



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

TUESDAY, 3 JUNE 2003

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SENATE
ECONOMICS LEGISLATION COMMITTEE

Tuesday, 3 June 2003

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

Senators in attendance: Senators Bartlett, Brandis, Chapman, Collins, Conroy, Lundy, McLucas, Murray, Sherry, Watson, and Webber

Committee met at 9.01 a.m.

INDUSTRY, TOURISM AND RESOURCES PORTFOLIO

Consideration resumed from 2 June.

In Attendance

Senator Minchin, Minister for Finance and Administration

Department of Industry, Tourism and Resources

Mr Erik Beens, General Manager, ICT Infrastructure, e-Business Division

Ms Tricia Berman, General Manager, Innovation Policy Branch, Innovation Division

Ms Vicki Brown, General Manager, International and Energy Best Practice Branch, Energy and Environment Division

Mr Antony Brugger, General Manager, Policy, Office of Small Business

Ms Janice Wykes, General Manager, Strategy, Office of Small Business

Ms Chris Butler, General Manager, Business Development, AusIndustry

Ms Trish Cattell, Financial Analysis and Data Modelling, AusIndustry

Mr Peter Chesworth, Manager, Small Business Environment Section, Office of Small Business

Mr Drew Clarke, Head of Division, Energy and Environment Division

Mr Peter Clarke, General Manager, Automotive and Engineering Branch, Manufacturing, Engineering and Construction Division

Mr Robert Crick, Head of Division, Analytical Division

Mr Chris Dainer, Chief Financial Officer

Mr John Dean, General Manager, TCF and Construction Branch, Manufacturing, Engineering and Construction Division

Mr Ivan Donaldson, Executive Director, Australian Building Codes Board

Ms Cherie Ellison, Executive Officer, Resources Division

Mr Warren Fletcher, Manager, Budget Coordination Unit, Corporate Division

Mr David Gallagher, Manager, BIF/COMET Programs, AusIndustry

Dr Michael Green, Director, Space Licensing and Safety Office, Manufacturing, Engineering and Construction Division

Mr Paul Griffin, General Manager, Business Entry Point, e-Business Division

Dr Jason Hajinakitas, Group Manager, Regulated Drugs and Chemicals, AGAL

ECONOMICS

Ms Aneela Hakim, Assistant Manager, Budget Coordination Unit, Corporate Division
Dr Sandra Hart, General Manager/Australian Government Analyst, AGAL
Ms Kerri Hartland, Head of Division, Innovation Division
Mr John Hartwell, Head of Division, Resources Division
Dr Joe Hlubucek, General Manager, Ministerial and Coordination Group, Corporate Division
Mr Graeme Holt, Deputy Chief Financial Officer
Mr Chris Hyman, Manager, Strategic Support Section, Energy and Environment Division
Ms Marie Johnson, Head of Division, e-Business Division
Mr Barry Jones, Executive General Manager, Industry Attraction, Invest Australia
Mr Wayne Kathage, Manager, Innovation Access Programs, AusIndustry
Ms Patricia Kelly, Acting Deputy Secretary
Mr Mike Lawson, General Manager, Aerospace and Defence Industries Branch, Manufacturing, Engineering and Construction Division
Mr Terry Lowndes, Head of Division, Industry Policy Division
Mr David Luchetti, Manager, RandD Tax Concession, AusIndustry
Mr Tim Mackey, Deputy Secretary
Mr Jurek Malzacher, General Manager, ICT Strategic Systems, e-Business Division
Mr Rob McKeon, General Manager, Industry Collaboration Branch, Manufacturing, Engineering and Construction Division
Mr Ken Miley, General Manager, Trade and International Branch, Industry Policy Division
Ms Janet Murphy, Acting Head of Division, Tourism Division
Mr Kevin Noonan, General Manager, Online Systems Branch, e-Business Division
Mr Philip Noonan, Head of Division, Corporate Division
Mr Kevin O'Brien, General Manager, Energy Market Reform Branch, Energy and Environment Division
Mr Brad Page, General Manager, Innovation Programs, AusIndustry
Ms Chrys Papadopoulos, General Manager, Safety, Taxation and Projects Branch, Resources Division
Mr Mark Paterson, Secretary
Mr Steve Payne, General Manager, Greenhouse and Environment Policy Branch, Energy and Environment Division
Mr Bill Peel, Executive General Manager, AusIndustry
Ms Anne Pellegrino, Executive Officer, Corporate and Special Projects, AGAL
Mr Craig Penniford, General Manager, Pharmaceuticals and Biotechnology Branch, Innovation Division
Mr Ken Pettifer, Head of Division, Manufacturing, Engineering and Construction Division
Mr James Roberts, Group Manager, Measurement and Research Services, AGAL
Dr Peter Robins, Director, Bureau of Tourism Research
Ms Kerry Rooney, General Manager, Business Development Group, Tourism Division
Ms Margaret Sewell, Manager, Greenhouse Policy Section, Energy and Environment Division
Mr Paul Sexton, General Manager, Industry Programs, AusIndustry
Mr Krishan Singh, Manager, Coordination Unit, Corporate Division

