, when thinking about structural change, to be able to measure the transformation in industries with capital and labour and other inputs moving between both industries and regions within an economy, and the tools are not available to be able to make those connections in a detailed enough way to be certain or even confident in your quantitative assessments.

It is true to say that you can have qualitative statements about the implications and they usually follow the implications for industry, and that is where it is very important to think about the policy proposals that the government might be considering. It is the case in the CPRS modelling that there were many reports talking about implications for regions that often did not include the transition assistance that the government had proposed as part of the package for the CPRS. So it is not an accurate representation of government policy.

Senator Wong: Senator, perhaps I could assist, in addition to Ms Quinn's propositions. As I understand it, the minister has made some public statements about that modelling and reflected a number of the points that Ms Quinn has just made. The first obviously is that it is out of date, it is based on the CPRS. The second is that Treasury has repeatedly advised not only the government but the parliament of the difficulties in substate regional quantitative modelling. Is that right?

Ms Quinn: Yes.

Senator Wong: In addition, the impact on employment that is quoted, for example in the Hunter, is not job losses. In fact, the modelling shows that employment would continue to grow but that the expansion would be less with the CPRS than without it. So the baseline that Ms Quinn is referencing obviously tells a different story perhaps to the headline that was made.

Senator CAMERON: What it is saying is that Premier O'Farrell is warning that 13,000 jobs could be lost. That is a misrepresentation of any of the modelling that I have seen. Ms Quinn, do you know Professor Stephen Howes and Dr Frank Jotzo?

Ms Quinn: Yes.

Senator CAMERON: They were involved in the modelling on the CPRS, weren't they?

Ms Quinn: They worked as part of the Garnaut secretariat for the first Garnaut review. As part of that process, Treasury worked with the Garnaut review. We did the economic implications of climate change mitigation policy and they looked at the impacts. So we did have interactions with both those academics as part of that process.

Senator CAMERON: I must say that I am concerned about Frontier Economics being used in this political way continually. I suppose they leave themselves open to this. You

would be aware that Frontier Economics actually did some modelling for both Senator Xenophon and the Liberal Party some time ago.

Ms Quinn: I believe that they have released a range of reports over time for various clients.

Senator CAMERON: Professor Howes and Dr Jotzo basically pulled that apart and we have not heard any more from the Liberal Party in terms of the modelling that was done.

Ms Quinn: It is hard for me to comment on someone else's analysis.

Senator CAMERON: I am sorry; I will not go there. A report on the ABC on 12 October 2009 said that Treasury had found a \$3.2 billion hole in the modelling. Is that correct?

Senator XENOPHON: Treasury never release their own documents, Senator Cameron.

Senator CAMERON: Don't get too excited, Senator Xenophon.

Senator XENOPHON: No, I am not excited. You should state what the facts are. Treasury never release their documents.

Senator CAMERON: I am asking the question.

Dr Gruen: Senator, I do not think that we are in a position to respond to questions about what happened in October 2009. If you want us to take it on notice, we can.

Senator CAMERON: Yes, I am happy for you to take it on notice. I am happy for you also to take on notice whether you can advise me about the basis of this quite alarmist position that the Premier of New South Wales is talking about, 13,000 jobs, and that it is a model issue. I would be happy for you guys to have a look at it. I know that you are very busy, but I would like to get some idea as to whether this modelling is credible modelling. In terms of where we are, the Howes and Jotzo analysis of the modelling that was reported said that it would be more expensive to go down the Frontier model in terms of consumption—more expensive for the economy, and 12 per cent more expensive for each tonne of carbon pollution. Perhaps you could take that on notice and come back to us on that, if that modelling is out there, because it is still being used as some magic pudding approach to climate change. The argument was that it was cleaner, greener and cheaper. You really need to nail this.

Senator CORMANN: I propose to go to the issue around the correspondence that was tabled this morning on the mining tax. Just to clarify, the reason that I am raising it here, Mr Ray, is that you were present at some meetings that I want to explore in particular. But raising it here does not prevent me raising questions more broadly about the minerals resource rent tax during the revenue group session as well, does it?

Mr Ray: Certainly not. If you ask questions in fiscal group on resource rent tax, it does not mean that you cannot ask further questions in revenue group. That is the first point. The second point is that we have brought with us my colleague Mr Heferen, who is the executive director of revenue group.

Senator CORMANN: That is great and I really appreciate it.

Mr Ray: That is so we do not bounce you around.

Senator CORMANN: Sure; I understand. I will explain why. I want to spend as much time as necessary now but not all of the time that I would otherwise spend because we have some other fiscal group matters that we want to explore with you. So that is the context of it.

Just as an opening question, when the government agreed to credit all state and territory royalties against the MRRT liability, the mining tax liability, was that done in the full knowledge that any increase in state and territory royalties would have an impact on the budget bottom line?

Mr Heferen: In relation to the design of the MRRT, as you will recall, a heads of agreement was struck and I think the agreement specifically said that further work would need to be done to sort out the details. In sorting out the details, the group called the policy transition group was appointed. The policy transition group was chaired by Don Argus and Minister Ferguson, co-chairing. They had to report to the government in December 2010. Some of the things that they had to deal with were what should be deductible, what should be creditable, where the taxing point should be and a range of other things. Recommendation 39 in that report is that state and territory mineral and gas royalties, including those raised on behalf of private landowners holding mineral rights, should be at the first point creditable against MRRT liabilities. So it was clear that they thought the royalties should be creditable.

Then, in recommendation 40, they go on to make the observation that it is important to ensure that taxation of Australia's resources preserves international competitiveness and ensures that Australians receive a greater benefit from mineral resources—

Senator CORMANN: I am sorry—

Senator Wong: Hang on—

Senator CORMANN: Minister, I did not ask a question about the policy transition group. I asked a very specific question. When the heads of agreement was signed, it included this small number of words 'all state and territory royalties will be creditable against the resources tax liability but not transferable between projects'. I am not asking about the PTG and I am not asking about the work that was done afterwards. I am asking about the time when the Prime Minister, the Treasurer and the minister for resources and energy on behalf of the Commonwealth signed on that dotted line a heads of agreement with BHP, Rio and Xstrata, which included that commitment that 'all state and territory royalties will be creditable against the resources tax liability'. At that point in time, did the Commonwealth understand and appreciate the implications of that commitment for the federal budget bottom line in the context of possible increases in royalties in various states and territories?

Senator Wong: Senator, I have been on that side of the table for many years. You cannot, on that side of the table, control the answer that a witness gives. You have the opportunity to ask another question if you do not believe the witness has answered the question. I think Mr Heferen was going through the process to enable him to answer your question. With respect, you might just have to be a little patient to allow the officer to answer in the way he sees fit.

Senator CORMANN: I was asking a specific question, Minister. You can now run down the clock—

CHAIR: We understand that, Senator Cormann.

Senator CORMANN: I asked a specific question. If we want to play this game now where we are going to run down the clock by giving information that I did not ask for, then let us keep playing that game. The court of public opinion will judge you harshly, Minister

Senator Wong: Senator, if you want to talk about the court of public opinion and specific questions, how about you answer the question you could not answer on *Lateline* about why it

is that the RSPT or the MRRT were a sovereign risk but you somehow support the Western Australian Premier putting in place royalties? Two can play this game.

Senator CORMANN: That royalty decision, as you know, is a risk to your budget; it is not a sovereign risk, Minister.

CHAIR: We are now starting a discussion between two politicians.

Senator Wong: We are. That is true; I confess.

Senator CORMANN: I have a very specific question.

CHAIR: Mr Heferen was in the middle of answering the question, so we will allow him to continue.

Mr Heferen: Thank you, Chair. Apologies; I did not mean to be controversial. Recommendation 40, if I can put that on the record and people can follow up what recommendation 40 is, does state:

All current and future state and territory royalties on coal and iron ore should therefore be credited and it is imperative that Australian, state and territory governments put in place arrangements to ensure that the states and territories do not have an incentive to increase royalties.

It is making the point that the heads of agreement was signed, as I am sure people are aware—and, if not, we can get a copy to table. The heads of agreement, by necessity, has been tabled at previous meetings of this committee. It is very brief. To cover such complex detail as would be needed in a substantial piece of tax, obviously there would need to be a lot of work to fill things out.

Senator CORMANN: Mr Heferen, I can start quoting the Henry review recommendation where he says that a resource rent tax should replace state and territory royalties and that there should be negotiation between the Australian government—

Senator Wong: Which you opposed.

Senator CORMANN: —and state and territory governments to work through the impacts of this. The question I asked you specifically, though, was: at the time when the Commonwealth signed up to what was a very clear commitment that all state and territory royalties would be creditable against the resources tax liability, was the Commonwealth aware at that point in time of the implications of that commitment for the federal budget bottom line, given that there was no agreement with the states and territories not to increase royalties into the future at that point in time?

Mr Heferen: You are asking me to put myself in the shoes of the people who are signing this. I am afraid that is—

Senator CORMANN: Treasury officials provided advice. I appreciate that you were not there at the time. Was Treasury aware at the time that this was one of the implications of the clause in that heads of agreement?

Mr Heferen: As you say, Senator, because I was not there at the time, that is something I will have to take on notice.

Senator CORMANN: Thank you for that. Are you aware whether there were any formal negotiations between the Commonwealth and the states and territories about the interaction between the proposed MRRT, an expanded PRT and state and territory royalties before that heads of agreement was signed?

Mr Heferen: I was not there, so I am not aware. I might turn to my colleague.

Mr Francis: Senator, could you restate the question? I am not sure that I quite understood it.

Senator CORMANN: Was there any negotiation—like, you will have a negotiation with BHP Billiton by the government, and negotiations with BHP Billiton, Rio and Xstrata. Was there any negotiation between the Australian government and state and territory governments about future royalty increases before that heads of agreement was signed?

Mr Francis: Not that I am aware.

Senator CORMANN: Thank you for that. Are there any negotiations now? You read that recommendation from the Policy Transition Group. Are there any formal discussions now between the Commonwealth and state and territory governments around preventing future royalty increases, whether that is in Western Australia or Queensland, which are the two states that probably matter the most in this context?

Mr Francis: When you say discussions, do you mean discussions with officials at equivalent treasuries?

Senator CORMANN: No. Are there any official negotiations, formal discussions, between the Commonwealth and relevant state and territory governments around the issue of state and territory royalty increases into the future? You read out a recommendation which made certain points. Is there any formal negotiation between the Commonwealth and state and territory governments now to address these issues?

Mr Heferen: I can only speak for what I know from within revenue group. As far as I am aware, we have none on foot.

Senator CORMANN: You have none on foot. Treasury tabled this morning a whole series of letters. There are five letters from the state government in Western Australia—18 March, 11 May, 16 November, the letter from the Treasurer on 18 May 2011 and there was a submission to the PTG. Not one of them has been responded to by the Commonwealth government. Yet the Queensland Treasurer wrote a letter on 9 February, which was received on the 11th, and within less than a week he gets a response from the Commonwealth. Why, with respect to the letters that were addressed to Treasury by the Under Treasurer from WA, did Treasury not once respond to any of those letters where the state government of Western Australia raised serious concerns about the implications of the mining tax for royalty arrangements and the introduction of GST sharing arrangements? Why is there not one single response to one of those letters?

Mr Ray: Because, Senator, we did not think we were in a position to reply.

Senator CORMANN: Because you did not think you were in a position to reply? Why is that?

Mr Ray: Because those letters were seeking assurances that we could not give.

Senator CORMANN: It was actually not seeking assurances; it was seeking confirmation of assurances that, according to the state government, had been given before.

Senator Wong: That is an assertion, Senator.

Senator CORMANN: No, I am quoting.

Senator Wong: That is an assertion.

Mr Ray: To be fair to both of us, if we take the 11 May letter, Mr Marney sought Dr Henry's urgent confirmation that scheduled increases in Western Australia would include the removal of certain concessions.

Senator CORMANN: Confirmation?

Mr Ray: Confirmation that scheduled increases—

Senator Wong: Scheduled.

Mr Ray: The importance of that, you will recall, is that, under the resource super profits tax, I think as was announced on 2 May, all royalties that were currently existing, and scheduled increases in royalties, were to be refunded to mining companies.

Senator CORMANN: That is right.

Mr Ray: Therefore, Mr Marney was seeking an assurance that scheduled increases would include certain plans and aspirations that the Western Australian government had in regard to iron ore royalties

Senator CORMANN: Indeed, and of course—

Mr Ray: Just to go on, he also sought our assurance—that is, Dr Henry's assurance, I presume—that we would guarantee that there would be no change to the Grants Commission's classifications of high and low royalty rates. So he was seeking an assurance and a confirmation.

Senator CORMANN: Sure.

Senator Wong: Senator, can I just make the point that, on some of these matters—and this was why Mr Heferen, I think, was trying to step you through it—the policy point around what would be credited or not was a matter directly considered by the PTG which the government then responded to. So rather than simply making a political point about letters, the policy point was something the government responded to in the context of its response to the PTG, which is what Mr Heferen was seeking to explain to you.

Senator CORMANN: Minister, what was responded to by the PTG were the very strong representations by BHP Billiton, Rio Tinto and Xstrata about the meaning of a particular clause in the heads of agreement that was signed. There is not a single letter in response to the issues that were raised by the state government in Western Australia about the interaction between the proposed mining tax, whether it was the RSPT or the MRRT, and state royalties in Western Australia and the implications for GST sharing arrangements. But if you will bear with us—

Senator Wong: Can I ask that Mr Heferen perhaps be allowed to respond to that?

CHAIR: Can I ask that we do it after lunch?

Senator Wong: Sure.

CHAIR: It is 12.30 and the committee is due to break.

Senator Wong: Apparently I interrupted Mr Ray. I apologise.

CHAIR: Mr Ray can come back after lunch.

Proceedings suspended from 12:30 to 13:30

CHAIR: The committee will now resume and we will continue with the fiscal section. Senator Cormann is continuing.

Senator CORMANN: Mr Ray, I just want to go back to the letter that you talked about of 11 May from the WA Under Treasurer to the then Secretary of the Treasury, Ken Henry. The phrase 'scheduled increases' in that context is important because the 2 May announcement of the RSPT promised to provide a refundable credit for state royalties, at least up to the amount of royalties imposed at the time of announcements, including scheduled increases. The Under Treasurer sought confirmation that scheduled increases would include:

... the removal of existing iron ore royalty right concessions—
concessions plural—

which would see both fine and lump iron ore royalty rights being levied at 7.5% ...

Treasury were aware of Western Australian government plans to remove concessions on royalties for iron ore fines of up to 7.5 per cent, weren't you?

Mr Ray: Quite clearly, we received a letter, and I think it would be fair to say that we were aware of aspirations on the part of the Western Australian government to remove the concessions in the Pilbara that had existed since the 1960s and that at some point in the future increases would be scheduled. In the letter it says 1 July 2012. I am not aware that we were expressly aware of that point. It was a bit vague.

Senator CORMANN: At some point in the future.

Mr Ray: There was an aspiration to, at some point in the future, increase the rate on fines.

Senator CORMANN: To 7.5 per cent?

Mr Ray: I think that is the rate on lump.

Senator CORMANN: That is what it says in the letter.

Mr Ray: That is what it says in the letter, so let us take that.

Senator CORMANN: I am asking the question because you talk about the Pilbara concession. The Pilbara concession is of course a unique concession that was a special deal in the 1960s for BHP Billiton and Rio Tinto which gave them a royalty rate on iron ore fines of 3.75 per cent.

Mr Ray: Correct.

Senator CORMANN: Of course, that was not available to any other producer in Western Australia.

Mr Ray: That is right.

Senator CORMANN: In phase 1 of the removal of the concession, for those two producers in particular, the special and unique concession was removed to bring it up to 5.625 per cent.

Mr Ray: That was announced in the Western Australian 2010-11 budget.

Senator CORMANN: Indeed it was. But the letter goes beyond just the Pilbara concession because it talks about iron ore royalty right concessions plural, 'which would see both fine and lump iron ore royalty rights being levied at 7.5 per cent by July 2012'. You describe it as having been communicated to you as an aspiration by the state government.

Mr Ray: Yes.

Senator CORMANN: Can you confirm that there were two aspects to what was communicated to you. One was the removal of what you have described as the Pilbara concession, which was the unique deal for BHP Billiton and Rio, and, beyond that, the removal of the concession on iron ore fines compared to iron ore lumps in order to align the royalties that apply to both iron ore fines and iron ore lumps at 7.5 per cent.

Mr Ray: I think during 2010 there was a reasonable amount of confusion about what we understood to be the Western Australian government's aspirations. So at all points during 2010 we understood that there was a desire to remove the Pilbara concessions, which would take the fine rate to 5.625 or whatever it is. As I said, the decision to do that was announced in the 2010-11 Western Australian budget. At various points during 2010 there was what I would describe as an aspiration to then go to a second stage and raise the rate on all fines to 7½, to equalise it with lump. But, as I think it says in the documents that I tabled this morning, later in the year Western Australia was communicating with the Commonwealth Grants Commission, saying that there was no intention to do that. So there was considerable confusion.

Senator CORMANN: We will get to that. I am interested in this stage. Later in the year was of course after the heads of agreement with BHP Billiton and Rio were signed. I want to establish in my own mind what your understanding was at the time that the government signed the heads of agreement with BHP Billiton, Rio and Xstrata. You have the letter of 11 May from the Under Treasurer in WA, which clearly goes beyond just the Pilbara concession. I think you have just conceded that. You were nodding there before. It talks about the royalty rights on iron ore fines being levied at 7.5 per cent.

Mr Ray: Yes.

Senator CORMANN: Yes?

Mr Ray: But—

Senator CORMANN: Whereas, of course, the removal of the Pilbara concession—

Mr Ray: But that was not included in the Western Australian 2010-11 budget.

Senator CORMANN: Sure. I understand.

Mr Ray: Only the removal of the Pilbara concessions was included in the 2010-11 budget.

Senator CORMANN: Sure. The government wants to introduce a carbon tax by 1 July 2012, and that is not in this year's budget. You talked about an aspiration. I think the way you describe it is actually right. I think there was a relatively firm view by the time that there were communications between the state government and the Commonwealth government that they would remove the special and unique concession that was applicable to BHP and Rio, to take it up to 5.625, and an expressed aspiration in the second phase to remove the concession royalties for iron ore fines altogether, to take it up to 7.5 per cent. So as long as we can agree—

Mr Ray: At the time, the Western Australian government was engaged in negotiations with both BHP and Rio on the first of those stages.

Senator CORMANN: On the first of those two stages. That is right. The reason this is important, though, is that that first stage raised an issue in the context of a decision that had

been made when the methodology was reviewed through the Commonwealth Grants Commission. There was a late decision to change the categorisation of minerals and resources from energy and non-energy to high and low, which, in various correspondence, the state government outlined to the Commonwealth had unintended consequences. The removal of the Pilbara concession, to 5.625 per cent, would have resulted in an increase of revenue of about \$340 million at the same time as a loss of GST revenue three times that much—about \$1 billion. You were aware of that, weren't you?

Mr Ray: Yes.

Senator CORMANN: So you were aware of that.

Mr Ray: We were aware of that issue, yes.

Senator CORMANN: That issue was discussed, wasn't it?

Senator Wong: Between whom?

Mr Ray: Between whom?

Senator CORMANN: Between the state government and the federal government.

Mr Ray: I think, given what has come to pass, it is fair for me to say that that issue was discussed between us and the Western Australian Treasury. It is quite clear that the implications were communicated back from the Western Australian government to the Commonwealth Treasurer. That is on the public record. It is also, I think, the case that the implications are only under a certain set of assumptions.

Senator CORMANN: Yes, sure.

Mr Ray: As it has turned out, those sets of assumptions were wrong.

Senator PRATT: I have a question. I do not want to interrupt.

Senator CORMANN: I have only just started again.

Senator Wong: I do not think opposition senators can complain about the amount of time they have had.

Mr Ray: The Treasurer, in the terms of reference for the 2011 update, included an instruction to the Grants Commission not to change the treatment of fines because of the removal of the concessions that were announced in the 2010-11 budget.

Senator CORMANN: Why was that done? Would it be fair for me to put to you that that was done because there was a recognition that it would be inequitable that \$340 million worth of additional revenue as a result of a decision in Western Australia to remove a concession on iron ore royalties would result in a loss of GST revenue of \$1 billion? Was there a view that that was an unintended consequence?

Senator PRATT: That is not necessarily accurate.

Senator Wong: I am not sure it is an unintended consequence, Senator. What do you mean 'unintended'? It was a consequence of—

Senator CORMANN: The Commonwealth Grants Commission has identified it as an unintended consequence.

Mr Ray: He is talking about the direction that has been given.

Senator CORMANN: Why would the direction have been given otherwise?

Senator Wong: The point was that, in the absence of direction, that would have been the consequence.

Mr Ray: No. Sorry, Minister. It is not clear that that would have been the consequence if you look at the language in the Grants Commission's part of the 2011 update. The Grants Commission says—

Senator CORMANN: It is page 42, I think.

Mr Ray: Yes. You are there just slightly ahead of me. It says:

In considering whether to move iron ore fines from the low royalty group in advance of receiving the terms of reference, we analysed whether the resulting GST distribution would be closer to or further from such a distribution—

which they were talking about earlier on—

This analysis indicated that, based on the changed royalty arrangements applying on 1 July 2010, the better equalisation outcome is achieved if iron ore fines remain in the low royalty group.

Senator CORMANN: So, before even getting the direction from the Treasurer, the Commonwealth Grants Commission had already come to a conclusion of its own accord, based on its own analysis—

Mr Ray: Yes.

Senator CORMANN: that simply applying the high and low royalty categorisation and lifting the royalty revenue from iron ore fines as a result of the removal of that concession would actually lead to a worse equalisation outcome. They said, 'It will lead to a better equalisation outcome if we leave it as it is and if we don't shift it from the lower to higher group,' which of course is ultimately what the Treasurer directed the Commonwealth Grants Commission to do, quite appropriately, at the time. That is right, isn't it?

Mr Ray: There are a number of questions in your question.

Senator CORMANN: Yes, sure.

Mr Ray: The Grants Commission is independent. I think it is reasonable to say that before the Treasurer issued the terms of reference the Grants Commission had independently reached the view that they were inclined to leave iron ore fines in the lower category. They go on to say that any further changes might alter that. The issue was not a live issue for the 2011 update because whether or not iron ore fines in 2010-11 are in the low or high group does not affect the 2011-12 assessed relativities.

Senator CORMANN: I understand—because the data you use is up to 30 June 2010.

Mr Ray: Yes, so it is the last budget year for which there is actual data.

Senator CORMANN: That leaves the obvious question. You have said that the communication in this letter and in previous discussion talked about a reasonably firm plan in phase 1 to remove the concession that was available for BHP and Rio and an aspiration to remove the royalty concession for iron ore fines to align it at 7.5 per cent with lumps. If the argument is right for phase 1, why would that argument not be right for phase 2?

Mr Ray: There are a number of reasons for that. I think that there are differences between concessions that have been made available to particular producers rather than a rate which applies across all producers of a particular ore. I suspect that some would question whether lifting the general rate on fines is a removal of a concession or just a change in the rate.

Certainly some other states would argue—indeed, some other states argued—that by removing the concessions for the Pilbara and therefore lifting the average effective tax rate on fines the fine ore royalty should be shifted to the high category. They made submissions to that effect to the CGC.

CHAIR: Senator Cormann, I am just going to go to Senator Pratt.

Senator CORMANN: I am in the middle of a line of questioning. Honestly! Just on this point.

Senator CAMERON: Fair go!

Senator CORMANN: Fair go!

Senator CAMERON: You have had more than a fair go.

Senator EGGLESTON: This is a very important line of questioning.

Senator CAMERON: If you can't get to the point—

CHAIR: I think it is a fairly critical issue for Senator Pratt as well, so I will go to Senator Pratt.

Senator CORMANN: If I can just finish in relation to this fact sheet, because he has just said something in relation to it.

CHAIR: All right.

Senator CORMANN: You are making the point that perhaps what the Western Australian government describes as removing a concession on royalties for iron ore fines compared iron ore lumps might not in fact be the removal of a concession, but in your fact sheet on the new resource taxation regime, on page 4, you say:

State royalties are assumed to be equal to 7.5 per cent of the sales revenue and are credited against the MRRT liability to produce the net MRRT liability.

Your assessment was that the standard royalty rate relevant to the MRRT would be 7.5 per cent, and that is what you based your revenue assumptions on.

Mr Heferen: Sorry, Senator. Are you referring to the fact sheet 'A new resource taxation regime', from *Simpler, fairer, stronger—a tax plan for our future*?

Senator CORMANN: Yes. Page 4.

Mr Heferen: The second paragraph on page 4 says:

State royalties are assumed to be equal to 7.5 per cent of the sales revenue ...

To be fair, as I understand it, 7.5 per cent was selected simply because at that stage that was the rate on the iron ore lumps.

Senator CORMANN: It is the standard rate.

Mr Heferen: It is the standard rate. There is some detail in that example. To avoid the situation of saying, 'Let's assume it's something for one set of commodities and something for another,' it has just used what was the lump rate.

Senator CORMANN: Mr Ray, you were at a meeting on 19 April, were you not, with the Premier of WA, the federal Treasurer, the Treasury secretary and the under treasurer from WA? Is that right? That has been reported in the media.

Mr Ray: 19 April 2010 was the first of the two-day COAG meeting.

Senator CORMANN: Yes.

Mr Ray: That was a very complex day.

Senator CORMANN: Sure.

Mr Ray: There were several discussions between those people. Who did you say?

Senator CORMANN: The Premier, the Treasurer.

Mr Ray: I think the Premier and the Treasurer are the same person in WA.

Senator CORMANN: No. I mean the WA Premier and the federal Treasurer.

Mr Ray: Sorry.

Senator CORMANN: So were you at a meeting that both the WA Premier and the federal Treasurer attended where there was a discussion about WA plans in relation to royalties on iron ore fines and the implications for GST-sharing arrangements?

Senator Wong: Senator, can you just provide me with the date of this meeting?

Senator CORMANN: It was 19 April 2010. I gave notice to the department that I was going to ask this.

Senator Wong: I was just asking.

Senator CORMANN: It was before this letter.

Senator Wong: And before Western Australia's submission to the Grants Commission that further changes would not be on the horizon.

Senator CORMANN: Which is completely irrelevant in relation to what I was asking.

Senator Wong: And before the Premier had said on eight occasions that he would not put up royalties.

Senator CORMANN: Were you at a meeting? You can try to divert us.

Senator Wong: I am just saying that the extraordinary proposition underlying your question is that the Commonwealth Treasurer and the government are supposed to assume that the Premier of Western Australia is lying when he says publicly on eight occasions that he will not change royalties.

Senator CORMANN: Minister, you know exactly that that is not what I am saying. I understand why you are trying to run interference.

Senator Wong: I am not running interference.

Senator CORMANN: I understand why you are running interference. I asked a very specific question.

Senator Wong: I am not running interference.

Senator PRATT: The state government has been completely contradictory.

Senator CORMANN: I wrote purposely two days ago that I wanted to ask questions about this so that we could have a sensible and mature conversation about it. I understand that you are trying to protect the Treasurer—

Senator Wong: I am not trying to run interference.

Senator CORMANN: I asked a very specific question of a senior public servant.

Senator Wong: I am pointing out the absurdity of—

Senator CORMANN: You are making assertions.

Senator Wong: Can I finish? I have listened on a number of occasions. Why is it that you do not want me to finish, Senator?

Senator CORMANN: Why don't you want me to ask specific questions?

Senator Wong: I have sat here and listened while you have asked questions for some time. I am now making a point.

CHAIR: Senator Cormann, can you let Senator Wong finish her point, then we can move on.

Senator Wong: Thank you. I am pointing out that underlying your questions is a set of assumptions which include the fact that somehow the government should ignore the fact that the Premier of Western Australia said on eight occasions that he would not put royalties up.

Senator EGGLESTON: Could you give us those eight occasions?

Senator Wong: I think the Treasurer has put that out publicly.

Senator EGGLESTON: My objection is that from the time of his election he told the Liberal Party State Council and publicly said that he would increase royalties.

Senator PRATT: It would have been nice if he had told the government.

Senator CORMANN: We are going to get bogged down if we are not careful. This is quite an important point.

Mr Ray: Senator Eggleston, I tabled a document from the Western Australian Treasury this morning which indicated—

Senator EGGLESTON: I would be very interested to look at that. My recollection is a direct one from hearing the Premier speak, and it is quite different.

Senator Wong: Senator, the submission that was tabled this morning, if it is the November submission from Western Australia to the Grants Commission, says:

Further changes are not on the horizon. The Premier recently indicated that the state has no intention of increasing royalties.

That is in the submission from the Western Australia government to the Grants Commission.

Senator CORMANN: I understand why you do not want to talk about the meeting on 19 April 2010.

Senator Wong: It is not that I do not want to talk about it. I am making the point that there is a range of things on the public record from Western Australia that are an important context to this discussion, unless your proposition is that the government should be ignoring the state's own submission to the commission and the public utterances of the Premier.

Senator CORMANN: Obviously—

Mr Ray: I was going to answer your question.

Senator CORMANN: I cannot even remember it. How can you remember what my question is?

Senator Wong: He can remember it because he is very smart. I cannot, so he must be smarter.

Mr Ray: My recollection of that day is that some or all of the people that you named had various conversations in the course of the day, which is quite normal during COAG.

Senator CORMANN: Of course.

Mr Ray: And I am aware that I was not present for every meeting between the Treasurer and the Western Australian Premier.

Senator CORMANN: Of course you would not have been present at every meeting. I am not asking you about that.

Mr Ray: On that day.

Senator CORMANN: I am asking you very specifically whether you were present at a meeting where there was a discussion which involved the Premier and the federal Treasurer where they discussed plans around royalties, GST-sharing arrangements and the possible mining tax. Just to deal with the minister's assertion, I say that in the context that you have already told the committee that you were aware of firm plans to remove the concession which applied to BHP and Rio and that you were aware of aspirations to remove concessions, to take the rate for iron ore fines up to the 7.5 per cent that applied to lumps.

Mr Ray: The firm plans to remove the concession were announced in the Western Australian 2010-11 budget.

Senator CORMANN: Which was later than 19 April.

Mr Ray: Which was later than 19 April.

Senator CORMANN: That is right. But the aspiration was—

Mr Ray: We were aware of aspirations. I think aspirations to remove those concessions have been around for some time.

Senator CORMANN: Indeed. The reason this is important is that in the letter from the Treasurer, Christian Porter, on 18 May 2011—

Senator Wong: Sorry? Can we just get that before—

Senator CORMANN: It is the one that you tabled this morning.

Senator Wong: Yes, Senator, but a number of documents have been tabled. If you are going to ask witnesses about a document it is courteous to wait until they find the document, isn't it? It is not that hard.

Senator CAMERON: He is getting a bit excited.

Senator CORMANN: It talks about the fact that the Premier and then Treasurer of Western Australia discussed this two-stage approach to reforming the state iron ore royalties 'with you'—that is Wayne Swan, because he is writing to Wayne Swan. It says:

The Premier was given assurance by you—

that is, Wayne Swan—

that the Commonwealth government would accommodate this planned reform. In accordance with these assurances, I am now seeking your confirmation that the phased increase in Western Australia's royalty rate on iron ore fines to 7.5 per cent will be fully creditable for MRRT purposes.

Of course, that is in the context of the second paragraph, which says:

This will remove the remaining royalty concession for iron ore fines, aligning the rate with the longstanding 7.5 per cent rate on lump iron ore and other mineral ores subject to processing prior to the sale that involves only crushing and screening.

Are you aware of any discussion reflecting what is said in this letter from the WA Premier?

Mr Ray: Actually, no, because the MRRT did not exist as a policy on 19 April 2010.

Senator CORMANN: I understand that. He is clearly talking about the resource rent tax.

Mr Ray: No, because he is talking about creditability, which is relevant for MRRT. Under the resource super profits tax it was refundable.

Senator CORMANN: I understand that. I picked it up as well.

Mr Ray: So I cannot confirm that.

Senator CORMANN: We can get technical now or you can maybe try to assist me in answering the question that I have asked, which is whether there was a conversation about this. There was no RSPT then either. There was public discussion about a proposal that was likely to come out of the Henry review to have a national resource rent tax. It did not have a name then. The name only happened later. But were you part of, or are you aware of, a discussion between the WA Premier and the Treasurer about the interaction between a possible national resource rent tax, state royalties in Western Australia, which were likely to increase because of the removal of concessions in the two-phase approach, and the implications for GST-sharing arrangements?

Mr Ray: You did not confine that to 19 April. The difficulty I am having, to be honest, is that, as an official, it is rather unusual for us to confirm the nature of conversations between the Treasurer and premiers and other people.

Senator CORMANN: Sure. So is it usual practice for you to write a file note of those sorts of conversations where assurances are given by a Treasurer to a state government?

Mr Ray: Hang on a second. I do not think you should assume that assurances were given. That is the first thing. The second thing is that it is not our normal practice to write file notes of private conversations between the Treasurer and a Premier.

Senator CORMANN: Okay. So is if it is a one-on-one conversation and the state government in Western Australia says, 'You gave us assurances,' and the federal government says, 'No, we didn't,' how do these things get resolved?

Senator Wong: That is not really a question.

Senator CORMANN: BHP Billiton, Rio and Xstrata got a written deal.

Senator Wong: I am not sure that is a question Mr Ray can answer, for two reasons. Firstly, you have made assertions which may or may not accord with what he knows to be the facts. Secondly, on the basis of those you are then asking him about a dispute between governments. It is not really a matter for him.

Senator CORMANN: Let me rephrase it. Mr Ray, you do not appear to be prepared to rule out that there were such assurances given.

Mr Ray: It probably isn't a matter—

Senator Wong: I just want to go to the 18 May letter. I have been looking at this and trying to understand it. I assume I am looking at the same letter. The assurances that are referenced relate to the creditability for MRRT purposes, Senator.

Senator CORMANN: Sorry?

Senator Wong: The assurances which are referenced in the letter from Mr Porter to the Treasurer, from the text of the letter, relate to the creditability of this royalty for MRRT purposes.

Senator CORMANN: I understand that, but I asked several questions as well.

Senator Wong: So your assertion to Mr Ray is: in addition to the letter what other assurances were there?

Senator CORMANN: I am not making assertions; I am asking questions. I am asking whether there was a discussion where the federal Treasurer gave assurances about how the GST and the Commonwealth Grants Commission processes would operate in the context of any national resource rent tax interaction with state royalties in Western Australia and, of course, GST-sharing arrangements. Minister, this is one letter. There is, of course, a whole body of letters here. A whole range of issues around interaction between a national mining tax, royalties and GST-sharing arrangements are explored. Not one of those letters has been responded to by the Commonwealth either at a government or at an official level. Mr Ray was saying before that there was a lot of confusion about what Western Australia was planning, even though they were clear that there was a firm plan to remove the Pilbara concession and an aspiration to bring the royalty rate up to 7.5 per cent. Not once was there a communication that was initiated by the federal government to clarify those sorts of issues, which have been raised repeatedly by the state government. This whole thing is just a mess.

Mr Ray: Maybe I should make a few comments. One is that it was not clear to us that Western Australia would be successful in its negotiations with BHP and Rio until sometime after 19 April 2010. There was a degree of confusion throughout 2010. I think it is fair to say that the aspiration to remove the Pilbara concession was firmer than the aspiration to lift the fine ore general rate.

In a way, the second policy was not clarified until 19 May 2011, when the Western Australian government brought down its 2011-12 budget, which I think was inconsistent with most of the correspondence before in terms of the actual policy that it has.

Senator CORMANN: Mr Ray, I understand all of that, but the bottom line of the whole discussion that we have just had—and I will leave it here and get back to this in the revenue group and let other senators ask questions—is that when the Commonwealth signed on the dotted line with a promise to BHP, Rio and Xstrata that all state and territory royalties would be creditable against the resources tax liability the Commonwealth ought to have known, certainly in relation to Western Australia, that there was a fair chance that there were going to be increases in the years ahead. You have described a firm increase and an aspiration to take it to 7.5 per cent. By the sounds of it—

Mr Ray: I think, Senator—

Senator Wong: If you assume the Premier did not tell the truth on eight occasions and that the submission to the Grants Commission was incorrect.

Senator CORMANN: The reference that you make to eight occasions was after the deal was signed, Minister.

Senator Wong: I am just making the point that you cannot—

Senator CORMANN: You make a point that is inaccurate, Minister.

Senator Wong: I do not agree. The point here is that there have been a number of things said by Western Australia. You have a particular set of assertions. We do not agree with them.

Senator CORMANN: Mr Ray was just going to say something.

Senator Wong: Yes, I did interrupt him.

Mr Ray: That is fine. My recollection is that the arrangements on the MRRT were made after the Western Australian 2010-11 budget. So in fact, the MRRT was the day after the concession had been brought in. But I think it was by no means clear when or what the second aspiration would be.

Senator CORMANN: So you are clear because phase 1 had been implemented the day before the deal was announced and you were aware of a phase 2 aspiration. Given that the Commonwealth was signing a deal which was promising to credit all state and territory royalties, wouldn't it have been incumbent on the Commonwealth Treasury to seek specific assurances rather than to wait and see what Western Australia may or may not say? Given the implications for the federal budget bottom line, wouldn't it have been incumbent upon you to go out of your way to seek specific assurances about what future intentions in relation to state royalties would be, in Western Australia or in other states, before making that sort of promise?

Mr Ray: That is really a policy question, I think. It is a matter more for government and officials.

CHAIR: Yes, indeed. Can I ask, Mr Ray: have you had discussions with any other state about possible rises in state mining taxes?

Mr Ray: During 2010?

CHAIR: Yes.

Mr Ray: Yes, we have.

CHAIR: So Western Australia was not exclusively in the business of flagging possible tax rises?

Mr Ray: No.

Senator CORMANN: How much iron ore royalty revenue comes from other states?

Mr Ray: Very little.

Senator CORMANN: The Commonwealth Grants Commission will tell you that 99 per cent—

Senator PRATT: Chair, I would really like a turn at these questions.

CHAIR: Yes, we should go to Senator Pratt.

Senator CORMANN: The Commonwealth Grants Commission will tell you that 99 per cent of iron ore revenue comes from Western Australia. Of course Western Australia has got a bigger interest than other states.

CHAIR: I asked about mining tax generally, not iron ore taxes.

Mr Ray: Just for the information of the committee, the Northern Territory government announced, I think on 4 May 2010—so two days after the resource super profits tax was announced—that they were increasing royalties in 2010-11. The South Australian government announced in September 2010 increases in royalty rates. And there were discussions between treasuries.

Senator PRATT: Was it true that in the submission of the WA state government to the Commonwealth Grants Commission in November 2010 they said that they were not going to go any further than the deal they had done with BHP and Rio in June? I know people are trying to argue that we have known since January or sometime in the first half of 2010 that this increase was on the cards, but it seems to have been completely contradicted by the further evidence about that submission to the Grants Commission.

Mr Ray: What they actually said was:

The changes to the iron ore fines royalty rate aligning all producers at 5.625—
So removing the Pilbara concession—

have been known for some time. They are not a new development for the annual update. Further changes are not on the horizon.