Mr Stuart Smith, General Manager, Minerals and Fuels Branch, Resources Division
Ms Lynne Thomson, Manager, Venture Capital Programs, AusIndustry
Ms Louise Vickery, Manager, Energy Efficiency Best Practice Program, Energy and Environment Division
Mr Peter Waddell, Assistant Manager, Budget Coordination Unit, Corporate Division
Mr Garry Wall, General Manager, Domestic Energy Policy Branch, Energy and Environment Division
Ms Sue Weston, Head of Division, Office of Small Business
Ms Margaret Wilson, Manager, Small Business and Tourism Programs, AusIndustry
Ms Judi Zielke, Manager, RandD Start Program, AusIndustry
Mr Bruce O'Meagher, General Manager, Industry Policy Branch, Industry Policy Division

IP Australia

Dr Ian Heath, Director General, IP Australia

Geoscience Australia

Dr Chris Pigram, Chief Minerals and Geohazards Division
Dr Trevor Powell, Deputy CEO and Chief Petroleum and Marine Division
Mr Tony Robinson, General Manager Corporate.
Dr Neil Williams, Chief Executive Officer

Australian Tourist Commission

Mr Ken Boundy, Managing Director
Ms Louisa Aherne, Government Relations Manager
Mr Richard Beere, Executive General Manager, Eastern Hemisphere
Mr John Hopwood, Executive General Manager, Corporate Services

National Standards Commission

Dr Grahame Harvey, Deputy Director

CHAIR—Good morning. We resume the hearing this morning of the Senate Economics Legislation Committee, for the purpose of considering the budget estimates for 2003-04, with the Industry, Tourism and Resources portfolio. We will proceed in accordance with the latest edition of the published program, which was circulated in the room yesterday. I welcome to the table officers of the Australian Tourist Commission. As there is no opening statement on behalf of the commission, we will go straight to questions.

Australian Tourist Commission

Senator LUNDY—I would like to start—where I have started for the last three rounds of estimates—with the tourism green paper. Minister Hockey last said on the Channel 7 *Sunrise* program of two days ago that the green paper would be out within a few days. When is it coming out?

Mr Paterson—Within a few days; it will be released on Thursday of this week.

Senator LUNDY—Can you give me the latest round of excuses for the many delays in the release of this paper?

Mr Paterson—The preparation of the green paper, as you are aware, involved very broad consultation throughout the community. In excess of 55,000 copies of the discussion paper were either distributed or downloaded. There have been extensive consultations and consideration by government, which is part of the process. It is a green paper, so it will be

subject to further consultation with the community prior to the development of a white paper, and that green paper will be out on Thursday of this week.

Senator LUNDY—On Thursday of this week? That is good to hear; we will hold you to that. Regarding the consultation process, do you have a time frame planned at this stage for the consultation for the green paper?

Ms Kelly—We have not at this stage agreed a time frame with the minister. We have proposed that there will be consultations over the next six to eight weeks.

Senator LUNDY—When are we likely to see the white paper? How long will it be after that consultation process concludes?

Ms Kelly—There has been no decision on timing at this stage.

Senator LUNDY—Are we likely to see the extremely long delays, months and months, that we have seen with the green paper, or is it envisaged that the white paper be delivered in the third quarter of this year or in the last quarter of this year? Can you give me a vague idea of when we are likely to see it?

Ms Kelly—As I say, there has been no decision on timing. The minister is certainly not keen to delay it unnecessarily.

Senator LUNDY—But from the department's point of view, you obviously need to schedule the work around that document. When are you likely to have concluded the consultation process and then the writing of the white paper following that period?

Ms Kelly—Our proposal has been that consultations would take place over the next six to eight weeks. Following that, there would be a period of drafting of the white paper which would then need to go through the process of being taken to cabinet and government approval et cetera.

Senator LUNDY—Do you think we will see it this year?

Ms Kelly—I could not make a commitment.

Senator LUNDY—Minister, have you got any idea?

Senator Minchin—On the timetable?

Senator LUNDY—Yes, on the release of the white paper following the consultations.

Senator Minchin—No, the timetable has not been agreed.

Senator LUNDY—Are you able to say whether it is going to be this year?

Senator Minchin—There is no point in speculating about a timetable when a timetable has not been agreed.

Senator LUNDY—It is a pretty broad timetable—it is whether it is this year or next year. I am not asking for any more detail now.

Senator Minchin—I do not want to loosely speculate about timing. I do not think that is wise. We will get the green paper out, and await the response to the green paper.

Senator LUNDY—Can you detail how the consultation process will work once the green paper is released on Thursday?

Ms Kelly—The minister has not agreed to proposals on how that will work so I cannot detail that at this point, but as soon as the process is agreed we will be advertising that process to industry and on our web site.

Senator LUNDY—Will that process be agreed at the time of its exact release? Will that be sorted out by Thursday?

Ms Kelly—Yes, I expect that to be sorted out in the next couple of days. It will certainly include giving all those who made submissions the opportunity to have further input, consultation with key industry associations et cetera.

Senator LUNDY—How many submissions did you receive in the end?

Ms Kelly—About 270, approximately.

Senator LUNDY—World events and security related issues and SARS and so on—those issues are changing things all the time. How does that impact on the green paper and now the consultation process, given the landscape is changing all the time for tourism in Australia?

Ms Kelly—That has been one factor that has added to a delay in the green paper, because industry and government priorities around tourism have undergone some change over last the 18 months in response to a series of shocks to the industry. The Tourism Forecasting Council has revised its growth forecasts et cetera, so those factors have added to delays and requirements for further consideration.

The other factor that it brings into play is that the green paper is looking at a medium- to long-term strategy for tourism but the current situation means that industry and to some extent government is very focused on the short-term problems.

Senator LUNDY—Were those more short-term issues—that sense of crisis that I know many tourism operators are feeling at the moment—be addressed in the green paper?

Ms Kelly—The government has taken a range of steps to address that, including domestic and international marketing initiatives and survey and research work. The green paper focuses primarily on the medium to long term, although it does acknowledge the changes to the operating environment that have come about due to the events of the last 18 months.

Senator LUNDY—I will go into those in a little more detail shortly. Will you be writing to all of the people who made submissions to the green paper and sending them copies of it?

Ms Kelly—We will be either writing or emailing, yes.

Senator LUNDY—You mentioned advertising—will you be further advertising the consultations?

Ms Kelly—Yes.

Senator LUNDY—Will the department be convening any seminars or roundtables of industry stakeholders as part of the consultation?

Ms Kelly—That is certainly proposed, yes.

Senator LUNDY—Are there any other elements of the consultation that you are able to tell the committee at this stage?

Ms Kelly—No.