This is in the document that I tabled this morning. Without the covering letter, it is available on the Grants Commission website. It then goes on to quote a statement by the Premier, from the *West Australian*, that explains the hurdles that the Western Australian government would need to go through to apply a single royalty rate to iron ore. That is at the top of page 2.

Senator PRATT: So they were implying that it was too difficult for them to do.

Mr Ray: I do not know that they said difficult, but they would have to either negotiate this with the state agreement companies—that is, BHP Billiton and Rio—or legislate unilaterally. In this submission they signal that legislating unilaterally, given that there is an agreement with these companies, would have obvious issues around sovereign risk.

Senator PRATT: And that is on top of the other public statements that reinforce, I suppose, that that is why they were not going any further—despite the fact that they did in their budget.

Mr Ray: This quotes one of the public statements.

Senator PRATT: Can I ask what the sources of those public statements are?

Mr Ray: I do not have them. The minister might.

Senator Wong: Sorry, I apologise. I was talking.

Senator PRATT: I am aware of some of the references to the eight statements that the state government made. It seems that they have been entirely contradictory, saying one thing on one hand and then moving the goalposts along the way.

Senator Wong: On 4 September 2010 Mr Barnett is quoted as saying:

That is not something we're moving on now. It won't be in the budget.

On 20 October 2010—

Senator PRATT: Sorry—he said it would not be in the budget?

Senator Wong: Yes. On 20 October 2010 Mr Barnett, on ABC Radio, said:

We have no plan to increase royalties.

The following day, in the *West Australian*, he is quoted as saying:

The state has no intention of increasing royalties.

On 30 October 2010, in the *Australian*, he is quoted as saying:

I have no plans to increase royalties.

In the submission to the Commonwealth Grants Commission, which you have already asked questions about, there is a reference, in Reuters on 21 December 2010, which says:

There is no proposal to increase royalties again.

The *Financial Review* on 23 February said:

Mr Barnett said the government had no plans to increase the fines rate in the foreseeable future.

On 6PR on 23 February he said:

... we don't have any plans to increase royalties in Western Australia. All I simply say is we are not contemplating one at present.

Senator PRATT: Given the kinds of statements that we know have been made about purported taxes on jobs and that kind of thing and the fact that we have before us a minerals resource rent tax, which is a tax on profits, I seem to recall some quite significant debates coming from places like Western Australia arguing against further taxes on mining. A royalty is not a profits based tax. Miners would be subject to it once they started production. Is that correct?

Mr Ray: Some are and some are not. It is a tax policy question, really. I think my Revenue Group colleagues could answer.

Mr Heferen: I am not an expert in how the WA royalties are exactly structured. My understanding is that they are a production based tax, typically taxing revenue as opposed to profits.

Senator PRATT: As far as taxing revenue goes, I know that there have been certain assumptions made about what the ramifications are of GST handover. I want to go to some of the assumptions. As I understand it, the assumptions made by the state Treasury versus the Commonwealth about the value of the Australian dollar, which would ultimately affect where things end up with the Commonwealth Grants Commission, are entirely different assumptions. Can you give me an outline of what that issue looks like?

Mr Ray: Yes. I have to go back to what a technical assumption is. In the Commonwealth budget we use a technical assumption where we fix the US dollar rate, the Australian dollar rate and the trade weighted index for the forecast period. We do that not because of an assumption but because our experience is that in the short run the exchange rates are basically random walks. Therefore, the current exchange rate is as good an indicator of the future exchange rate as anything else.

Senator PRATT: Historically, I think the Commonwealth has been more accurate in its assumptions about what the exchange rate looks like than the WA state government.

Mr Ray: I do not know about that. The WA government changed its forecasting assumptions around the exchange rate in 2009, so there is not much history to make that sort of comparison. To finish what I was saying, we hold the exchange rate constant based on an average of market rates in the period up to when we strike the forecast. Then because in our

projection period we bring down the terms of trade—and this is relatively recent, so if you want to go into it chapter and verse you need to ask my macro group colleagues—we bring down the exchange rate based on a relationship in the longer run between the terms of trade and the exchange rate. The Western Australian government do not even use the current rate in their starting point, but that is a separate issue. They bring the exchange rate down to the long-run average quite sharply across the period.

Senator PRATT: Yes.

Mr Ray: So it is different and it gets different answers. Importantly, for their budget they also use slightly different iron ore assumptions. They start off higher than us and bring them down more sharply.

Senator PRATT: It is just that it appears to me that the state government is arguing it might lose GST revenue—and clearly that GST revenue is up for review, in any case, to help Western Australia take care of some of its development needs. They have the 2014-15 forward estimate sitting at 76.9c. Can I ask what our forward estimate for that same period is?

Mr Heferen: As Mr Ray said, for the forecast period we use the short-term average, which, in the budget papers, at page 210 in statement 1, is \$1.07. On page 236, in statement 1, it says:

This link between the terms of trade and the real effective exchange rate assumed a drop of 0.9 per cent per annum over the projection period.

So 0.9 per cent of \$1.07 is about a cent, which takes you to about \$1.06. Then 0.9 per cent again takes you to about \$1.05. As Mr Ray said, if you want to pursue that more specifically you are best to deal with our Macroeconomic Group colleagues tomorrow morning. Basically, the comparator would be \$1.05.

Mr Ray: Yes, it is.

Senator PRATT: The state government's budget papers demonstrate—

Senator Cormann interjecting

Senator PRATT: No. It is significant as to the argument about what, purportedly, Western Australia argue their revenue will be, which is at the heart of the particular debate we are having.

Senator CORMANN: At least they publish their commodity price and production volume assumptions. Your government does not.

Senator PRATT: I was polite to Senator Cormann and did not interrupt his questioning. I would like to continue with mine. The state government's budget papers make an assumption that for every cent that the Australian dollar goes up they lose about \$60 million in mining royalty revenues. Given the size of the gap of some 30c at least in those predictions forward to 2014 there is a substantial figure at play here in terms of what Western Australia's revenues will look like in any case.

Mr Ray: I think there is a lot more at play in that if the exchange rate was at 76.9c there would be a lot of things that would be different in the Australian economy. I will leave it there. A lot of things would be different.

Senator PRATT: That is interesting to me because the WA budget papers seem to point to quite an optimistic growth. They paint a picture of optimism, of growth. Yet if you are

going to report forward an exchange rate like that it would seem to completely contradict that outlook. I am sorry, these might be questions better suited to macro tomorrow.

Mr Heferen: I think they are, Senator, but I just make the observation that the 76c compared to the \$1.05 is a big gap. They have an estimate in there about what each cent of the exchange rate is in relation to their royalty revenue.

Senator PRATT: Yes.

Mr Heferen: It would be a pretty fraught task to say, 'Therefore we have a slightly different estimate for the exchange rate; therefore the difference might be whatever that the arithmetic work would bring out.'

Senator PRATT: I understand that.

Mr Heferen: Because to calculate their royalty revenue they would no doubt have, I would expect, reasonably sophisticated revenue modelling. Similarly, for us to do the revenue that the Commonwealth is responsible for we have reasonably sophisticated revenue modelling.

Senator PRATT: But they come up with completely different answers.

Mr Heferen: Obviously we do not have access to what they do, nor do they have access to what we do. But just a note of caution: they are not really apples and apples and we are comparing because they have such a radically different exchange rate, as Mr Ray says. If that were the case it would have an effect across a whole range of things, certainly in tax revenue but more broadly. You make that comparison over the two which says, 'Had they had a higher exchange rate they would have had a different revenue outcome.' No doubt they would, but presumably there would be a range of other things in their budget that would then also be different.

Senator PRATT: You would think so, but they argue for an optimistic outlook, yet they have an exchange rate of 76.9 per cent forecast through to 2014-15.

Mr Heferen: To take that further you had best talk to our colleagues in the morning.

Senator PRATT: Thank you.

CHAIR: Any further questions?

Senator CORMANN: So we are still going through fiscal, are we?

CHAIR: If you would like.

Senator CORMANN: I just want to clarify one thing. Other states could do the same as Western Australia has done and increase their royalty rates, couldn't they?

Mr Ray: Yes, they could.

Senator CORMANN: What would be the impact on MRRT revenue in the context of the deal with the big three mining companies and the recommendations that have been accepted from the PTG?

Mr Ray: That would depend on the royalty and whether or not the royalty affected companies that were paying MRRT.

Senator CORMANN: Okay. Let me try and ask this all the way through.

Mr Ray: It is not as simple as 'if A then B'.

Senator CORMANN: I understand. Let me be as technically specific as I possibly can be. If another government increases royalties on either iron ore or coal in as far as those royalties are payable by companies that are subject to the MRRT, how is that going to impact on your budget bottom line?

Mr Ray: That is a hypothetical question.

Senator CORMANN: It is a question about the consequence of the mining tax deal and about the downside risk to your budget.

Senator Wong: It is hypothetical. I do not think Mr Ray has to answer hypothetical questions.

Senator CORMANN: In a real life circumstance.

Senator Wong: Senator, I have listened to many questions from you in silence, so let me respond.

Senator CORMANN: You just do not want to answer them.

Senator Wong: He is not required to answer a hypothetical question. I think the government's policy position on the design of the MRRT is clear and has been clear since the response to the Policy Transition Group. I would make this point: I find it interesting that you are concerned about the budget bottom line when your position is that there would be no revenue stream associated with the mining tax.

Senator CORMANN: Indeed, because this is a flawed design which was not negotiated with the states and territories.

Senator Wong: That is not your position. Hang on.

Senator CORMANN: Our position is to scrap it.

CHAIR: Senator Cormann, let the minister finish.

Senator CORMANN: She is verballing me.

Senator Wong: If your position were that you wanted a stronger mining tax then these questions would make sense. Your position is that you do not want any revenue stream to government—

Senator CORMANN: Our position is that you stuffed up the process, that you did not do your homework and that you are trying to reform—

Senator Wong: Let me finish, Senator.

CHAIR: Yes, Senator Cormann.

Senator CORMANN: You are verballing me.

Senator Wong: You can respond when I have finished if you think I am, just as I am currently responding to something you said.

Senator CORMANN: You are running down the clock.

Senator Wong: Your position would make policy sense and political sense if you were asserting that the government should have a stronger mining tax or one that did not credit royalties or whatever the position might be. But your position is that you do not want any such revenue source to the federal budget. We are in the midst of a commodities boom and the federal coalition's position is: 'We don't want a sensible income stream to the taxpayers of

Australia from the sale of these non-renewable assets.' That is your policy position. I think it is a fiscally irresponsible one and an economically irresponsible one, but that is your policy position. When there are questions that go to the design of the tax we should remember what your policy position is. That is my first point.

The second point, which I will make briefly, is that it seems extraordinary that you sit at this table, Senator, where you have said publicly that the minerals tax somehow is an enormous sovereign risk, an enormous economic risk to the State of Western Australia. Yet you sit here supporting an increase in taxes from the Premier of Western Australia. So is it just that Barnett's tax is good and the Commonwealth government's tax is bad? Is that the public policy proposition? It reeks of political hypocrisy.

Senator CORMANN: Minister, on point 1, our policy position is that the mining tax is a dodgy tax that came out of a dodgy process. On point 2, the decision by the government in Western Australia to increase royalties has only got implications—

Senator CAMERON: That is not much of an argument.

Senator CORMANN: It is not something that the mining companies are worried about; it is something that Wayne Swan is worried about because it has implications for his budget. What we are pointing out here, with this line of questioning, Minister, is that you did not do your homework. You did not do the hard yards on reform. You essentially just went for the lazy tax grab because you wanted to create the illusion of an early surplus in the lead-up to the 2010 election.

Senator Wong: No.

Senator CORMANN: That was what this was all about. You signed a deal that was a dodgy deal. You did not think it through. The Prime Minister did not know what she was promising when she signed on the dotted line to credit all state and territory royalties against the resources tax liability. They tried to mop it up after the election and of course in the end they were shamed into sticking to the deal. That is the circumstance we are in, Minister.

Senator Wong: I do not accept what you have just asserted, Senator.

Senator CORMANN: Of course you do not.

Senator Wong: Hang on. I listened to you. I do not accept what you have asserted. I again say that one of the biggest public policy issues facing this parliament at this time is that we have very high terms of trade. We are getting very good prices. The nation is getting very good prices for the sale, the export, of non-renewable assets. So the public policy proposition is: how do you ensure that you convert that to regional income stream for the people of Australia for now and for the future? There should be an open discussion in this parliament about how you do that. But you are not interested in that. There is this historic opportunity to do something good for the future and all you are interested in doing is saying, 'You shouldn't get any income stream from these historic opportunities, from these historic circumstances.' For a party that is supposed to be fiscally responsible, that says it cares about the structural deficit, to then say, 'We're not going to try to ensure that the people of Australia get a reasonable income stream from the sale of these non-renewable assets,' is economically ridiculous.

Senator CORMANN: Minister, you are quite inconsistent in what you are saying. You are proposing an \$11.1 billion tax in this budget over the forward estimates, nearly 80 per cent

of which will come out of Western Australia. It is about \$8 billion over the forward estimates because, according to Treasury—

Senator Wong: You had better talk to Senator Bushby about that. If you do not like the distribution of GST you should speak to the bloke next to you.

Senator CORMANN: According to Treasury modelling, 80 per cent of the revenue will come from iron ore production in Western Australia. That is why you are so sensitive about the state government there trying to keep \$2 billion out of that in that state. The Commonwealth Grants Commission process and the GST-sharing arrangements do make all of that quite complex.

That leads me to my final question to Mr Ray in this context. Every time a state or territory increases a royalty on either iron ore or coal, that increases the overall pool of funds for the states to be available for that particular state in part and the remainder of it to be equalised through GST-sharing arrangements. None of that revenue raised from royalty can, through the GST-sharing arrangements, come back to the Commonwealth, can it?

Mr Ray: You are assuming that all other states—

Senator CORMANN: I am not assuming anything. Let me clarify. The Treasurer has used his words very carefully, but the impression that he has left people with is that somehow, through the Commonwealth Grants Commission process, the \$2 billion in revenue that Western Australia is raising is going to end up with the Commonwealth as a result of the Commonwealth Grants Commission processes. That is not correct, is it? It is going to be equalised across all of the other states and territories rather than any of that revenue coming to the Commonwealth.

Mr Ray: I am not sure that—

Senator CAMERON: We didn't hear any of these arguments when all the money was going from New South Wales to Western Australia.

Senator CORMANN: Why don't you let him answer the question?

Senator CAMERON: We did not hear those arguments then, when it was New South Wales and Victoria that were propping Western Australia up.

Senator CORMANN: Let him answer the question.

CHAIR: Unless Mr Ray has a very quick answer to this, we will have to conclude because we are going on to the next section.

Mr Ray: I would rather answer than leave it on notice. Let us leave aside the particular amount, whether it is \$2 billion or—let us call it X. I will leave it to politicians to argue over what politicians have said. But it is the case that the increase in royalties will affect the GST distribution as between the states.

Senator Wong: So Senator Bushby may well be thanking Premier Barnett—

Senator BUSHBY: I am being very quiet here.

Senator Wong: because the Tasmanians wanted a—

CHAIR: That is the conclusion of this question.

Senator Wong: Tasmanians benefit.

Senator CORMANN: It is actually an unexpected windfall of revenue when it comes as a result of a royalty.

CHAIR: I understand there has been an informal agreement with the committee that the Foreign Investment Review Board question time will be shortened, so I am interested in getting a quick changeover. I thank the Fiscal Group for coming in today, especially the officers who are not supposed to be here at this stage. Thank you for assisting us by all coming together.

[14:31]

CHAIR: I welcome the Foreign Investment and Trade Policy Division. Do you have any opening statement?

Mr Di Giorgio: No.

Senator COONAN: I just have a few questions about the decision on the ASX-SGX bid. It is clear that what emerged as a critical consideration was the role of the ASX as the sole operator of clearing and settlement systems in Australia. Accepting that clearing and settlement obviously need to be regulated to ensure that there is enough capital in the system to offset risk of default by one of the parties, does this activity need to be owned in Australia as well as regulated here?

Mr Murphy: The issue in the discussion on the proposed SGX-ASX merger—what emerged was advice from the RBA and ASIC that a proposed merger would bring about potential systemic risks to the Australian financial system by having control of a clearing and settling system outside the hands of the current owners of the system, the ASX. On that there was clear advice from both regulators to the Foreign Investment Review Board and to the government. What has emerged from that is that a working party has been established under the Council of Financial Regulators to work out what, in effect, additional powers those regulators would need to be able to protect the financial system with the emergence of any systemic risk coming from the clearance and settlement. In direct answer your question, we have yet to really dig into this and I cannot give a categorical answer, but one would hope that one could ensure that there were sufficient powers given to the Australian regulators to protect Australia's national interest and that that possibly would not be an impediment to any future proposed merger. But at the present time it is very much a major issue.

Senator COONAN: Reading between the lines in the press and various other things, that appeared to come out of the woodwork fairly much at the end of the process—at least the concern about system risk seemed to be more publicly discussed at the end of the process.

Mr Murphy: Yes. I think what has happened is that since the global financial crisis international bodies are looking much more at clearance and settlement systems. There is an integrated system in Australia. In some other countries the trading platform and the clearance and settlement systems are separate entities. Central banks and regulators are now looking at where risk lies in your financial system, and that is why people are starting to look much more closely at clearance and settlement. I think it is just an evolutionary thing. The proposed merger brought it into stark relief that we needed to look at this issue, and I think that is why it activated the RBA and ASIC to give that advice, and that is why we are doing this further work on it.

Senator COONAN: Was any consideration given to setting up an independent entity for settlement and clearance? I think Australia is one of the few that has a vertically integrated monopoly on settlement and clearance.

Mr Murphy: It is currently in effect owned by the ASX. It raises all sorts of issues.

Senator COONAN: Competition issues I suppose.

Mr Murphy: Competition issues, and possibly as a commercial matter that may be looked at by the ASX. There could be ways that you could organise yourself to make yourself more attractive or more easily merged. But that is for them.

Senator COONAN: It may not have been advanced sufficiently but if there had been a separate settlement and clearing system would that have answered the concerns that were expressed to this particular bid?

Mr Murphy: It would have removed one of the major stumbling blocks but I think there were other clear reasons or arguments which were negative to the bid.

Senator COONAN: But certainly that would have been a fundamental problem?

Mr Murphy: It was fundamental but as well as that there were other national interest issues.

Senator COONAN: Were any other arrangements looked at as part of considering the bid to address that particular concern, or was it just thought that it had to go off to some further review?

Mr Murphy: No. They were so fundamental that it was felt that the proposal as put forward was not viable at this point in time.

Senator COONAN: Has any consideration been given to providing greater clarity around what can be defined Australia's national interest? I know it is intentionally broad, but in terms of what signals you send to future investors, what further lessons have we learnt through this process we have gone through of looking at this bid for some 10 months?

Mr Murphy: I think the national interest is always a difficult issue. Every country has it, whether they call it national security, as in the US, or they call it national interest as in Australia. It is largely undefined in anyone's legislation.

Senator COONAN: That is right.

Mr Murphy: What this government has sought to do is put out certain principles which it would take into account in determining the national interest. As well as that, in the last few years the government has sought to be more transparent about the operations of the Foreign Investment Review Board. It has sought to publicise it more. I know there are always allegations or criticisms saying that it is an opaque system. But it is a system that most countries have and it remains the province of the government of the day to determine the national interest.

Senator COONAN: I think there are some interesting lessons to be learnt for this bid. One of the them might be what the factors are that FIRB and the other advisers to the government would consider in the possible transfer of ownership to an entity with competing national interests.

Mr Murphy: FIRB works on a case by case basis—if I understand the question—when those proposals are put forward. Yes, in the ASX-SGX proposed merger there was a significant shareholding by the Singaporean government through another entity. Yes, that is taken account of but it is one of a number of factors that are taken into account. When you look at foreign investment you see that the arrangements are set up to—if there is any bias or any presumption it is that foreign investment is welcomed. The large majority of cases which are proposed for Australia—Australia is a country that needs foreign investment—are acceptable. So for a case to be found not to be acceptable it has to be contrary to the national interest. It does not have to prove it is in our national interest; it has to be contrary to the national interest. So the presumption is virtually with the government to state a case as to why it is not.

Senator COONAN: In other words you have to displace the presumption in the decision.

Mr Murphy: Yes.

Senator COLBECK: I just want to talk about a couple of agricultural things which I think Senator Heffernan might want to have a couple of questions about too. I start with SunRice. Again, on the point that you were just making to Senator Coonan about demonstration of national interest or not—what you are saying in this circumstance is that, even though this is an organisation which effectively has control over a whole range of elements of the supply chain in Australia at the moment, from marketing right through the chain, there is a requirement to demonstrate that it is not in the national interest for this to be sold to make a case, rather than to demonstrate that it is in the national interest to keep it?

Ms Gerathy: Under the policy and under the legislation, proposals are rejected if they are not in the national interest. That is how the test actually works.

Senator COLBECK: So the default setting is effectively to approve unless there is a good reason not to?

Ms Gerathy: If it is contrary to the national interest then it will not be approved, yes. That is the way it works.

Mr Murphy: It is not a default, Senator; I suppose it is just that the policy of governments since the Foreign Investment Review Board was set up in the mid 1970s has been that we welcome and we need foreign investment. We could talk about the rice growers but when we ask why we need foreign investment the answer is that we may need capital, innovation, technology—and that is why it is in certain interests for companies in Australia to merge, be taken over or accept major equity investments from offshore, just as we invest in other countries.

Senator COLBECK: That is accepted. That is obviously a balancing part of the overall equation that sometimes gets missed. We do have significant investments offshore in some of these circumstances. You cannot compare this directly with the ASX situation but it is quite an integral business, the way it operates. It does have a significant role in respect of R&D. It partners with government through that process, through the matching process for R&D corporations. It does have a significant control of the market and is also highly important in respect of marketing that commodity into the international market. For all of those reasons, a lot of concern gets generated in the community but also in the direct rice-growing sector as to

why we are making a decision to allow such a significant asset in this area of the market to effectively be purchased offshore.

Mr Murphy: Yes. I will just make some comments on the process by the Foreign Investment Review Board and by the team here. National interest is not just financial interest. National interest—and that is what the Foreign Investment Review Board and the government are charged with—is to look at various factors, competing factors in a lot of instances, as to what is in the best interests of Australia. In relation to an investment in agricultural land or in primary industries, people in Treasury would be consulting with other departments—the department of agriculture on their views. People make representations from the industry as to their views. So it is not a solely financial issue; it is trying to get what is actually in the national interest.

Senator COLBECK: In respect of the consultations with the department of agriculture, there would need to be some policy settings around that particular area that would be conveyed back to you to input into your decision that might impact on something of this nature?

Mr Murphy: Yes, there could. And if it was to do with an investment in defence we would be consulting with the security agencies and the Department of Defence. There is a process. From observation, the Foreign Investment Review Board takes its role extremely seriously—

Senator COLBECK: I do not doubt that.

Mr Murphy: and wants to give the best advice it can give to the government. It is an advisory body.

Senator HEFFERNAN: We could spend hours of bureaucratic mumbo-jumbo on process but on the actual application for SunRice by Ebro, could you give me the working papers for that you have worked with. Take that on notice if you want to. Could we have the working papers—all correspondence between the various players—that made you arrive at a decision where there was Foreign Investment Review Board approval for a global cartel in non-tropical rice with the New South Wales Rice Marketing Authority, which is a statutory, legislated single desk, gifted in the sale process to Spain, which will create a global monopoly cartel in non-tropical rice. I would like to see in the working papers where you do not think that was against the national interest.

Mr Murphy: We will review and see what is available to be released. A lot of material that comes before the Foreign Investment Review Board is commercial-in-confidence. That is the only way the whole thing can work. But we—

Senator HEFFERNAN: Well we will be happy to take it in camera with a briefing.

Mr Murphy: All right. I will speak to the—

CHAIR: No, Senator Heffernan, we will not be, because, as I said in my opening comments, these are public hearings.

Senator HEFFERNAN: We did this in my committee as well.

CHAIR: Perhaps, but not here.

Senator HEFFERNAN: Different culture to here.

Mr Murphy: We are happy to assist, so long as we meet what our responsibilities are.

Senator HEFFERNAN: What consideration did you give—or didn't you know—that this was going to create a global monopoly?

Mr Murphy: We would have read—

Senator HEFFERNAN: Answer the question. Either you do not or you do.

Mr Murphy: We do.

Senator HEFFERNAN: You do know. You knew it was going to set up a global monopoly?

Mr Murphy: I do not know if you would say it was a global monopoly but in the papers that were put forward it puts forward all the information that is possible.

Senator HEFFERNAN: You do not know.

Ms Gerathy: The process—

Senator HEFFERNAN: This is a global monopoly in non-tropical rice.

CHAIR: Senator Heffernan, Ms Gerathy was about to respond.

Ms Gerathy: I was just going to talk about the process that—

Senator HEFFERNAN: I am not interested in the process. I am interested in this particular application and the details around it. Forget about the process.

CHAIR: Senator Heffernan, I do not think you are going to get an answer in the terms you would like.

Senator HEFFERNAN: I am trying to find out so they realise. This is the Foreign Investment Review Board that advises the government.

CHAIR: If you listened to the answer you might find out.

Senator HEFFERNAN: Do they understand they would have created, only the shareholders voted against it—

CHAIR: You are not going to find out by continuing to talk over the top. I will ask the committee as a whole whether we want at this stage to move on to the Commonwealth Grants Commission or whether we want to continue with this.

Senator COLBECK: Senator Heffernan, do you want to do anything on Cargill?

Senator HEFFERNAN: I would be interested in why Cargill announced the approval of the Foreign Investment Review Board and the Foreign Investment Review Board did not.

Ms Gerathy: Sorry, in relation to what?

Senator HEFFERNAN: Cargill and AWB. You obviously do not know the consequences of the rice deal or you would have said you did, so you do not. I will take that away. You did not know.

Ms Gerathy: The information that is provided to us is commercial-in-confidence and we treat it that way. In relation to the latter question, I think you were asking about why Cargill announced it and why the Foreign Investment Review Board did not.

Senator HEFFERNAN: Yes. It is in your bailiwick to announce it. Why didn't you?

Ms Gerathy: The Foreign Investment Review Board does not make any announcements in relation to proposal, as they are generally commercial matters and we leave it up to the

parties to deal with that. The Treasurer will make announcements in some cases—as you will know, for example in relation to the stock exchange he made an announcement.

Senator HEFFERNAN: But this was not deemed important enough.

Ms Gerathy: Because in the stock exchange—it is a commercial matter in Malaysia and the Treasurer will make announcements in cases where proposals are rejected because they are not in the national interest. He will also make announcements in cases where he imposes conditions. The other time when there will be public announcements is when there will be—

Senator HEFFERNAN: I surrender. I do not need to hear any more of this.

Senator Wong: Can we get that in writing?

Mr Murphy: It will only be temporary.

Senator HEFFERNAN: Going back to the monopoly, did the FIRB give consideration to the monopoly that would be created with the SunRice sale—which the shareholders have now voted against. Did you give consideration, as an adviser to the government, on the creation of a global monopoly—

Ms Gerathy: In providing—

Senator HEFFERNAN: which had the full marketing—

CHAIR: Senator Heffernan—

Senator HEFFERNAN: I didn't finish the question.

CHAIR: It would really help to allow Ms Gerathy to answer questions.

Senator HEFFERNAN: In the sale was the complete control of the Australian rice marketing.

Senator Wong: Senator, is that the end of the question?

Senator HEFFERNAN: It is.

Senator Wong: Thank you. Perhaps, we could do this: just ensure the senator's question is finished and then Ms Gerathy can start her answer and be allowed to be finish it.

Ms Gerathy: In relation to all proposals that the Foreign Investment Review Board considers we look at national interest considerations which take into account a variety things including national security, competition, other government policies, impact on the economy and the community, and the actual nature of the investor. We take all those things into account in relation to all the proposals that we consider. It actually depends on the particular case—that e company that is acquiring, the company being acquired and the particular assets. We take all those things into account.

Senator HEFFERNAN: The ABS are advising the FIRB on agriculture foreign takeovers—correct?

Mr Murphy: No, we are getting information from them.

Senator HEFFERNAN: They are giving you information.

Ms Gerathy: They are doing our research project.

Senator HEFFERNAN: Righto. Are you satisfied with that research work? Do you know what it is?

Mr Murphy: Yes. The purpose is—

Senator HEFFERNAN: Are you satisfied with it?

Mr Murphy: It has yet to emerge.

Senator HEFFERNAN: Well the ABS are quoted as saying—and I am interested to know whether you are happy with this—that only an estimate of foreign ownership will be done. And in their advertisement for finding the answer—a voluntary questionnaire they have sent out to companies they have identified in the agricultural industry with foreign tentacles but they have excluded the mining industry. Do you really think that is sensible?

Mr Murphy: I think there might be other sources where we can get—we have got a better handle on investment in the mining sector.

Senator HEFFERNAN: So could you table the tentacles that you use to pick up foreign investment review—not only of a foreign company but also sovereign interests in the foreign company—the crossover from the mining industry to agriculture? Could you identify to me how you are picking up that information?

Mr Murphy: All investments in mining and agriculture if they are by a state-owned enterprise have to be exempt—

Senator HEFFERNAN: As you know—

Mr Murphy: No; I am just saying. So we do get to the greatest extent possible all information about state-owned enterprises investing in Australian—

Senator HEFFERNAN: But of course you do not, though, because some of the state enterprise money is hidden in a company process. There are three countries investing in Australia that are sovereign partly owned that are going through a company in the Cayman Islands. Do you know about that?

Mr Murphy: We examine these—usually they will work through Australian lawyers—

Senator HEFFERNAN: They are as dodgy as—

Mr Murphy: Look, please can I answer, Senator? It is not tick and flick. We seek to examine the transactions and go behind the corporates to see, in effect, who is the true owner of the entities. That is a process people engage in, and that is why often cases are extended in terms of examination and there is a lot of to-ing and fro-ing between us and the parties representing the applicants: to ensure that we can, to the best of our extent, sign off on that we know what we are talking about. This is not a frivolous exercise; this is—

Senator HEFFERNAN: Did you sign off on the MIS sales of Great Southern's forests to the Canadian super fund?

Mr Murphy: When did that one occur?

Senator HEFFERNAN: About six weeks ago.

Mr Murphy: I will have to check on that one.

Senator HEFFERNAN: Can you take that on notice?

Mr Murphy: Yes, I will take it on notice.

Senator COLBECK: When you are talking about sovereign ownership, is there a proportion of company that has to be declared or is it any interest?

Mr Murphy: Any interest of a state-owned enterprise.

Ms Gerathy: Direct.

Mr Murphy: Any direct state-owned enterprise interest in the corporate seeking to take over in Australia. They are obliged to declare that and they fall outside the thresholds where we look at size of investments.

Senator COLBECK: We have discussed that before in another place—okay.

CHAIR: Thank you to the Foreign Investment Review Board section of Treasury. We will now move on to the Commonwealth Grants Commission

Commonwealth Grants Commission

[14:57]

CHAIR: Good afternoon. Mr Spasojevic, do you have an opening statement you would like to make?

Mr Spasojevic: No.

Senator CORMANN: Mr Spasojevic, you said in previous evidence to this committee that 'all states retain an incentive to grow their own tax bases because they are always better off should they do so, even though part of the gain may be redistributed to other states'. Do you stand by that statement?

Mr Spasojevic: I believe so, yes.

Senator CORMANN: So when the Treasurer said last week that as a result of Western Australia's decision to remove a royalty concession—which is of course increasing its tax base—more than 100 per cent of that revenue would be lost to WA in terms of GST revenues, was that wrong?

Mr Spasojevic: I think you are using 'tax base' in two different ways. We define the tax base as the value of production, and increasing or removing a concession has no impact on the value of production.

Senator CORMANN: So when you say 'tax base' you are saying we want to grow the amount of activity rather than increase the royalty, for example.

Mr Spasojevic: Correct.

Senator CORMANN: Let me take you to some other comments just to really get to the bottom of this. I asked you on 9 December about the effect if WA reduced royalties. You said, 'It would get more of its GST back, correct.' I said, 'Is it a zero sum game?'. You said, 'No. WA would be worse off.' That does not go to the tax base in terms of the production base; that goes to the actual right in the royalty.

Mr Spasojevic: Sorry, I do not follow the question.

Senator CORMANN: My question is in the context of the outcome of the Commonwealth Grants Commission process where, if the state—in this case, Western Australia in relation to iron ore production—removes a concession, increases, effectively, the rate that applies to royalties on iron ore fines and ends up worse off potentially because of the way the process works as a result of the GST sharing arrangements. That does not seem to be consistent with your proposition that the process is not a zero sum gain. I asked you to question during the tax inquiry the other way around and I am now trying to ask whether what is now being said is inconsistent. I asked you if WA were to reduce royalties would WA be

better off and you are saying that WA would be worse off. So that means they would actually lose more than what they would gain in terms of better redistribution effects. I am just trying to understand how it can be that a state that increases its royalty rate can lose more in its revenue from GST than it would gain in terms of revenue from royalties.

Mr Spasojevic: It happens in a circumstance where the commission would need to revise its methodology. We have not had that circumstance yet. So it is a hypothetical.

Senator CORMANN: It is not that hypothetical. I will take you through it and I hopefully we will have enough time to get to the bottom of it. The state government in Western Australia wrote to the Treasurer on 18 March 2010. Given that the chair of the Commonwealth Grants Commission responded to a letter on the same subject that was written by the Queensland Treasurer in February this year, I assume that this sort of correspondence finds its way to the Commonwealth Grants Commission, does it?

Mr Spasojevic: I can only recall getting a letter from Queensland.

Senator CORMANN: So the letter from Queensland which was sent to the Treasurer, Wayne Swan, in February this year was transferred to you, but a letter to the Treasurer in March last year about Commonwealth Grants Commission processes was not transferred to you?

Mr Spasojevic: I believe they wrote to the chairman.

Senator CORMANN: The letter that was tabled this morning was a letter from Andrew Fraser to the Hon Wayne Swan dated 9 February and then a response to that letter to Wayne Swan from Alan Henderson to the Hon Andrew Fraser within six days. It was a very quick turnaround for—

Mr Spasojevic: I believe he wrote to the chairman directly and wrote a similar letter to the Treasurer for his information. We responded to the letter that he sent.

Senator CORMANN: Let me take you to the issue rather than getting bogged down in process. The point that the Treasurer from Western Australia made back in March 2010 was that the commission's recommendations—and these are your commission's recommendations—in the context of the 2010 review—I assume that was a methodology review?

Mr Spasojevic: Correct.

Senator CORMANN: Those recommendations included a last-minute change away from an energy/non-energy categorisation similar to that reported by the ABS to a high royalty rate / low royalty rate split with lump iron ore being included with fuel minerals in the high rate group. They then make the assertion—and I am interested in your assessment of this—that an undoubtedly unintended result of this methodology change which the states had no opportunity to debate is that, if Western Australia successfully negotiates an increase in the royalty rates on fine iron ore that currently apply under state agreements, as it is currently endeavouring to do, this would lead to fine ore being reclassified as a high royalty rate mineral and our GST rate revenue would be reduced by about three times the additional royalty revenue that we would collect. I have said in separate correspondence that \$340 million of additional revenue would in fact result in a loss of \$1 billion worth of GST revenue as a result of the change in the categorisation that is used by the Commonwealth Grants Commission since the 2010 review. I guess I am interested in your explanation as to how that

can be, how that came about, where that late change came from, what caused it and what your assessment is of the implications of it.

Mr Spasojevic: I will take the questions in sequence. I think the first question you asked was how did the commission settle on a methodology for mining. I think the brief answer to that is that the proposed assessment that was discussed with all of the states based on high and low energy would not have been the best assessment based on equalisation grounds compared to one based on the actual revenue that states could raise from different mineral groupings. So the commission changed its proposal to one based on high and low energy to one based on high and low royalties and believed that was a better equalisation outcome. So that is 2010. What was the next question?

Senator CORMANN: There is a whole range of associated issues, of course. Who initiated that changed? Was that self-initiated or was that something where representations were made to you and you responded to one representation?

Mr Spasojevic: No, it was just part of the process of finalising the methodology review.

Senator CORMANN: Is it desirable to end up in a circumstance as a result of your methodology review where, by raising \$340 million in additional revenue as a result of removing a concession, you end up losing \$1 billion worth of GST revenue in the absence of the direction that ultimately happened. Just taking the methodology without outside interference, is it desirable that, based on the methodology itself, a state like Western Australia, which increases its royalty rates by removing a concession, would lose three times as much in GST revenue than what they would gain from—

Mr Spasojevic: I do not believe that is an automatic outcome. The process that the commission followed in the last update of raising this issue and talking to the states about it, getting their views and considering it in some depth would lead you to believe that it was not an automatic outcome.

Senator CORMANN: You are right—it was not an automatic outcome. I am going to get to that. Of course, I have read your 2011 update very carefully. In that update you actually talk about the fact that, even before you received the terms of reference from the Treasurer, you did some analysis to assess whether the resulting GST distribution would be closer to or further from such a distribution. Your analysis indicated that, based on the changed royalty arrangements applying on 1 July 2010, the better equalisation outcome is achieved if iron ore fines remain in the low royalty group. What led you to make that make that decision? What led you to that conclusion?

Mr Spasojevic: Because the analysis showed that it would be a better equalisation outcome. We looked at the two options and the commission decided in exercising its judgment that one would be better than the other.

Senator CORMANN: We have had phase 1—the removal of a concession—which has resulted in an increase in the royalty rate. We are now going through phase 2, because there was an announcement in the budget two weeks ago that there would be another removal of further concessions to take you right up to 7.5 per cent. Would the commission go through a similar process as you did last time analysing whether the equalisation outcome would be better if—

Mr Spasojevic: You have it open. Could you read the next sentence?

Senator CORMANN: The next sentence says that any further change to royalty arrangements might change the appropriate grouping of minerals into the high and low royalty categories.

Mr Spasojevic: I think that is the position of the commission.

Senator CORMANN: It might?

Mr Spasojevic: Yes.

Senator CORMANN: Sure, but that was at a time before you knew what was happening. The question I am asking is this: at the time after the 2010 budget, you obviously went through this process of doing the analysis to—

Mr Spasojevic: The commission has not met since then, so it has not.

Senator CORMANN: Are you likely to?

Mr Spasojevic: We might. This revenue does not yet have an impact on any update.

Senator CORMANN: Neither did the revenue that you are talking about in here.

Mr Spasojevic: Correct.

Senator CORMANN: I think that does not prevent you from having a look at it.

Mr Spasojevic: That is true, and that is why the commission might. Representations were made in the past about whether the commission could give a ruling about the removal of concessions by Western Australia. That led the commission to look at this issue a year early. We are not aware of anyone asking us to look at this early at this point in time. So it is premature to say when or what the commission might decide on this.

Senator CORMANN: Who can ask you to look at this early—a state or territory? Can the state government of Western Australia ask you to look at this early?

Mr Spasojevic: It could.

Senator CORMANN: I suspect they will. A lot is made of the Commonwealth Grants Commission as an independent commission. At a previous hearing we discussed the fact that you are actually subject to direction by the Commonwealth Treasurer, aren't you?

Mr Spasojevic: Correct.

Senator CORMANN: So the Commonwealth Treasurer, as he did in February 2011, could give you a direction to ensure that there is a better equalisation outcome achieved in the context of Western Australia removing concession arrangements. That is a decision that he could make, as he has in the context of the 2010 change, couldn't he?

Mr Spasojevic: He could.

Senator CORMANN: In that sense, you are not really independent when you are subject to direction by the Treasurer, are you?

Mr Spasojevic: I think we are independent within the terms of reference given to us by the government.

Senator CORMANN: So the government gives you the framework. They tell you what they want you to do and they might put some boundaries around that. But, once you have your boundaries, obviously you go ahead and do it as best you see fit, dealing with all of the different stakeholders in the process. Is that fair?

Mr Spasojevic: That is correct.

Senator CORMANN: But, ultimately, the Treasurer can give you a direction in relation to how to deal with removals of royalty concessions on iron ore fines as he could give you a direction in relation to—and this is what we discussed last time—setting a floor below which the share of GST in a particular state could not fall. He could do all of that, couldn't he?

Senator Wong: The government has announced a process in relation to reviewing those matters after discussion with the Premier of Western Australia.

Senator CORMANN: I know. But my question was that the Treasurer could give you that sort of direction, couldn't he?

Senator Wong: Mr Spasojevic has answered that question and separately the Treasurer has publicly made his view known.

Senator CORMANN: Maybe then I did not hear it.

Mr Spasojevic: I believe I said yes, the Treasurer has that scope, given that he has given to it to us once.

Senator CORMANN: So you are not aware of a representation from the state government to the Treasury where they say that \$300 million per annum in additional revenue could result in the GST share falling by nearly \$1 billion?

Mr Spasojevic: I am not privy to communications with—

Senator CORMANN: So you did your analysis—

Senator Wong: Senator—

Mr Spasojevic: I am not privy to communications between WA and the Treasury.

Senator CORMANN: I am looking at your document now. I am looking at your report on GST.

Senator CAMERON: I reckon he would be even worse than Senator Fisher the way he is going today.

Senator CORMANN: I could you accuse you of being sexist, Senator Cameron.

Senator CAMERON: Why?

Senator CORMANN: Because you are reflecting on Senator Fisher—that is why.

Senator CAMERON: Don't you dare talk about sexism after Senator Bushby's performance! Don't you dare talk about sexism to me after that pathetic performance this morning.

CHAIR: I understand there are a lot of questions, so let us continue.

Senator Wong: So that I am clear, is the proposition that, despite the fact that the fines royalty has gone to 7.5 per cent, you are asserting that the government should give a direction that that be classed as low despite the fact that lump is classified as high at the same royalty rate?

Senator CORMANN: My assertion is—

Senator Wong: You are saying that it is okay for Western Australia to treat them the same, but the Commonwealth, for the purposes of GST allocation, in any direction to the Grants Commission should treat them differently?

Senator CORMANN: I can see that you are clearly are getting emails out of Treasurer Swan's office. What I would suggest to Treasurer Swan's office—and it is obviously watching these proceedings—is to have a close look at the letter from the Labor Treasurer, Mr Andrew Fraser, in Queensland who, like the state of Western Australia, explained that the Commonwealth Grants Commission process as it currently stands as a result of a methodology review taken under your government in 2010 is highly unfair and highly inequitable to the resources states. That is not just a Western Australian position; that is a position that is taken by the Queensland state Labor government as well as the state government in Western Australia. They have both raised serious issues with the implications of the methodology review that was done in 2010 under your government. What I am saying is—and Mr Fraser is making the point—

Senator Wong: It is a very long question.

Senator CORMANN: I am responding to your question. You asked me a question, so I am answering it. Mr Fraser made the assertion that really what is being done here is fiddling at the edges and trying to treat the symptoms rather than treating the fundamental core problem, which is of course the flow-on implication of the methodology.

Senator CAMERON: A point of order, chair. Senator Cormann is giving a diatribe and a political statement here. He is here to ask questions. If they do not want to ask questions, I can ask questions.

Senator CORMANN: I have heaps of questions, but the minister should stop asking me questions.

CHAIR: Senator Cormann, I have not ruled on the point of order. The minister was asking for a point of clarification and I would ask you to wind up your question as soon as you can.

Senator CORMANN: I have wound up my clarification. But the point here—

Senator Wong: I think it is interesting, Senator—you have barely drawn breath and I have waited while you have been—

Senator CORMANN: Because I know that you will interrupt me if I draw breath. That is why.

Senator Wong: Like you just did then. I have made the point about the position—it would seem to be rather odd that you want Western Australia to be able to treat these things the same but—

Senator CORMANN: That is not what I said.

Senator Wong: you want the Commonwealth government to treat them differently. That is the first point. The second point I would make is that you have made a range of assertions about the distribution of GST. I suggest that that might be something you might want to discuss with your party room because I suspect that what you are putting Senator Bushby would probably have some difficulty with as a Tasmanian and I suspect the South Australians may well have some difficulty with it as well. Whatever the discussion—

Senator CAMERON: He might actually get a backbone and actually say something about it soon.

Senator Wong: My further point is that, in response to some of the issues that you are referencing, the government has announced its review of these matters. If the coalition has a formal position that it wishes to put to that review, we would certainly be interested in knowing what that is. I suspect you might not be the person—

Senator CORMANN: You are inviting me again to comment. I will resist that temptation, because I do not want—

Senator Wong: No, I am just saying that you cannot get away with saying, 'We do not like the system', when you know that you will not change it.

Senator CORMANN: I am quite relaxed about where our position is. I'm very relaxed with our position.

Senator Wong: What is your position?

Senator CORMANN: Minister, once I sit there, I will answer questions.

Senator Wong: Well, what is your position? You have just said that you are relaxed about your position. What is your position?

Senator CORMANN: I am very relaxed about our position.

Senator Wong: What is your position?

CHAIR: Let's get back to—

Senator Wong: Is it to take money off Tasmania? You should tell Senator Bushby.

CHAIR: Can we get back to questions for the Commonwealth Grants Commission, please.

Senator CAMERON: I think Eric is on his way up.

Senator Wong: Yes, Senator Abetz is on his way up.

Senator CORMANN: Minister, you are actually completely misunderstanding things.

Senator RYAN: Chair, a point of order. You upheld a point of order from Senator Cameron before. I think you should be consistent on his interjections and commentaries towards you as well as allowing questions to the minister.

CHAIR: Senator Ryan, I had already asked that we start to ask questions of the Commonwealth Grants Commission and get back to order.

Senator CORMANN: Clearly it is a very clumsy circumstance. I understand the point you are making about the high and low, Minister. Maybe the high and low categorisation is an inappropriate categorisation. That is the point that Treasurer Fraser out of Queensland has been making and has been drawing attention to. This is not about taking things away; this is about making sure that there is no unexpected disproportionate windfall as a result of a decision in one state to increase its revenue by removing a concession. Whether it is Tasmania, New South Wales—

Senator Wong: This is a lecture.

Senator CORMANN: It goes to a question.

Senator CAMERON: Maybe Senator Bushby is going to give us his position soon on behalf of Tasmania.

CHAIR: Senator Cormann, I have said that I am looking for questions.

Senator Wong: It is not a question. That is a lecture.

Senator CAMERON: Maybe Senator Bushby will stand up for Tasmania.

Senator Wong: Does Senator Cormann have a question?

CHAIR: We made time for questions in this session. I would like to see us get into questions.

Senator CORMANN: Okay. This is where my question actually started before the minister interrupted me initially by asking me to respond to her assertions. When you did your analysis before receiving the terms of reference, Mr Spasojevic, what was your assessment of the GST sharing outcome for Western Australia if the royalties on iron ore fines had been moved from the low group to the high group? What was your assessment of what the equalisation outcome would have been?

Mr Spasojevic: They would have lost more revenue than they had raised.

Senator CORMANN: How much more?

Mr Spasojevic: I do not have the numbers in front of me.

Senator CORMANN: Would you be able to give that to us on notice?

Mr Spasojevic: I think you can go to the web and get the agenda paper.

Senator CORMANN: So that is public information?

Mr Spasojevic: I believe so. You can ask for that. I can say that it is consistent with the WA analysis.

Senator CORMANN: So the WA analysis is right? When they say \$300 million in additional revenue would see us lose three times as much in GST revenue, you are saying that that they are actually accurately—

Mr Spasojevic: I do not know whether it was exactly three times, because we had different databases and they built theirs on different data assumptions. But the proposition that they would lose more than the revenue they collected is correct.

Senator CORMANN: If it is on the public record I will find it, but if it is not I would appreciate it if you could give us on notice that information. That is hardly redistributing part of the gain. That is essentially redistributing more than what has been raised, isn't it? So states are not always better off by raising more revenue through their own sourced revenue sources?

Mr Spasojevic: You have brought me back to the original question. If they change their base, they will be better off. If they just change the rate, they need not be, especially if the commission changes its methodology as a result.

Senator CORMANN: Under current Commonwealth Grants Commission processes, in the context where the Treasurer does not give a further direction—and Minister Wong pointed to the fact that the Treasurer has made statements in relation to this—would any of the GST revenue that would be taken from WA end up with the Commonwealth?

Mr Spasojevic: All of the GST revenue is returned to the states.

Senator CORMANN: So, essentially, the decision of Western Australia to increase its royalty revenue by increasing the rate would increase the pool that is available for GST redistribution—sorry, it would increase the share of GST that would go to other states, but it would not actually result in additional revenue to the Commonwealth, would it?

Mr Spasojevic: Sorry, which royalty rate increase are you talking about? Is it the removal of the concession?

Senator CORMANN: I am talking about the removal of the concession that was announced two weeks ago, not the one where you already have a direction.

Senator Wong: Not the Pilbara concession.

Mr Spasojevic: Was there a concession removed two weeks ago? I am sorry, I do not understand.

Senator CORMANN: Sorry, I assumed that you were aware that two weeks ago in the state budget in Western Australia—that is what is causing this whole debate—the state government decided to remove the royalty concession on iron ore fines to take the rate from the 5.625 per cent at present up to the 7.5 per cent standard royalty rate for iron ore. The Treasurer, when asked in the House of Representatives last week whether he would give a direction similar to the one that he gave you in February year, has said that he would not. In that context, I was asking what would the impact be in terms of GST sharing arrangements. I understood you to say that all of that additional GST revenue that would be taken away from Western Australia would be equalised across all of the other states and territories and none of it would come to the Commonwealth. That is right, isn't it?

Mr Spasojevic: If I understand the question, I would just repeat that all of the GST revenue is distributed to the states. None of it goes to the Commonwealth.

Senator CORMANN: In the context of one state making a decision that results in increased redistribution to other states, other states would end up with additional GST that they would not have expected as a result of your current methodology. It would essentially be a windfall gain on the basis of a decision—

Senator Wong: You cannot ask an official to—

Senator CORMANN: That is a very—

Senator Wong: Can I finish, please? You cannot ask an official to respond to an assertion that something is a windfall. That is a value judgment. You are entitled to make that assertion and others are entitled to disagree with that. But it is not for an official to—

Senator CORMANN: Let me rephrase the question in order to accommodate. Compared to the advice that the states would be getting otherwise about their share of GST, and given what you have told us about the impact of a decision in one state—like Western Australia on this occasion—to increase the royalty rate on iron ore fines by removing a concession, the implication is that that is an increase in GST revenue to all of the other states that is not caused by anything else other than the unexpected event, from their point of view, that one state has decided to increase its royalty rate?

Mr Spasojevic: If I have understood the question, I think the answer is that the other states' share of GST revenue would rise.

Senator CORMANN: And it would only rise because of the decision in Western Australia to increase royalties. If they had not done that then, of course, they would not end up with more revenue?

Mr Spasojevic: I believe that is correct. If they had not done anything, the GST distribution would not have changed.

Senator CORMANN: The figure that is in the state budget in Western Australia—there is some debate about—is about \$2 billion over the forward estimates. How quickly would the Commonwealth Grants Commission, through its processes, equalise it to other states under the current process without a direction from the Treasurer?

Mr Spasojevic: I think the first revenue increase where the rate goes to 6½ is effective from 1 July 2012. That would affect the 2012-13 fiscal year. That would have its first impact in the 2014 update for the 2014-15 fiscal year. One-third of that effect would be equalised, taking things out for equalisation purposes, at that point, then a subsequent one-third and one-third. But then the year after, which is 2015-16, the next step rise would come through with a third. So I think it would take seven years for the full effect.

Senator CORMANN: Essentially, because you take account revenue up to 30 June in a particular year, the full effect of taking or removing the royalty concession up to 7.5 per cent will only be put forward in your 2015 update, which will impact GST sharing from 2015-16 onwards?

Mr Spasojevic: No, there is a three-year lagging process as well as the delay, so the full impact I think is seven years.

Senator CORMANN: Seven years away from—

Mr Spasojevic: I think that is correct.

Senator CORMANN: Okay. In that context, then, there is a GST review under way and the minister has mentioned it. When is that supposed to report again?

Mr Spasojevic: I believe the terms of reference ask them to report by August or September next year.

Senator CORMANN: So that is August or September 2012. Is there a deadline for when recommendations from that review would be expected to be implemented?

Mr Spasojevic: I am not sure. It is not part of our bailiwick.

Senator CORMANN: I am not trying to be smart, but—

Senator Wong: The secretariat for that, from memory, is in Treasury, not the Grants Commission.

Senator CORMANN: It was a general question.

Senator Wong: The answers to all of the questions you ask are on the public record.

Senator CORMANN: I assumed it was. So you are not conducting the secretariat in relation to the review of the GST sharing arrangements?

Mr Spasojevic: No.

Senator CORMANN: Where in Treasury would I ask questions about it, just out of interest?

Mr Spasojevic: I do not know the answer to that.

Senator CORMANN: Sorry, I was asking the minister.

Senator Wong: It is not my portfolio, but—

Senator CORMANN: Can you find out? Thank you. It really then depends on when the review reports and when any recommendations would be implemented as to whether that

would be before or after the impact of the removal of the royalty concessions on iron ore in WA would have worked their way through the system. The WA budget papers indicate that the GST relativity is to go down to 33 cents in the dollar. Are you aware of that?

Mr Spasojevic: I have seen their budget, yes.

Senator CORMANN: Is that consistent with your assessment of where things are at?

Mr Spasojevic: As I think I have said to you now several times, we do not do any forecasts of where relativities might go.

Senator CORMANN: You have said that. Do state governments generally seek your input to inform their assumptions and estimates for these sorts of figures?

Mr Spasojevic: No.

Senator CORMANN: Thank you.

Senator PRATT: Briefly, I want to go to how you deal with the question of forecasting forward the actual revenue raised through mining royalties for the purposes of dealing with Commonwealth grants. I note that the forward estimates in the federal government's budget papers would have the Australian dollar at \$1.07 compared to the US dollar, whereas the state government has theirs at 79.6. The higher the dollar is, it is a \$60 million decline per cent in state government royalty revenues. There are a lot of figures being bandied around about what WA gets or does not get in the redistribution, but I fail to see how there could be any accuracy about that figure when there is such a wide discrepancy in what the prospective revenues may or may not look like.

Mr Spasojevic: I will infer a question from that. The commission does not use any forecasts in its work. It only relies on historically available data to calculate out the shares of the GST. We do not use forecasts of what they might be getting in future years, only what they have received. The last year we have currently got is 2009-10 and that is what was used to base the GST distribution on for the coming year.

Senator PRATT: Okay. For the coming year.

Mr Spasojevic: The fiscal year beginning 1 July.

Senator PRATT: And we do not go any further forward for that; I do understand that. But there is still, I think, a marked difference even before that. For next year, 2011-12, they have the dollar value at 97.5, which would seem to me to make it appear like they are arguing that they are going to get more revenue than we are forecasting they will get.

Mr Spasojevic: That may well be correct but for the purposes of distributing the GST the established practice is only ever to use available and published historical data rather than to use forecasts of what a state might or might not get.

Senator PRATT: I think what I am trying to get to is that I am trying to work out what figure WA would be arguing you are going to take—what the Commonwealth Grants Commission might redistribute—versus what would actually be redistributed, and whether there is a difference in the kinds of figures the state government is using versus what you would put forward.

Mr Spasojevic: That may well be right. I am not privy to the base on which they have done their calculations. When we do our calculations we base them on the last year for which

we have data and do a simulation based on that, which is what the world would look like based on the production numbers for 2009-10 under different regimes.

Senator PRATT: So the Treasury put forward in correspondence—where they say they would expect around \$300 million per annum from a measure then they say that their GST share could fall by, I think they said, nearly \$1 billion. But I do not understand what Australian dollar value they have actually based that on.

Mr Spasojevic: Neither do I, Senator.

Senator PRATT: So it is just a figure being bandied about?

Mr Spasojevic: I am not privy to how those numbers were constructed, so I cannot help you in terms of what the assumptions were.

Senator PRATT: But you would assume that they have used their own assumptions in their own budget rather than ours.

Mr Spasojevic: I think it is very difficult to assume about what other people have assumed. I do not know that I am adding much light to the debate. Sorry about that.

Senator PRATT: No, no—thank you very much.

Senator RYAN: If a state had a taxing capacity that it was not utilising—for example, Victoria has a concessional stamp duty on land where a building is being built but is not yet built; and this could be applied to royalties not levied on anything—how would that be taken into account when calculating the GST disbursement?

Mr Spasojevic: The GST disbursement is based on the assumption that all states are following the average policy. So if a state chooses not to follow the average policy, the financial consequences of that are borne by that state alone.

Senator RYAN: And the average policy is purely a result of historical data?

Mr Spasojevic: Correct.

Senator RYAN: The reason I ask that is that obviously Western Australia and Queensland's capacity to levy royalties on coal is higher than Tasmania's.

Mr Spasojevic: Correct.

Senator RYAN: So as the industry grows—purely based on historical data. So then we get to a situation where a state like Queensland will suffer a fall in royalties this year because of weather impacts on the export of coal during a three- or four-month period. How many years does it take for that to flow into the system and then out of the system?

Mr Spasojevic: Two years to flow in and then a further three years before it is gone.

Senator RYAN: So if that was a significant depression then in the future years when it is taken into account, even though it was only a one-off event, you would potentially see Queensland benefiting more than it otherwise should purely because of the calculation of historical data and one bad period?

Mr Spasojevic: The thing is that it works in both directions.

Senator RYAN: It does, yes.

Mr Spasojevic: So yes there is a lag before we observe events like natural disasters impacting on the system, and then that takes three years to transition through the relativities.

Senator RYAN: So when you have a significant one-off spike that in other economic figures you might see smoothed over with seasonal adjustment in a statistical sense—but when you have a significant one-off spike that affects a state's revenue, like a weather event or a natural disaster, the historical basis of the calculations cannot take that into account, can it?

Mr Spasojevic: It takes it into account by including it and then the smoothing happens by only including a third of the effect in each of the three years that the data enter into our calculations.

Senator RYAN: So for example the state of Queensland does not benefit this year even though its royalties will have fallen by virtue of the natural disaster affecting coal exports but it will benefit—I use that term very loosely—in future years because this one-off event might otherwise lower the average of what its coal royalties might be in those years?

Mr Spasojevic: I think that is a correct working through of the system.

Senator RYAN: Thank you.

Senator CORMANN: I have done a bit of work since we last met in relation to the revenue from gambling taxes across Australia. All states other than Queensland and Western Australia collect more revenue from gambling taxes than from royalties on iron ore or resources. In fact in most states the gambling revenue is about five to six per cent of own-sourced revenue, and royalties and resources, to the extent that they exist, is about two per cent. Some states have none of course. And in Western Australia there is hardly any revenue from gambling because they do not have poker machines—it is about two per cent—but the revenue from royalties and resources is about 20 per cent, which is way higher than anybody else. The second is Queensland, with roughly eight to nine per cent. Royalties on resources get equalised and of course a large part gets shared around Australia, yet if a state government that has pokies decides to increase its rate or its production, for want of a better word—its tax base—from gambling it gets to keep 100 per cent. It does not seem to provide a proper incentive to maximise your tax base and your rate from resources vis-a-vis gambling. There is really an incentive here for all states to maximise their revenue from gambling, because they get to keep all of it.

Mr Spasojevic: Sorry, is there a question?

Senator CORMANN: Yes, that is the question. Isn't there a perverse incentive in the way the Commonwealth Grants Commission methodology works, where it is more favourable for individual states in terms of maximising their own-sourced revenue through gambling taxes rather than through royalties on non-renewable resources?

Mr Spasojevic: I think we came to this question before about whether the CGC process creates an incentive in the minds of state governments. It is really beyond me to answer a question on what motivates state governments in the framing of their budgets.

Senator CORMANN: But the factual question—confirm this one for me. If a state government increases either its tax base or its rate in relation to poker machines, it gets to keep 100 per cent of the revenue which it collects as a result of those decisions.

Mr Spasojevic: It is true that if a state changes any revenue in relation to gambling there is no impact on its GST distribution.

Senator CORMANN: Thank you very much.

CHAIR: Thank you to the Commonwealth Grants Commission.

Senator Wong: Chair, I am sure Senator Cormann will regret this but I am leaving and Senator Sherry is taking over.

Senator CORMANN: I am happy that you are leaving with a smile, Minister.

Senator Wong: You know me, Senator. I try to always end the day smiling.

CHAIR: I will call the Inspector-General of Taxation and the new minister, Senator Sherry.

Inspector-General of Taxation

[15:40]

Senator XENOPHON: Mr Noroozi, welcome back to estimates. Since we last had you here at estimates your report to the Commonwealth has finally been released, dated December 2010. It is a very comprehensive report—231 pages—in relation to the change program after the then Assistant Treasurer requested that you provide a report on the change program and difficulties that were being discussed. Can I just go to one issue about consultation. I asked the Commissioner for Taxation previously, I think at the last estimates, whether they considered that the processes from your office were fair. I think it is fair to say that the Commissioner for Taxation gave quite an equivocal answer. How would you describe your relationship with the ATO in terms of the processes involved and their cooperation with your investigation? I think you are familiar with the remarks made by the Commissioner of Taxation.

Mr Noroozi: Yes, I am. Look, really I think you need to ask the commissioner about that question. I am not entirely sure what may have been on his mind. All I would do is refer you to the tax office's response to my report, which appears on page 230 of the report. The second commissioner, David Butler, has signed it and he has said:

We want to thank you and your staff for a comprehensive and thorough report of the Income Tax release and the ATO is committed to learning from this experience to further improve our ability to deliver major information technology reforms.

From that I read that they did not have any issues with the way it was conducted. But I note that they are appearing later on today and perhaps you could put that question to him again.

Senator XENOPHON: Are you satisfied that the ATO was fully cooperative in terms of both the information that you requested and the supply of information and timeliness of that?

Mr Noroozi: Yes.

Senator XENOPHON: You have made a number of recommendations in the report. I think that the ATO initially described the problems with the change program as 'glitches'. Would you characterise them as glitches, given the colloquial meaning of that word as a minor technical problem?

Mr Noroozi: Of course I have looked at this with the benefit of hindsight. What they would have been reporting would have been contemporaneous and they did not have the benefit of hindsight. Also it is my view versus another view. It depends when you compare the entirety of the program and the disruptions. I think in the report I say that with every IT rollout, particularly of this size, you would expect some degree of problems. I think I cite at

one end that if you are looking at a nuclear plant the tolerance level for any errors would have to be pretty close to zero. It is a question of how much tolerance the tax system can accommodate.

Senator XENOPHON: Is—

Mr Noroozi: Sorry—I just need to tell a bit of a story, if I may.

Senator XENOPHON: Sure.

Mr Noroozi: Clearly given the degree of dissatisfaction, the delay and so on taxpayers would say that they were more than glitches. The delay that was involved, the inconvenience suffered, they would regard as more than mere glitches.

Senator XENOPHON: Can I take it from what you have just said and from your report that the way the program was rolled out—that parts of it may have been rolled out prematurely, that the tax office bit off more than it could chew in terms of the way it was rolled out?

Mr Noroozi: I would say that there was certainly room for improvement. This was a very large project and it was decided to do it that way based on the technology at the time. I have recommended that in future what they might look at doing in similar projects is think about a modular approach with appropriate interfaces as opposed to one enormous project during which time there may be changes in legislation that would require a number of changes. For example the changes to superannuation did have an impact here. Having said that, I do say in the report that they are in a very invidious position in that on the one hand more testing would have been beneficial but on the other there were mitigating circumstances, the cost and the time blow-out—realistically they would have had to wait for another year to go live. And weighing up all of those issues together would have really dictated that they go live when they did. Having said that, I have also said that they effectively had to carry out some of the testing into production. But I have also said that they had a safety net. In other words, if there were going to be any errors in what was being put out they would be caught by a safety net and held back.

Senator XENOPHON: But that safety net was not used here, was it, to the extent that it could have been?

Mr Noroozi: No, the safety net was used. I think most of the problems have been cited as delays, but the delays were because things that perhaps were not going to come out the way they should were held back in the safety net and then had to be dealt with either manually or when the processes were operating as they ought to be. Delay is a word that covers a whole multitude of things. That is my understanding of how the safety net worked. But certainly they made sufficient use of the safety net. However, it was a fairly late development in the piece. It was something that they considered closer to the time of the rollout.

Senator XENOPHON: The safety net, you mean?

Mr Noroozi: Yes. But for the most part, in my view, it was used effectively. Otherwise you would have had a much worse scenario where errors would have actually resulted.

Senator XENOPHON: On page 111 of your report at recommendation 7 you refer to the change program impacts on ATO staff. ATO staff members have contacted me confidentially about their concerns. You have said in recommendation 7, amongst other things:

the ATO should conduct open and frank post-implementation consultation with its staff and:

- a. understand the causes for ATO staff concerns; and
- b. communicate the ATO's consideration of those concerns including what action, if any, the ATO intends to take in relation to each particular concern.

I say this not in a pejorative sense; I think it is incredibly diplomatic language. Are you implying that the communication with staff could have been better and that the increased levels of stress on staff perhaps could have been dealt with more satisfactorily by the ATO in its communications with staff?

Mr Noroozi: Certainly as I have outlined on the previous page, on page 110, there were significant tax office staff grievances. I have listed them in bullet form at paragraph 4.114. That would suggest that there certainly is room for improvement. The tax office has said that it has undertaken extensive consultation and will continue to do more of that. I guess we need to give them some time to do that and see where that ends up. But certainly they are committed to dealing with the issues with their staff. They believe they have done some and they will do more.

Senator XENOPHON: A commitment to deal is not quite the same as having dealt with it though.

Mr Noroozi: I take your point.

Senator XENOPHON: Could I go to the issue of compensation under the scheme where there has been defective administration. I think it is the CD—

Mr Noroozi: CDDA.

Senator XENOPHON: It is the CDDA scheme. That is a compensation mechanism by which if there has been defective administration it is at the discretion of the commissioner or the department to give compensation to tax agents and to taxpayers—to both?

Mr Noroozi: It is generally the taxpayers and tax agents.

Senator XENOPHON: Yes. That is completely discretionary though, isn't it.

Mr Noroozi: It is at the discretion of the commissioner, yes.

Senator XENOPHON: And that can only be challenged by an administrative action in the Federal Court, presumably.

Mr Noroozi: Correct.

Senator XENOPHON: That is extraordinarily expensive if you are looking for a few hundred dollars in compensation.

Mr Noroozi: Yes. When we were consulting on this we were hearing from tax practitioners particularly that what they were feeling was that even the process of—because what the commissioner has said is that he will deal with these on a case by case basis. And I think what the tax practitioners are saying is that given the small amounts and the large number of people involved what might be a better way to do it is to have criteria and people would either qualify for it or not.

Senator XENOPHON: So what in effect you are saying is that on the face of it your investigation has found that there has been defective administration in a number of cases—hundreds if not perhaps thousands of cases—but the cost of pursuing compensation under the CDDA scheme and processing a claim could well exceed the actual cost of compensation.

Mr Noroozi: That is not quite what I am saying.

Senator XENOPHON: Sorry, I do not want to put words in your mouth.

Mr Noroozi: No, that is all right. What I am saying is that on the one hand the tax office is—what I have said is that there needs to be consultation on this. Effectively I cannot tell the commissioner how to exercise his discretion. So all I have done is asked him to reconsider his position. What I have said is that in doing so it may be wise to consult with the taxpaying community. The reason for that is there are two competing issues. On the one hand the tax practitioners most affected are those that are reliant on very fast delivery of the refund for the taxpayers they service. There is a particular type. The tax office would have been aware for a number of years how these tax practices operate. So they would have been aware that they would be affected. But at the same time the tax office would say, 'We did communicate to people that there would be these delays.' But as you know, I have found that their communication could have been improved. So there are these two competing issues. What I have asked the commissioner to do is firstly consult with them and then in the light of that consultation reconsider his position as to whether he should exercise his discretion.

Senator XENOPHON: Are you able to give a ballpark figure of the number of cases of defective administration that could be subject to a prima facie compensation claim under the CDDA? You have already qualified the difficulties with that scheme: the way it is discretionary and can only be challenged by a Federal Court application.

Mr Noroozi: Again on page 110 of the report—the only numbers I have are those that the tax office has made available. As at 30 November there had been 59 claims from taxpayers and 35 claims from tax agents. That is a total of 94 claims. But my understanding is that those numbers would have increased since that date. You might want to put that question to the tax office when you speak to them later as well.

Senator XENOPHON: Given the nature of your report and the nature of the problems reported to you, do you think that you may have to revisit this following the new tax year when returns will be processed?

Mr Noroozi: There are two ways in which I may come back and look at it. I have just announced my work program for the next 12 to 18 months and beyond, and I consulted widely on that. The change program was not one that came up during that, to do again. However, there are two ways that I could do it. If, for example, at tax time we have some of the major issues that we had last year, I may well find it appropriate to make alterations to my work program such that a review of this could be accommodated. So it will depend how this plays out during tax time. But also as a matter of course sometimes after each review I do go through and see to what extent the tax office has implemented the recommendations that I have made. We do that with every report.

Senator XENOPHON: So your annual report may refer to the implementation of your recommendations?

Mr Noroozi: Right. Or sometimes it is a review in its own right. We call it a review of reviews. You review and you publish the extent to which—whether we do it with respect to this report remains to be seen because, as you would appreciate, many of these recommendations are aimed at what you do in a future IT project. But there are some that would lend themselves—for example the issue with tax office staff. But for example the tax office has not agreed to this one about the compensation, so there would not be a great deal to review as to what they have implemented.

Senator XENOPHON: Are you surprised by the tax office not agreeing to that?

Mr Noroozi: It is disappointing.

Senator XENOPHON: Thank you.

Senator RYAN: I want to turn to your review of the ATO's audit of larger SMEs, which there has been some media commentary around. As far as I can tell your only comment so far has been that it will be released close to the year's end. Do you have a time frame that is more specific for us around when we might expect that to be released? Also I was not sure whether it is released publicly or handed to government and then we have to wait for government to release it.

Mr Noroozi: This just needs a bit of background; I will be very quick. This review was on my previous work program and the reason it has been delayed is that I was directed by the then Assistant Treasurer to do the change program. So I had to put the large SME audit review on hold while I did the change program. So when this was finished—it is only this year that I have started on it again.

Senator RYAN: I appreciate that.

Mr Noroozi: So that is what has happened. My expectations are still that I would be able to give it to the minister by the calendar year end. And you are correct: the minister then has to release it within 25 sitting days. So it is up to him or her to release it any time during that period, as indeed was the case with this change program review.

Senator RYAN: Are you able to say at the moment whether the angst in this sector—and describing it as 'angst' is a fair way to capture it—is primarily an issue of either resourcing or the staff turnover factors and the lack of expertise in some of these areas in the ATO, or is it also or significantly a reflection of increased targeting of this sector by the ATO?

Mr Noroozi: Unfortunately under my legislation I am not allowed to discuss a review until such time as the minister has released it. What I can tell you is that the terms of reference for that review are available on my website and do reflect the concerns that were raised with him. But beyond that I cannot be any more helpful.

Senator RYAN: Sure. I will put the rest of my questions on notice, Chair.

CHAIR: Thank you to the Office of the Inspector-General of Taxation for your attendance here this afternoon. When we return from the break we will begin with the Revenue Group of Treasury and the Australian Taxation Office.

Proceedings suspended from 15:58 to 16:20

**Australian Taxation Office
The Treasury**

[16:20]

CHAIR: The committee will recommence. We have with us tonight the Revenue Group of Treasury and also the Australian Taxation Office. They are appearing together to assist the discussion. Are there any opening statements?

Mr D'Ascenzo: No.

Mr Heferen: No.

Senator Sherry: And I am back.

Senator CORMANN: Welcome back, Minister.

Senator Sherry: It is a pleasure to be here, particularly when you are questioning.

Senator CORMANN: The feeling is mutual, Minister. Could Treasury provide the committee with the latest figures on the number of Australian families currently receiving family tax benefit A and B? Can that be broken down by family income bracket? I see that has woken somebody up.

Mr Heferen: I was about to say that with that level of detail we would have to take it on notice, but I might be proved wrong.

Senator CORMANN: I hope not, given that it is a budget measure. Usually in relation to budget measures where you can reasonably expect that there are going to be some questions around it, I would think that, consistent with past practice, you would be able to give us that.

Mr Heferen: Sure. I would make the point that, obviously, family tax benefit parts A and B are administered by the Department of Families, Housing, Community Services and Indigenous Affairs. Normally we would expect that sort of thing to be at their estimates. It may be that we have some information that can assist. I will turn to my colleagues.

Mr M Robinson: I was in fact going to say exactly what Mr Heferen just said.

Senator CORMANN: We have had this discussion in the past about things like the private health insurance rebate, which we are going to get back to, and other matters. Clearly, when you have budget measures that are the revenue part of the equation—and in fact I have been given advice that this is the right area of Treasury to ask questions about this—and when you have a new budget measure where Treasury has a level of involvement, that means you should be able to answer questions on it, as you have been in the past on things like that.

Mr M Robinson: In relation to budget measures, one has to be reasonably careful because the budget obviously spans the whole gamut of Commonwealth expenditure. Certainly on the tax side, it would be reasonable to expect officers in Revenue Group to either know about or be able to give some useful information to the committee to assist its deliberations on tax. But, when it comes to an outlay such as FTB part A and part B, we assist FaCSIA, but, at the end of the day, FaCSIA is the one that would have carriage of that.

Senator CORMANN: So in relation to the budget measure to freeze the supplement in family tax benefit A and family tax benefit B, are you able to tell us how many families would be impacted by that and how many—

Mr M Robinson: Again, FaCSIA and the department of finance would have undertaken those costings and would be responsible—

Senator CORMANN: You have no involvement in that at all?

Mr M Robinson: No. Family tax benefit part A and family tax benefit part B are both expense payments. They are administered through the FaCSIA portfolio and, as they are expense payments, Finance would have sign-off responsibility for those.

Senator CORMANN: The private health insurance rebate was administered by the health department. You would have considered that as an expense payment?

Mr M Robinson: That is right.

Senator CORMANN: You answered detailed questions about the number of people that Treasury expected to be impacted by that. This is a completely new way of going about it.

Mr M Robinson: I think the private health insurance tiers policy is slightly different given that the policy had a related revenue impact as well through the linked policy change on the Medicare levy surcharge. We provided assistance to the department of health in developing a model around the private health insurance means testing, so we have often answered questions. I think you and I have had some conversations on that at previous estimates.

Senator CORMANN: In previous estimates you provided answers to all of these things.

Mr M Robinson: Yes, that is right.

Senator CORMANN: Now you are no longer able to provide answers about the impact of similar measures that similarly impact on families across Australia?

Mr M Robinson: Apart from the word 'tax' appearing in the title of the payment, it is purely an expense payment and we do not have any involvement. In fact, I think in the 2009 budget or 2008 budget there was actually a policy change to completely remove the ability for people to be able to claim the family tax benefit through the tax system. So there is actually no relationship to the tax system now.

Senator CORMANN: When was that done?

Mr M Robinson: My recollection is that it was either the 2008 or 2009 budget. I think it was 2008, but I would need to double-check that.

Senator CORMANN: Can you confirm that on notice?

Mr M Robinson: Yes. So, up until that point, people used to be able to claim family tax benefit part A through fortnightly payments that were administered by Centrelink or families had the option of claiming their family tax benefit as a lump sum at the end of the year, which they could do through the tax system. That avenue of claims was closed off so that the avenue for claiming a payment is purely through Centrelink now.

Senator CORMANN: Can the ATO assist us in any way in relation to the number of families that are currently receiving family tax benefit A and B?

Mr D'Ascenzo: Not to my knowledge, Senator, but certainly if we have any information we will provide it on notice.

Mr M Robinson: My colleague has just passed me some information and I can confirm that it was the 2008-09 budget where the ability to claim family tax benefit through the tax system was closed off.

Senator CORMANN: Thank you. What involvement did Treasury have in the original decision to freeze the indexation of family tax benefit supplements and change the upper limits and thresholds?

Mr Heferen: That is a policy question—government has determined that policy.

Senator CORMANN: I am not asking about policy; I am asking about what procedural involvement Treasury had as part of the process. What was your part in that process—in informing the decision?

Mr Heferen: The decision of the government to change the family payments system?

Senator CORMANN: The government made a decision. Did you provide advice on that decision?

Mr Heferen: I am not aware that we would have—the matter is in another portfolio and is the responsibility of another portfolio minister. Through the governmental process, through budgets, the Expenditure Review Committee meeting and having deliberations, we would have provided some advice in the ordinary course of events on that thing, but—

Senator CORMANN: So you had no involvement of all?

Mr Heferen: I can see that to my left one of my colleagues is agitating to say something. I had better hand over to Ms Mrakovic.

Ms Mrakovic: Any advice would have been provided with by Fiscal Group and specifically the social policy division would have responsibility for that policy area in terms of providing advice.

Senator CORMANN: So what was your involvement?

Ms Mrakovic: The Fiscal Group, social policy division—that question would probably be best directed to them.

Senator CORMANN: So we are back to that game. That is where we should have asked it.

Ms Mrakovic: That is where social policy division is and they would normally cover those kinds of policies.

Senator CORMANN: Okay. We have discussed this before: there is a measure in the budget to means test the private health insurance rebate which has been there since—

Mr M Robinson: That was first introduced by the government in the 2009 budget.

Senator CORMANN: Yes. At that time you put a dollar figure with it of \$1.9 billion.

Mr M Robinson: That is correct.

Senator CORMANN: Over five years, was it?

Mr M Robinson: It was a total over four years at the time.

Senator CORMANN: Have you updated \$1.9 billion figure? We could not find it in the budget.

Mr M Robinson: I am aware that that is being updated in the course of preparation for introduction of the bill. I imagine it would have been updated prior to the budget.

Senator CORMANN: Okay, so 2009-10 and since then we have had the 2010-11 budget and this is now the 2011-12 budget, so there are two years in between. We have had changes

in membership profile and changes in rates, yet nowhere can we identify a figure in the budget, and you are not able to tell me, by the sounds of it, for what the revised figure will be.

Mr M Robinson: I understand that the policy was originally announced in the 2009 budget, which is where the original budget measure appeared. My understanding is that as a result of the legislation not being passed in 2009-10 the government is planning to reintroduce the policy. As a result there has been, obviously, delay in the start date of the policy.

Senator CORMANN: So is it currently not policy as far as the budget is concerned? It has not been reconfirmed as policy right now?