Senator LUNDY—On page 36 of the portfolio budget statements, it shows that the Bureau of Tourism Research's operating account will fall from \$1.307 million to \$886,000 and then subsequently to \$234,000 on 1 July 2004. On the face of it, it looks like contributions have not been sufficient to match expenditure. Is that correct?

Ms Kelly—It is correct that the Bureau of Tourism Research has been required to use some of its operating reserves. That has in part been due to the fact that one of its key costs is the cost to Nielsen who undertake the survey work for the Bureau of Tourism Research. They were delays in the overseas arrivals data dating back to 2000-01. They were required to pay an additional fee to Nielsen to get them to reweight and update the data so that there is no break in series. That has been a key factor in the Bureau of Tourism Research going a bit over their predicted budget.

Senator LUNDY—What happens to their budget in the next financial year?

Ms Kelly—Their budget in the next financial year will be made up of the Commonwealth contribution, a similar contribution by the states and an amount of earned revenue. Their earned revenues are expected to increase a bit in the coming year and they also undertake consultancy work, so there are those three components of their budget which will form the forward year budget. As I say, they also have a reserve, an account, where they hold reserve moneys.

Senator LUNDY—How much of their reserve did they have to use for the Nielsen contract?

Ms Kelly—I do not have that figure with me. I can take that on notice and give it to you.

Senator LUNDY—Thank you. What is the value of the Nielsen contract?

Ms Kelly—I do not have that with me either, I would have to get back to you. I think that it is in the region of \$1 million—it is a large contract.

Senator LUNDY—Can you take on notice providing me with the details of that contract and also what occurred when you had to pay them additional fees to reweight some data and the circumstances around that. Was that a mistake made by BTR in how they commissioned that research, or was it a contractual error? How did that circumstance arise? It has obviously had a big impact on BTR's annual budget?

Ms Kelly—It related to the fact that there was a problem with processing passenger arrival cards—passenger arrival data—for the department of immigration and, as a result, there was a gap in the data. A new automatic card reading system was introduced and was not successful and so there was a period for which cards were not read and the data had to be collected manually. The catch-up was not achieved for a year or 18 months, so what they have had to do is to go back with this data once it had been manually entered and reweight all of their survey data.

Senator LUNDY—So their original survey would not have included the figures for that period of time when the immigration system failed?

Ms Kelly—Yes, that is right.

Senator LUNDY—Were there any significant variations in the outcomes of that research as a result of backfilling that gap? How long was the gap in the data?

Ms Kelly—I will have to check the precise time, but I think that it was a matter of six months or more so it was a significant gap. Nielsen has just undertaken this work. I am afraid that I do not know what the changes were to the weightings in the data that were an outcome of it, but I can certainly find out and let you know.

Senator LUNDY—It would be interesting to know the difference it made—like comparing the two sets of research, or the research outcomes, from before and after that data's inclusion. Do you have the dates of the period where the data was not available?

Ms Kelly—I can get you the dates, Senator.

Senator LUNDY—What year was it?

Ms Kelly—It started in late 2000.

Senator LUNDY—How come it has taken until now to include that data in the research? Whatever BTR are doing now in including it, how come it has taken until 2003 to get that sorted?

Ms Kelly—The backlog was only finalised, caught up, earlier this year. Then there was a process of what they call cleaning the data and then providing it to BTR, who then provided it to Nielsen. So it has taken a number of months to utilise that new data.

Senator LUNDY—Just going back to the original contract with Nielsen, at the time it would have made their life far easier as they had far less data to work with than they normally had. Did that impact or create a saving at the time, or did it just disappear into their existing contract?

Ms Kelly—I don't think it impacted on Nielsen's work because Nielsen go out and conduct surveys of visitors. They use the overseas arrivals data to weight that survey information. It tells them how many people came from which destinations and the main purpose of the trip. It just meant that they were using older data, or they were using different data, to apply those weightings.

Senator LUNDY—So does the BTR have any recourse with Immigration, given that it was their problem that caused an additional expense to be incurred by them?

Ms Kelly—I do not think so, no.

Senator LUNDY—I should ask Immigration if they are going to help out.

Mr Paterson—In fairness, they collect information for us as part of that incoming information, then process it for us. They did not want the new system upgrade to not read the data. They worked assiduously over an extended period of time to not only collect and maintain current data but also to address the backlog so that we did not have a break in series. So it is not an area of focus for redress, in my view.

Senator LUNDY—I am being a little cheeky, but I think the point is still valid. Can you give me a breakdown of the contributions to BTR by the states and territories and the Commonwealth as well as the tourism industry for both 2002-03 and 2003-04?

Ms Kelly—I am not sure I have that data with me. I certainly can get it for you.

Senator LUNDY—Perhaps you could start by telling me how the contribution levels for each of the stakeholders are set, but if you have the actual figures too, that would be helpful.

Ms Kelly—The figures for 2002-03 were budgeted to be a \$1.4 million contribution by the Commonwealth and then a \$2.6 million contribution combined from the states and revenue. I do not think I have a breakdown here of the \$2.6 million. In addition to the cash contribution by the Commonwealth, there is also a notional contribution because we provide the BTR with accommodation, computers, personnel and finance services. I do not know whether Mr Dainer has that figure, but I think it is about \$700,000.

Mr Dainer—It is about half a million dollars, I think. But that is off the top of my head.

Ms Kelly—I could certainly get you the correct figures.

Senator LUNDY—Thank you. That is for operational purposes.

Ms Kelly—So the BTR operated this year on a budget of a little over \$4 million. We have not got the end of year figures as yet. These were the figures in the budget.

Senator LUNDY—What is the industry contribution?

Ms Kelly—There is not a direct industry contribution. The sale of publications to industry brings in revenue.

Senator LUNDY—So there is a bit of cost recovery.

Ms Kelly—Yes. And the formula is roughly that the Commonwealth and the states match contributions to the BTR.

Senator LUNDY—So what are the revenues for BTR from the sale of publications?

Ms Kelly—I will ask Dr Robins to answer that.

Dr Robins—We have revenue not only from publications but also from consultancy work and from the sale of data. Broadly speaking, on average that is about half a million dollars per year.

Senator LUNDY—What is the 2003-04 annual budget? If 2002-03 was about \$4 million, what is the overall budget for 2003-04?

Dr Robins—It is around \$4½ million.

Senator LUNDY—I know you have not got the final actuals for 2002-03, but is there any decrease in funding to BTR from this current financial year to the budget forecast for next year or an increase?

Dr Robins—It would be approximately the same.

Senator LUNDY—Are there any changes to staffing levels within BTR?

Dr Robins—No. They will be around 21 ASL.

Senator LUNDY—So they will stay the same.

Dr Robins—Yes.

Senator LUNDY—Have the staffing levels at BTR changed over the past three to five years?

Dr Robins—No. Since around 1997 they have been 20 or 21.

Senator LUNDY—What about before that?

Dr Robins—The funding increased significantly in 1997, largely because of changes to the surveys in that year, and in that year there was increased funding from the states. Prior to that the staffing level was around 15.

Senator LUNDY—Apart from the sort of research we have been discussing, what are the big projects that occupy your time?

Dr Robins—The core program for BTR is the two main surveys—the national visitors survey and the international visitors survey. They consume around three quarters of the funds. In addition to that, we have an analytical research program which varies from year to year, and that depends on which particular projects we are approved to undertake by the funding bodies—the stakeholders. We put up a draft program and then it is considered by the funding bodies. The main analytical projects that we have been engaged in in recent times have been analysing regional expenditure by international and domestic visitors to Australian regions and also undertaking case studies of tourism employment in particular regions.

Senator LUNDY—Which analytical surveys in particular have you undertaken in this current financial year?

Dr Robins—I distinguish between the surveys: the major undertaking and analytical research.

Senator LUNDY—I am sorry; I meant to say analytical research.