Mr M Robinson: My understanding is that the government has made numerous public statements about its intention to reintroduce the policy and that it is still part of its current policy.

Senator CORMANN: I understand. But what is the budget treatment of the government's statements that it intends to reintroduce the legislation?

Mr M Robinson: The budget treatment would be that the savings from the policy with a revised start date would be in the budget.

Senator CORMANN: So what are the revised saving figures based on a revised expected start date in the budget? That is the figure that I am chasing and cannot find.

Mr M Robinson: Treasury has responsibility for the revenue side of those figures. As I mentioned before, the Department of Health and Ageing and the department of finance have responsibility for signing off on the expense figures. So I could take that on notice.

Senator CORMANN: So you do not know what that figure is?

Mr M Robinson: Senator, I can take that on notice.

Senator CORMANN: Okay, but do you know what the figure is?

Ms Mrakovic: Senator, I think we will just have to take it on notice.

Senator CORMANN: It looks to me as if you know what the figure is; you just do not want to share it with us. I do not understand why it was not published in the budget papers. It is a measure that we have discussed in detail before, every previous budget. Why is it a national secret?

CHAIR: Senator Cormann, the officers have said they will take it on notice.

Senator CORMANN: Yes, so we will get the answer two or three months from now.

CHAIR: I think you can take it that if they had the answer with them they would be able to give it to you.

Senator CORMANN: No; when I asked him whether he knew, the officer was clearly unable to—

Senator Sherry: Come on.

CHAIR: No; the officer looked through his papers to try to be of assistance to you. I think it is unfair of you to characterise it in that way.

Senator CORMANN: I think the officer knows.

Senator Sherry: That is a severe reflection on the officer, Senator Cormann. I will instruct the officer now that if he has the figure and can readily identify it in the next few

seconds, I will ask him to provide the figure; but otherwise you will have to accept that it is on notice.

Senator CORMANN: Thank you.

Mr M Robinson: Going back to the original 2009-10 budget measure we had a total of about a \$1.8 billion save out to 2012-13, with a total impact on revenue of \$145 million, and there were departmental expenses for a total saving of \$1.9 billion over four years. The updated estimates, which would have been updated prior to the 2011 budget, are for a saving of \$2.6 billion over five years with a \$240 million save to revenue for a total saving of \$2.9 billion over five years.

Senator CORMANN: Why is it now done over five years; do you know?

Mr M Robinson: Basically that has to do with the timing in relation to the initial announcement of the policy in the 2008-09 budget where the policy was going to be introduced two years later.

Senator CORMANN: And so?

Mr M Robinson: So therefore effectively there were three years worth of the full effect of the policy across the forward estimates and there was an effect in 2009-10, so the effect of the policy was spread over four years. Given that we are in the 2011 budget period, 2011-12 contains a full-year impact of the policy. The full impact over five years is \$2.9 billion.

Senator CORMANN: And are you able to tell us what the impact over the forward estimates is going to be? Is that five years going one year back?

Mr M Robinson: That is right. It is starting from 2010-11.

Senator CORMANN: So it is the forward estimates and one year back.

Mr M Robinson: That is correct.

Senator CORMANN: Are you able to give us the figures broken down by financial year?

Mr M Robinson: That will be published in the explanatory memorandum, as I understand it.

Senator CORMANN: But you have those figures.

Mr M Robinson: I do have them.

Senator CORMANN: If you could share them with us, that would be great.

Mr M Robinson: Sure. There is a negative impact on the fiscal balance on the expense side of \$135.9 million in 2010-11, then a positive impact on the fiscal balance in 2011-12 of \$777 million. In 2012-13 it is \$736 million, in 2012-14 it is \$741 million, and in 2014-15 it is \$746 million.

Senator CORMANN: Why do you drop off from the \$777 million in 2011-12—why does it come off?

Mr M Robinson: It is partly, I understand, around some timing to do with the first year.

Senator CORMANN: But given that there are regular increases in premiums you would have expected the figure to go up. But instead it sort of goes down a bit and seems to plateau. That seems to be counterintuitive.

Mr M Robinson: That is the total impact, Senator, so it is the combined impact of the expense side and the revenue side. You are probably aware that the expense side is adjusted to maintain some of the savings in the contingency reserve in the latter years of the forward estimates so as not to send price signals to the industry.

Senator CORMANN: Sure. What sorts of assumptions have you included? Have you revised your assumptions in terms of the impact on the number of people with private health insurance and private health insurance premiums moving forward?

Mr M Robinson: In terms of the assumptions I understand that the modelling has taken into account the most recent FYT data, but that would be an issue for the department of health.

Senator CORMANN: So what are the revised figures in relation to impact on the number of people with private hospital insurance?

Mr M Robinson: The way in which the policy operates is such that the thresholds are indexed to wages, so as a result of adjustment of the thresholds to average wages growth there should not be any particular effect on the number of people dropping out.

Senator CORMANN: Has Treasury been involved in any fresh modelling? You were involved back with the original measure in the lead-up to the 2009-10 budget. Have you been involved in any fresh modelling in relation to the impact of this measure on the number of Australians with private health insurance?

Mr M Robinson: As I said, the primary modelling has been undertaken by the Department of Health and Ageing.

Senator CORMANN: So is there a change from last time? Last time you were involved in the primary modelling. This time you were not; is that right?

Mr M Robinson: We provide some assistance from time to time and we provided a lot of assistance in the development of the initial model for the 2009 budget. The extent of our involvement has been quite limited since then. The modelling has been maintained by the department of health.

Senator CORMANN: This was something that was announced back in 2009. It was never legislated. There was a new election and a new parliament. Wouldn't it be normal for this, given that it is not actually based on any legislation that has been passed by the parliament, to have been identified as a specific budget measure in the budget papers, in the same way as the mining tax is separately identified still? That might be more a question for you, Mr Heferen.

Mr Heferen: Certainly, Senator. When the government makes an announcement or decides on a measure, that measure will be reported in the budget. To the extent that the measure is not then implemented for whatever reason, the fact that the cost or the revenue that would be associated with the measure—that would still be carried forward into the forward estimates. You would not see that being repeated as another measure in subsequent budget papers. There may at times be exceptions to that in the sense that if the measure is subsequently altered that alteration might be identified. But in the normal course of events announced policy costs or revenue would form part of the forward estimates. That would not be repeated as a new measure in any estimates update.

Senator CORMANN: And incidentally the original announcement was made by the Treasurer—with the support of the Minister for Health and Ageing but the lead minister making the announcement was the Treasurer. Has there been any remodelling or is there any remodelling currently under way in relation to the impact on people with private health insurance?

Mr M Robinson: The modelling around the number of drop-outs we are estimating is still consistent with the 25,000 that we estimated in 2009.

Senator CORMANN: So you have not looked at the modelling that was talked about by Medibank Private in these estimates, for example, which of course is quite a bit higher than that. Are you aware of that modelling?

Mr M Robinson: Medibank Private have not shared their modelling with us, if that is what you are asking. But I am aware that they have an estimate.

Senator CORMANN: I will move through some other issues, because it looks to me as if you will not be able to assist me much more on the private health insurance rebates. Remember the measure in the 2008-09 budget in relation to an increase in taxation applying to ready-to-drink alcohol beverages effective April 2008? The original estimate was that it would raise \$3.1 billion. Then it was revised down, I think initially to \$1.6 billion or \$1.7 billion. Can Treasury advise us on how much additional revenue has actually been received as a result of this measure and how it compares to the original forecasts of May 2008 and June 2009?

Ms Mrakovic: Senator, we would have to take that on notice. We do not have the information here with us.

Senator CORMANN: It is a fair question though, isn't it? We come here budget after budget. A budget is always a best guess and it is only really two or three years down the track that you can assess how you have performed against what you thought your best guess was. So I would appreciate it if on notice you could provide us information on that.

Ms Mrakovic: We will certainly look into it.

Senator CORMANN: In the budget papers, why will the PRRT revenue increase almost 150 per cent from the 2010-11 budget year to the 2011-12 budget year? It is statement 5, page 36.

Ms Mrakovic: What years are you interested in, Senator?

Senator CORMANN: There is a significant increase—

Mr Heferen: Senator, I draw your attention to page 5-29, statement 5. Round the middle of the page—the middle third—is resource rent taxes. Then in the third paragraph it states:

In 2011-12 revenue from resource rent taxes is expected to grow by 118 per cent (\$1.1 billion), reflecting strength in oil prices.

Senator CORMANN: Sorry, but the statement on page 5-29 relates to resource rent taxes overall. It cannot include the MRRT yet because that has—

Mr Heferen: That is right; that is just the PRRT.

Senator CORMANN: Okay.

Ms Mrakovcic: The growth rate in 2011-12 is also affected by the base year of 2010-11 and what is happening there. And the explanation for what is happening in 2010-11 in terms of the decline is given in the paragraph above.

Senator CORMANN: So you had a worse than expected result in 2010-11 because of higher investment expenses than expected.

Ms Mrakovcic: And then you have higher oil prices impacting on that, and that has an impact on the percentage increase over the 2010-11 year.

Senator CORMANN: So do you know how much PRRT will be paid in 2011-12 by taxpayers who were subject to PRRT in previous years, and how much will be from new taxpayers?

Mr Heferen: I do not think we would have that level of detail about specific taxpayers.

Senator CORMANN: I am not asking about anything confidential. I am not asking for any names. What I am trying to find out is whether there are new people getting caught in the PRRT net. Is there an increase in the base, essentially, as a result of more people getting caught by the PRRT net? I do not know any better way of putting it. Or is it just an increase based on more revenue collected from the people who have been paying it for some time?

Ms Mrakovcic: I do not think we will have that information but we will take it on notice.

Senator CORMANN: Thank you. Let me be more specific though, because the former prime minister, Kevin Rudd, made a commitment before the 2007 election linking infrastructure funding for Western Australia to PRRT revenue that would come out of the Gorgon and Pluto projects. Is any of the revenue on the forward estimates expected to come from the Pluto or Gorgon projects?

Mr Heferen: Again, Senator, we would have to take that on notice. One of the very difficult things there is that to get some of that we may well have to consult with our colleagues in the tax office. And then when it comes down to these things to the extent that it might identify a taxpayer there are obviously constraints around secrecy.

Senator CORMANN: I understand. Bearing in mind that the expanded PRRT—that is, the onshore expanded PRRT—is supposed to come into effect on 1 July 2012 if the legislation passes through the parliament, how much of the PRRT revenue in the budget in the out years is expected to come from the onshore expansion of the PRRT? Is it any or is it zero? Do you expect to collect any revenue from the onshore expansion of the PRRT over the current forward estimates?

Ms Mrakovcic: We will have to take it on notice.

Senator CORMANN: I understand that you have to take a specific figure on notice but I am coming at this from the suspicion that there will not be any revenue from the onshore expansion of the PRRT over the current forward estimates, even if the legislation does pass. I would have thought that if there is going to be no revenue expectation versus 'Well, there is something but we don't know how much it's going to be', you should at least be able to tell me whether it is none or some, and then you can take on notice how much if there is some.

Mr Heferen: Senator, I think our puzzled looks mean that we would have to take that on notice.

Senator CORMANN: So you do not spontaneously know whether the onshore expansion of the PRRT will actually result in additional revenue for the Commonwealth?

Mr Heferen: I would have thought, with a revenue hat on, clearly at some point it would—

Senator CORMANN: It depends.

Mr Heferen: otherwise it would not be worth doing. But that would have to be over a period. Given the—

Senator CORMANN: There is a very good question whether it is worth doing.

Mr Heferen: Given the up-front—

Senator CORMANN: Deductibility of the first—

Mr Heferen: I will not say generosity—the structure of the PRRT, more like a cash flow tax rather than an income tax, when people are brought into that tax system there will be arrangements and if it goes to new taxpayers there will be arrangements to facilitate that. So then it will be a question of what is being brought in, what the deductions are and what the expected revenue flow would be. That would be a reasonably complex kind of examination.

Senator CORMANN: I totally understand the point you are making about the investment expenses and other things that are deductible up-front, which is one of the reasons why I do not think that there is likely to be any revenue over the current forward estimates from the onshore expansion of the PRRT. It is not a trick question. I just assumed that—even if the legislation passes I assume there will be a delayed effect and it will only really kick in beyond the forward estimates, assuming that activity does not get stopped from going ahead because of a different taxation climate. Going back to statement 5, page 35, there is a footnote there which states:

The net revenue from the MRRT is \$3.7 billion in 2012-13, \$4.0 billion in 2013-14 and \$3.4 billion in 2014-15, which represents the net impact on revenue across several different revenue heads. This includes the offsetting reductions in company tax (through deductibility) and interactions with other taxes.

In relation to that footnote, I assume that the interaction with other taxes means the crediting arrangements for state and territory royalties.

Mr Heferen: I would not have thought so but I stand to be corrected.

Senator CORMANN: What other taxes could it interact it? Okay, let me rephrase the question. There are a number of related measures. You have the proposed cut in the company tax rate. You have the income tax revenue implications from the proposed increase in compulsory super from nine to 12 per cent. Is that all it is, or does it also—I guess I am trying to get a definition of an interaction with other taxes.

Mr Heferen: I think the clearest would be to the extent that a company becomes an MRRT taxpayer then the MRRT liability itself is a deduction for the purposes of their company income tax. To the extent that you have one that is, say, operated through a partnership or a joint venture and they are not corporate entities, then that would affect what I think is called 'individuals other'—because, as you know, if it is partner income it would flow through to the individual, the same as with a trust. There may be other interactions.

Senator CORMANN: Okay. I actually misunderstood this totally. It starts making sense now.

Ms Mrakovcic: Senator, if I could just clarify—my colleagues inform me that it includes imputation credits, so it is the deductibility for company tax and imputation credits.

Senator CORMANN: So I have looked at this completely the wrong way round. What you have factored in is the impact in terms of reduced company tax collections because of increased deductibility, because you can deduct MRRT liability from company tax, and also in relation to the imputation credits.

Ms Mrakovcic: Correct.

Senator CORMANN: So in relation to the costs of separate measures—for example the proposed reduction of the company tax that is part of the package, I guess, that was announced and the increase in compulsory super—where can I find those costs over the long term?

Ms Mrakovcic: Do you mean the costs of the original policy?

Senator CORMANN: Sorry. Under FOI Treasury, and I assume it was your section, released the modelling of the MRRT—and the RSPT in fact—over a 10-year period. The RSPT was going to raise \$100 billion over 10 years. The MRRT was going to raise \$38.5 billion. That was back at the time when the original deal was announced with \$10.5 billion over the forward estimates. I am interested in the impact of the related measures and the cost of the related measures. You look—you cannot assist me with that, can you?

Mr Heferen: I just make the observation that, as I recall—I was not part of the department then—our previous secretary spent some time before this committee being extremely careful about those 10-year revenue estimates given their inherent unreliability. So there is that issue I would encourage the committee to acknowledge. But I am not sure how the idea of a 10-year projection of revenue from taxes which Dr Henry made pretty clear was not a good basis for an informed discussion—

Senator CORMANN: Treasury made 50-year projections of the cost of the private health insurance rebate—50-year projections. Obviously the longer the projection the less reliable it is. But it was modelling that was done and—

Mr Heferen: Sorry—in relation to the *Intergenerational report*?

Senator CORMANN: It was included in the budget back in 2009-10. Anyway, I do not want to get distracted. The context for my questions is this. There was an announcement of a tax and there was an announcement of related measures. However reliable the projection is over a 10-year period—and I understand the point you are making—there is a projection from Treasury which says \$38.5 billion. I am interested in whether there is a projection next to it about the cost to the budget of the related measures over that same period. The reason is that, looking at the budget, the revenue is comparatively high. We have record terms of trade. That is what the Treasurer said in his budget speech—'best terms of trade in 140 years' I think is what he said. Revenue is quite high. It is likely to come off—how much we do not know—as terms of trade come back to the normal levels. Whereas the cost of the related measures is very low now but is likely to increase over the next decade. I am trying to get a sense as to whether you have done some work to project essentially the net fiscal impact of the package

as it was announced and what that net fiscal impact is overall over a 10-year period. That is what I am chasing.

Mr Heferen: Senator, I do not want to be difficult but you made the proposition that the revenue is at an all-time high. In fact if you look through the budget the tax-to-GDP ratio is relatively low.

Senator CORMANN: No, sorry; you are misunderstanding me. When the RSPT was announced it was going to raise \$12 billion. Then a whole heap of concessions were made and surprisingly the revenue only dropped by \$1.5 billion. The reason for that was significant upgrade in commodity price assumptions. The terms of trade are very high. We do not know what your assumptions are because the government does not want to release them publicly, but the commodity prices right now for iron ore are at record highs. I think that that is generally understood. There will be a supply response at some point. The previous secretary of the Treasury has said that on a number of occasions. When you have record high international prices for iron ore, as we have now, those prices are likely to come off to more normal levels over time, and consequently the revenue from the mining tax over time, as your 10-year projections reflect. Your 10-year projections reflect an expectation by Treasury that over time the revenue drops off and plateaus off. The point is that the revenue estimates from the MRRT are quite high now but are likely to plateau off, whereas the cost of the related measures is likely to go up. I am trying to get the same information for the cost of the related measures as we have got for the revenue over 10 years. You might have to take that on notice because I want to move through quite quickly.

Ms Mrakovic: Senator, on the point you are making in relation to the profile of MRRT revenues over the 10-year period, what the former secretary, Dr Henry, mentioned on a number of occasions was that they were projections based on technical assumptions such as—yes, they included a profile full of commodity prices or the terms of trade but more importantly they also assumed things like the exchange rate, for instance, not changing over time.

Senator CORMANN: I understand.

Ms Mrakovic: That would not be credible over a 10-year period. In fact, you would anticipate that you would have some kind of movement of exchange rates in response to terms of trade. I think it is for those kinds of reasons that the former secretary mentioned on a number of occasions how unreliable those estimates were and how it fact coming to a conclusion about what the revenue profile would be in those out years, whether it is flat, rising or declining, would actually not be a sound conclusion to come to.

Senator CORMANN: I totally understand how unreliable they are, because in July 2010 we were told that the revenue estimate was \$10.5 billion and by the time of MYEFO four months later it was \$7.4 billion on the basis of exchange rate changes. So I understand that there is a whole heap of variables that will result in changing revenue estimates. However, you have to make a judgment at a point in time. You made a judgment at a point in time as to what the best estimate, based on the best available information, was going to be in terms of the revenue implications. What I am trying to find out is, given that it was announced as an overall package, whether you have next to it a best guess, based on the best available information, on what the cost of the related budget measures was going to be—namely, the proposed reduction in the company tax rate and the proposed increase in compulsory super

from nine per cent to 12 per cent. I really would like you to take it on notice so that I do not waste much more time.

Senator Sherry: We will take it on notice. When you say 'related measures', there are some other measures as well?

Senator CORMANN: There are three that spring to mind—the reduction in company tax, the increasing compulsory super from nine to 12 and the infrastructure fund, but that is of course something figure over—

Senator Sherry: There is also the new write-off measures for small business—1,000 to 5,000—and there is also the standard tax deduction.

Senator CORMANN: Beautiful. If I could get the cost over the 10-year projection—

Senator Sherry: Any of those measures?

Senator CORMANN: That is right. Of course, with the infrastructure fund, given that it is \$6 billion over 10 years, we pretty well know what that is going to be over 10 years. But for those other measures can I get the cost on notice.

Senator Sherry: Okay, we will take that on notice.

Senator BACK: Does the Ministerial Council for Federal Financial Relations sit within the Department of the Treasury?

Mr Heferen: The ministerial council itself as I understand it will be made up of the Treasurer and his counterparts from each of the states and territories. So it does not formally sit within the Treasury—the Treasury would be the Commonwealth representative and each state and territory's treasurer would be on that ministerial council.

Senator BACK: And there is an administrative secretariat that supports it?

Mr Heferen: When the council meets, each of the treasurers will have their own issues to raise and they will have come from their own departments. So, certainly, the Commonwealth-state relations division within Fiscal Group would provide all of the support for the Treasurer in that context.

Senator BACK: And you are saying that it meets on an as-required basis rather than on a regular quarterly basis or whatever?

Mr Heferen: I think that is true. As I said, the secretariat function, as mentioned, is in our Commonwealth-state financial relations division, which is in Fiscal Group, which was on earlier today. If there are questions in relation to that—I hate to say it now—they probably should have gone to Fiscal Group.

Senator BACK: Why don't we press on and you can perhaps—

Mr Heferen: At least they can be put on the record and we can take them on notice.

Senator BACK: Yes. The questions relate to whether or not quarterly reports relating to the BER funding and the P21 funding submitted by the states and territories as part of their commitment under the national partnership agreement are considered at the quarterly meetings or whenever the ministerial council meets.

Mr Heferen: We would have to take that on notice.

Senator BACK: In which case, neither would you be able to advise whether or not at each of these meetings further funding on each quarter was approved or given final approval by members of the council?

Mr Heferen: We would have to take that on notice as well.

Senator BACK: Can you advise me, without having to take it on notice, whether there are benchmarks that would have been prepared against which these sorts of quarterly reports—the ones to which I refer are BER and P21—would be considered?

Mr Heferen: I am sorry, no—I do not even know what a P21 is. We would have to take that on notice.

Senator BACK: I think then the remainder of my questions, if you have not been able to answer those, would also have to go on notice. It relates to an interchange I had, in my capacity as chairman of the Education, Employment and Workplace Relations References Committee, with the minister in terms of trying to ascertain some information through the Senate regarding performance under P21 and BER. The reason for bringing it here was that the ongoing advice from the minister in his responses was that these were matters for the Department of the Treasury, that the evidence the committee was seeking is being monitored by Treasury on a quarterly basis through the provision of quarterly reports from each of the states and territories. You would not be in a position to comment or advise on that?

Mr Heferen: No, that division I mentioned in Fiscal Group—the Commonwealth-state relations division—would be the one that—

Senator BACK: In that case, in consideration of the brevity of time, I will place those questions on notice for the fiscal section.

Senator WILLIAMS: Commissioner, can I bring you to the changing of the Income Tax Assessment Act 1997. I am not an accountant so correct me if I am wrong. As an example, you might have a family farm—mum, dad, son and sons wife; four involved in a farm—and they may have had a drought and in this year they had to sell off all of their cattle. They could put the money in a trust and average it over a five-year period as far as taxation goes. Is that correct?

Mr D'Ascenzo: That is right.

Senator WILLIAMS: They had a lot of income in the first year and little income to come, so they are averaging their income. In the second year, if one of those beneficiaries of the trust died, would they have to pay the tax that year?

Mr D'Ascenzo: I think when there was a change in the law there were differences in the way it was drafted such that, under the 1997 act, the provisions referred to the object of a trust, which is a potential beneficiary of a trust. So when one of those beneficiaries dies it did trigger the taxing provisions.

Senator WILLIAMS: Is that how you see it today? If one of the beneficiaries dies, they would have to pay the tax that year?

Mr D'Ascenzo: That is the way the law seems to read. In the 1936 act I think there was a discretion of the commissioner. That no longer exists in the 1997 act.

Senator WILLIAMS: There was a discretion in the 1936 act where in my reading is that the commissioner had discretion in these cases to not suspend the deferral of profits on the

death of a beneficiary. So there was that discretionary act of the commissioner. You are saying that the 1997 act removed that?

Mr D'Ascenzo: That is my understanding. My colleague Bruce Quigley is more au fait with that.

Senator WILLIAMS: Mr Quigley, can you add to that?

Mr Quigley: Yes. In the 1997 act there is no discretion for the commissioner in respect of this particular provision. The provision is subsection 385.163(3). It says that, in the case of a trust, a disentitling event happens when a beneficiary dies. It is quite plain on the face of the legislation. As the commissioner mentions, there is no longer a discretion in the law for the commissioner to avoid that.

Senator WILLIAMS: When the bill to change these provisions was being introduced, the Tax Law Improvement Project stated that the election rules for trusts had been standardised broadly in line with section 36AAA of the original 1937 act.

Mr Heferen: The 1936 act.

Senator WILLIAMS: It was the 1936 act, I am sorry. Section 36AAA(9) states: '(b) in any year of income and (2) if a beneficiary dies'. I believe that, when these changes of the Tax Law Improvement Project came in 1997, they were to be based on that previous 1936 act. But you are saying that is not the case?

Mr Quigley: What I am saying is that there was a discretion in the 1996 act that does not exist in the 1997 act.

Senator WILLIAMS: What I am saying is that, in the 1997 act, when it was brought in and when the bill to change these provisions was being introduced, the tax law improvement project stated that the election rules for trusts had been standardised broadly in line with section 36AAA.

Mr Quigley: I think possibly the important word there is 'broadly'. There is no doubt in my mind that there was a discretion in existence in the 1936 act that is not there—

Senator WILLIAMS: It has been removed in the 1997 act?

Mr Quigley: Correct.

Senator WILLIAMS: Perhaps by accident?

Mr Quigley: Possibly.

Senator WILLIAMS: Yes, because why would they do that? If one beneficiary dies then the whole thing has to be taxed out. There would be no benefit. Having an income averaging scheme over five years is fine, unless one of the beneficiaries of the trust dies, then it all collapses. So I am wondering whether it was not perhaps an error in drawing up the legislation or whatever. But you are quite clear—100 per cent—that there is no discretion?

Mr Quigley: In my mind, yes. A court may have a different interpretation. But to me it is clear on the face of the law—it says 'a beneficiary dies'. I do not know how that could be interpreted in any other way. Certainly we recognise that that causes some practical difficulties for trustees in seeking to apply those provisions—basically, there is no power to undo the outcome.

Senator WILLIAMS: Certainly. Not only do they have to go through the family death—it is an emotional time for them—they have to also see the tax man put their hand out in a big way.

Mr Quigley: Some of the practical difficulties I am talking about are, for example, usually the objects of a discretionary trust are drawn in very broad terms. It may be difficult to trace whether a disentitling event actually occurs, whether it is death, bankruptcy or the beneficiary permanently leaving Australia—they are a couple of the other disentitling events.

Senator WILLIAMS: Thank you.

Senator PRATT: I have a brief question with respect to revenue as it relates to what is redistributed among the states, so it is related to the Grants Commission. It relates to the revenue raised by Western Australia and the assumptions that it has made in its budget. It has priced the dollar in the 2014-15 estimates at 76.9 cents, which is different to the 107.9 cents that our own forward estimates would put it out. In the Western Australian state government budget estimates, they argue that, for every cent that the Australian dollar rises, they lose about \$60 million in royalty revenue, which has to be around \$1.8 billion or something in the forward estimates. My question relates to how we go about relying on what states do in their own revenue-raising powers and how we assess how accurate that information is. Clearly, I would expect that we would use our own modelling and not theirs when it relates to what those likely outcomes are.

Mr Heferen: We covered a bit of that ground this morning. You are quite right—the WA budget has a very different exchange rate assumption to the Commonwealth budget. Again, I would urge you, if you want to explore the relative merits of various exchange rate assumptions, to come to tomorrow morning's session with Dr Parkinson and Dr Gruen, our macroeconomic colleagues. That would be the best spot to do that. WA, I understand, also makes the observation in the budget that a one-cent change in the exchange rate leads to an estimated change in their royalty income. But I do not think that anyone has come up with a great way of forecasting what the exchange rate might be over time.

Senator PRATT: No, there is no exact science.

Mr Heferen: So our budget uses what is described as a technical assumption based on fact.

Senator PRATT: Yes, I understood that from this morning. I suppose I am asking about how we manage the revenue implications of that.

Mr Heferen: For each year the Commonwealth will update its budget—it will give its best forecast and it will have its final budget outcome. So there will be a reconciliation, then there will typically be a mid-year update and then the budget next year. So new information comes on board, actual tax revenue is collected so it can be reported. But what is reported in the Commonwealth budget has a very tenuous, if any, relationship to what is reported in state budgets. At no point do we go back and as, if you like, a federation have some reconciliation about what is reported, where and how it all adds up.

Senator PRATT: But ultimately the money changes hands based on the real—

Mr Heferen: I think what you might be getting to is the distribution of the GST revenue.

Senator PRATT: That is correct.

Mr Heferen: Again, I apologise for doing this, but we might need to be clear on what is raised where. The horizontal fiscal equalisation, to the extent that it is relevant in the Treasury, would be again with our Commonwealth-state relations division in Fiscal Group, which was on this morning, and the Grants Commission, which I think the committee spoke to earlier this afternoon. I did not actually get to hear all of the Grants Commission's—

Senator PRATT: I did ask them a similar question.

Mr Heferen: Their approach is to redistribute on the basis of what is actually collected, so they do not so much look at the forecast and estimates of what is coming down the pipeline as what is actually collected and then redistribute according to the basis of fiscal liquidation. So, to that extent, what a Commonwealth government or a state government forecasts or projects out into the future I guess becomes less relevant.

Senator PRATT: We seem to be having a national debate between WA and the Commonwealth government about who is getting what in the exchange of grants et cetera. But, when the bottom line of the budget is so unpredictable going forward or if they are overstating what is going to be in their bottom line, it has profound implications for that national debate.

Mr Heferen: You may well be right.

Senator EGGLESTON: I would like to ask some questions about excise on tobacco in relation to the government's plain packaging proposal. Could Treasury confirm what assumptions they have used when forecasting the increase in revenue from tobacco excise over the forward estimates? What are your estimates for revenue from tobacco excise over the coming two or three years?

Ms Mrakovic: If you go to page 5-30 of Budget Statement No. 1, you will see under 'Excise duty' that the fourth item is tobacco.

Senator EGGLESTON: Yes, I actually have those figures here. The interesting thing is that the excise is projected to increase. Last year, I gather, it was \$5,652 million. This year it is anticipated to be \$6,720 million.

Ms Mrakovic: There was a 25 per cent increase in the excise rate last year—that was last year's budget measure.

Senator EGGLESTON: Yes.

Ms Mrakovic: So that is largely that price increase coming from last year's policy measure.

Senator EGGLESTON: So it is the increased price coming in. Does this increase allow for a reduction in consumption based on the government's proposal for plain packaging or has that not been factored in?

Ms Mrakovic: At the time of the policy measure in last year's budget—that 25% increase in the excise rate—there was anticipated to be a behavioural response to that significant increase in the excise rate. A behavioural response to that increase in the excise rate was factored into the forecast that we put together last year for last year's budget. Obviously that continues to be reflected on updated information on clearances in this year's budget. The measure with respect to—

Senator Sherry: It worked with me—so far.

Senator EGGLESTON: The cost or the plain packaging?

Senator Sherry: Not the plain packaging.

Ms Mrakovcic: The measure with respect to plain packaging as I understand it was also a measure in last year's budget. In terms of a direct ability to factor that into the estimates in its own right, I do not believe we did anything additional. But, given how powerful an effect a 25 per cent increase in the excise rate is and the assumptions that we would have built in around a behavioural response to that price increase, I do not know that we would have been able to think to ourselves: 'How do we actually take into account a decline in consumption and then try to attribute that to a price increase and how much of that is in response to a measure on plain packaging?' But, if you go to last year's budget and look at the measure on plain packaging, I do not believe that there was a related revenue impact included in the policy measure.

Senator Sherry: I have to relate personal experience here. There is a package of measures. I have noticed, because I have smoked, there is a little ad campaign with a human body. It shows how your body improves over certain days and months if you stop smoking. I think that has actually been quite effective as well. I do not know how you would quantify that in terms of revenue loss. I suspect that Treasury did not even attempt to, which does not surprise me. It is difficult to disaggregate a package of measures and their contributory impact on or a decline in revenue as part of this measure.

Senator EGGLESTON: I hear what you are saying. I gave up smoking once too—in fact, three times. But the last time was about 20 years ago.

Senator Sherry: You did better than me. I have given up about five times.

Senator EGGLESTON: What interested me was that there is a projected increase in revenue and also a projected volume increase of almost two million kilograms of tobacco to the year 2014—that is, consumption. I was just interested to know whether Treasury had been asked to model the effect of the government's proposal to introduce plain packaging for tobacco and its likely impact, because it would seem that, had they been asked to do that and they had come up with these forecasts, the government or the Treasury assumed that plain packaging would actually have no effect. But, obviously, that is not the case. The legislation, I understand, is planned to take effect from 1 July 2012. The government in that year is expecting a surplus. Will the surplus be affected by a reduction in excise on tobacco as a result of the proposed changes? That could have some effect, I presume, because there will be less revenue, but not a great one. Would that be accurate?

Mr Heferen: To the extent that any of these numbers goes down—

Senator EGGLESTON: They are going up at the moment, but if it has some impact it will impact, obviously, on the overall budget and the possibility of a surplus, I would presume.

Ms Mrakovcic: The revenue numbers reflect, obviously, the impact of the price increase, in terms of the increase in the excise rate, and volumes. So it is the interaction of both volumes and prices that influences those estimates that you are seeing over the forward estimates period.

Senator EGGLESTON: You are predicting quite a substantial increase in volume, I see—from 13,000,866 kilograms to 755 kilograms or 15 million.

Senator Sherry: Where are looking? Which page are you looking at for figures about volume use?

Senator EGGLESTON: These figures are the calculation of tobacco consumption over the forward estimates based on the 2011-12 budget. But what I was really interested to know was whether or not you had modelled the impact of the plain packaging and it would seem that you have not.

Mr Heferen: Just on the volumes, I was not aware that we had volumes in here. It may be that what someone has done is taken the revenue and extrapolated volumes from that. Then there is the question of whether they have properly taken into account the indexation, because excise on tobacco is subject to automatic indexation, I believe, once a year.

Senator Sherry: Yes.

Mr Heferen: I think it is adjusted to the CPI. I am not aware that in here we actually have volumes. We could take that on notice to explore it further. But, as Ms Mrakovcic said, on the government's package of measures—the plain packaging, excise increase and that range of things taken together—we have to make some judgment about how that might influence demand. To get down to a fine level of calibration to do particular things, identify that and attribute a reduction in demand according to a particular element is a pretty difficult task. It is probably one that would be very challenging to do for the revenue forecasting.

Senator Sherry: We will take on notice if you want us to calculate the actual quantity smoked. Presumably we would have had to have done it anyway to get a revenue.

Senator EGGLESTON: It was a quite serious question, because you now have proposed to go ahead with plain packaging and yet in fact—

Senator Sherry: Okay, we will not do that then.

Senator EGGLESTON: You have projected not only an increase but also in volume. Since that has not been modelled into these figures, I can see that it does not include any assessment of the impact of plain packaging. At first glance you might assume that you are assuming that it will have—

Senator Sherry: We are not. We have a package of measures. We have costed the revenue loss. But it has been, as I understand it, costed as a package. We do not have individual revenue impacts for each of the elements of the package, from the diagrams and the advertising campaign through to the plain package and the price increase. We do not have disaggregated revenue impacts.

Ms Mrakovcic: Just on a technical point: these are revenue estimates on excise and customs duties, so they are based on customs clearances and excise clearances; they are not actually based on consumption. Obviously, you would expect over time for there to be a relationship between consumption and clearances, but these are actually clearances that form the basis of our revenue numbers.

Senator EGGLESTON: Thank you. Tobacco does have a very serious impact on the budget through the health budget and the impact of tobacco-related disease, so anything to reduce that impact is important.

Senator CORMANN: I was actually nearly finished with the mining tax stuff when we got into trouble before. Just to conclude on that: has Treasury done any updated modelling

consistent with the 10-year modelling of the MRRT that was released under FOI that was done at the time of the MRRT deal? Have you revised those 10-year projections after the exchange rate assumptions changed, resulting in a downward revision of the revenue in MYEFO and then a slight upward revision in this latest budget?

Ms Mrakovic: No, there have not been any updates since I think the last time Dr Henry addressed this committee.

Senator CORMANN: Okay. Another specific question: the \$50 million threshold which is to apply under the MRRT but also under the expanded PRRT—I am just trying to understand how the \$50 million threshold is supposed to apply under the onshore expanded PRRT.

Mr Heferen: It might be best if we had some assistance from Mr McCullough.

Mr McCullough: I am afraid I am going to be a little unhelpful because the process of taking the decisions in principle from the policy transition group into legislation is an ongoing process. It is happening at the moment. A group has been formed by the government—the resource tax implementation group. While I happen to chair that, that detail of precisely how that is working has escaped my knowledge. I am happy to take it on notice.

Senator CORMANN: We do not have anybody out there who might be able to assist us on this—who might be more specifically across that part of the subject matter?

Mr McCullough: How it is going to work is a very broad question. Perhaps if you narrowed it down I might have some capacity to answer it.

Senator CORMANN: It is intentionally broad because I am trying to understand how it is going to work.

Mr McCullough: Then we come to my point that how it is going to work will be evidenced by the legislation that is being brought forward.

Senator CORMANN: Is there any time line around when that legislation is likely to come forward?

Mr McCullough: McCulloch there has been no official timetable but I think the Treasurer is on record as saying that he wanted to get the exposure draft—that is the release for public comment—out around the middle of the year. And we are on track to do that.

Senator CORMANN: Like July?

Mr McCullough: It could even be earlier than that.

Senator CORMANN: June?

Mr McCullough: It could be June. We are in June now. It cannot be May.

Senator CORMANN: We are in June now. But if it is June—

Senator Sherry: It could have been if you had asked the question yesterday.

Senator CORMANN: Unlikely. If it is June that means that the drafting of the legislation must be progressed in some detail now.

Mr McCullough: Certainly on the MRRT front it is well progressed. I think the plan for exposure might be two staggered parts—the MRRT and the PRRT—simply to give an opportunity for the groups that are liable to comment on that capacity to digest one after the

other instead of altogether. The MRRT is, as you would know, a new design whereas the PRRT is building on the existing framework.

Senator CORMANN: The onshore expansion of the PRRT is a new design too. It now comes with the crediting of state and territory royalties, of course, which are applicable onshore but not applicable offshore. In the context of all of that, by the sounds of it you are still figuring out how some of the PRRT related matters are going to work out in practice. Is that a fair—

Mr McCullough: Exactly. This resource tax implementation group that I have spoken about, of necessity—even if you do not accept that it is building on an existing framework with the PRRT, the MRRT is completely new and so, just as a practical matter to get the work done we have focused first on the MRRT, and it would be the plan to have a public exposure on that before the PRRT, which would be a bit later.

Senator CORMANN: Sure. But both the PRRT and the MRRT involve the crediting of all state and territory royalties against the resources tax liability, don't they?

Mr McCullough: I think they do.

Senator CORMANN: That is as I understood it out of the heads of agreement that was signed by everyone. Closing off on this particular issue, can you confirm the information in the resource taxation fact sheet—you talked about it before—that the revenue estimates for the MRRT are based on a state royalty rate of 7.5 per cent?

Mr Heferen: As we canvassed earlier, Senator, the fact sheet—getting to this point about the 7.5 per cent rate, the reason 7.5 per cent was chosen is that some rate had to be chosen for the example; and 7.5 per cent being the rate applying to iron ore lumps largely across the country, I think, but certainly in WA, that was a logical one to use. And 7.5 per cent, for an example, is also quite a neat number.

Senator CORMANN: The thing is that in the context of it this is not just an example. This is in the context of the mining tax revenue estimates. I am not asking you whether you have just picked an example. I am asking you whether the revenue assumption in the budget, which is the \$11.1 billion over the forward estimates, is based on an assumption that state royalties on iron ore production are at 7.5 per cent, or whether it is based on a differentiated assumption that some are at 7.5 per cent and some are at the lower rate.