Dr Robins—International visitor expenditure by region and also domestic expenditure by region are the two main ones.

Senator LUNDY—In this last financial year?

Dr Robins—Yes, that is a sort of continuing analytical program.

Senator LUNDY—And do you sell the outcomes of that research?

Dr Robins—They are published.

Senator LUNDY—And people buy it.

Dr Robins—They are for sale, yes.

Senator LUNDY—And what about the out-years budget for BTR? Could you help me out here with the PBS: is there any indication as to what the forward years hold for your budget?

Mr Dainer—No. It is part of output 1.2 and there are no forward estimates for outputs.

Senator LUNDY—You take each year as it comes. On 7 April, Minister Hockey announced in a press release that he was activating the national tourism crisis response plan in response to the SARS outbreak. Can you tell me what the status of this plan is?

Ms Kelly—That plan is currently still active. The response plan is a joint document with the Commonwealth and the states. There are three key elements of it: one is intelligence

gathering and information sharing; one is research and survey work; and the third is looking at remedial measures. We have established a secure web site with the states on which we share information. We also have been issuing daily intelligence bulletins to industry, particularly focused on impacts of SARS and developments with SARS since 20 March. We have undertaken, in conjunction with the states—and in a number of cases jointly paid for by the states—a number of industry surveys and consumer surveys to provide information to the governments and industry on what impacts SARS is having. There have been discussions around largely marketing responses to date. The ATC is part of this group. The domestic tourism initiative done in conjunction with the states, be See Australia, was announced recently as one of those responses.

Senator LUNDY—You say the states are a part of it and there has been a secure web site established. Has that tourism crisis response plan been formally adopted by a meeting of all Australian tourism ministers?

Ms Kelly—The answer is no. It was called for by the last meeting of the Tourism Ministers Council, which was held in New Zealand in September 2002. There has not been yet another meeting of that group. There is one scheduled for early August. The plan was developed at the request of the Tourism Ministers Council and it was circulated out of session to all ministers.

Senator LUNDY—The next question is: does it need to be? Obviously, work has progressed without the formal endorsement of that body.

Ms Kelly—The plan is that prior to the August meeting of the Tourism Ministers Council, we will evaluate how the plan as written has performed and present possibly a slightly amended version to the August meeting for endorsement.

Senator LUNDY—Can you provide the committee with a copy of the plan?

Ms Kelly—The plan has not been a made public document. It is part of a suite of government response plans which are coordinated by central agencies and include security oriented plans—although ours is not primarily a security oriented plan—and as part of that suite of plans we were asked that it not be made a public document. However, we have presented papers on it at conferences et cetera and provided those papers which outline the plan to the Parliamentary Library. We can certainly provide you with a copy of that which outlines the key features of the plan.

Senator LUNDY—Yes, please. I would like to clarify whether you are saying that the plan is a cabinet document and that that is the basis of claiming confidentiality. If not, I will formally ask you to take it on notice to provide a copy of the plan.

Ms Kelly—Yes. The plan is not a cabinet document; it is not a document that has been to cabinet. I will put that request to the minister.

Senator LUNDY—Thank you. You have told me a bit about the department's role in relation to the plan. Can you tell me specifically and in more detail the obligations that the plan places on the department in putting it in place?

Ms Kelly—The plan requires the department to set up a central management group, which is chaired by the department and comprises the Australian Tourist Commission and the CEOs, or their representatives, of each state tourism organisation, and it requires us to meet

regularly with that group to monitor the impact of whatever the situation is. It requires that there be a tourism communicators' network set up which are the people with the responsibility for putting out public messages in all of those agencies so that accurate and consistent messages can be put out from all tourism bodies in Australia.

Senator LUNDY—Like a propaganda office.

Ms Kelly—I think that it is important in situations such as SARS that accurate messages are getting out to the industry.

Senator LUNDY—Indeed.

Ms Kelly—It also requires a policy network to be set up whereby all those agencies nominate a representative and that group looks at what sorts of responses might assist to remedy the situation.

Senator LUNDY—What obligations does the plan place on the ATC?

Mr Boundy—One of the things that we can do most efficiently and effectively is to provide information to the industry through our network offices around the world, but particularly in Australia we are part of the information network and beyond that just a member of that group. It is effectively coordination and communication.

Senator LUNDY—On all of those elements, is the ATC obliged to get the message consistent?

Mr Boundy—Yes, indeed.

Senator LUNDY—And getting feedback and, I presume, inputting into the policy network?

Mr Boundy—That is exactly right.

Senator LUNDY—What obligations does the plan place on other departments or Commonwealth agencies?

Ms Kelly—The plan does have a schedule of other Commonwealth agencies, largely as key contacts. It nominates a series of key contacts in other Commonwealth agencies that provide information and cooperate with our department. In the case of SARS, we have been working very closely with the department of health and we have been part of the Commonwealth SARS interdepartmental committee that has been meeting more or less weekly with the secretary of the department of health and the Chief Commonwealth Medical Officer so that we have up-to-date, accurate information that we can pass on to the states and to industry.

Senator LUNDY—Apart from the department of health, what other departments and agencies are involved or have obligations on them under the plan?

Ms Kelly—I would have to refer to the plan that I do not have here to give you a comprehensive list, but it includes agencies such as Austrade, the Department of Prime Minister and Cabinet, and the Department of Foreign Affairs and Trade, which has a key role in travel advisories which are often part of this issue.

Senator LUNDY—What is PM&C's involvement?

Ms Kelly—They provide us with a contact officer and coordination and links through to other bodies.

Senator LUNDY—To other agencies and departments?

Ms Kelly—Yes, to other agencies.

Senator LUNDY—Like who?

Ms Kelly—That can include passing on information from security agencies, for example.

Senator LUNDY—Like AFP and ASIO?

Ms Kelly—Yes.

Senator LUNDY—Have those departments and agencies been meeting their obligations under the plan, as far as you can ascertain?

Ms Kelly—Yes. Particularly in the situation over the last couple of months, we have been working quite closely with the Department of Foreign Affairs and Trade on getting early advice about changes to travel advisories and working very closely with the Department of Health and Ageing on the impact of the SARS issue and on key information about the progress of that outbreak.

Senator LUNDY—What has been the practical impact of activating the crisis plan and how has it impacted on the Australian response to the SARS crisis?

Ms Kelly—The Commonwealth and state ministers have had consistent briefings, usually on a daily basis, about what is going on. They have had a consistent up-to-date set of information in front of them.

Senator LUNDY—Does that come from you?

Ms Kelly—We coordinate it but we collect it from industry. For example, we have had close cooperation from Qantas about giving us information about what forward bookings are looking like. It comes from the state partners who provide us with information, the ATC's international network and the information we get from Foreign Affairs and Trade and the department of health. We put all that together into a daily advice to ministers. Then we take out anything that is sensitive or classified and provide an industry intelligence bulletin, which is designed to help industry to have the accurate information on which to make business decisions during the period of a downturn.

The practical impact on the research and survey side has been that instead of seven or eight jurisdictions seeking to go out and undertake their own surveys, we have been undertaking the one survey cooperatively—and contributing to it financially as well—and getting a consistent set of information back to all of the states and territories and the Commonwealth. We have been cooperating on policy responses. As I said, the See Australia domestic campaign, which has been a campaign of \$7 million, of which \$2 million has been Commonwealth money, has had significant state contributions. I think it is an example of where we have all been able to work more efficiently and more cost-effectively by working together at the Commonwealth-state level. Minister Hockey believes the cooperation has been very good and very strong from the states and from industry as well.

Senator LUNDY—Would you describe the plan as having the capacity to create an action agenda or generate a continuing program of responses to the crisis as it develops? Or is it more that, now the plan is in place, you have got the information flows happening and that is really the sum of the exercise?