Mr Brown: The estimates of state royalties that we used in the modelling of the MRRT have been based on ABS data for royalties, which were then calculated as a rate and applied. So it is basically looking at actual royalty collections on particular minerals and then applying that and updating it for subsequent changes in state budgets. So it does not use a 7.5 per cent rate; it actually looked at an empirical calculation of what the royalty rate as a proportion of basically mineral revenues was.

Senator CORMANN: Can you explain that? You looked at the royalty revenue—and in relation to iron ore 99 per cent of it of course comes out of Western Australia; that is what the Commonwealth Grants Commission is saying. Then you extrapolate this somehow. How do you get from the royalty revenue to what the expected revenue is going to be from the mining tax? How do you make that leap?

Mr Brown: You cannot just take a 7.5 per cent rate and apply it to the revenues from particular minerals that you have. You need to actually work out what an average rate of tax

for that mineral actually is that takes into account what the royalty regimes are. As a starting point we had a look at ABS data which gives us the royalties as an expense. Then we updated that royalty expense information by changes that we saw in state budgets. So we are using some state budget information and some ABS data and we calculate the royalty as a rate over time.

Senator CORMANN: Okay, we are getting somewhere. Are you looking at the royalty revenue and dividing it by the production volume and coming up with a cost per tonne?

Mr Brown: No. The royalties are ad valorem royalties. They are based on the value. So you have to calculate the royalty rate as a proportion of the value of iron ore production.

Senator CORMANN: Indeed. So what rate you use?

Mr Brown: We use the rate that we calculated based on the ABS data in the first place and then updated by announced changes in state budgets.

Senator CORMANN: And what rate did you come up with?

Mr Brown: Off the top of my head I cannot tell you. It would be a little less than the 7.5 per cent. But I cannot tell you the exact rate.

Senator CORMANN: So it is somewhere between 5.625 per cent and the 7.5 per cent, essentially?

Mr Brown: I cannot tell you the exact rate at the moment. I do not have that information available to me.

Senator CORMANN: But on notice you will be able to tell us the rate that you have ended up assuming, based on that calculation you have gone through?

Mr Brown: We will take that on notice.

Senator CORMANN: Thank you. So if Western Australia or any other state increased their royalties on iron ore or on coal above whatever rate you have come up, which is less than 7.5 per cent, the revenue would in fact then be reduced as a result of this, wouldn't it?

Mr Brown: The state royalties are creditable against the MRRT. A consequence of that, everything else being equal, is that if the state royalties increase then the Commonwealth take from the tax would decrease.

Senator CORMANN: Okay. And your current assumption is not, as is in the fact sheet, 7.5 per cent; it is a bit less than 7.5 per cent and you will give us that on notice?

Mr Brown: The fact sheet chose 7.5 per cent because it is an illustrative example and it is an actual rate that applies for a particular type of ore.

Senator CORMANN: Okay. If the revenue reduces, would government expenditure related to that revenue also be reduced? That would be a policy issue for the government.

Mr Brown: That goes to a policy issue.

Senator CORMANN: And that is of course as far as we can take that part of it here. In relation to the proposed fringe benefits tax changes to cars—anticipated revenue from changes in the budget—is either Treasury or the ATO able to provide the total number of individuals and businesses that will be affected by this change?

Mr M Robinson: We do not have information on the number of individuals affected by the change.

Senator CORMANN: Why is that?

Mr M Robinson: Because we have information on the number of cars that are subject to the statutory formula but during the course of a year an individual might be involved in more than one contract in relation to a car. There might be fringe benefits tax liabilities in relation to more than one vehicle.

Senator CORMANN: Or a number of people might be impacted by one car.

Mr M Robinson: That is possible, yes, in the case of pooled vehicles and that sort of thing.

Senator CORMANN: What is the total number of cars that will be impacted?

Mr M Robinson: I think the ATO data from taxation statistics indicates that around 570,000—about that order—of cars are subject to the statutory formula method.

Senator CORMANN: Out of those how many will see an adverse change and how many will see a beneficial change? It is getting averaged out, I guess, at one level.

Mr M Robinson: That effectively goes to the distribution of kilometres travelled for cars under the statutory formula method. We estimate around 60 per cent of cars are travelling distances of 25,000 kilometres or more and therefore would be impacted by an increase in the statutory fraction.

Senator CORMANN: So 60 per cent of those would have an adverse impact, essentially?

Mr M Robinson: That is right. The statutory fraction would increase for those cars. A bit less than 15 per cent we estimate are travelling less than 15,000 kilometres a year and would see a benefit through a reduction in the statutory fraction.

Senator CORMANN: That is 60 per cent worse off, 15 per cent better off and 25 per cent business as usual, roughly?

Mr M Robinson: Roughly.

Senator CORMANN: Out of 570,000 cars. Are you able to provide a breakdown of that figure by state—not now but on notice?

Mr M Robinson: Yes, I can take that on notice.

Senator CORMANN: Are you able to break that sort of figure down by federal electorate?

Mr M Robinson: I do not imagine that that would be possible.

Senator CORMANN: I just thought I would ask. The policy costings document—and I note that Senator Ludlam has joined us—which was released by the Greens in November last year suggests that Treasury has previously had difficulties in estimating the revenue this change will provide to the government. I think the point is that revenue estimates are dependent on behavioural estimates. Looking at that policy costings document, many of the assumptions seem to have changed quite dramatically. Can you talk us through what the changes were from the costing that was done of the Greens policy and the costing that was done for this particular budget?

Mr M Robinson: I guess the changes fall into two key—I will just go back and correct you on that point. The key changes do not in fact relate to changes in the costing methodology between the policy costing that was done for the Greens and the costing underlining the

budget. It actually relates to earlier costings that were done in the context of the tax review. The key change in the methodology was that after the first costing that was undertaken in the context of the tax review we got further information around the increased utilisation over time of the employee contribution method, which is quite a growing method of use for people who are salary sacrificing their cars. For individuals who face a marginal tax rate of less than the top marginal rate upon which the fringe benefits tax rate is applied have an opportunity to reduce the effective FBT payable on the car by utilising the employee contribution method. It effectively allows them to pay the FBT at their marginal rate rather than at the FBT rate. So we took into account that increased utilisation of the employee contribution method and factored in a behavioural change such that people who were involved with cars travelling distances greater than 25,000 kilometres, where there would be an increase in the statutory rate, would consequently increase their employee contribution amounts on average as a result of the policy change. That has a direct impact on the revenue take. I think we actually outlined almost the sensitivity around that assumption. For example in the Greens costing we noted that if the post-tax contributions were not adjusted by anyone, the amount of revenue collected over the period could be potentially up to \$700 million higher. So it is a relatively sensitive assumption underlying the costing.

Senator CORMANN: So what you are saying is that the estimate of the revenue is on the conservative side because you do not really know how the tax change is going to impact on behaviour?

Mr M Robinson: On balance it is probably more of a rational assumption on the basis of more recent data suggesting that employee contribution method has increased quite substantially over the last few years.

Senator CORMANN: But do not underestimate the ingenuity of the Australian people when it comes to minimising their tax. Have you made some assumptions around the fact that this might drive people to switching back to the operating cost method in order to minimise the impact of this?

Mr M Robinson: I think, Senator, to the extent that, for example, people are salary sacrificing vehicles which would be predominantly for private use, in those circumstances those individuals would more often than not be worse off under the operating cost method—not to mention the additional administrative compliance that the operating cost method puts onto individuals.

Senator CORMANN: So you are confident that the assumptions that you have made are pretty robust in relation to this?

Mr M Robinson: We have consulted with the tax office, in particular around that assumption, and we agree that we are quite comfortable with the approach that we are taking and the assumption around the employee contributions.

Senator CORMANN: Can you advise the committee what the top and second top marginal tax rates for individual taxpayers will be in 2011-12, taking into account the Medicare levy, the Medicare levy surcharge and the flood tax? Is that you as well, Mr Robinson?

Mr M Robinson: Yes. In relation to the flood levy—

Senator CORMANN: For 2011-12—I want to have the consolidated top marginal tax rate and the second highest marginal tax rate consolidating the marginal income tax, the Medicare levy, the Medicare levy surcharge and the flood levy.

Mr M Robinson: I point out there that the Medicare levy surcharge is a surcharge that can be avoided by individuals, so on that basis—

Senator CORMANN: Sure.

Mr M Robinson: So on that basis—

Senator CORMANN: For somebody without health insurance.

Mr M Robinson: Someone who is on the top marginal rate, which is 45c in the dollar plus the Medicare levy, which is 1½ per cent, that is 46.5c. Individuals over \$100,000 would be paying an additional one per cent on that. So for the people in the top marginal rate at \$180,000-plus, that would be 47.5 per cent including the flood levy.

Senator CORMANN: And if they do not take out private health insurance it would be what—48.5 per cent?

Mr M Robinson: Yes, that is right. An additional one per cent on that.

Senator CORMANN: And what is the second highest marginal tax rate going to be?

Mr M Robinson: From \$80,000 the existing tax rate is 37c in the dollar, so 37 per cent plus a 1½ per cent Medicare level levy is 38.5 per cent. Those individuals who will also be subject to the 0.5 per cent flood levy—

Senator CORMANN: It is between 0.5 per cent and one per cent depending on which side of 100 they are.

Mr M Robinson: That is right: \$80,000 to \$100,000 would be 0.5 per cent.

Senator CORMANN: What work is Treasury currently doing for the government on achieving its 'aspirations for the tax system' which were set out in 2008-09 Budget Paper No. 1, statement 1-10 to reduce the number of marginal tax rates from four to three, to reduce the top marginal tax rate to 40 per cent and to reduce the second top marginal tax rate to 30 per cent. Is any work being done on that at the moment?

Mr Heferen: No.

Senator CORMANN: So that was just something in the 2008-09 budget? But it was supposed to be achieved by 2013-14.

Mr Heferen: I think it is fair to say that the intervening events with the financial crisis, the consequent fiscal deterioration and the consequent consolidation needed after that has fairly obviously meant that substantial sort of reform to the personal income tax system to reduce rates of that magnitude is simply not part of our current work.

Senator CORMANN: So this is essentially no longer live work?

Mr Heferen: The policy aspirations of the government is obviously not a matter for us to comment on. But in relation to what Treasury is doing that is not something that we are focusing attention on at the moment, given that the obvious state of the budget.

Senator CORMANN: I think Mr D'Ascenzo is feeling a bit lonely over there so we might focus on the ATO for a little. Has the ATO had any change in staffing numbers of their business line call centre?

Mr D'Ascenzo: We have additional funding under the budget proposals.

Senator CORMANN: Talk us through that.

Mr D'Ascenzo: Is this the total budget for the ATO as a result of the budget changes—is that the question?

Senator CORMANN: No. The question is whether the ATO has had any change, either up or down, in staffing numbers for your business line call centre.

Mr D'Ascenzo: For the business line call centre specifically.

Mr Butler: Our call centres have two lines. One is for the tax agents and one is for individuals. So there is no specific business line call centre per se. The numbers go up at tax time every year, so we are planning for additional staff available from 1 July—in fact immediately before 1 July—for our busy tax time period. My recollection is that those numbers go up by about 800 across our processing and call centre staff, with roughly 50 per cent each additional—roughly 400 people additional in call centres and 400 in processing of tax returns.

Senator CORMANN: Have you experienced significant increases in the number of calls over the past one, two or three months?

Mr Butler: We have had an increase in calls over the last year. This calendar year, particularly with the various natural disasters—for instance we gave extensions of time for people to file business activity statements and we did see quite an increase in calls with people ringing to check when they had to file their business activity statement and that type of thing. There has been a general increase in calls across the board as well, so we have found it difficult at times to answer calls as quickly as we would like. Overall our position is that we are meeting our service standards but more people would get a busy signal than we would like on certain days of the week and at certain times of the day.

Senator CORMANN: Are you able to give us some numbers around all of this? Do not do that now; take it on notice. Essentially you say there has been significant increase over last year. Maybe for the last 12 months we could have a month by month breakdown as to how the numbers have been tracking. I am sure you collect that internally in any event. But then the aggregate figure for the year—if you could compare that with what has been happening over the last two or three years. The context is that a lot of my colleagues and I have been getting feedback that people are struggling to get through. As people ring the 13 28 66 number and select an option to speak to an operator, the message is 'Our service is currently experiencing peak demand' at whatever time of the day, whether it is morning, midday or afternoon hours. Whatever day of the week, that seems to be the message. You really have to persist in order to get through.

Mr Butler: Another thing that is probably of interest to you, Senator, is that during this calendar year we have also been rolling out a new telephony environment. In the past when we managed telephone calls if a call went to, say, our Box Hill office it sat there until it was answered. The new environment allows us to actually manage our calls across the whole country. We only three weekends ago finished the rollout of that particular telephony environment, so we are bedding that down for tax time. Clearly it will make us more efficient going forward.

Senator CORMANN: So as of three weeks ago people should now be experiencing significant improvement in terms of getting through?

Mr Butler: My advice is that over the last couple of weeks things have improved a lot. That is certainly the case. But we did have quieter demand. If you take, for example, the week of Easter and the Anzac Day period, the three days after Anzac Day coincided with a business activity statement filing date. We had very high volumes of traffic on those three days and we were not able to meet the sort of standard of service we would like to on those days. We are well aware of that. We planned for it and did the best we could but the volumes were quite significant.

Senator CORMANN: Do you monitor—presumably you have service standards and levels?

Mr Butler: Yes. We monitor lots of things.

Senator CORMANN: Do you monitor when you breach those service standards?

Mr Butler: Our service standard for answering, for instance, for individuals is 80 per cent of calls in five minutes. If we have demand where someone would be in the queue for more than 30 minutes, then we have a high-demand message on our phone service. People can choose in many instances to book what we call a rendezvous—they can leave their name and phone number and we ring them back at a time of their convenience. That is a very popular service. We track many things with telephone call management. We answer over 12 million calls a year, so it is a big, important function to manage that very efficiently. But certainly on some hours at some hours of the day it has been very difficult to meet the standards we would like. It has been a combination of factors—as I mentioned earlier, people ringing about things like business activity statements, the way public holidays fell and the role of our new telephony environment, which is now in and working quite well but did cause disruptions to our service on various days.

Mr D'Ascenzo: Can I add to that. It is an area that we have been concerned about as well. We have noticed that there have been difficulties for people getting through to our call centres. As Mr Butler pointed out, we have as a management team tried to give it the attention it deserves. There has been a range of factors that have impacted on that. We are hopeful that our new telephony framework is bedded down. We have more resources in for tax time and we are training those resources. We have had an increase in numbers this year but at particular points in time, such as post-deferral of some of the payment arrangements that we provided for the natural disasters, for example. People rang up soon after that to say: 'What is our position now that we are back on track?' So it has been difficult, we are concerned about it and we are giving it due attention.

Senator CORMANN: Some of the feedback I have been getting is that, when callers do manage to get through, they can be told that they will have to wait in excess of an hour to talk with somebody.

Mr D'Ascenzo: Often, as Mr Butler said, there are 12 million calls across the board—not just business but 12 million calls generally. You will find some situations where the outcome of their calls is not as we would like. What Mr Butler did say is that, if you average numbers, over the average of that year and usually over the month we often meet our service standards, but we are concerned that individuals do find it difficult to interact with us. It is fair feedback.

We are conscious of it and we are trying to do everything we can to try to provide a good service.

Senator CORMANN: Do you get feedback directly? I assume you do. Has the number of complaints in relation to this gone up in recent times?

Ms Granger: It has gone down in recent times—certainly in the last few months. In fact, it has been trending down since last September. But, as you know and as we have reported here, we did have record numbers and we struggled a bit at first to actually handle those. But they are now back within service standards and the numbers are down about 1,100.

Senator CORMANN: It is the delayed effect of the feedback to the politicians, perhaps?

Ms Granger: And from others as well.

Senator CORMANN: You see it first up and eventually it makes its way to us.

Mr D'Ascenzo: We have received those concerns and we appreciate them. We do not rest on our laurels; we are trying to do what we can to manage them.

Senator CORMANN: Was this business line call centre subject to an efficiency dividend or any other cut in resources?

Ms Granger: The entire tax office is subject to an efficiency dividend. That is something we take off the top of the budget. We do not ring-fence any particular part of the office from that.

Senator CORMANN: So the answer, then, is yes, is it?

Ms Granger: Entire offices, yes.

Senator CORMANN: Including the business line call centre?

Ms Granger: Yes.

Mr Butler: At the same time, the new technology we are putting in place will reap efficiencies, so there will be less cost in that sense.

Senator ABETZ: Can I ask a discrete bracket of questions in relation to the review of independent contractors. I understand that the Australian Taxation Office received some extra funding in the budget and I was just wondering how this came about. We have lots of second commissioners, by the look of it—three second commissioners.

Mr Quigley: One commissioner and three second commissioners.

Senator ABETZ: But there is only one commissioner—that is the important point.

Mr Quigley: When you say, 'How did the extra funding come about'—

Senator ABETZ: Undoubtedly the government allocated it to you, but was it a decision by government—did they approach you—or had the Australian Taxation Office had certain concerns in this area for a long period of time?

Mr Quigley: In answer to the question, yes, we have had concerns for a long time and we made that quite public. As part of the process, we advise government through Treasury when we have concerns and then it is up to the government, obviously, to make any decision on whether they would like us to increase activity in any particular areas.

Senator ABETZ: It just seems somewhat serendipitous that the Australian Building and Construction Commission, with a new commissioner at its helm who was a member of the

Labor Party until just very recently, announced an inquiry into independent contracting and sham contracting. Also, there is the pressure of certain unions in this regard taking aim at the self-employed. So the fact that the government has now provided this extra funding to you is of interest and it is in that context that I raise the question. You are, surprisingly, concentrating your efforts—once again, I daresay, due to serendipity—on the building and construction sector. Is that correct?

Mr Quigley: It depends how you want a phrase that question, Senator. If your question is are we increasing our activity in the building and construction industry, the answer is yes. The reason for that is that we have identified over many years that that is an area of concern.

Senator ABETZ: You have identified this over many years, but the government has only made money available for this particular purpose in this budget?

Mr McCullough: Can I interject. Are you inquiring about the tax compliance measure—the one to do with reporting taxable payments? Is that the one that you are concerned about?

Senator ABETZ: Yes.

Mr McCullough: Can I make something a little clearer. That really is about reporting taxable payments by businesses in the particular industry; it is not addressed at what people colloquially refer to as 'sham contracting'.

Senator ABETZ: Thank you for that clarification.

Mr McCullough: There is a new measure in the budget that triggers a reporting regime and there are administrative expenses associated with that. That builds on, if you like, a long line of activity that the tax office has taken in various industries in order to get to a position to have the evidence to recommend to the government that a particular step be taken.

Senator ABETZ: Is it the Australian Taxation Office's role to also seek to weed out sham contracting?

Mr D'Ascenzo: Can I add to that. In the 2009-10 budget we did get extra funding that was directed at what was called a level playing field for Australian businesses. Part of that process was to look at sham contracting, with particular focus on the building industry.

Senator ABETZ: So you do not see, as I understand it, a need to change the law but it is an issue of enforcement in relation to the area of sham contracting?

Mr D'Ascenzo: It comes to a broader question of whether it is about employees or contractors not disclosing payments in their returns or it could be a situation of employers either properly or improperly not paying pay-as-you-go instalments on an employee basis or superannuation guarantee or a range of other things. It is hard to separate the concept of sham contracting from just the level of non-compliance in a particular industry applying to different players.

Senator ABETZ: That is what I thought. I will take Mr McCullough's answer together with your answer to indicate that the two are in fact intertwined to a certain extent.

Mr D'Ascenzo: I think they are, in my mind.

Senator ABETZ: As they were in mine. But I thought Mr McCullough was taking me down the track that I should not have been so suspicious or concerned. I can accept that both answers were given in good faith and so I do not want to go down there.

Mr McCullough: Can I clarify my answer. I was simply referring to the particular measure in this year's budget as not necessarily being directed to that end. I totally agree with the commissioner on the other points.

Senator ABETZ: As one would. You would be braver than me not to. In relation to the law on sham contracting, that is pretty settled in your mind, Commissioner?

Mr D'Ascenzo: If we are talking about the question of whether somebody is a contractor or an employee, you have definitions under the common law, you have definitions under the superannuation law and you have definitions under workers compensation law, and none of those definitions are necessarily totally the same. What we have tried to do to try to clarify that is develop a range of online tools. People can go through, we ask some questions and, if they answer the questions properly, it gives them a good guide. It is not to say necessarily that it is 100 per cent correct, but if people do that and operate on that basis then they are certainly not going to be subject to penalties afterwards for doing something wrong.

Senator ABETZ: The Australian Taxation Office, we were told by Mr Quigley, had advocated or whatever for extra funding to deal with the issue of contractors. I understand that no such representations or concerns have been expressed to government in relation to the actual definition of 'sham contracting'. Is that correct?

Mr D'Ascenzo: Again, I am just talking about what the definition of 'contracting' is in the range of various acts. Certainly that has been raised in a range of different contexts many times over a long period of time, whether it be to Treasury, to government or to a range of other consultative processes. 'Sham contracting' is just a term that has been used, but it really depends on whether or not at law someone can legitimately be a contractor, and they can if they meet certain criteria. The criteria are slightly different under different legislative regimes.

Senator ABETZ: But, for your purposes and, as I understand it, from a whole-of-government point of view, it is mainly a Taxation Office matter to pursue the issue of sham contracting?

Mr D'Ascenzo: From my perspective that is a real issue because, as I pointed out, there are quite a lot of consequences for both the rights of employees and also the obligations of employers depending on the circumstances. I think it is an area that is very important and we certainly do focus on employer obligations and also reporting and non-reporting by employees. We have done that for as long as I can remember. There are wider workplace industrial relations issues—for instance, you mentioned the commissioner. I think he is looking under the fair trade—

Senator ABETZ: Fair Work Act.

Mr D'Ascenzo: Yes, the Fair Work Act type definitions. It may be wider than the ATO, but certainly the ATO does have a role in ensuring that rules are being followed properly and that guidance is provided to people so that they can do that.

Senator ABETZ: Did I read correctly that it is anticipated—correct me if I am wrong—that, with the investment of \$46.4 million over the forward estimates, you are anticipating an additional income flow of \$513 million in revenue over the forward estimates? Is that correct?

Mr Heferen: That is correct. That is the measure description that Mr McCullough was talking about—the better reporting. As we have agreed, they are related but still conceptually distinct from the issue of sham contracting.

Senator ABETZ: So how did we come across that figure of \$513 million being raised in extra revenue? Who sat down and worked that out?

Mr McCullough: Again, the tax office may like to supplement this but, as I recall it, they had done, as the commissioner said, a deal of work over 12 or 24 months to look into compliance within particular industries and then supply government with advice about what their estimates of potential revenue forgone was. From memory I think that was all built into the regulation impact statement, which has been made public.

Senator ABETZ: It is just interesting that we get the figure so exact to \$513 million over the forward estimates. It is an interesting figure. You could estimate it at 500 or even 510, but that we get it down with such exactitude always interests me, especially when, with the best will in the world, it seems that no figure in Treasury estimates ever comes out as predicted.

Senator Sherry: You are suspicious. There are plenty figures in the budget with ones and twos.

Senator ABETZ: No, I have seen figures in the round and I have never seen it—

Senator Sherry: Not even I was that paranoid when I was sitting where you are.

Senator ABETZ: I have never seen a figure in a budget come out as asserted in these sorts of circumstances.

Mr D'Ascenzo: I may be wrong because I am not sure about just how the figure was calculated, so if I am incorrect I will certainly—

Senator ABETZ: You can come back on notice.

Mr D'Ascenzo: Can I surmise? I mentioned before that in the 2009-10 budget we did get some further funding. That funding enabled us to put on a team of something like 50 people. From 1 July 2009 to 31 March 2011 we did 1,675 field audits and the average adjustment there was something like 19,043 per case. So I imagine that the figure was done by multiplying those out.

Senator ABETZ: All right.

Proceedings suspended from 18:17 to 19:17

Senator ABETZ: Continuing from just before dinner on the \$41.6 million in relation to contractors and tax compliance, how many extra staff will be employed? Is it envisaged that more individuals will be engaged? If I recall correctly there was a budget measure of \$41.6 million for the collection of an extra \$513 million. Continuing in that vein, do we have an anticipated extra staff complement?

Mr D'Ascenzo: The breakup of that includes staffing components. Mr Quigley might have precise details on the \$41 million we have budgeted for in terms of the forward estimates.

Mr Quigley: No, I have not.

Mr Heferen: Perhaps I can help. The figure is \$46.4 million.

Senator ABETZ: You are quite right. That is the figure I quoted before dinner as well.

Mr Heferen: That is right.

Senator ABETZ: Sorry. I see now that the \$41.6 million is the extra GST further on in the document that I confused in my mind. You are quite right: \$46.4 million—even more money for potentially even more staff. Do we not have a figure on that as yet?

Mr Quigley: We would have an estimated figure of how that would be broken up between staffing and—

Senator ABETZ: And what is that figure?

Mr Quigley: I do not have it with me. I would have to take it on notice, but we certainly would have that figure. It would also include some capital costs as well as supplier costs.

Senator ABETZ: You must have convinced the government that you needed that sum of money for certain purposes. I would imagine that would have included extra staff.

Mr Quigley: It does.

Mr D'Ascenzo: Yes, it does.

Senator ABETZ: And you will get that to me on notice?

Mr D'Ascenzo: We will provide that information, and the breakdown of the \$46 million.

Senator ABETZ: 46.4! This is going to mean a new reporting regime for these contractors.

Mr D'Ascenzo: Yes, the proposal is for a new reporting regime.

Senator ABETZ: Have we sorted out how this will be introduced? I understand that there will need to be new regulations, for example.

Mr D'Ascenzo: Again, this is still a proposal that the government has announced. The government has announced that there will be extensive consultation about the details. We worked out what is likely to be involved in terms of administrative costings, including some capital expenditure for the systems changes to take the data and make use of it, as well as extra resources to carry out a range of other activities. The precise details of how it is going to operate are still subject to consultation, so I am not sure that I can give you any more specific detail on that.

Senator ABETZ: How it is going to be introduced must be known, because we have a sum certain as to the money we expect to glean from this exercise.

Mr McCullough: If you are asking whether it will require regulations, the answer is yes. I think a provision in the law was brought in around the time of the GST that allowed the turning on of a reporting system of this type by the enactment of regulations. That legislation was in about 1999.

Senator ABETZ: I think 2000 was the time of the GST legislation, if I recall correctly.

Mr McCullough: It might have been one of those two. So this regime will be pursuant to that provision and regulations will be developed. There is a discussion paper, which I believe has just been released in the last few days, unless I am jumping the gun. That sets out the detail of who would be affected and how. There is a consultation period that runs until the end of the month or early July. Once we get the feedback from that consultation we will make a proposal to government about how the regulations should look.

Senator ABETZ: Minister, the government made a wonderful promise that, for every regulation in, there would be a regulation out. Given that we are going to have a new body of

regulation in, in relation to this area, have we identified which regulation is going to be knocked out?

Senator Sherry: The first point to make is that the regulations are not drafted. We do not yet know the extent of those regulations, although we do know that there will be some change of regulations. The second point is that the issue of regulatory oversight falls within the Department of Finance and Deregulation, which deals with the consideration of regulatory impact.

Senator ABETZ: As you are so committed, as am I, I am sure you will be passing that on to the appropriate committee for an answer. If the secretariat and the Treasury could do that for us—flick that to Finance—I would be much obliged.

Senator Sherry: We will.

Senator ABETZ: Senator Ryan has just reminded me of something. Senator Sherry, are you the minister assisting on deregulation?

Senator Sherry: I am indeed. However, I am Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation, Minister Assisting the Minister for Tourism—

Senator ABETZ: You seem to be the Russ Hinze of the Gillard government.

Senator Sherry: Thank you for your compliments. I hope that makes the ABC headlines, unlike the one I saw a few minutes ago. I have encountered cross-questioning at a number of estimates committee hearings. I cannot take a regulatory question here and respond to it, but I am happy to cooperate and pass it on to the finance department.

Senator RYAN: Pass it on to your other personalities.

Senator ABETZ: I am sure you could if you wanted to, but I accept the technical point. We have not determined as yet what format this new form of reporting will take. Will it include changes to, for example, the BAS statements that will be put in—how much more regularly these BAS statements will need to be put in?

Mr McCullough: It is unlikely that it would require a change to the BAS statement. The idea is for an annual reporting rather than a quarterly reporting of the payments at this stage. I suspect it would involve once a year supplying to the ATO information that has been collected. In fact, by and large, it would be information that is already collected, so the additional impost is supplying that to the tax office once a year.

Senator ABETZ: Do we know how much extra time that might take, on average?

Mr McCullough: As I mentioned before, a regulation impact statement was done and has been made public.

Senator ABETZ: When was that made public?

Mr McCullough: As a matter of course, after the budget the Department of Finance and Deregulation releases regulation impact statements.

Senator ABETZ: Thank you for cross-answering about the Department of Finance and Deregulation. That is very helpful of you. Have we determined what matters you would want to find out from the contractors that will be on the form or that will need to be reported?

Mr McCullough: The problem that has been identified has been several categories of noncompliance, including certain people not putting in returns at all and other people who are putting in returns not putting in the full amount they have received from another payer in the chain. Because all of these transactions between businesses are subject to a rule that they must supply their ABN—otherwise an amount is automatically withheld—there should be an ABN chain that goes from, say, the head contractor at a major construction exercise right through to the subcontractors. If that information is supplied at once to the tax office, they will then be able to reconcile those payments and identify the gaps—the noncompliance, the nonreturning of income.

Senator ABETZ: So all this information could be obtained by auditing these contractors?

Mr McCullough: In theory, but the problem with auditing is that (1) it imposes a cost on every business you audit and (2) it is a very expensive way of gathering the sort of information that is kept in somebody's records. It would really have to be virtually a 100 per cent audit in order to make this work. The whole point is that it is a reconciliation. I suspect that the tax office will target the gaps. If their system reconciles and says that taxpayer A has returned all the income, they are not going to bother with that person. But if 10 per cent of the people have not returned income, they then can go and pay those 10 per cent a visit.

Senator ABETZ: I thought the idea of doing random audits is, in general terms, to keep the average punter honest. What you are doing in fact is putting an impost and a cost on every single business, including the ones that are doing it absolutely right, in the pursuit of those that are not doing it right. Would not random audits, if they were to be undertaken in an effective manner, obviate the need to put this burden on every single contractor at this stage in the building and construction sector and, as I understand it, if certain people have their way, into the cleaning sector as well?

Mr McCullough: Again, the tax office might be better placed to make comments specifically about random audits. I would just make the point that you have to do, as I understand it, a fairly high level of activity in order to have the deterrent effect. It is a bit like random-sampling speed limits. It might deter the people who are inclined to be deterred by that sort of thing, but the people who are not returning income in the first place are probably making their own risk assessment of the likelihood of being caught. You have to do an awful lot of audits. I think the evidence that was presented suggested that the audits the tax office had done indicated that there was such a significant problem that something else had to be done. This particular approach is designed to have the minimum impost on the compliant taxpayers.

Senator ABETZ: Thank goodness the state police commissioners do not take that approach to, for example, drink driving—that you would have to fill in a form and submit a blood test each time you jumped in front of the wheel to go driving. That is basically what you are saying will be required for the building and construction sector—that every single contractor will have to provide all the information, whether or not there has been any concern. But that is a government policy decision. Clearly the government has taken that policy decision, and it is not necessarily for you to comment on the wisdom or otherwise of that, but thank you for telling us the approach to that. I assume that this information cannot and would not in any way, shape or form find its way into the hands of the trade union movement.

Mr McCullough: Well, all tax information is governed by secrecy provisions. The tax office keeps it very strictly held. As far as I am aware, there is no provision to provide it to unions.

Senator Sherry: Or anyone else, for that matter.

Senator ABETZ: I thought that would be the answer. For what it is worth, the *Australian Financial Review*, on Tuesday, 31 May, suggested that people were expressing concerns about giving unions access to reported details. I could not see how that could or would happen, but I thought I might be missing something. Clearly I am not. That will reassure the person who had expressed that concern, if it is reported correctly. Minister, on 13 October 2010, Mr Shorten, the Assistant Treasurer, pledged not to change personal service income tax law 'or make life difficult for self-employed working people'. Would it be fair to say that this measure will make life more difficult for at least some self-employed working people, given the new reporting requirements that will become necessary?

Senator Sherry: Firstly, I would have to refresh my memory on what Mr Shorten said.

Senator ABETZ: It is the *Australian Financial Review*, 13 October 2010.

Senator Sherry: Firstly, I do recall generally comments of that nature but not the specific detail. Secondly, I will have to take it on notice for Mr Shorten, despite the long list of titles that I read.

Senator ABETZ: Sorry, the long list of?

Senator Sherry: I said that despite the long list of responsibilities and titles I read earlier I no longer have responsibility for the area. I am here in a representative capacity and it is how helpful I want to be. But I will have to take it on notice and ask Minister Shorten for you.

Senator ABETZ: All right. We have identified the building and construction sector with a view to moving on to the cleaning sector. Do we have a third one in mind—another sector—or do we think that would pull it up?

Mr Heferen: As I understand the measure in BP2, there will be consultation. The government will also consult publicly on options to introduce a similar reporting regime for payments as to contracts in the commercial cleaning industry.

Senator ABETZ: That is right.

Mr Heferen: That is the only one highlighted.

Senator ABETZ: So the only one highlighted. I am interested in the ones that might not be highlighted but might expect a similar regime.

Senator Sherry: Well, there is nothing beyond what has been publicly announced. I am happy to take it on notice and see if there is anything else.

Senator ABETZ: Thank you. It was publicly announced as well that there had been a carbon tax. It was publicly announced that we would not make life difficult for self-employed working people. Anyway, we shall see what comes out of it. If I may, I will hand over to Senator Ryan.

Senator RYAN: I have seen letters sent by the deputy commissioner, Mr Neil Olesen, headed 'Are you paying superannuation for your eligible employees and contractors?' They

had been sent to businesses. You are familiar with the campaign or the letters that I am referring to?

Mr D'Ascenzo: I know we have done—

Senator ABETZ: 29 April 2011.

Senator RYAN: Senator Abetz has kindly provided me with a copy. I left mine on my desk. This one is dated 29 April. As far as I know, it is part of a wider group.

Senator ABETZ: It was sent out by the gentleman now at the table who has just joined us.

Senator RYAN: So you are familiar with this particular campaign?

Mr Olesen: Could you read the title again, please?

Senator RYAN: The title is 'Are you paying superannuation for your eligible employees and contractors?' Under there it has a number of bullet points and says that 'some common mistakes made by employers are listed below'. There is some plain English language there. Do these plain English bullet points reflect the current law as best the ATO understands it, because obviously tax law is not the easiest to understand in all cases? You have tried to use some common language. You are confident they reflect the current law?

Mr Olesen: I do not have that letter in front of me at the moment.

Senator RYAN: I will get a copy made. That is part of a campaign or a targeted activity by the ATO?

Mr Olesen: I think what it relates to is we have a range of activities that we engage in in trying to enforce employer obligations to pay superannuation on behalf of their employees. Some of those activities are in response to complaints that are made to us by employees. A lot of those activities are things that we do on an assessment of risk of certain employers having not paid their superannuation obligations. I think that letter relates to that body of activity where we target based on an assessment of risk for employers.

Senator RYAN: Yes. It does look like that. I will come back to that when you have a copy of it. I am aware that some of those letters have been sent to businesses in the computer system design and related services industry. Is that industry or that sector a target of the campaign you have just mentioned?

Mr Olesen: Thank you, Senator, for this copy. This places it better for me. A third kind of activity we engaged in is some marketing and communication work for industries that we have identified as being high-risk industries for not meeting the superannuation obligations of their employees. We have been running this program for about three years. It started in 2007-08. We identified three industries back then. Initially the focus was on getting additional material to those employers so they could understand better their obligations in relation to superannuation.

Senator RYAN: Was that started in 2007-08?

Mr Olesen: I believe so.

Senator RYAN: Refresh my memory. Was that a directive or priority put on you by the government, or was any extra resourcing provided? Did you take it entirely internally?

Mr Olesen: It was one of our strategies that we developed internally for improving compliance with the super guarantee.

Senator RYAN: How many industry sectors would have been subject to that sort of letter?

Mr Olesen: We have picked three each year. We are in the third year now. So we are up to the ninth industry. It runs on a cycle. So in the first year the focus is to get additional information to those industries through industry newsletters, direct letters like that one and other activities with the object of trying to improve their knowledge and self-reporting on the super guarantee. It is followed in a second year by audit work, following up people in that industry. In the second year we pick another three industries to focus on the education side in the next year and then in the next year move on to the audit side.

Senator RYAN: So we are up to about nine so far?

Mr Olesen: Up to nine at the moment; correct.

Senator RYAN: What are the other industries?

Mr Olesen: Just a second. I will find those.

Mr Quigley: I might be able to help you there, Senator, with some of them. It may not be a complete list, but the hairdressing and beauty industry, building and industrial cleaning, engineering design, road freight transport, automotive repair, accommodation, and accounting and IT services are some of them.

Senator RYAN: The last one?

Mr Quigley: IT services; accounting and IT services.

Senator RYAN: So when you target those sectors, do you target specific geographic regions, or do you use your database to simply say, 'Well, we're going after the IT sector this year and everyone we know that is in that space or reported in that space is going to get a letter'?

Mr Olesen: We select the industry based on a whole bunch of criteria looking at, for example, complaints that we have had from employees who work in that industry and other results we get from audit work in the organisation. Then we target communication activity broadly to that industry. So the education phase of that campaign is broadly targeted at participants in that industry in all regions. The audit phase is then targeted at particular employers that we might identify who we think may be at risk again, based on an analysis of various data holdings that we have.

Senator RYAN: Do you have set criteria around which that risk is assessed?

Mr Olesen: We will have a bunch of risk criteria. There is a model we will be using that is used to make those judgments for the cases that we pick.

Senator RYAN: When you are choosing sectors?

Mr Olesen: So (a) when we are choosing the sectors and (b) when we are choosing people to audit subsequently in the second year of the campaign.

Senator RYAN: I understand the audit decision is different. I am interested in this first phase of choosing the sector. Are those criteria static or dynamic? Do they evolve year on year?

Mr Olesen: They will be dynamic. So we are looking at the best information we have available year after year that can help us make that assessment. Some of the components will be reasonably static. A key thing, for example, would be the number of complaints we get from employees in those sectors. So a key thing we do is analyse the complaints we get from employees by industry sector. That gives us an insight into levels of compliance. But there will be other factors we will be looking at as well.

Senator RYAN: You have just had a copy of the letter put in front of you. There is a part that I have marked with a scribble, which is the third bullet point. Under the heading 'One of the common mistakes', it notes 'not understanding the need to pay super for any contractor they pay under a contract that is mainly for the contractor's labour even if the contractor quotes an Australian business number'. Is that designed to promote superannuation payments so that future audit activity is unnecessary or necessary?

Mr Olesen: Well, it is in the context of an alert.

Senator RYAN: But that is not the test that an employer might use because that is more plain English as opposed to the legal test, is it not?

Mr Olesen: It is. Yes, that is right. There are a bunch of tools we offer online that help people navigate that decision. It goes to the conversation that was had before about what is the boundary between an employee and a contractor. There are particular legislative rules about that boundary between employees and contractors. There are particular rules in the superannuation guarantee law. We have some online tools that help people navigate that particular question.

Senator RYAN: If I got that letter as an employer and, for whatever reason, either correctly or erroneously I then paid superannuation, do you then contact the contractor—the person receiving it—because their particular status or tax treatment may change if they are paid as an employee versus being paid as a contractor with superannuation payments?

Mr Olesen: If an employer erroneously makes a decision to pay super for someone in the belief that they are an employee when, in fact, they are not an employee, we would not know, as a rule, because that does not get reported to us. So, as a consequence, we would not be doing anything with that information because we do not have that information.

Senator RYAN: So if you notice that someone who has been reporting gets one of these letters, the system might be working and they start paying superannuation?

Mr Olesen: What I am trying to say is that I cannot see if that employer pays super because that is a private issue.

Senator RYAN: Yes. You are not notified.

Mr Olesen: That does not get reported to us by the employer.

Senator RYAN: Presumably you can tell out of other tax data that that person provided it at some point.

Mr Olesen: We get annual reporting from superannuation funds that tells us who has received a contribution. That is not replete with information. It tells us much about the circumstances of the recipient.

Senator RYAN: So to clarify, if I am such a person, I get one of these letters. I then decide to start paying my contractor's superannuation. There are no means for you to follow

up, although mechanisms do, with that contractor who is suddenly getting superannuation as to whether or not they are going to be treated differently tax-wise?

Mr Olesen: I would be surprised if a recipient of these letters were not using the services of a tax agent or another adviser. I assume they would be going to that adviser and seeking advice about what the letter might mean for them. That would be a routine experience.

Senator RYAN: I am thinking more of the third party, I suppose. You are writing this letter to ensure that someone is getting superannuation, from what you said earlier, if they are entitled to it. I am more wondering here what happens where I get the letter from you. I am employing Senator Abetz and he suddenly starts getting superannuation. Is there any mechanism by which you can follow up Senator Abetz or that third party because they are suddenly receiving superannuation? There have been apocryphal stories of follow-ups.

Mr Olesen: Yes, is the short answer, to the extent that we would receive information from super funds annually, which we do, which says that a superannuation contribution is being paid for Senator Abetz. But if it turns out we cannot find the tax return for Senator Abetz or the income on that tax return looks a bit low relative to the superannuation contributions that are being paid on his behalf, that could be a trigger for us to follow up.

Senator RYAN: Does that also go to the test as to whether or not Senator Abetz or the third party might be defining themselves as an independent contractor and, therefore, receiving personal services income as opposed to potentially being considered an employee? Does it go to that as well?

Mr Olesen: I am kind of speculating. It is hypothetically possible. We would have the information to identify potentially a mismatch between super contributions made and income being returned by that person. If we were to choose to then audit that and follow up on that information, then pretty much all issues are potentially on the table.

Senator RYAN: So do you have any program in place to try to join these two sides of the triangle?

Mr Olesen: I am not expressly aware of it. I am happy to take that on notice and check that for you, if you like.

Senator RYAN: I would appreciate that because there are some stories that or some fear that this is being used to trigger the different treatment of contractors by the tax office.

Mr Olesen: I am not aware of a particular program, but it is an interesting idea.

Senator RYAN: That is not why I came to the parliament, to get interesting ideas. So there is no other part of the tax office that would be undertaking such activity?

Mr Olesen: It is quite possibly the case. I do work with a number of colleagues in other parts of the organisation who look at income tax matters. I focus on the superannuation side. But they do run a lot of programs in concert with us, so it is quite possible there is a program that uses this kind of income data matching to draw those kinds of conclusions. I am not expressly aware of it, but, as I say, it could possibly be an interesting avenue to pursue.

Mr D'Ascenzo: But, as I think Mr Olesen mentioned, if we do at times cross-check the payments to the super guarantee and we find no lodgment or we find significant underreporting, that would come into our filters for income tax or GST reviews.

Senator RYAN: Sorry, can you just repeat that, Mr D'Ascenzo?

Mr D'Ascenzo: If we do find that a person is receiving super guarantee payments from the employer but not lodging any returns, be it income tax returns or GST returns, that would be an indicator of us following up that matter.

Senator RYAN: As I would expect. Chair, that is all I have on independent contractors.

CHAIR: We will go to Senator Xenophon.

Senator XENOPHON: Thank you, Chair. Commissioner, before I ask some questions on the change program, I might ask about your appearance before the parliamentary audit committee of the House of Representatives and before Mr Oakeshott, where you said in March this year that you were surprised to hear the taxation watchdog—namely, the Commonwealth Taxation Ombudsman—raise issues of material and systemic problems. That was close to three months ago. Are you still surprised or are you satisfied with the matters that were raised by the committee?

Mr D'Ascenzo: I spoke to the ombudsman. He sent me a letter which indicated that his interest had been to make sure that large organisations, of which the ATO is one, were concerned about following up complaints to understand the systemic underpinning of those complaints. I assured him that that was the case. I am happy to tender that letter.

Senator XENOPHON: You may, but in due course. So it is fair to say that you were genuinely surprised at that time before the parliamentary committee, but since that time there has been correspondence with the ombudsman?

Mr D'Ascenzo: And I met with the ombudsman about it as well.

Senator XENOPHON: Thank you. I want to go to the inspector-general's review of reviews that was released on 21 March this year. There was a subsequent piece in the *Financial Review* headed 'Millions hit by ATO's lack of binding advice'. In summary, I think there has been criticism by the inspector-general of the ATO for issuing fewer pieces of binding advice to the detriment of almost 13 million people who rely on guidance for tax certainty. The inspector-general was particularly concerned about the 'emerging trend where the ATO is producing less advice in binding form' which is 'affecting a large segment of the taxpayer population'. What do you have to say about that criticism?

Mr D'Ascenzo: I do not know whether the inspector-general did make those comments in those terms, but he has not made them formally. I do not know what else to say.

Senator XENOPHON: You accept that there are fewer pieces of binding advice being issued by the ATO?

Mr D'Ascenzo: I can give you the limits. This is what the law has. The law has a public ruling system and a private ruling system. Under those provisions, by law people can ask for private rulings from the ATO, and we do issue public rulings on matters of controversy on which we consult and ask a range of representative bodies. I do not think there has been any significant diminution in those aspects of law. I think many, many years ago there were proposals where if the commissioner considered it appropriate you could make that wider. That point of view was countered by a range of other reviews subsequent to that which said, 'Well, look, if the commissioner starts to make a whole lot of things binding over and above the private and public ruling system which the parliament itself has created, then you are getting the commissioner starting to make law that is binding on the Commonwealth without the parliament having had its say in whether or not it wants that to be binding.'

There is another proposition as well. This came out of the review by the Board of Taxation in relation to changes to the GST system. They said, 'Look, actually, if you try to do this, you'll have to use legal terms if you're going to bind the community. If you use legal terms, you're likely to mislead more people than help. It actually becomes a ploy to drive more people to seek assistance from accountants and lawyers rather than carry out their normal activities.'

Ms Granger: Senator Xenophon, I will add to the commissioner's answer. I do have some statistics on the amount of private binding advice in the last three years.

Senator XENOPHON: I am happy for you to provide that, Ms Granger.

Ms Granger: It actually establishes exactly what he is saying.

Senator XENOPHON: It might save time if I put to you one more thing about the inspector-general's report. He found that only a small part of the 2009 version of *TaxPack* used by 2.6 million taxpayers to help guide the completion of returns was considered legally binding. That was a section regarding special circumstances and the glossary, which is eight of the 125 pages of guidance. The 2008 version, by comparison, was considered binding in its entirety. I am just trying to see if there was a policy shift and what the implication of that is for taxpayers. Please, go on.

Mr D'Ascenzo: In terms of that, we are moving to have *TaxPack* be a guide, as it always was. In fact, what we found was that there was a spike in the level of people going to lawyers and accountants when we introduced *TaxPack*, and that was actually contrary to the intent of making it easier for people to comply. When we researched why that was the case, the answer was that, once you start to cover every single situation and try to make it very, very legal in terms of trying to cover every possibility, it becomes just too hard for people. The feedback coming consistently from the community to us was, 'It is much easier if you give us a nice guide. Then if we want more information, we can ask for it through a call centre, website or private rulings.'

Senator XENOPHON: It is fair to say that there has been a change in approach as to the nature of *TaxPack*.

Mr D'Ascenzo: I think what we found was that we tried to use *TaxPack* as a guide for people when we tried to include it all. In the very first edition of *TaxPack*, you might recall, we used plain English terms. There were a lot of complaints from some professional bodies that the plain English terms were not precise. Then we started to have to use precise terms in the *TaxPack*. What happened since then was a spike of people moving from doing their own returns to using tax agents. You can see that spike in the number of returns that were lodged by tax agents. In more recent times, in modern times, when we use e-tax facilities and prefilling, we are finding that that trend is changing. So from a high of 75 per cent of individual returns going to tax agents you are now down to about 71 per cent. So basically what we are finding is that you can bamboozle ordinary taxpayers or the people that you mentioned by trying to be too legalistic and trying to cover every situation, which most of them do not need to cover.

Ms Granger: Senator Xenophon, on that point, we actually ran an analysis that showed that a lot of basic mistakes were simply not happening after we moved to e-tax and a very basic design to work through. Just on the statistics, on the private binding rulings, there were

11,420 in 2008-09; 10,946 in 2009-10; and, until April this year, 7,494. So they are very similar levels of numbers each year.

Senator XENOPHON: Thank you. I will not pursue that any further. I want to go to the issue of—

Senator Sherry: Sorry, Senator Xenophon. I am going to table this letter from Allan Asher, the Commonwealth Ombudsman, to Mr D'Ascenzo. I have just handed it up.

Senator XENOPHON: Thank you. I am grateful. Commissioner, can I just say at the outset that I am grateful to Mr Butler, your second commissioner, for an informal discussion I had with him earlier today. I am sorry I could not do it last week, but estimates was a bit hectic and I am happy to take up any further offer. So I genuinely appreciate that. Commissioner, on 24 February during estimates, when asked if you were satisfied that the process undertaken by the inspector-general was a fair one, you said that 'whether or not people's different perspectives were balanced in an appropriate way, that is for others to judge'. At page 230 of the inspector-general's report into the change program, the second commissioner, Mr Butler, made a response on behalf of the ATO in which the second commissioner thanked the inspector-general and his staff for a comprehensive and thorough report. Do you agree with the second commissioner when you now acknowledge that the inspector-general's office behaved fairly towards the ATO?

Mr D'Ascenzo: I think you look at the context there. When you asked me the question, the report had not been tabled, and it is a big report. I think it includes nine recommendations, one of which is for government. Not all of the eight we have agreed with. So, in a sense, that was the appropriate response in that context because it is not a black-and-white answer. There were certain things in the report that we think hit the mark well and there were other things that we do not necessarily agree with.

Senator XENOPHON: I have the *Hansard* transcript. On the question of fairness—you might want to comment on it—you answered:

It is a question of whether or not the processes have gone through. The other question is whether or not people's different perspectives were balanced in an appropriate way. That is for others to judge.

Mr D'Ascenzo: I think that is a fair comment given—

Senator XENOPHON: It is not a fair comment, but you are satisfied that the inspector-general's report was fair in the processes that were adopted by the inspector-general?

Mr D'Ascenzo: Yes.

Senator XENOPHON: In terms of process and procedure and natural justice?

Mr D'Ascenzo: Yes.

Senator XENOPHON: That is good. The ATO's own service standards for lodgments is to aim to process electronic returns for individuals and nonindividuals within 14 days of receipt within the ATO and paper returns for individuals in 42 days and 56 days for nonindividuals with paper returns. At paragraph 3.62 of the inspector-general's report, at page 35, he refers to the change program's steering committee minutes of 22 December 2009, which stated that:

... between January and June 2010 most returns would not be processed in less than 50 days and this situation is likely to continue in the second half of the calendar year. Industry benchmarks and

experience from previous deployment(s) shows that fixing errors and design issues in production can cost up to 4-5 times more than fixing these errors in a testing environment ...

I take it you are familiar with those minutes?

Mr D'Ascenzo: Well, there are a lot of minutes. Those particular words do not necessarily come to mind. But maybe Mr Butler might know them more intimately than me.

Senator XENOPHON: Commissioner, it was subject to some very specific commentary by the inspector-general in his report. It was a key part of his report in terms of recommendations made.

Mr D'Ascenzo: Yes. But there were other key parts of that report as well.

Senator XENOPHON: Well, this is the key part I would like to focus on now.

Mr D'Ascenzo: I am sure Mr Butler can answer it.

Mr Butler: To clarify, you are referring to—

Senator XENOPHON: This is 3.62 at page 35 of the inspector-general's report. Go to paragraph 5 on the next page. Do you see the reference there? This comes from the minutes of the change program steering committee.

Mr Butler: Yes.

Senator XENOPHON: Basically, an internal document of 22 December said that for about five or six months you were not likely to process returns in less than 50 days.

Mr Butler: That was a view put forward by people to the steering committee.

Senator XENOPHON: So you are familiar with that?

Mr Butler: I have read this report a few times.

Senator XENOPHON: In terms of that view from the steering committee, was that communicated to tax agents and to the public?

Mr Butler: We told tax agents for a long time leading up to deployment that we would not be able to process any returns or any new returns received after the end of December for six weeks, when assessments switched off, and then it would take us some time to catch up. So that took us through the whole of January and the first part of February. We made it clear to the tax professionals that we would not start processing again until mid-February. What I believe—

Senator XENOPHON: That is a little different, though, Mr Butler, from the information that is contained in this internal document from the change program steering committee. You acknowledge that? It actually goes beyond that.

Mr Butler: Well, I was going to explain a bit more about that. Where I think we, with the benefit of hindsight, could have been clearer about the delays was that even once we started to process returns, it would take us many weeks to catch up. The view put to the committee was that the delays of 50 days would continue into the second half of the calendar year. It does not mean that the committee necessarily agrees with that particular view. I would have to go back and check more fully the minutes of that meeting.

Senator XENOPHON: Take that on notice. Is it not the case, though, that what the change program steering committee said in its minutes actually came to fruition because there was a backlog in terms of those service standards for some six months?

Mr Butler: Well, there was a backlog from January and February, which I just referred to. It took us until April and May to get really on top of things.

Senator XENOPHON: And into June.

Mr Butler: And June to some degree. But certainly we were in a much better position by June. So it took us the first half of the calendar year. This suggests that the delays would continue into the second half of the calendar year, which take us into tax time. That is where I am not sure that we necessarily agree with that view put forward, in a sense. There are many, many meetings and very many minutes. It would be wise to go back and check the documents.

Senator XENOPHON: Sure. But this happens to be one minute that was singled out by the Inspector-General in his report.

Mr Butler: Yes. And there were others he did not single out, in a sense, too.

Senator XENOPHON: Sure. But were there other minutes that were inconsistent with the view contained in this?

Mr Butler: We would have views from our two independent assurers. We do various risk assessments. We have people that I believe came from our operational area to say what they thought may happen. So there were various views put. We had to balance all those things.

Senator XENOPHON: So would it have been preferable to give more information to tax agents that would have reflected the advice of the change program steering committee that there were going to be delays of 50 days, which is well above the service standards, for a period of up to six months?

Mr Butler: Well, we did our best to make it very, very clear for a long time leading up to the deployment of the system that there would be significant delays. What we did not quite make clear enough, I believe, which we accept and is covered in my response to the Inspector-General's report, was, once we started to process, how long it would take us to catch up with the backlog. First of all, we did not know how big the backlog would be because we had urged tax agents and others to file the returns before Christmas. There was very little shift in what we had seen in prior years. There was not the large number that we had hoped for. So we had a bigger backlog than we probably first anticipated. It is very hard to judge in a system this size exactly what is going to happen and how quickly you can catch up. We may be optimistic. We may have been balanced. It is always easier to say today, 'Yes, we would have done things differently this time last year', with the implications.

Senator XENOPHON: Sure. But in hindsight, further information could have been given with greater specificity in terms of the likely delays?

Mr Butler: We gave a lot of information to the tax professionals and a lot of information to professional associations to try to explain what was happening.

Senator XENOPHON: Sure. I guess from—

Mr Butler: And if we were doing it again, we would probably do that differently.

Senator XENOPHON: Sure. I guess from tax agents I have spoken to and those very hard working staff within the tax office, there was a lot of frustration and a lot of anger about the delays in that period.

Mr Butler: Well, there is always a six-week delay. The commissioner in previous estimates has described that the system was switched off for six weeks so nothing could be processed except the returns that were in the old system to clear those out. We made that very, very clear, but I do not think people heard it, understood it or worked it out.

Senator XENOPHON: I want to go to the issue under the CDDA scheme of compensation for detriment caused by defective administration. I think there is a point of difference between the Inspector-General's report and the view of the ATO. Commissioner, I think the Inspector-General has asked for consideration of compensation to be paid in areas where there were undue delays. It is a view of the ATO that you are not liable or not of the view to pay that compensation. Is that right?

Mr D'Ascenzo: What is right is that we look at each case on its merits because different circumstances will apply in different situations. Over that period of time we have had some complaints under the CDDA system.

Senator XENOPHON: Commissioner, that is not quite right. I refer you to page 79 of the Inspector-General's report. At paragraph 3.210, the Inspector-General says:

The ATO has declined to provide compensation because it was decided there had been no defective administration, as outlined below in the ATO's formal response. The ATO denies that there was any defective administration.

Mr D'Ascenzo: Well, let me go further. We have had 133 claims as at 6 May 2011 where the direct or indirect impact of the change program was considered. We have finalised 130 cases. We do not think compensation was applicable in those cases. I will give you some background there because I think it is worthwhile.

Senator XENOPHON: Before you do that, do you acknowledge, though, under the legislative scheme, it is at the discretion of the department or the agency but that in order to take on the agency, you need to take an administrative law action to the Federal Court, which is a very expensive process?

Mr D'Ascenzo: No. What you have to do as an administrator is to apply the policy and criteria properly and fairly in the facts of each case.

Ms Granger: Senator Xenophon, there was another point in this.

Senator XENOPHON: Sorry, I want to ask the commissioner. In terms of the definition of 'defective administration', does that not actually refer to, under the CDDA scheme, a claim that can be made where a person incurs expenses or losses or eligibility for a benefit because a computer error results in a delayed payment?

Mr D'Ascenzo: I am not sure what the specific provisions say.

Senator XENOPHON: I am reading from the Inspector-General's report.

Mr D'Ascenzo: I take you back to the Inspector-General's report. Let us look at this question of defective administration in relation to the findings of the Inspector-General. I can take you through provisions here. At page 4 and page 111, the Inspector-General said the legacy systems were inflexible, that risks were associated with the large and complex change program and that the ATO developed appropriate mitigation strategies. At page 97, the Inspector-General said the go-live decision was correct. He did mention, as Mr Butler pointed out, at page 97 that—

Senator XENOPHON: You are referring to page 97. Which paragraph are you referring to?

Mr D'Ascenzo: Go to page 97. I do not have the full report with me. David can find it and refer to the paragraph. This is the one where he said that the go-live decision was correct.

Senator XENOPHON: It says:

The IGT has concluded that the ATO had little choice but to go live when it did. Is that right? That is what you are referring to?

Mr D'Ascenzo: Yes. On that same page, it also says that we have a communications strategy.

Senator XENOPHON: But, Commissioner—

Mr D'Ascenzo: No. This is important because you are talking about defective administration. It is fair to see what the Inspector-General did say.

Senator XENOPHON: You are selectively quoting from the report.

Mr D'Ascenzo: But I think you were selectively quoting to me, Senator.

Senator XENOPHON: I have the report in front of me.

Mr D'Ascenzo: I am giving you the background to why we think these matters were dealt with fairly on their own merits. If you go further, page 102 says:

...the ATO did its best...to fix problems as they arose...

It noted that the ATO is much better placed to manage large IT projects than otherwise. It goes on to indicate a whole range of reasons why the implementation of the program was done well, albeit that there were unfortunate situations where some people had been inconvenienced.

Senator XENOPHON: Commissioner, so we can put this in context, at page 97 of the Inspector-General's report, it says:

The IGT has concluded that the ATO had little choice but to go live when it did.

4.61 Having made the go live decision, the approach to problems, defects and wider system difficulties, including how these were to be communicated to the community, required careful consideration and timely remediation by the ATO.

Mr D'Ascenzo: That is right.

Senator XENOPHON: Do you consider there has been timely remediation?

Mr D'Ascenzo: Well, I think appropriate mitigation strategies were put in place. In fact, that is a conclusion that was agreed to by Aquitaine, Capgemini and CPT Global. There have been independent reviews of this matter.

Senator XENOPHON: Sure. Let us go to 3.208 of the Inspector-General's report at page 79, where we talk about the issue of the eligibility under the CDDA scheme. The Inspector-General makes the point, after making reference to being eligible for compensation if there is a computer error, that:

The Fact Sheet also states that avoiding a legalistic approach is best practice as the agency should consider the claim from the perspective of a moral obligation and should not involve a compensation minimisation approach.

Has the ATO taken the view of a moral obligation and not involved itself in a compensation minimisation approach?

Mr D'Ascenzo: I think the ATO has looked at the facts of the 133 applications that were made in the context of large and complex arrangements and found that, in that context, we did not believe there was any defective administration.

Senator XENOPHON: So you have ignored the facts sheet when it comes to issues of moral obligation?

Mr D'Ascenzo: No. We have applied our moral obligation to be fair to people in accordance with the policy and criteria.

Senator XENOPHON: We have acknowledged that, to take you on, we would have to go to the Federal Court and the costs involved in that would way outweigh the likelihood of taking it on.

Mr D'Ascenzo: I think that can also go beyond it.

Ms Granger: Senator, we also offer internal review independent of that process. If people are unhappy with that decision and there is more information they can put to us as well—

Senator XENOPHON: Perhaps to cut off this issue, if someone is unhappy with the decision made in terms of issues under the CDDA regime for compensation, short of going to the Federal Court, what options are there for taxpayers or for tax agents?

Ms Granger: One of the things, as I said, is we offer a free further internal review if there is more information to put before us. I should also just mention that, to be eligible under this scheme, you have to not have another statutory compensation mechanism available.

Senator XENOPHON: It is to be a last resort?

Ms Granger: Yes. That is right. That is the legislative framework for this. There were 133 claims, but 87 of these were taxpayers themselves. Interest is payable on any refund that takes longer than 30 days. So most of the taxpayers that made claims to this already had another mechanism.

Senator XENOPHON: But this goes beyond that rather than that interest payable scheme?

Ms Granger: I think what you are referring to is tax agents who made applications.

Senator XENOPHON: Sure.

Ms Granger: The taxpayers generally were asking about—

Senator XENOPHON: I do appreciate what you have said. On notice, could you provide details of where there was a confusion as to a delay and the standard compensation payable if there is a delay in getting a refund cheque or something going beyond that under the CDDA scheme? I think that would help clarify things.

Ms Granger: I want to clarify what you are asking. I am sorry, but I am not clear.

Senator XENOPHON: In terms of the number of claims made that were clearly not claims related to the compensation payable for a delay. It is the interest that is payable on a delayed refund cheque in terms of, I think, the standard 30 days.

Ms Granger: Yes. That is right. Taxpayers themselves mostly would not be eligible under this scheme for that reason.

Senator XENOPHON: Sure. I want to move to the issue of severity 1 defects. For the public that is watching this—all three of them—

Senator Sherry: Or interested, after the events earlier in the day.

Senator XENOPHON: I am sorry, Minister?

Senator Sherry: There is a bit more interest after the events earlier today.

Senator XENOPHON: Yes.

Senator Sherry: I have had three to five calls at least to my office. Hello, all five.

Senator XENOPHON: Severity 1 defects identified—Mr Butler, if I am wrong, please correct me—that the application system is not able to run in a production environment. There is no workaround for the problem to allow users to continue processing with minimal or no loss of efficiency or functionality or legal requirements to be conformed with. You are fairly happy with that?

Mr Butler: That is right. Essentially, a severity 1 defect is one where we cannot issue an accurate assessment, even with a workaround.

Senator XENOPHON: So you are pretty cactus with it? You cannot go very far with it?

Mr Butler: Well, we have had a policy in the tax office for some time where we have a system with severity 1 defects.

Senator XENOPHON: Sure.

Mr Butler: There are no severity 1 defects. You might find some after, but there were no severity 1 defects.

Senator XENOPHON: So it precludes deployment. That is what the Inspector-General said at page 33 at paragraph 3.53 of his report:

The ATO decided that the existence of any Severity 1 defect would preclude deployment.

I do not think anyone can criticise you for that.

Mr Butler: That is a longstanding policy in the tax office. It was not decided just for this project.

Senator XENOPHON: No. I accept that. I respect that. Page 39 of the Inspector-General's report states that on 19 January 2010, Capgemini, who you relied on in terms of quality assurance, if you like, identified 54 severity 1 defects and that this number could have been higher. On 21 January, two days later, there were no identified severity 1 defects; that is at page 44 of the Inspector-General's report. Can you advise me how all these defects were corrected in such a short period of time?

Mr Butler: Two things. First of all, when people classify things as defects, there is a propensity to overclassify them. So we could scrutinise every reported defect and test whether it severity 1 or severity 2. They actually come from people doing the testing. Someone is testing the system and they find something and they report it as severity 1, 2, or 3. So they would make a judgement. We review them. Some of them would absolutely not be severity 1s and some would. In a system deployment like this, with testing, there is always a spike at the end when you are doing testing for pass rates. You find that as you go through, you are fixing one-off things. As you get to the end, you might do one change to the system that could cover,

say, five severity 1 defects at the one time. I guess I should also add that people worked extremely hard.

Senator XENOPHON: I accept that. Are there any severity 1 defects now in the system?

Mr Butler: There are no defects in the system. No, there is not. There are severity 2 defects, and we have workarounds and things like that.

Senator XENOPHON: On those, can you give me an idea of how many—you have already answered for severity 1—severity 2, 3 and 4 defects have been currently identified in the system? When will they be fixed, or what is the timeframe for that?

Mr Butler: It might be more useful, perhaps, that I give you a program of work that pulls together in four tranches things we want to improve with the system. But these are really improvements going forward. I mentioned to you earlier today with tax time that the extra people we need to manage processing returns at tax time this year is the same as tax time 2009. And tax time 2012 is expected to be 200 people less. So we are going from 400 extra this year to 200 extra next year. So we are seeing efficiencies in the new system coming through already.

Senator XENOPHON: I want to ask some questions in relation to Comcare in respect of that. Before I do that, was any coding for the program done offshore or was it all done here?

Mr Butler: No. It was all done in Australia—in Canberra and Brisbane.

Senator XENOPHON: So there was no outsourcing or offshoring of that?

Mr Butler: No.

Mr D'Ascenzo: I will add that we actually did consider that option along the way because we needed resources. There was a shortage of resources. What was done was to create capacity in other areas of Australia. I think Accenture did bring in some people through 457 visas for that purpose.

Senator XENOPHON: Sure. I only wish that all our major banks would take the same attitude as the ATO in terms of offshoring information. I think a lot of people would applaud that. In last year's annual report, it was stated that Comcare claims had been reduced by 9 per cent. I note that Comcare policy premiums, from my reading of it, have increased \$4.7 million, or in another way it has been increasing by \$90,000 a week. To what extent is this related to the Siebel program? In earlier reports we heard about RSI and other injuries. How many notifications have been reported to ATO management that could be linked to the Siebel program? I am happy for that to be taken on notice. There seems to be a disconnect between the number of claims being reduced by 9 per cent but the premiums with Comcare increasing by \$90,000 a week.

Mr D'Ascenzo: I can actually explain that one.

Senator XENOPHON: Can you understand that? It is curious.

Mr D'Ascenzo: What happens is that the claims have a lag effect. In other words, we can be reducing the incidence of claims but the premiums are worked out on a four-year marked average. We did have a height in terms of claims some four-odd years ago or thereabouts or a past legacy of those claims. We have been reducing them down. But it does not catch up until—

Senator XENOPHON: I understand that there is a tail in workers compensation matters.

Mr D'Ascenzo: The tail actually calculates the premium whereas the incidence of claims is going down.

Ms Granger: That is exactly right.

Senator XENOPHON: Does that include the quantum of claims? There has been a 9 per cent reduction in claims. Does that include a 9 per cent reduction in the quantum of claims and payouts?

Ms Granger: The quantum of claims is also driven by the type of claim. The most expensive claims are ones where there is a psychic injury—stress et cetera. A small number of those, even if you are reducing through other occupational health strategies, are physical injuries, which can in fact be very expensive because they take a lot longer to resolve.

Senator XENOPHON: Sure. I might put some questions on notice.

Ms Granger: And that is actually what has been in our premium.

Senator XENOPHON: I will put some questions on notice. In terms of the safety net, is that going to be used this year for this year's returns?

Mr Butler: We do not plan to. It is there to use if we need it, but we do not expect we need to use it. In tax time last year—

Senator XENOPHON: It was used last year, though, was it not?

Mr Butler: It was for some higher education loan borrowers and for a limited number of eligible termination payment cases. It was used for about two weeks for one and three weeks for the other during July, but we have not used it since July last year. We do not expect to use it. But it is there in case we need it.

Senator XENOPHON: Because the risk assessment is that it is not needed?

Mr Butler: Well, the safety net is really a safety net. It is there to make sure we do not do assessments that are wrong. As I explained to you, that has been the most important thing for us in the deployment of this system. We have issued 16 million assessments now and there are no assertions that the calculations are wrong, which is a really important thing. Where we had concerns, we just held them in the safety net, did some more testing and then released them. That is what we did.

Senator XENOPHON: I want to go to the issue of the manual keying in of returns. I think the whole idea of the change program, or a significant portion of it, was to obviate the need for that. Will there still be the manual keying in of returns this year?

Mr Butler: Our expectation about manual keying returns is that the returns go through the system. There might be an error or something wrong with a return. People action things. That is not manual keying; that is what I think you mean. We will have some prior year returns. When we put the new system in place, we went back to the 2010 year and eight years prior to that. We still have people who will lodge returns back to the 1980s. We have to manually key those really old returns because we have not got those in the new system. But if there are hardship cases and we judge that it would be quicker to manually process the return than put it through the system, we would use it then. But, in most cases, our experience is that we can be pretty confident we will get it through the system automatically rather than manually keying it. So we suspect much lower numbers of manual keying being necessary.

Senator XENOPHON: I return to the issue of a safety net. I am happy for to you take this on notice. Can you give the full extent of the safety net? My understanding is that it was used more widely than that.

Mr Butler: Not since July. In the initial deployment, we did, absolutely. But since tax time—

Senator XENOPHON: I see. But since July it has been quite limited?

Mr Butler: Absolutely, yes. We have put that information on our website, the sort of categories and cases that were held.

Senator XENOPHON: In relation to the programs, I refer to a case where the tax office gets a refund. This relates to getting a refund of \$24.6 million from Accenture. Because the BAS programs were not incorporated in release 3, there was a refund given back to the ATO. In broad terms—I do not want to go into the nitty-gritty of negotiations—how was that figure reached in the negotiations? To put it another way, my calculation is that it equated to approximately 2.8 per cent of the cost of the entire project. Would it be fair to say that the BAS upgrade that was meant to be part of release 3 was a mere 2.8 per cent of the overall project?

Mr Butler: We had a not-to-exceed price contract in place, and we wound it up in June last year. In negotiating with Accenture a credit back—it was not actually a physical refund to the ATO; it was called a credit back because we had obligations to pay under the not-to-exceed price contract—it alleviated the ATO from those obligations. We also received a discount on Accenture staff from June last year through to June this year. I forget the exact number, but it was worth approximately \$2 million extra benefit for us, in a sense. It was part of the negotiation. It might be useful for me to explain the process. We had independent legal advice. We brought down an independent legal negotiator—an expert from Brisbane, for example—and ran workshops with him. I and the chief information officer then headed the actual negotiations. Once we reached an amount that we thought we were comfortable with, we had our two independent assurance companies, Capgemini and Aquitaine, review the conclusions. We also had our lawyers who had been involved. So we had an independent lawyer who helped on negotiation tactics and things like that, and we asked the lawyers we had used all the way through the change program for their independent view on the settlement we had reached before we signed up. So we had a pretty robust process to make sure we got a good outcome for the Commonwealth.

Senator XENOPHON: Because of the time, I have only a few more questions. The chair has been very generous. You have not seen much of me today, though, Chair.

CHAIR: That is right.

Senator XENOPHON: So I am making up for it now.

Senator CAMERON: He is making up for it.

CHAIR: Senator Xenophon, you have been—

Senator Sherry: He could have been causing mayhem in other committees.

Senator XENOPHON: Minister, I would not want to leave you alone that long. At page 104 of the Inspector-General's report, the Inspector-General identified a reactive procedure for handling hardship cases and suggested it should be more proactive. He said:

The ATO does seek to address hardship situations as raised by affected parties, but perhaps this area requires deeper consideration in a proactive management sense as other agencies like Centrelink recognise.

Commissioner, do you take on board that concern from the Inspector-General that there could be a more proactive culture of dealing with hardship cases?

Mr D'Ascenzo: Well, we actually have significantly increased the number of hardship cases. We can provide the statistics about the increase over time. We have been very receptive to hardship in terms of natural disasters and the like. I am not sure how current those comments are.

Senator XENOPHON: To be fair, this report was written in December before those terrible natural disasters. Have processes changed? Have there been any structural changes to—

Mr D'Ascenzo: Again, I think you will see that we actually spent a lot of time revamping our hardship area and hardship procedures starting from the beginning of the global financial crisis, which was some time before that. That has played out very well in terms of hardships that we have seen, unfortunately, through the Queensland floods and fires in Western Australia.

Senator XENOPHON: I think that puts it in perspective. I have a couple more questions. Do you expect to meet your service standards this year?

Mr D'Ascenzo: For the electronic lodgement of individual returns?

Senator XENOPHON: Yes.

Mr D'Ascenzo: No.

Senator XENOPHON: Why not?

Mr D'Ascenzo: This is the coming year or the past year?

Senator XENOPHON: The coming year. For the current financial year, sorry.

Mr D'Ascenzo: That is what I am saying. For the current financial year, no, because of the first period in terms of the slow ramp-up of the new system. That means that for that first month we did not meet the service standards. Because we work at such a tight level of efficiency, if you fail in a certain way one month, it is hard to catch up for the remaining 11. Mr Butler can give you some more details on that.

Senator XENOPHON: That is fine. I am happy to take that on notice. I will be interested to see what happens in the next estimates.

Mr D'Ascenzo: Look, we are preparing for tax time. It is a busy period for us. We have done all that we think we can reasonably do to ensure a successful tax time period. We are quietly confident.

Senator XENOPHON: Finally, Commissioner, on 22 April last year, you gave evidence to the Joint Committee of Public Accounts and Audit stating that 140,000 taxpayers had not received their refunds because of 'one of the two glitches in our bedding down processes'. The Merriam-Webster online dictionary defines 'glitch' as a usually minor malfunction, a minor problem that causes a temporary setback. Do you regret using the word 'glitch' in evidence before the committee?

Mr D'Ascenzo: I think it is all in the context of a very major project. What we had was 140,000 notices—

Senator XENOPHON: A glitch is a minor malfunction, though.

Mr D'Ascenzo: out of 12 million.

Mr Butler: In the context, we had in both those things—and in my response to the Inspector-General's report I described this—larger problems. If we go back to April last year, there was lots of media attention and a lot of things happening. What we were trying to do also, I believe, is reassure people that it was not as bad as had been said in the media. So of the two things, one was that we did not print 140,000 cheques. Once we found that, we had the cheques printed and posted within a week. The other one was when we lost 10 days. In both those instances, there were people who put a fix in the system and did not understand the consequences. There were unintended consequences. In the scheme of the bigger system we put in place—we have been told the biggest IT system ever deployed in Australia—we thought that they were minor in size. This system cost \$400 million to build, so it was actually a huge undertaking. To have two things go wrong like that, we thought, at the time—

Senator XENOPHON: Although the Inspector-General, I do not think, regarded it as a glitch in his report. But thank you very much for your time.

Senator SIEWERT: I want to ask about the not-for-profit regulator. I have questions on the new tax concessions.

Senator Sherry: The new tax parameters?

Senator SIEWERT: For the not-for-profits. Just the not-for-profits.

Mr Heferen: Senator, in relation to the government's announcement about the not-for-profit regulator, Mr Willcock will be able to assist.

Senator SIEWERT: I asked some questions in PM&C and a lot of them got deferred here, so I will pick up where I left off there with the questions. First, I understand that \$53.6 million over four years is the amount of money that has been allocated to the process. Is that in total or is that the money that is also targeted at the process for re-registering charities? There is \$2.9 million allocated for that. I had it in front of me two seconds ago. I want to clarify, first, whether the money that is allocated—the \$53.6 million—is all up? Is the \$2.9 million included in that, or is that separate?

Mr Willcock: The \$2.9 million is separate, Senator. So the \$53.6 million is a measure that is described on page 322 of Budget Paper No. 2. That involves the provision of \$53.6 million. It is all for the purposes of the budget at this stage. It is allocated to the ATO. Of course, the new regulator, the new statutory agency, the Australian charities or not-for-profits commission, does not exist at the moment.

Senator SIEWERT: Yes. I understand that.

Mr Willcock: So that will not be taking place until parliament passes the relevant legislation. The government hopes that that will allow the commencement of the new body from 1 July 2012. So in the interim, the funding falls to the ATO. Some of the funding is available to assist the ATO to do some work that it will need to do preparatory to the setting up of this new commission, including some structural separation of staff in the ATO, some of whom post 1 July 2012 will migrate to the new authority.

Senator SIEWERT: Thank you. I also presume that funding will be available for the implementation taskforce, which I understand is to be set up from 1 July 2011. As I understand it, it is set up for 2011-12. That will put in place the mechanisms for the commission to be established in 2012?

Mr Willcock: That is right.

Senator SIEWERT: So that implementation taskforce will have access to some of that money to do the new work?

Mr Willcock: To some of that money, that is right. I think it is fair to say that other agencies will be effectively contributing some funding, or at least some resources in the form of people, to that implementation taskforce. Amongst those other agencies will be Treasury itself. Those agency costs are not reflected in that amount.

Senator SIEWERT: Thank you. In terms of the amount that will then go to the ATO to do its work, how much will that take?

Mr Willcock: Look, I am sorry, Senator, I cannot off the top of my head disaggregate the money that appears there on the table on page 322. I would need to take that on notice.

Senator SIEWERT: I am not as stupid as I thought I was, then.

Mr Willcock: As I said, I suppose as a general point, the ATO is the body in the Commonwealth that has a lot of, indeed most, regulatory contact with the not-for-profit sector. It is also the fact that the ATO is a body within the Treasury portfolio and the Treasury portfolio is the area that is advising the government and assisting the government in these reforms. That is why that money has gone there. As I mentioned, some of that money will be used by the ATO itself—

Senator SIEWERT: That is what I am trying to find out.

Mr Willcock: as a precursor. Some of it will actually be used by the new agency when the new agency is in existence. So in order to, if you like, not unscramble the egg but split that \$53.6 million, I am sorry, but I would need to take that on notice.

Senator SIEWERT: If you could take it on notice, that would be great. If possible, can you tell me how that figure was arrived at? What is the reasoning behind that amount for those resources? Are you confident it is going to be enough to set it up, for the ATO to do its job and the commission to do its job?

Mr Willcock: That is not a rhetorical question for me to take on notice. I can provide you at least with some general response.

Senator SIEWERT: Yes.

Mr Willcock: The way that this works, Senator, is that the government, having decided that it was interested in setting up a new regulator—a one-stop shop regulator, for the Commonwealth's purposes, for this sector—wanted to look at options for doing that. Those options had different cost impacts, depending on things like the timing over the forward estimates period when this particular beast might be created, the nature of its role and functions, and the timing when various functions might, if you like, come live. So you may be aware, for example, that one of the things the new regulator, the ACNC, is to do is create a public information portal. But the timing of that has been pushed out—

Senator SIEWERT: I want to ask about that too.

Mr Willcock: to 1 July 2013. So if the timing of that was different, that would have also had an effect on it. Looking at a whole range of things, that then affects the costs. There were consultations involving the ATO, which, as I said before, has had particular close experience with regulatory and administrative activities that affect the not-for-profit sector. The department of finance is the agency of the Commonwealth that needs to settle all costings that appear in the budget that relate to expense measures. This is an expense measure. So as a result of looking at various options, the government settled on this particular amount, which amount was, if you like, endorsed by the department of finance as being a reasonable bid for resources to fulfil the tasks and the functions that this commission would have in the timeframe that it is going to be required to operate in.

Senator SIEWERT: Thank you. In terms of the implementation taskforce, I understand for a start the head or the chair will become the interim commissioner?

Mr Willcock: The Assistant Treasurer has certainly indicated that the person who would head the implementation taskforce would be well-placed to become, if you like, the inaugural commissioner for the commission.

Senator SIEWERT: I interpreted it as a more direct link.

Mr Willcock: I do not know. I would have to go and check particular words. But I think there was a suggestion that it would be nice, it might even be desirable, it might even be probable, for the person who is the head of the implementation taskforce in this first year, 2011-12, to, if you like, morph into the new statutory commissioner in 2012-13.

Senator SIEWERT: The make-up of the taskforce?

Mr Willcock: The taskforce which is to operate—

Senator SIEWERT: This is the implementation—

Mr Willcock: The implementation.

Senator SIEWERT: For the 12 months?

Mr Willcock: It is to operate for 12 months from 1 July 2012. It will be effectively based in Treasury. It will have a person in charge of it who would be, if you like, an SES band 2 or 3 level person supported by at least one other SES and a number of other officers. There is not a specific number set as yet, but there are numbers of about six to eight people in this taskforce.

Senator SIEWERT: Is it expected that there will be external people, or is it departmental people?

Mr Willcock: I think it is fair to say that we would be expecting the person who will be the head of the implementation taskforce to probably have some of their own views about that. In the first instance, at least, we are anticipating that there will be staff support seconded from Treasury, from the ATO and possibly from the Department of Prime Minister and Cabinet. Indeed, the head of the implementation taskforce might look around at some other agencies of government—for example, finance or FaHCSIA—and approach them too.

Senator SIEWERT: I was also wondering about people from the sector.

Mr Willcock: I was going to say that I am also aware that, for example, the area in the Department of Prime Minister and Cabinet that deals with not-for-profit issues has also had

experience with secondees from the sector. So that may well be something that the head of the implementation taskforce wants to investigate too.

Senator SIEWERT: Thank you. In terms of the definition of ‘charity’, as I understand it, the taskforce will do the preparation work for the commission?

Mr Willcock: That is right.

Senator SIEWERT: The commission, then, does the work around the definition of charity?

Mr Willcock: No.

Senator SIEWERT: That is where I need to be straightened out.

Mr Willcock: There are a couple of things that the government announced at the time of the budget which, if you like, give rise to some follow-on consultation action. Three particular things, if you like, have policy content to them, which would then require some subsequent decisions by government that would flow into legislation that would be introduced in the parliament. Those things are things that Treasury will be assisting the government by undertaking the consultation processes on. Those three things relate to the legislation to actually set up this new commission and the legislation to provide a new statutory definition of charity or charitable activity.

Senator SIEWERT: So that is not being done by the commission?

Mr Willcock: No.

Senator SIEWERT: Because the way I was interpreting things was the commission takes that role on.

Mr Willcock: No. The final thing relates to the government’s announcement to better target the concessions provided to the charitable and not-for-profit sector.

Senator SIEWERT: I want to come back to that.

Mr Willcock: So the things that the implementation taskforce initially will be doing is certainly working to, if you like, prepare the ground for the commission itself to operate from 1 July 2012. That will certainly involve a lot of interactions with, amongst other bodies, the ATO. The ATO post 1 July 2012 will effectively be providing the back office IT infrastructure and personnel services type of support to the new commission. But the implementation taskforce, and then once it morphs into the new commission, will be undertaking a consultation process of its own relating to the reporting framework that this new body will be administering. Included within that is how that reporting framework will link to the public information portal so that work can commence on the development of the public information portal to go live from 1 July 2013.

Senator SIEWERT: This is the report-once?

Mr Willcock: Part of the report-once—

Senator SIEWERT: Report-once, use-often?

Mr Willcock: use-often philosophy. So the notion there, I suppose, is that the reporting framework and the report-once use-often philosophy very much relates to the administrative practices of the new commission. Therefore, it is appropriate for the new commission and the implementation taskforce, as the precursor to the new commission, to be running its own

consultation processes on that because that very much relates to the practices, procedures and processes that it itself will be administering and operating on an ongoing function. Of course, in doing that, it will consult with, no doubt, the ATO, Treasury, other bits of the Commonwealth and, importantly, state governments as well as the wider community and the sector itself. The other three consultation processes that I mention—on the definition of charity, on the better targeting of the tax concession and on the commission itself—as I say, have more of a policy content, where there are still, if you like, some policy choices of government to be made. Following on consultation, the government will then decide just what the specific shape of the legislation should be that the government wants to bring into the parliament. Treasury will be doing that, again, in consultation with anyone that you can think of.

Senator SIEWERT: So on those key things, the agency or the department will be carrying out—Treasury, I should say, not the ATO, because they are doing the preparation for the other work—a public consultation process?

Mr Willcock: Yes. Indeed, one of those consultation processes effectively has already commenced, because the Assistant Treasurer released, I think last Friday, a consultation document on the targeting of tax concessions measure that was announced in the budget. So already one of those three bits of consultation has commenced.

Senator SIEWERT: Has already started?

Mr Willcock: With a document out there and people invited to provide some commentary to us by the first week of July.

Senator SIEWERT: My understanding is the new rules around not using tax concessions for unrelated commercial activities came into effect on budget night. They would no longer apply to new entities established from budget night. Is that correct?

Mr Willcock: Certainly, yes. On budget night there was an announcement. This might be an excessively simplistic way of putting it, but there is a fair degree of truth in it. It really was saying that, as of 7.30 pm on budget night, entities that were engaged in commercial activities that were not linked to their altruistic purposes could continue to operate in that way. Entities that were not engaged in that type of commercial activity should not thereafter—

Senator SIEWERT: Start new ones?

Mr Willcock: enter into it. So it was effectively a way of saying that the nature of the activities that people were already engaged in prior to 7.30 pm on budget night should continue to operate. They should not seek to expand into the area of engaging in commercial activities that are unrelated to altruistic purposes.

Senator SIEWERT: So if I am an NGO and I am running an unrelated commercial activity?

Mr Willcock: If you are an NGO and you were doing something before 7.30 pm on budget night, then you can continue to do what you were doing before 7.30 pm on budget night. There is a process of consultation which is looking at how to implement the government's announcement on budget night, including, importantly, the government's signal that it does really want to tighten and better target these tax concessions. So to the extent that there are not-for-profit entities currently using tax concessions in support of unrelated commercial activities, the government does want to phase that out.

Senator SIEWERT: So the new rules will still apply to them? Once it is resolved, the new tax concession rules will apply?

Mr Willcock: In due course.

Senator SIEWERT: In due course, yes.

Mr Willcock: Subject to the outcome of the consultation process about how, if you like, to transition. For those particular bodies currently engaged in commercial activities unrelated to their altruistic purposes, it is how they can transition away from that place to the place where those tax concessions are simply targeted on the altruistic purposes.

Senator SIEWERT: Thank you. They are expected to—

Mr Heferen: Senator, I want to make it clear. If there is an unrelated commercial activity but that profit still gets put back into the charity, that is fine.

Senator SIEWERT: That is what I understand. It is only if a profit has been separate from the NGO activity.

Mr Heferen: And retained in that activity and maybe expanded to grab more market share or something like that. In that case, the new folk trying to do that will be prevented and for existing folk—this is what the consultation is about—as the measure says, it will be with a view to phasing these out over time.

Senator SIEWERT: I must admit that I have not read the paper on Friday; I will be upfront. I was involved in other estimates stuff. I presume that is looking at the other issues around tax concessions and the fringe benefits tax and what is currently available and how that could be improved?

Mr Willcock: Yes, indeed. We are talking about not only income tax concessions but also the FBT, GST and other concessions.

Senator SIEWERT: Thank you. The redefinition of charity and the \$2.9 million over four years to develop the new guidance for the sector are part of setting up the new process. It also says:

... to reassess the charitable status of entities on the basis of the new statutory definition.

Does that mean that every one of our not-for-profits and charities in Australia that currently has DGR charity and tax concessions et cetera will be eventually reassessed?

Mr Willcock: Not necessarily, Senator. I should not think it is likely that that would be the approach the new commission would adopt. As that description on page 37 of BP2 says, there is \$2.9 million provided over four years to the new commission to develop new guidance for the sector, implement system changes and reassess the charitable status of entities. As you might already be aware, the ATO provides considerable guidance to the sector on the current definitions of charity, which are pretty opaque and difficult for people to ascertain at various stages, given the fact that the current definitions of charity for the purposes of the Commonwealth effectively derive from a body of common law that started in 1603 with various bits of statute law bolted in in various places. So it is certainly thought likely that the new commission will need to provide its own guidance as to how it will be administering the law. Of course, it makes perfect sense for there to be a new body of law that defines what charities are to be put in place at the same time as the commission. The \$2.9 million certainly I do not think would go so far as to allow this new body to look at all the

existing charities and go through a process of reassessment. I would, however, stress that effectively it will be up to the new commission, once that commission is in place, to determine for itself its own priorities and how it will be spending that \$2.9 million.

Senator SIEWERT: I understand that. Thank you. I suppose what I am going to is whether it is the government's intention that all not-for-profits eventually be reassessed under the new definition.

Mr Willcock: No.

Senator SIEWERT: I am trying to find out and establish what it actually means for those not-for-profits, because there is a great many. I know that. I want to be clear about what the government's intent is.

Mr Willcock: Talking about government intentions, I do not think there is anything hidden here.

Senator SIEWERT: No. I am sorry. I was not meaning to imply there was. I want to be really clear in understanding what the government does want.

Mr Willcock: I think there will certainly be particular cases or particular entities where the new commission itself will want to have a look, if you like, and consider whether or not a particular entity that has been enjoying a particular status really is entitled to it. It might do that for a number of reasons. Other members of the public might, for example, make a complaint to the commission about a particular entity. The entity itself may at one stage have abundantly been a charity but might have changed the nature of its operations and drifted off that space. There may not have been an adequate opportunity for anyone else to, if you like, reconsider whether that original determination that someone was a charity is still appropriate or not. So the question is whether or not a particular entity's status as charitable is, if you like, still merited. This commission ought properly to be able to look into those things.

Senator SIEWERT: And I do not have a problem with that.

Mr Willcock: It is not 100 per cent.

Senator SIEWERT: It will be a case-by-case basis.

Mr Willcock: Very much case by case. It would cost a lot of money to resource a commission to go through a process of looking at every single existing entity let alone deal with the new entrants that will be coming along and wanting to approach the commission. So that is not part of anyone's game plan.

Senator SIEWERT: Thank you. I am conscious of time. I will ask a couple of questions on the portal and the report-once use-often process. I appreciate that the concept will still be in development. It was a little unclear when I was asking PM&C what was meant by report-once use-often. I take report-once use-often from not just financial reporting. I know there has already been a lot of work done around the standard charter of accounts. I know that not-for-profits are looking at reporting once against grants, for example, and being able to share that across government so that you not having to keep reporting much the same stuff to a whole range of different agencies. When I asked in PM&C, it was not really clear what the concept was beyond finances. When I asked in Health yesterday, I got, 'We're going to have enough trouble going through Health getting everyone in Health singing from the same song sheet let alone across agencies.' I want to know, again, what the government's intent is here and what

the scope of it is if we are shooting for gold, where eventually we will be able to genuinely report once, or at least as little as possible, and use often.

Mr Willcock: The public information portal is part of the new general reporting framework that initially the implementation taskforce and then the new commission will be working on as a matter of priority. General reporting is general reporting, not just financial reporting. So it will go wider than financial reporting. This is something that is yet to be determined and worked out by the implementation taskforce and the commission. But certainly in conversations with ministers and in conversations in the development of this process, it is thought that we are talking about a commission that is going to be growing over time. Therefore, things like the reporting framework and, indeed, the public information portal are likely to start at a place which then allows scope for them to develop over time.

For example, the immediate focus of the new commission will be on charities. It will then over time expand its remit, if you like, by working out from charities to other not-for-profit entities. The whole reporting framework that the new bodies will put in place is indeed to seek to be consistent with report-once use-often. To do that, it is not a matter simply of operating in a way that is effective at the Commonwealth level. The government clearly recognises that most advantages to the not-for-profit sector will come to the extent that at the Commonwealth level this new commission is able to engage the cooperation of state bodies that have regulatory interactions with the sector as well. This might be an initial place and then it will grow over time. When a particular not-for-profit receives funding from different levels of government or even different agencies at the same level of government, they often have some fairly similar reporting requirements relating to an address for services of notices or annual report or other information. The hope here is that, by using the portal, the not-for-profit will be able to provide standard information and that standard information will then be used often by all agencies within that level of government or, indeed, other levels of government. But we can certainly imagine, at least initially, that there may be a particular not-for-profit that has a different contract or grant relationships with different portfolio agencies within the Commonwealth or, indeed, across the Commonwealth and the states that might have quite specific information that is perhaps unique to one of those eight relationships. I would be setting up false expectations if I were to say to you that from 1 July 2013 the public information portal will suddenly make these not-for-profits' reporting tasks a whole lot easier and it will all just fall away. It will not. But at least I think there is a hope that over time there will be some sort of incremental moves to expand and standardise. One of the complaints that we hear is that quite often different government agencies and different governments ask for relatively similar information sets tweaked in tiny ways. So if we can start to get more standardised requirements, that would be useful. Part of this also involves work that is beyond the Treasury portfolio et cetera.

CHAIR: This seems to be going on a while here. We are due to have a break. Do we want to continue?

Senator SIEWERT: I am finished after this.

Mr Willcock: I am just about finished too. The department of finance, for example, is doing work to engage with a whole lot of the Commonwealth service delivery agencies to try to get more standardised contracts where similar information is sought. So there are many different streams of work here on a whole-of-government basis trying to, if you like, reduce

the red tape. It will not just, of course, have benefits for the not-for-profit sector; it will have wider benefits for anyone who deals with government.

CHAIR: Let us go to the break. You can return if you wish after the break.

Proceedings suspended from 9.01 pm to 9.16 pm

CHAIR: The committee will recommence with the ATO and the Revenue Group of Treasury. Senator Bushby has questions.

Senator BUSHBY: I have some questions about the education tax refund. On 24 July 2010, the *Australian* reported that the number of eligible children for the ETR the government was using was estimated at 2.1 million when the assumptions were previously said to be 2.7 million, a difference of about 600,000 children. The article reported that the ATO told the government some two weeks earlier that a more accurate estimate was only 2.1 million students were eligible for the education tax rebates. When did the ATO first become aware of more accurate estimates for the eligible children?

Mr Quigley: Senator, I cannot answer when we became aware but I assume it would be once returns were lodged and the claims were made. I have not got that information with me, I am sorry.

Senator BUSHBY: Is that the basis on which you calculated whether it was 2.1 million or 2.7 million or some other figure? Was it on the basis of past claims?

Mr Quigley: I am not sure.

Senator BUSHBY: You are not sure where you got that figure from?

Mr Quigley: No. I am not sure whether we got the figure or Treasury. I assume we would have provided that, but I just do not know.

Senator BUSHBY: Is there anybody here who can assist with that from Treasury?

Mr Heferen: I am not sure at the moment.

Mr Quigley: It is quite possible, Senator, that we actually got the information from Centrelink.

Senator BUSHBY: Take that on notice and find out where you got the information from and the date on which you received that information, when you first became aware of it.

Mr Quigley: Yes.

Senator BUSHBY: As at 2008-09, when the ETR was first a budget measure, it was originally estimated to cost \$4.4 billion over four years in the Tax Laws Amendment (Education Refund) Bill 2008. Are you able to tell me, for the 2008-09 year, how much of the \$1,115 million that was budgeted in that bill was actually expended?

Mr Quigley: No. I cannot give you that figure either, Senator.

Senator BUSHBY: Can you take it on notice?

Mr Quigley: Yes.

Senator BUSHBY: In doing so, can you also tell me whether if it was not fully expended, by how much it was underspent from the amount budgeted? What accounted for the underspend? Where did the spend not actually come up to what was expected?

Mr Quigley: I will do my best there. I assume the money would have gone into our funds and then was used for this purpose. But we will see what we can come up with.

Senator BUSHBY: Thank you. I suspect you will not have this information either. I might put some of these questions on notice because I suspect you are not going to be able to answer them. I was going to ask some questions about how many claims were processed by the ATO in the 2008-09 year and questions along those lines.

Mr Quigley: I can answer that, Senator. In the 2008-09 year, over a million claims were received to the value of \$639 million. That equated to an average claim of \$617 per claim.

Senator BUSHBY: What was the average, sorry?

Mr Quigley: That equated to an average claim of \$617 per claim. As at 27 April this year, 994,023 people have claimed the education tax refund.

Senator BUSHBY: In this financial year?

Mr Quigley: In their 2010 income tax return to the value of \$631.1 million.

Senator BUSHBY: What was the value again, sorry?

Mr Quigley: It is \$631.1 million.

Senator BUSHBY: I want to go back to the 2008-09 year. Do you know what the total number of eligible primary school children was for that year?

Mr Quigley: I have not got that split up, Senator.

Senator BUSHBY: I suspect you probably do not have it today as well. Are you able to provide on notice in percentage terms the amount of rebates claimed for, firstly, primary school children, secondly, secondary school age children and, thirdly, the percentage of total eligible population?

Mr Quigley: What was the question again, Senator?

Senator BUSHBY: I am interested, in percentage terms, in the amount of rebates claimed in the 2008-09 year for primary school age children, secondary school age children and as a percentage of the total eligible population.

Mr Quigley: I can give you that. For the 2008-09 year, primary school students was 972,815 and secondary school students was 838,945.

Senator BUSHBY: So that is how many?

Mr Quigley: How many, yes.

Senator BUSHBY: Can you work out the percentages? What about the percentage of total eligible population? Do you have that? That is the total claims as a percentage of those who are eligible.

Mr Quigley: No. I do not have that, Senator.

Senator BUSHBY: Can you take that on notice?

Mr Quigley: Will do.

Senator BUSHBY: What was the percentage of processed ETR claims from the maximum entitlement for the 2008-09 year for primary school children, in particular, or firstly?

Mr Quigley: I have not got it split up by the number of children. If that would equate, then, to five or more children being the maximum; is that the question?

Senator BUSHBY: No. I am talking about how many claims actually claimed the maximum amount that they were entitled to.

Mr Quigley: No. The only thing I have is that average claim I quoted before.

Senator BUSHBY: Would the ATO have that information somewhere?

Mr Quigley: I suspect we would be able to get it, Senator. I can certainly take it on notice to attempt to get that to you.

Senator BUSHBY: I have a couple more questions. I will give them to you on notice because I think they are probably fairly detailed and probably easier if you have a chance to have a look at them first.

Mr Quigley: Thank you, Senator.

Senator BUSHBY: According to the Australian Taxation Office budget statements at page 204, the estimated expenses for 2009-10 on this particular measure were \$1,062 million. The original estimate in the 2008 bill was \$1,095 million, which is a difference of some \$33 million. What is the reason for the variation?

Mr Quigley: I could not tell you that, Senator.

Senator BUSHBY: Are you able to tell me how much for 2009-10 of the \$1,062 million has been expended?

Mr Quigley: No. I will take that on notice.

Senator BUSHBY: Take those on notice. Can you tell me how many claims were processed by the ATO for the eligible primary school children for the 2009-10 year?

Mr Quigley: No. I do not have that, Senator.

Senator BUSHBY: I think I will put the rest of those on notice.

Mr Quigley: What was that question again, Senator? Primary school?

Senator BUSHBY: Yes. For the primary school children.

Mr Quigley: No. I have not got that, Senator.

Senator BUSHBY: I will put these on notice.

Mr Quigley: I will be able to give you that.

Senator BUSHBY: I will change the subject completely. I have questions about temporary residents' superannuation. What is the most recent figure available for the number of individuals who have had their superannuation balances paid to the commissioner under the Superannuation (Departing Australia Superannuation Payments Tax) Act?

Mr Olesen: The balance as at 31 March 2011? The total amounts we have collected for temporary residents?

Senator BUSHBY: I do want that and the number of individuals.

Mr Olesen: It is \$407 million, but I do not have the figure about the number of individuals that relates to.

Senator BUSHBY: Take that on notice, please. Are you able to tell me how many individuals have sought to claim back their superannuation under this act?

Mr Olesen: We have made payments of \$24.9 million. Again, Senator, I do not have the number of individuals that relates to.

Senator BUSHBY: What efforts are made by the commissioner to connect the owners of that superannuation with their money?

Mr Olesen: We have been working pretty hard to up the level of awareness with temporary residents of their entitlements to claim this money as they leave Australia. We have been working in particular with universities, the specialist recruitment agencies that bring in people on 457 visas and large organisations that particularly hire staff on 457 visas. We can have some confidence that we are having an effect there because the level of claims that we are seeing both online and via paper for people leaving Australia to claim their superannuation has gone up considerably in the last 12 months as a result of those efforts.

Senator BUSHBY: When you provide me with the information you have agreed to take on notice, can you show me by year since the act was passed how many claims and the value of the claims back so I can compare that with how much has been actually taken in each of those years?

Mr Olesen: Sure.

Senator BUSHBY: This is related but not the same. I will move to lost super. What is the most recent figure for the number of individuals who have had super balances paid to the commissioner under amendments made in 2009?

Mr Olesen: Nobody has their super paid to us. It gets reported to us.

Senator BUSHBY: Reported to you, then.

Senator Sherry: It sits in eligible rollover funds, Senator, run by various funds all grouped together.

Mr Olesen: So the latest figure for the lost members register in total is 5.2 million accounts with a value of \$18½ billion. So they are reported to us, but, as I said before, the accounts are not held with us. They are held in a superannuation fund.

Senator BUSHBY: I understand. As the minister mentioned, in eligible rollover funds.

Senator Sherry: In the main.

Mr Olesen: Related to that is the recent measure for small accounts to be paid to us as unclaimed money. So that measure started last year. So we have started to get reporting of small amounts coming in. That is starting to have a corresponding effect on the lost members register. So the number of lost members is going down and the lost members register, as those small accounts get paid to us—

Senator BUSHBY: That is the superannuation unclaimed money and lost members?

Mr Olesen: Correct.

Senator BUSHBY: How much has been paid to you?

Mr Olesen: We hold \$161 million under that small accounts measure. That is about 1.5 million accounts. Sorry, Senator, going back to the temporary residents side of it, I have a statistic here for temporary residents. It is 451,000 accounts that we hold.

Senator BUSHBY: In terms of the unclaimed small accounts and the money that does come to the tax office, what happens to those once you receive them? That \$161 million goes to consolidated revenue?

Mr Olesen: It goes to consolidated revenue; that is right. We put in place and are putting in place strategies to try to reconnect people with that money.

Senator BUSHBY: In answer to a question on notice, you noted that a strategy is currently being developed to proactively connect the owners of that money with their balances. How is that strategy going? It is still being developed?

Mr Olesen: It is in development. We are targeting the 2011-12 year as the year in which we start to implement those new strategies. Some have been measures under the Stronger Super proposals that the government announced will have effect in the longer run. But we are continuing to work through ways in which we can connect people both in relation to their lost accounts and the unclaimed moneys that we hold, be that for temporary residents, for the small accounts or for the amounts that we hold in the superannuation holding account.

Senator BUSHBY: Do you have any projections or targets for the percentages of any of the moneys that you hold either through temporary resident super or under the unclaimed money and lost members act? That is for amounts that are you targeting to get back to the owners.

Mr Olesen: We have not yet formally set ourselves any targets, Senator. That may well be part of the strategy we develop.

Senator BUSHBY: Obviously if you were successful in your strategies for either of those, it would have an impact on the money that is available to the government to spend?

Mr Olesen: Correct.

Senator BUSHBY: Nonetheless, it is a good thing to unite the owners of the funds with their own money.

Senator Sherry: The critical reform will be the use of TFNs and then what follows from the use of that information, whatever policies determine. But, in my frank view, it is a blight on the superannuation system to have this extraordinary amount of money.

Senator BUSHBY: That is a lot of people's money that is sitting there—

Senator Sherry: Yes.

Senator BUSHBY: that presumably they do not know about.

Senator Sherry: And the money they do not. It is massively efficient. People are paying for accounts and having fees deducted in the main for no good purpose. It is a significant issue of long standing.

Senator BUSHBY: I have questions on excess super contributions. At the last estimates you advised around \$100 million had been raised through around 15,000 assessments for excess contributions tax. Have those figures gone up substantially since?

Mr Olesen: Yes, Senator. The latest figure is that we have raised in the order of \$400 million in total for excess contributions tax.

Senator BUSHBY: And how many assessments?

Mr Olesen: In the order of 40,000 in total across all years since the tax was introduced.

Senator BUSHBY: So that is fairly consistent. About \$100 million per 15,000 tax assessments, which is where it was in February?

Mr Olesen: It is kind of a question about what is the average or medium amount. It has been pretty consistent over the 2007-08 and 2008-09 years. The year 2009-10 is incomplete at this stage, so it is harder to get a fix on averages there.

Senator BUSHBY: In answer to question on notice AET 158, we were told that Treasury predicted no increase in income as a result of the changes in the excess contribution rules because there was an assumption built in that people would comply with the rules. Therefore, no excess contributions tax would actually be paid. But as we have heard tonight, \$400 million has already been levied against this particular measure and potentially more, because I presume it is still going; it is not finished at this stage. Is that correct?

Mr Olesen: Yes.

Senator BUSHBY: So potentially more. How is that \$400 million plus actually accounted for in the budget?

Mr Heferen: I will have to seek some assistance there. Not a lot seems to be forthcoming.

Mr Gallagher: The original budget estimates for excess contributions tax did assume that people would comply. Therefore, the costings that were in the budget papers relate to the money we expected to lose in the gap between the personal income tax that would have been paid and the contributions tax that we would have got if it had come into the system as super. Obviously, it has been the case that people have paid excess contributions tax. People have continued to put excess money into the system. It is also the case that more people have complied than have not complied, if you look at the prior distributions of the number of people in 2007-08 or 2008-09 who had contributions in excess of the 2009-10 caps. But with the 2009-10 caps, we were expecting to see the numbers go up, as Mr Olesen has reported.

Senator BUSHBY: So the \$400 million raised is in respect of last financial year?

Mr Olesen: No. The \$400 million liabilities we have raised in respect of all the years.

Senator BUSHBY: So which years are they, just for the record?

Mr Olesen: 2006-07, 2007-08, 2008-09 and part of 2009-10.

Senator BUSHBY: But the money is raised now. Is it received by the ATO now? I am still curious as to how it actually gets accounted for in the budget papers. Revenue might not be the right group to explain how it is accounted for or how it is shown and actually dealt with in terms of the overall impact on the budget.

Mr Gallagher: Well, I am not sure in accounting procedures whether it has been accounted against contributions tax or whether it has been accounted for elsewhere in the budget in terms of the estimates of revenue. But it has been aggregated into one of the other revenue heads.

Senator BUSHBY: Well, it would not be treated as a parameter variation or something like that?

Mr Gallagher: It has been put under individuals, I have been informed.

Senator BUSHBY: Under what, sorry?

Mr Gallagher: Under other individuals. So it has been put into a component of individual personal income tax. That is where it is actually being accounted for.

Senator BUSHBY: When the act was first changed, fair enough, the tax office assumed that everybody would comply with the law. Now you have the experience to indicate that not everybody has, no fault of their own or otherwise. As such, these assessments are arising. In this year's budget, has an expectation been included of income arising out of excess contributions tax?

Mr Gallagher: Although we are interested, largely because of your questions, in how this revenue is accruing, because it is not a separate head of revenue, it has not been separately accounted for in the budget estimates. My understanding is that it would be incorporated in the base of other individuals in terms of the revenue estimation processes of the Treasury.

Senator BUSHBY: But there would now be some acknowledgement in the budget papers that there is likely to be revenue raised through the excess contributions tax? It is in the answer to the question on notice.

Mr Gallagher: Obviously there are measures in relation to excess contributions tax in the budget, including an announcement of a policy that allows amounts under \$10,000 to be refunded. That is the revenue reporting that I am aware of in the budget papers.

Mr Heferen: We can take it on notice and check, but I thought the amount would be relatively small compared with the categories there, particularly other individuals. So it is \$400 million over a period of three years.

Senator BUSHBY: Can you gather the details of how that \$400 million is broken up in terms of the tax years to which it applies?

Mr Olesen: For the 2006-07 year, liabilities raised were \$53 million. For the 2007-08 year, liabilities raised were \$178 million, roughly. For the 2008-09 year, it was \$163 million. Up to 1 May in the 2009-10 year, it was \$6.4 million.

Senator BUSHBY: But a lot of—

Mr Olesen: That is still in progress, yes.

Senator BUSHBY: And a lot of those assessments will not occur until the period that we are currently in now, I presume?

Mr Olesen: We are doing that work right now.

Senator BUSHBY: So you will learn a lot in the next couple of months in terms of how that year has actually ended up?

Mr Olesen: We already have a bit of a sense of what the volumes will be.

Senator BUSHBY: They are likely to increase probably to a similar sort of scale to years prior to it?

Mr Olesen: Yes. Perhaps 2009-10 is the first year of the reduced caps. So the incidence is a little higher than the prior years because of that reduction in the concessional cap.

Senator BUSHBY: Quite rightly, I understand in answer to the question on notice you said that there was no budget figure included for the amount that you have raised through this because you expect people to comply. The reality, however, indicates otherwise. There will be funds contributed to consolidated revenue as a result. I am curious to know to what degree

the actual practical outcome has been reflected in the budget papers for next year in terms of the revenue that this particular measure will contribute.

Mr Heferen: As Mr Gallagher has said, it is put into the gross other individuals. It is the head category of revenue highlighted on page 525 of budget statement 1. Then it just becomes part of that base that has grown according to the various assumptions we use to grow that in forecast projection years. But we will take that on notice to confirm.

Senator BUSHBY: Thank you. I have asked some questions of the ATO about coercive powers at previous estimates. I wonder whether the next ATO annual report will include any material on its use of its various coercive powers as well as any discursive material when it alerts the parliament to emerging issues and concerns in that regard.

Mr D'Ascenzo: I have not drafted my report yet so I am not sure what can be put in there. I will certainly take on note what the senator says.

Senator BUSHBY: Thank you. I am also looking at some of the ATO's operations. I have some queries. How many audit teams does the ATO have respectively for small business, medium business and large business?

Mr Quigley: How many teams?

Senator BUSHBY: Teams, yes.

Mr Quigley: Senator, I will have to take that on notice.

Mr D'Ascenzo: We will take that on notice. I think that is a very simplistic way of looking at what we do in terms of our compliance work. We do a lot of functions. They are not necessarily allocated specifically functionally across our resources. So you could have a team that may well do some audit work, but it may also be a key client manager for some large taxpayers or it might do a range of other work. Having said that, we will certainly provide you with as much as we can, Senator, to fill in your question.

Mr Quigley: I will add to that, Senator. A lot of the work is integrated. I do not think I will be able to provide you with figures about a team.

Senator BUSHBY: Hard figures, yes. I understand that. I guess you are probably not able to tell me—or perhaps you are—what the average size of an audit team would be. It does not sound like an audit team is a structure that you use.

Mr Quigley: That varies significantly from whether you are dealing with, say, teams looking at individuals right up to the largest corporates in the country. What I can provide that may be useful to you, Senator, is FTEs—that is, full-time equivalents—that work on active compliance.

Senator BUSHBY: Okay. That would be good. I am also interested in knowing the level of training and what levels of seniority are involved in audit team members or compliance team members. What is the level of rigour that the ATO applies in ensuring that the people who do this work have a suitable education, experience and capability?

Mr Quigley: Senator, are you interested in any particular market segment or do you want that right across the board?

Senator BUSHBY: I am not looking for you to tell me individuals.

Mr Quigley: No.

Senator BUSHBY: People who might go out and audit large, small or other businesses. What is the degree to which we can have confidence that they are appropriately experienced and qualified to be able to do that job? So that is their seniority, education, any minimum professional requirements and what else you might look at to ensure that those people are the appropriate people to be doing that job. In doing so, do you have any industry exchange programs to skill your auditors? How many ATO officers participate in those sort of programs? What do you do to ensure that they are appropriately qualified and skilled?

Mr Quigley: Yes. We will be able to provide that to you, Senator.

Senator BUSHBY: Thank you. What division and branch of the ATO is responsible for media and public relations?

Mr D'Ascenzo: Well, I think from a national leadership perspective it is our corporate relations and law area.

Ms Granger: Corporate relations is the division within corporate services and law that coordinates our media and publishing.

Senator BUSHBY: What are the main functions that your media and public relations people would work on? What sort of campaigns and issues would they generally prioritise?

Ms Granger: Of course, the biggest single campaign we run is tax time itself. But throughout the year, there would be ATO publications, speeches, commission press releases explaining particular initiatives, rulings releases and all those sorts of things. It would be all of that.

Senator BUSHBY: Is there a reporting line for particularly the media and public relations activities within that particular section?

Ms Granger: A reporting line to?

Senator BUSHBY: In seniority. How are decisions made on activities that they undertake?

Ms Granger: All our lines have reporting requirements through subplans, which is the major divisions within the tax office. Each subplan is chaired by a second commissioner. In this case, I am the relevant second commissioner. There is also reporting that goes through to the ATO executive. We have quarterly plenary governance forums in which we report on the major performance of the tax office.

Senator BUSHBY: I have some more questions on that, but I am aware that we have other senators with questions. I might just put those on notice and find out what I am interested in from them. Does the ATO keep minutes of its consultative committee meetings?

Ms Granger: Yes, we do. Most of those are published.

Senator BUSHBY: How long is it generally between the conduct of a meeting and when you would publish the minutes?

Ms Granger: I am not sure I could take a stab at that one. The practice, particularly for the major forums, such as the national tax agent liaison group, is there is a process of circulating draft minutes and then publishing them. I cannot tell you the actual timeframes, but we can probably give you some indicative ones.

Mr Quigley: I can put a bit of context around this. There are over 50 consultative forums that we undertake. Obviously, it is going to vary quite considerably.

Senator BUSHBY: Between each of them. That is right. For the record, what about the consultative groups?

Ms Granger: The consultative groups are twofold. One, they give voice for various segments and obviously the tax industry in relation to how their interactions with the tax system are affected. It gives them the opportunity to work with us on the design to raise issues. They can also be escalation points for concerns and, as I said, design, particularly around where we are implementing changes to forms, publications and rolling out a compliance strategy. Many of them are market segments. My colleague Mr Quigley has a number that are particularly interested in a focus on things such as compliance strategies that might affect them. Some of them are industry based, so they operate at another level. But it is designed to give us the various voices in the tax system, given that the tax system covers the entire community and all of business. So there needs to be some way for us to try and figure out what degree of differentiation we can have in the work we do.

Senator BUSHBY: And each group will have representative members of the industry or a particular focus?

Ms Granger: Yes. Typically, industry associations will nominate their representatives themselves. We have charters for each of these groups, so there will be time periods on memberships. Some of them also have specific experts in a particular area, because some of them are quite technical committees. So, for example, we are setting up a new committee right now that is looking at alternative dispute resolution. It has a combination of different people from the legal profession, Attorney-General's and universities who have particular skills and interests in that area. So it is a bit hard to generalise. There are other committees, for example, that have charity representatives because it is about the not-for-profit sector.

Senator BUSHBY: The reason I am asking these questions, particularly starting off with the minutes, which probably sounded a bit strange, is that it has been put to me, I guess from people or businesses that do not attend the meetings, that they feel they are not getting the benefit of an interaction with the ATO that those who do attend the meetings are. They find the delay between when the meetings are held and the minutes being available to them a disadvantage to them vis-a-vis those who attend the meetings.

Ms Granger: It is a big challenge for us, Senator. As Mr Quigley said, we run at least 50 forums, which is an extraordinary number for a public service entity. But we always have a waiting list for people who would like to be a representative. We ask industry bodies themselves to nominate their representatives for that very reason. We do have an expectation that they will communicate and share what they have discussed at those meetings with their members. That does not always happen so perfectly.

Senator BUSHBY: The issue that I raised, I suspect, is not necessarily a widespread issue, but it certainly seems to be an issue with some. Have you put your corporate mind to how that might be addressed?

Mr D'Ascenzo: I think we have in a number of ways. As Ms Granger says, there is probably no obvious solution. One of the benefits of having representative bodies—that is not to say that all the members of these committees are representing bodies—is that there are

quite a lot of representatives of wider groups. We have time and time again stressed and continue to stress the responsibility they share of making sure that the information available to them is communicated to their members. We have offered to write articles for particular journals and other industry-wide publications. We also make sure that our minutes are put on the web so that they are available and consistent. We have tried to do what we can in terms of getting the message across. I have to say that we get disappointed too when a lot of information and a lot of effort does not get spread out more widely. We have time and time again asked people to take the responsibility of being there not on their own behalf but on the behalf of the people they represent and make an effort to spread it widely. What we have done is make our things as transparent as possible. We ask the representative bodies or people on the consultative and advisory forums. We keep an eye on who is contributing. We try to refresh that by asking people to nominate new people. We ask, 'Are you happy with the current level of representation?'

Senator BUSHBY: It is not an easy thing to achieve on that scale.

Mr D'Ascenzo: In a lot of ways, we are trying to achieve the objectives. I have to say that I think Ms Granger understated the comparison in terms of how much consultation and advice we do get from a range of segments. I think you would be quite interested to see how comprehensive they are and how many people are on those forums. I think we did a rough count and found something like 2,000 people being consulted.

Senator BUSHBY: Across the groups?

Mr D'Ascenzo: Across the groups. It is not necessarily always the same people. That is a significant number of people. If they were to pass it on to their associations and their members or others that they talk to, you would get quite a wide coverage.

Senator BUSHBY: There are some things that you cannot control, in a sense?

Mr D'Ascenzo: But I think it needs to be put on record that we do have probably the most extensive range of consultation and advisory processes to engage with the community at different levels on designing the way we go about our administration of tax, super and ADR. This is important. Look at a review that was done of statutory responsibility holders by Uhrig some years back. He made a point of saying that the ATO has the most extensive level of consultation and advisory bodies of any public sector organisation. Another point is that in our corporate values we put in what we call our three Cs, which is consultation, collaboration and codesign. We try to use these forums to help us make them be a living, dynamic part of our processes.

Senator BUSHBY: Thank you for that. You may recall at the February round of estimates I quoted to you an extract from a judgement in relation to an AATA case, No. 26 of 2011 between FCT and James, which was handed down in January 2011 and then pulled off the AATA website without explanation. Was it the ATO which sought a suppression order to have the case pulled off the website?

Ms Granger: No, it was not, Senator. That order was in place. It is for the AAT to say. The answer is no, it was not from us. The AAT itself took that action. It was an existing order.

Senator BUSHBY: An existing order at the time?

Ms Granger: Yes.

Senator BUSHBY: During the previous round of estimates I also asked a question about the Queensland appeal court case of ATO v Denlay, during which I asserted that you had lost the case in the appeal court. You countered that you had won.

Mr D'Ascenzo: I apologise about that. There were two cases.

Senator BUSHBY: I was going to ask whether you had your officers brief you on that.

Senator Sherry: You would be in trouble with two cases.

Mr D'Ascenzo: I did not mean it. Honestly, I had one case in my mind.

Senator BUSHBY: I understand. I did not ask the question, because I thought you would no doubt be right and I was wrong. But, as it turned out, it was the other way around. Have you had the opportunity to review that case now and confirm that the ATO proposition in taking on the case itself was, to quote the judge, preposterous? Have you had a chance to review that decision? Is the ATO looking at taking any action as a result?

Mr D'Ascenzo: We did review it. I am not precise on the details. But my advice is that we did review it and that we did change our processes to take into account the comments made by the judge. I could perhaps clarify that in more detail on notice.

Senator BUSHBY: Thank you very much. I have other questions, but I will put them on notice.

Senator EGGLESTON: Sometimes we get people who abscond overseas. How do you pursue such people? There is the case of Paul Hogan that springs to mind. What sort of rights do you have to pursue people who leave Australia with large tax debts? How do you undertake that?

Mr D'Ascenzo: Again, without referring to any particular—

Senator EGGLESTON: No. I do not want you to refer to anybody in particular. I did mention that as an example.

Mr D'Ascenzo: There are difficulties with people overseas and recovering debts duly payable in Australia. I do not think that is just limited to tax debts. The collection of debts in other jurisdictions is a difficult issue. There are OECD multilateral conventions that are designed to facilitate the collection of tax. Australia is not currently a signatory of those forums, although they are matters that are always on the public agenda. So I think the reality is that once people do abscond overseas, it is difficult for us to recoup the money for the benefit of the Australian community. This is why in cases where we are able to do so, we have to take action to either restrain people moving overseas through departure prohibition orders or in some other way freeze the movement of assets from Australia. But they are not easy to do and the timing of those can be fraught with difficulties.

Mr Quigley: We do recognise the significant impact that putting a departure prohibition order has on a person. We have quite stringent procedures. It can only be approved by a senior officer. All our practices and procedures are on the web, so it is quite transparent. The processes we go through are quite open and transparent. I will put a bit of context on it too, Senator, if you like. Departure prohibition orders issued for the nine months up until 31 March 2011 were 26. So it is not as if it is something that we use every day. In all, the number of DPOs current as at 31 December 2010 was 62. So some were carried over. But it was 26 in

that nine-month period. So it is not something that we use lightly. It is something we really take a lot of care over to ensure that it is only used in appropriate circumstances.

Senator EGGLESTON: How do you choose the people to put these departure prohibition orders on to restrict their movement? Do you have a threshold limit of taxation owed or some other factor like that?

Mr Quigley: There is no threshold as such. But it really is, as the commissioner mentioned earlier, where we believe and we have evidence to suggest that a person might be going overseas, which would be outside our jurisdiction, and it would be much more difficult to recover a debt. Firstly, of course, there has to be a debt. In reality, it would have to be a reasonably sized debt, but there is not a dollar figure. Certainly a lot of judgement is used.

Senator EGGLESTON: You said we are not signatories to the OECD agreements or conventions on this. Why is that? Why have we not signed on to those things? Is it because we do not feel we need to or are there other reasons? Are there other agreements in place with non-OECD countries?

Mr D'Ascenzo: I think these are matters for government. I know that government is actively considering these matters.

Senator EGGLESTON: So it is a question of the government deciding. I presume you would advise them. It must be in some way related to the scale of the problem, which does not seem to be very big.

Mr D'Ascenzo: Again, we try to keep the government informed of areas where we think the system might work as intended in a way that benefits the community.

Senator EGGLESTON: There is another article that I read in, I think, the WA business news about large businesses being required to tell the Australian Taxation Office when they are uncertain about exactly how much tax they owe for specific matters under a plan to prevent tax controversies. Could you perhaps tell us a little about what that article refers to—things like a voluntary admission or opportunity for businesses who are concerned about their tax position to discuss it?

Mr D'Ascenzo: It is very much along those lines, Senator. Coming back to a range of consulting and advisory links that we have with business and large business in particular, the message that continually comes to us is, 'Give us some certainty. We don't want surprises as we go on with our affairs.' So we thought about how we do that with large businesses in particular. One way you can do that is to use the private ruling system, for instance. That suits some taxpayers. It does not suit every taxpayer. We are trying to encourage a process where people engage early with us so they do not have a misunderstanding later about what our position might be or that we misunderstand what their position might be. So we have been engaging early with people. They talk to us even before they lodge returns. Even if they have issues of concern to them, they come and talk to us. We have products like annual compliance agreements, which is really very much a process of ongoing disclosure and discussion with the ATO about what might be risks that we see about the taxpayer from our own analysis and risks which they see from their own analysis.

One of the concerns put to us is that while some disclose all these amounts, others are not doing so. We find out people do not want to be in a comparative disadvantage in relation to that. Another arrangement that has been put to us is, 'We actually want to do this more

regularly. How can you do it in a way that covers the whole field rather than just particular taxpayers?’ The third proposition is that the accounting standards are moving towards earlier upfront disclosure of potentially controversial positions. So we are saying to people in large business, ‘Rather than play a hide and seek game, why don’t we show our hand? We’ll certainly indicate to you the areas that we have concerns about. You tell us where you think you have a fifty-fifty proposition. Therefore, we can resolve it earlier so you do not have the problems later on as you carry out your business.’ That is the intent. I do not know if Mr Quigley wants to say anything more.

Mr Quigley: I suppose I should add that we are rolling this out very steadily and piloting with 50 economic groups at the top of the stream with certain carve-outs. For instance, if a corporate group has already got an advance compliance agreement, we will not be asking them to provide the information. For the first year, we will not be asking early balancing companies, for instance, because they will have already been halfway through the year. So it is really going to be rolled out firstly just to the higher risk or the key taxpayers around the top 50.

Senator EGGLESTON: When you say higher risk, what do you mean by that? Are these new businesses whose tax liabilities are unpredictable? How is that established?

Mr Quigley: These are large corporate groups that we have assessed based on a whole range of criteria, including past compliance, the way they interacted with us, the relationship they have had with us in the past and where they may not have been as forthcoming as we would have liked in providing information. There is a whole range of criteria where we look and we say, ‘We believe that this is a large group that has high consequences if something goes wrong, if they do not comply.’ Not only that, there is also a higher likelihood that they do not comply. I think we have got around 18 out of 1,300 corporate groups in that category, so it is not as if it is large.

Senator EGGLESTON: Do they voluntarily come to you? You have talked about it being difficult before. Is it a soft audit? Would you describe it in this way?

Mr Quigley: No. Let us start with the easy ones where we have assessed there to be a low likelihood of noncompliance and low consequence. The commissioner wrote to them. I think there were about 1,100 in that group. It might have been less than that. He said, ‘Based on what we know at present, you could be reasonably assured that unless something comes to light, in the next 12 months there will be no intrusive audit or anything like that.’ Then we have another group of around 300, which have a lot of consequence but the likelihood of maybe noncompliance is higher. We undertake different projects around them. There might be a project around capital gains tax. There might be a project around what they are returning as income as opposed to what we would see in the other industry. So they are on a project basis. Then we have the key taxpayers who we personally go out and visit and say, ‘This is where we consider you are.’ We have sent letters to the CEOs. Then there is the higher consequences, which also have a one-on-one personal visit from a senior person followed up by a formal letter.

Senator EGGLESTON: In other words, they are people you have identified or feel they have some sort of compliance problem, are they?

Mr Quigley: If you are looking at what we have identified as higher risk, as I say, there are taxpayers who have had a history of not complying, necessarily, of not being open and transparent with us in advising when they are undertaking particular transactions and they have not been forthcoming in providing us with information. This has meant in the past that we may have gone down the formal powers that Senator Bushby referred to before about requiring them to provide that information to us or even coming in and giving evidence on oath. It might be that what we call the difference between the tax that they are paying and their economic profitability does not seem to be right. So there is a whole range of factors.

Senator EGGLESTON: So there is an alert that comes up. This article also talks about the July 2012 start date. Obviously you are doing this already. What are you planning from July 2012? What does that refer to? It says clients would have to prepare for the schedule without the guidelines that are expected by the end of the year.

Mr Quigley: It is for the 30 June income year, which effectively means that it has effect for those in that pilot group, that 50, from 1 July this year. From there, they will basically need to track what their contentious tax issues are. They will then be able to report their income tax return for 30 June 2012.

Senator EGGLESTON: What material benefit do you see you will get? A better tax result from these companies within the parameters of the tax law, I would assume.

Mr Quigley: It goes to what the commissioner said earlier around the transparency. It then allows us to have a look and talk to them about what the issues are. We are not asking them to provide the sort of information that someone would need to provide to get a private ruling, for instance. But it is to give us an indication of what they themselves self-assess as being more likely to be wrong than right.

Mr D'Ascenzo: I will surmise how I see it going into the future. What we are trying to do is to encourage large business to engage with us early. It is not in their interest at the end of the day to go into an arrangement that then involves lengthy litigation with outcomes that are at best uncertain. If they genuinely are looking for certainty, and I believe most are, then trying to find ways in which they can have a level of practical certainty as early as possible will benefit them in running their business with the certainty that they require. So this is one way we can do that by saying, 'Tell us the issues that you really feel you are not sure about. There is some contention there and you don't know whether you want to take the risk, basically. Come and talk to us early and we'll see what we can do to sort it out with you upfront.'

People are saying, 'Well, there will be too many people raising too many issues and there will be a large burden on businesses.' We are not trying to design it that way. We are trying to keep it very, very simple and simplistic by saying, 'Well, you tell us what you think are the sort of contentious fifty-fifty issues that would be of concern to your board. You do not have to tell us more. Just give us an indication and then we will match that against our own risk reviews and come and see whether or not we can explain or understand the position and give you more certainty upfront.' I do not think there are too many large businesses whose boards are comfortable to run fifty-fifty propositions without some level of mitigation.

Senator EGGLESTON: This article refers to the fifty-fifty position and not being comfortable with the notion of them. But you are fitting into some niche somewhere between

their accountant's advice and their financial adviser's and the fact that they might be drifting into a grey area. You are assisting them to stick to the straight and accepted pathways?

Mr D'Ascenzo: That is how I hope it will work, Senator.

Senator EGGLESTON: Thank you very much.

Senator CORMANN: Has the ATO done any preparation for the introduction of the proposed carbon tax from 1 July 2012?

Mr D'Ascenzo: We have had input to Treasury on things like the trading arrangement being taxable. But that is the limit of our involvement.

Senator CORMANN: But in terms of the actual administration of it—the collection of the revenue and all of the associated—

Mr D'Ascenzo: I am not sure that the government has worked out where the responsibility lies. I have not had any indications that the mechanisms for a carbon price will be a responsibility of the ATO.

Senator CORMANN: So you have not made any assessment around hardware requirements, software requirements and technical expertise that might be required?

Mr D'Ascenzo: At this point of time, there is no indication that we are going to have responsibility for that measure.

Mr Heferen: I might assist, Senator. The Department of Climate Change and Energy Efficiency, as I understand it, will be the portfolio responsible for setting up any organisation and institution required to do the administration around that.

Senator CORMANN: So we have the Australian tax office and the Australian carbon tax office as a separate office?

Mr Heferen: Well, I think as you would be aware, they are fundamentally different things. Of course, when it goes to the proposal for the use of a fixed price and a floating price, the mechanism will need to be dealt with—

Senator CORMANN: So we would have an Australian carbon tax office commissioner and an Australian carbon tax office deputy commissioner and an Australian carbon tax office second commissioner?

Mr Heferen: Those things should be put to the Department of Climate Change and Energy Efficiency for discussion.

Senator CORMANN: So the way you are explaining it to me is that the relationship between the department of climate change and the Australian carbon tax office is going to be like the relationship between the Treasury and the ATO?

Mr Heferen: Sorry, Senator. I do not recall saying that.

Senator CORMANN: I am asking the question.

Mr Heferen: If you want to ask questions, the commissioner is saying that the discussions have been had with the tax office being the organisation administering this. I was just making the observation that the carbon price has been in the portfolio of the minister for climate change and his department. So that is probably where the questions are best directed.

Senator CORMANN: There is speculation in the media about the carbon tax presenting a headache for the ATO, with suggestions from expert tax sources—I am quoting here—that it

will take the ATO at least 12 months to implement the technology systems required to administer a carbon tax. Are they saying that a new body which starts from scratch would do it more quickly than the Australian tax office?

Mr Heferen: Sorry, I was not meaning to suggest that. I guess the newspaper reports would reflect on what the experts are saying. You could reflect on why they would make that judgement.

Senator CORMANN: I will quote an adviser from research firm IBRS. They have been prepared to put their name to it so it is not an anonymous comment. Jorn Bettin said:

If would be strange if the government did not look to make use of the ATO's huge investment in its new integrated core processing system to calculate the new carbon tax.

By the sounds of it, Mr Bettin thinks that the ATO would be a natural fit. Having said that, apparently it would take at least 12 months to implement the systems. How can an organisation that would start from scratch do it quicker if it would take the ATO 12 months?

Mr Heferen: I am sorry, Senator. I am not sure what you are asking me to contribute to that.

Senator CORMANN: I will leave it there because you have tried to be very helpful. I guess the answer essentially is that the ATO is not involved. As far as you are aware, you are not going to be running it. As far as you are aware, it is going to be administered through a new organisation to be set up in the context of the portfolio of climate change.

Senator CAMERON: I raise a point of order. Senator Cormann is trying to verbal Mr Heferen. He cannot do that. You have to ask him a question.

Senator CORMANN: I did.

Senator CAMERON: You cannot make this stuff up and then say, 'Do you agree with it?' when most of it is hypothetical.

Senator CORMANN: On the point of order: I just tried to summarise to make sure I understood what Mr Heferen had said.

Senator CAMERON: You know that is not what you are doing.

CHAIR: Thank you, Senator Cameron. I will rule on that. I think we are getting to the end of the evening. I think everyone would appreciate short, sharp concise questions.

Senator CAMERON: No kidding.

Senator CORMANN: In relation to the issue of—

Mr Heferen: In response to the question, I think that would be a matter to put to the department of climate change.

Senator CORMANN: Thank you, Mr Heferen. In relation to bad and doubtful tax debts, how much money is currently owed to the ATO by taxpayers?

Mr D'Ascenzo: Total debt is \$27.09 billion.

Senator CORMANN: Is that reflected anywhere in the budget papers?

Mr D'Ascenzo: Not that I know of.

Senator CORMANN: How does that figure compare to total debt outstanding 12 months ago?

Mr D'Ascenzo: It is actually down 1.8 per cent since 30 April 2010.

Senator CORMANN: So what has caused the improvement?

Mr D'Ascenzo: If I can go further, we have \$13.082 billion collectible debt; that is debt that is payable and there is no impediment on the ATO following it up. We are following it up, but sometimes it is hard to have in. It is up 0.2 per cent. There is \$9.26 billion in disputed debt. That is down 12.6 per cent. That is probably what brings the total down.

Senator CORMANN: So the level of disputed debt is down?

Mr D'Ascenzo: That is right. The other one is the \$4.8 billion insolvency debt, which is up 20 per cent.

Senator CORMANN: Sorry, which one is that?

Mr D'Ascenzo: It is \$4.8 billion in insolvency debt. In other words, it is individuals who have gone bankrupt or companies in liquidation.

Senator CORMANN: Are you able to break the \$27.09 billion down by sector, such as individuals, small business, large business?

Mr D'Ascenzo: It is hard to do that in precise terms, but I can say that, of the micro and small to medium businesses, micro is up to \$2 million in our classification and small to medium goes all the way up to \$100 million. But they continue to account for 80 per cent of collectible debt.

Senator CORMANN: So this year it is \$27.09 billion, which is down 1.8 per cent from the year before. How much was it the year before that?

Mr D'Ascenzo: I do not have those specific figures.

Senator CORMANN: Maybe you can provide us that on notice. Have you got any expectations on how that figure is going to move over the next few years? Have you got any estimates? Have you got a target as to what you would expect your bad and doubtful tax debts to be?

Mr D'Ascenzo: We try to keep it around these sort of levels. If we see dramatic increases, that is of concern to us. Given what have been difficult economic conditions for many businesses, and our approach, which has been empathic to reliable businesses by giving them payment arrangements and the like, one would have expected an increase in collectible debt. We have seen an increase, but it is not significant. People have, by and large, been paying their debt or we have had to take some firmer action sometimes to bring it in. My own guide is to try to keep collectible debt at somewhere like 5 per cent of the total tax take. We are running at that level at this point of time.

Senator CORMANN: How much of the \$27.09 billion that is outstanding would you expect to be written off as bad or doubtful debt over the next few years?

Mr D'Ascenzo: We do have provisions for doubtful debt. I cannot recall them off the top of my head.

Senator CORMANN: You do have provisions. It was supposed to go down by \$473 million in the last financial year.

Mr D'Ascenzo: In 2009-10, we did write down \$1.7 billion.

Senator CORMANN: That was in 2009-10?

Mr D'Ascenzo: Yes.

Senator CORMANN: Why do you expect a \$473 million decline next year?

Mr D'Ascenzo: Sorry? What was that question?

Senator CORMANN: In your bad and doubtful debts, you are expecting a decline by \$473 million for the next financial year in the provision for bad and doubtful debts.

Mr D'Ascenzo: I do not have the specific details for that, but I can provide them on notice.

Senator CORMANN: I note from media reports that the ATO is engaged in litigation with an American resource company over the tax treatment in Australia of limited liability partnerships. Is the ATO particularly concerned about limited liability partnerships as lacking fiscal transparency?

Mr D'Ascenzo: I do not want to go to the specific case. More generally, we have seen those partnerships lacking that transparency, as you mentioned.

Senator CORMANN: Sorry?

Mr D'Ascenzo: We have seen that being a concern.

Senator CORMANN: But is the treatment of partnerships by the ATO consistent with the tax treatment of those funds in other developed countries?

Mr D'Ascenzo: Well, other developed countries have a range of different laws that apply to those different countries. Some have legislative regimes that cover these areas and some do not. At the end of the day, we have to apply the Australian law fairly and squarely to the circumstances that arise in front of us.

Senator CORMANN: Sure. But as experts in the way taxation law is applied in Australia, I am sure you keep an eye on taxation law developments in other parts of the world. If you compare what is being done in Australia with what is happening in the US and the United Kingdom and the European Union, how does what we do in Australia compare from a tax treatment of limited liability partnerships point of view? How does that compare on an international basis—Australia with the US, the UK and the European Union?

Mr D'Ascenzo: It is actually quite hard to make those comparisons. I have not personally been through it, but I have tried to research some of the positions in the US and the UK and it is not clear to me exactly how they apply their laws in individual circumstances.

Senator CORMANN: Are you aware of reports—I am sure you are—that the position the ATO has taken in its interpretation of the treatment of these entities is having a negative impact on the ability of some Australian companies to source funds overseas from these entities?

Mr D'Ascenzo: Again, I do not have any evidence of that.

Senator CORMANN: You do not have any evidence of that?

Mr D'Ascenzo: No, I do not.

Senator CORMANN: You have not seen the article in the *Australian* which states: US funds remain wary of investing in Australia amid the uncertainty of local tax laws, and the latest tax stoush involving private equity is likely to cause further problems for funds trying to raise money, according to industry experts.

Mr D'Ascenzo: I have heard people express opinions that that might be the case and I have heard people express the opposite opinion.

Senator CORMANN: You have the law and then, obviously, you have the interpretation of the law. You have the responsibility of interpreting the law, for sure. You are independent as a statutory office in doing that. Are you conscious of the implications from an international competitiveness point of view of the implications of your interpretations in these sorts of circumstances?

Mr D'Ascenzo: We are conscious of those issues. We certainly raise issues and discuss those matters, which ultimately become matters of policy.

Senator CORMANN: What is the average number of workplace absences, which is defined as sick leave, carers leave, compensation leave, specific types of miscellaneous or other leave and unauthorised leave, across the ATO?

Ms Granger: I would be guessing. It is 16 or 17 days. I will take it on notice and confirm it for you. It is actually trending down.

Senator CORMANN: But it is around 16 days? That is what I have.

Ms Granger: Yes. The last figures I saw showed it was either 16 or 17.

Senator CORMANN: How does that compare with the average across the Public Service?

Ms Granger: We were above that and we are working on bringing it back down.

Senator CORMANN: So the average is around 10, is it not?

Ms Granger: I am sorry, but I just do not have the figures with me, so I will need to confirm that.

Senator CORMANN: So across your whole workforce, would it be fair to say that it is about 356,400 work days a year lost because of workplace absences? Is that a figure that rings a bell?

Ms Granger: No, it does not ring a bell, but I am happy to take it on notice and get you an answer.

Senator CORMANN: Did you have a review recently into the issue of workplace absences across the ATO?

Ms Granger: We have an ongoing focus on it—it is not a specific review—to see what we can do to reduce those and come into line with the public sector figures.

Senator CORMANN: If you are having an ongoing review, if you are monitoring on an ongoing basis—

Ms Granger: An ongoing strategy.

Senator CORMANN: Are there any identified reasons as to why there is, on the face of it, such a large discrepancy between workplace absences in the ATO compared to the APS more generally?

Ms Granger: As I said, I am happy to take those questions on notice and get you a better answer.

Senator CORMANN: Sorry—you took on notice some of the numbers but, given that you are monitoring it on a regular basis, have you identified some particular issues that are specific to the ATO that cause a higher number of workplace absences on average than across the broader public sector?

Ms Granger: We have not really been able to do a comparative analysis of those things. One of the obvious things to say is that we are a very large organisation and a very distributed organisation around the country with very different functionality. Just to give you an example of that, only 14 per cent of our staff are here in Canberra—

Senator CORMANN: Lucky them!

Ms Granger: whereas, for many of the other agencies, 100 per cent of their staff are here in one building. We have large call centres; we have a whole range of different processes. So it is very difficult to make a comparison and average out our profile and benchmark it against organisations that have very different functions. What we have focused on is: what are the drivers of those in our own workforce and how can we address that?

Senator CORMANN: Would Centrelink be a comparable organisation that should be equally decentralised—

Ms Granger: We do look at Centrelink. There are some aspects that do compare, but, at the other end of the scale, we also have in this area, as you know, large numbers of auditors and large numbers of law professionals. We have a very mixed organisation compared to others.

Senator CORMANN: Are you saying that auditors and lawyers are more frequently absent than—

Ms Granger: No, in fact I am not; it is the opposite.

Senator CORMANN: So you should be doing better than Centrelink.

Ms Granger: What I am saying is that it is difficult to benchmark the entire organisation against another one, because we have a range of functions. It would be more typical for us to, for example, look at the call centre industry and compare it to our call centre in some ways. We do try to measure ourselves against others but, because of that very diverse range of functionalities, it is a bit difficult.

Senator CORMANN: So you try, but do you know where you sit compared to Centrelink in terms of workplace absences?

Ms Granger: I think Centrelink's figures were slightly better than ours the last time I looked, but, again, I can take that on notice and get back to you.

Mr D'Ascenzo: Perhaps I could add to that. I think the comments you make are very appropriate in that absences can affect productivity in any large organisation. We have had that focus on workplace absence. You have to look at the definition of workplace absence as well. The definition does include people being sick and people having to go to hospital and the like. So you would expect some proportion of that. Why our proportion is higher than the APS average is matter that we have been looking at.

Senator CORMANN: Is your staff more stressed perhaps?

Mr D'Ascenzo: I do not know what the answer is. As Ms Granger said, we have tried very hard to do it. If there is some silver lining it is that we are trending downwards in terms of that

figure. It is something that we keep a close eye on and something that we have tried to work out both in terms of the processes and procedures that we have and also in terms of the cultural aspects of work. I think Ms Granger made a fair point that the larger the organisation and the more dispersed it is, the higher the rate of absences you tend to see.

Senator CORMANN: Do you assess and measure how much it costs you on a yearly basis? I am reading from a briefing note. It says: 'The current rate of leave over the year equals around 356,400 working days lost in one year.' Do you know what that means in cost to the ATO?

Mr D'Ascenzo: Sometimes you measure an organisation by the number of what we call full-time equivalents. So you can divide those days by the appropriate number and you get the full-time equivalent cost of people being away on leave. We have done that in terms of what each day means to us in costs. We have done the calculations that you have done, Senator. At the end of the day it is a lot and therefore it is something we need to keep a focus on. But the fact is that it is trending down and we have got a very organisational focus on trying to improve that even further.

Senator CORMANN: Are you able to put a figure on what it costs on a yearly basis to have that level of workplace absences?

Mr D'Ascenzo: I do not have that figure offhand. I know that we have done it in terms of one day meaning a certain number of FTEs. If you multiply that by the 15 or 16 days that occur I am sure that will be the figure.

Senator CORMANN: But it is something that you are focused on?

Mr D'Ascenzo: Yes, very much so.

Senator PRATT: I believe there are some revenue implications for the amendments associated with the R&D tax bill that is currently before the Senate.

Mr McCullough: I think we had this discussion once before. Can I ask what amendments you are referring to, Senator? The current state of the bill, as I understand it, is that it is before the Senate, and I am not aware of any debate of the Senate having taken place or of any amendments having been moved yet.

Senator PRATT: I have been advised that the opposition has moved some. I am not aware of the detail. I would assume that perhaps the department might be. I am happy for you to take that on notice. It might have happened quite recently.

Mr McCullough: I do not know how that could be, because the bill has not been presented to the Senate. I can take it on notice.

Senator Sherry: It was listed, I know, but it was withdrawn or taken off the list.

Senator PRATT: We have done some committee work on it.

CHAIR: It is on the list but has not been brought on for debate.

Senator Sherry: It was listed on the daily program or the weekly program and then it was taken off. There may be opposition amendments circulated, but Treasury have not yet had the chance to put their forensic eye over it to see what destructive force is being applied to our government legislation.

Senator PRATT: I might therefore ask you to take it on notice. I am sure it is preparation that you will have to do, in any case, for when the debate in the Senate ensues. I would like to know what the revenue implications would be, in particular the benefits that might accrue to small business in terms of those amendments. But they do not have to be significant revenue implications.

Senator CORMANN: You would be aware of reports on the front page of the *Financial Review* in relation to the ATO being accused of bullying tactics.

Mr D'Ascenzo: Which ones are they?

Senator CORMANN: The report in the *Financial Review* on 19 April 2011 on the front page.

Mr D'Ascenzo: What did it say?

Senator CORMANN: The headline is: 'ATO accused of bullying tactics'. The article says:

Tax Office auditors are aggressively pursuing small businesses and wealthy individuals, presuming an intention of cheating, and conducting excessive fishing expeditions, accountants and lawyers have alleged.

I am giving you the opportunity to put your perspective.

Mr D'Ascenzo: I will ask Mr Quigley to go further. It was interesting that when people were asked: 'On what basis do you make these claims?' no-one really had any specific details other than it was the vibe. That is not to say that the vibe might not have some substance, but in the newspaper report itself there was very little to substantiate the claims.

Senator CORMANN: Again, there were people who were prepared to put their name to it.

Mr D'Ascenzo: But if you read the follow-up article, when they asked: 'How many exactly have done this?' and 'Have you got any specific cases?' I think they also put their name to the answer: 'Well, no, we actually haven't.' Quite apart from that, I am not trying to debate or parody what might have been said by people. What I am trying to say is that we go to great lengths time and time again in our publications and in our dealings with taxpayers and their advisers to make the point to say, 'If you've got any concerns about the way that matters are being dealt with please come and talk to us and we'll make sure that we consider your matter and make sure that we've dealt with it professionally.' Sometimes people say, 'We won't do that. We don't want to talk to you, because we feel that we might be disadvantaged.' At times I have given both to the small business market and also to the large business market a personal guarantee that they will not be disadvantaged if they raise reasonable concerns. That is as far as I can go.

We then go further and say, 'If you're concerned about us, why don't you take it up with the representative body and they can talk to us separately about the issue, provided you're prepared to provide us with the facts and details of your case.' You make all those offers and you do not get too much real evidence of that sort of tag, which is disappointing because it does bring down taxpayer confidence in our professionalism. You then say, 'What can you do to make sure that even that level of reticence to come up with the facts doesn't then hide some concerns further down?' We survey people through independent arrangements. We also ask for survey forms for any taxpayer that we audit or take enforcement action against. So we are

always conscious of the fact that sometimes we deal in matters where people have a difference of view, a personal vested interest in a particular position, and we are very concerned about making sure that, in terms of building community trust, we act with the highest level of professionalism. We take that seriously and we offer to people to come and talk to us when they think that they are being disadvantaged.

Senator CORMANN: So in relation to this story you did take steps to determine whether the report was based on fact?

Mr D'Ascenzo: Again, there were follow-up newspaper reports. One comment was: 'This was what people were saying, and I've heard it a few times.' All we can say is that, if there are individual cases where people feel that we have not behaved with the highest level of integrity and the highest level of professionalism, please escalate it. Again, before parliament, I give a personal guarantee that people will not be disadvantaged.

Senator CORMANN: And there is a code of conduct for field officers? Are there formal requirements as to how field officers are to conduct themselves?

Mr D'Ascenzo: Very much so.

Senator CORMANN: And there is regular training?

Mr D'Ascenzo: This comes back to questions that were asked before about our training. I think people underestimate how skilled and capable many tax office people are.

Senator CORMANN: I do not think that we do but—

Mr D'Ascenzo: No, but I think it is worth putting this on the record. Many people do grow through the organisation and to that extent have a very extensive understanding of tax and super administration. That is a good thing. We have a lot of graduates who come to us and they develop their skills over a lot of years. They are very talented people. We also have a lot of people who come from different sectors of the community. People underestimate how many of our people have had private sector experience, have run businesses and had different jobs across the community. We then do have training programs and we do have what we call quality assurance—checks and balances. At the end of the day, we are working there for the community and we do not have vested interests in outcomes.

Senator CORMANN: You talk about vested interests, and I understand that tensions can arise out of that. You also have the Inspector-General of Taxation, Mr Ali Noroozi, who appeared here earlier, saying that the ATO staff lacked technical expertise and claiming that the tax office teams responsible for small- to medium-sized enterprises are short on technical knowledge and are plagued by high staff turnover. He is not coming at it from a vested interest.

Mr D'Ascenzo: I am not actually sure that is what he said. I think he may have said there were claims that this may be the situation. I do not know whether that is right or wrong.

Mr Quigley: I do not know whether it is a result of that, but the inspector-general is undertaking a review of the audits of high wealth individuals at and also in the category of companies with a turnover of between \$100 million and \$250 million. I understand that the inspector-general, when he did appear here earlier, indicated that he could not comment on that. I think we are in the same boat.

Senator CORMANN: I can only assume that somebody like the Inspector-General of Taxation would not go out into the public arena lightly, making assertions about the lack of technical expertise and the implications of high staff turnover on the quality of audits of larger—

Mr D'Ascenzo: But, as I say, I am not sure that is what he did say. He may have said 'there are claims that'—

Senator CORMANN: I am quoting him—it is a direct quote:

Certainly we have found that technical expertise is an issue.

Another quote:

I think the Tax Office so far has acknowledged that they have had significant turnover of staff in that area.

Then he says he can't really say too much more about it—he has got to wait for the review to be completed and for the minister to release it. These are direct quotes. Do you think there are no problems in terms of technical expertise?

Mr D'Ascenzo: We have the biggest accounting and legal firm in Australia in terms of technical expertise. The tax and super laws are not simple, and we have great capabilities. To apply that across the full range of our people, there will be differences in quality as there would be in any large firm. What we do have is a range of training courses, checks and balances and arrangements. In that report there was a concern that sometimes say an auditor went back and consulted with more senior people, and that was seen as a criticism. I would have thought that that was a process where you wanted to make sure that your position was going to be proper, because you were affecting people and there were implications there. You can read things in other ways. With a specific area of review, it is improper to start talking about a review that has not been finalised or provided. But if it relates to a particular area, such as our small and medium enterprise area—I correct myself; I mentioned up to 100 new units from 2 million to 250 million—then we have had a lot of new people into that area, some of whom have had extensive experience elsewhere, of which some has come from the private sector, and some needs more development. It is always a challenge for large firms to make sure that their capabilities are the highest possible.

Senator CORMANN: So what skills or qualifications does the ATO require its staff who are involved in these sorts of audits to have?

Mr D'Ascenzo: This goes back to Senator Bushby's questions. There used to be limits in the Public Service that required certain formal qualifications to proceed higher than a certain classification or to work in certain areas. They longer exist.

Senator CORMANN: So you do not have to be an accountant or have a business degree.

Mr D'Ascenzo: You do not have to be, but at the end of the day, when you look at the selection criteria for some of these roles, they would say that technical skills of a high order are desirable. You would find, as a matter of practice, that the senior people who work in this area of the organisation have got significant tertiary qualifications, usually in law or accounting. Mr Quigley might want to say more about that.

Mr Quigley: And extensive experience—

Senator CORMANN: Sorry, before we get there: out of your team of people who are involved in auditing small to medium-sized enterprises, can you—maybe on notice—give me the statistics as to how many of those people directly involved in audits of small to medium-sized enterprises have accounting or other relevant business degree qualifications and how many of them do not, and, to the extent that that is not too difficult, how that has been tracking in recent years? On the face of it, I would have thought any private auditing firm would not use staff without accounting qualifications, so it seems a bit odd that the ATO would use staff that are not qualified.

Mr D'Ascenzo: I am not sure we have those details. We will certainly see, but the short answer is that you have to have the skills and capabilities to compete for those positions. All our positions, by the way, are out to the public so it is open for anyone with the relevant expertise and skills to compete in selection processes. At the end of the day we get people who have the best experience and the best fit and technical capabilities to do the job.

Senator CORMANN: Do you struggle with the private sector taking the best ones out of your system, so to speak?

Mr D'Ascenzo: It goes in ups and downs over time. There were periods in the 1980s when that was very prevalent. Over the last decade we have managed to keep our best and brightest. We have a very proud reputation of retention of graduates that we have groomed over the last decade.

Mr Quigley: Not only that, but over that period we have recruited quite a number of people at the senior levels from the private sector, whether those are legal or accounting firms or from finance institutions or other large corporates. Certainly, when these people come in we are seen as an attractive employer because of the diverse work and also the intrinsic feeling they get out of doing good for the community.

Mr D'Ascenzo: Indeed, when I speak to young graduates who join the ATO, I say, 'If you are here to make a lot of money I suggest perhaps you go somewhere else, but if you are here to do very interesting work and to work with high levels of professionalism in a collegiate environment, then this is the job for you—and you normally get a roof over your head, and a decent meal.'

Senator CORMANN: I have a few quick questions about the Australian Valuation Office, which I gather comes under the ATO. Can you kick us off by explaining to us the work that the AVO does?

Mr D'Ascenzo: It is what we call a self-funding business line because it basically works on fee for service. So it is just like any other commercial practice and it has to do meet the competitive neutrality requirements of government. The bulk of its work is tied to work we do for Centrelink in relation to its activities. For instance, I think something like 80 per cent of AVO work is associated with Centrelink. We also act as the valuer general for the Northern Territory.

Senator CORMANN: I am interested in how you go about valuing an asset. In particular, what laws must you adhere to when you are valuing an asset from a state, territory or federal point of view?

Mr D'Ascenzo: These are valuers with valuation qualifications and they apply the normal standards expected of that profession.

Senator CORMANN: Are the valuations that you do consistent from New South Wales to Western Australia or from Queensland to the Northern Territory?

Mr D'Ascenzo: If it is a property valuation, and that is often the case to determine whether or not people have property assets that are over certain thresholds, it is basically done in the same as any other valuer would do that. You would take into account the market value of properties around that area and you work out what the market value is for that area. It is dependent on the area.

Senator CORMANN: But as you say, the valuation process has certain consequences for people in the context of Centrelink, principally. Are you suggesting, though, that similar assets are valued differently due to their location because of differing state and territory laws?

Mr D'Ascenzo: Not the laws, but a house in one location would be worth less than a house in another location because location adds to the market value of a house.

Senator CORMANN: So you are quite adamant that it is only based on local market conditions that may change? Is there no issue about the different application of relevant state and territory laws on a state-by-state basis in the absence of relevant federal legislation?

Mr D'Ascenzo: My understanding is that a valuation is a valuation. What is the market price of a particular piece of property or asset?

Senator CORMANN: You may want to perhaps reflect upon that on notice and see whether you can assist the committee any further in relation to this. I am quite interested to just make sure. Essentially, the exercise of valuation is on a state-by-state basis, subject to different frameworks. As I understand it, those can result in different valuation outcomes which then have consequences within a framework that is nationally consistent through Centrelink. Is Centrelink your only customer?

Mr D'Ascenzo: No, that is our biggest customer.

Senator CORMANN: What other customers do you have?

Ms Granger: The Department of Veterans' Affairs is another one.

Senator CORMANN: Which is similar.

Ms Granger: It depends on what assets they are because we do a range of work for Commonwealth agencies. Some can be related to valuing that agency's own assets. In the case of Centrelink, it is valuations associated with its delivery of payments.

Mr D'Ascenzo: We have done work for Defence.

Ms Granger: That is why it is very hard for the commissioner to answer your question more specifically. It really depends on what asset class you are interested in.

Senator CORMANN: I am interested in all asset classes that have an impact on people's entitlements from Centrelink or the Department of Veterans' Affairs or others.

Ms Granger: We could certainly give you information on what approach we take for particular ones, subject to commercial-in-confidence issues.

Senator CORMANN: I do not want any specific individual information, obviously, but I want to know whether there is an issue because of the application of different state laws in the context of something that has national consequences.

Mr D'Ascenzo: We will look at that. My understanding is that it is based mainly on what is normal practice in valuation, but I will take it on notice and if there is any further way that we can help, we will.

CHAIR: That will be the final question. Thank you.

Committee adjourned at 23:00