Ms Kelly—The plan provides the opportunity for governments to work together on responses and we have already seen that with the domestic campaign. It certainly does not preclude governments from undertaking their own initiatives in response to difficulties or circumstances, but it does provide a mechanism and an opportunity where it makes sense for Commonwealth and state governments to work together on responses.

Senator LUNDY—Do you think it has ended up as much as anything else as being an exercise in managing information and media management to get consistent information out there?

Ms Kelly—I think that has been an important part of it, but I also think the undertaking of survey work and the cooperative work on responses has also been an important part.

Senator LUNDY—When and how will the effectiveness of the plan and its implementation be evaluated?

Ms Kelly—The effectiveness will be evaluated over the late June-July period in the lead-up to the August meeting of the Tourism Ministers Council. It will be evaluated by a group consisting of a representative from each of the jurisdictions that have been involved. The evaluation will be coordinated by the tourism division and it will be preparing a report based on the experiences and the input from various jurisdictions for ministers. We will also consult industry as part of that process.

Senator LUNDY—Will you make that evaluation public?

Ms Kelly—I think that will be made available. I would have to refer to the minister, but my expectation is that that would be a publicly available document.

Senator LUNDY—You talked about the domestic campaign. On 7 May Minister Hockey announced a new \$7 million campaign to boost domestic tourism. How much of the \$7 million has been contributed by the Commonwealth, states, territories and industry stakeholders?

Ms Kelly—Senator, \$2 million of that money is contributed by the Commonwealth. The state and territory government contributions were \$3 million, but that includes moneys that come from their media and industry partners. There is \$2 million in direct inputs from industry sponsors and media partners.

Senator LUNDY—Was the Commonwealth's contribution new money per se or was it found from somewhere within your budget allocation?

Ms Kelly—It was money that was reallocated from other activities in the Industry, Tourism and Resources portfolio but not from other tourism activities. So it was, if you like, new money to tourism.

Senator LUNDY—Can you tell me where it came from—DITR?

Mr Dainer—It came out of the department's departmental expense appropriation.

Senator LUNDY—Which outcome?

Mr Dainer—That appropriation covers both of our outcomes.

Senator LUNDY—So which programs or areas of the department lost money?

Mr Dainer—It was actually out of a priority fund that we have. There was some funding in that which went to fund this activity. So it was not allocated to any particular activity.

Senator LUNDY—A priority fund; is that what it is called?

Mr Paterson—That is what it is called, loosely, inside.

Senator LUNDY—What is it?

Mr Paterson—If we start the year and allocate every cent of the appropriation to divisions, then circumstances that may arise during the year cannot be dealt with, or we have to take money out of a division to be able to deal with circumstances. So as part of our normal prudent budgeting process there are some reserve funds within the appropriation that will enable us to deal with priorities as and when they arise. Nominally that priority fund is at my discretion.

Senator LUNDY—Your discretion? So how much was in it at the start of last financial year?

Mr Dainer—It was about \$3 million at the start of the year, but it changes through the year, as we have quite a number of different movements going on between divisions. They are underspent in one area or overspent in other areas, particularly in relation to overhead type items. But at the beginning of the year it was about \$3 million.

Senator LUNDY—And in regard to all of that underspend or movement, if there is anything left over, it is effectively at the minister's discretion as to how it is spent?

Mr Dainer—The secretary's.

Senator LUNDY—Sorry, I didn't mean to give you a promotion there, Mr Paterson. So how much is in that priority fund for the beginning of the financial year 2003-04?

Mr Dainer—Nothing. We have not started the process of the internal budget allocations. We are about to go into that process and that will be finalised before the end of this financial year, but at the moment, we are in the process.

Senator LUNDY—Is it a special account—

Mr Dainer—No, it is not a special account

Senator LUNDY—or is it in the general account, and whatever the bottom line is showing is what is available?

Mr Dainer—Yes, it is essentially what is left—

Senator LUNDY—Unallocated.

Mr Dainer—That is right. Some years it might have nothing in it; it might be negative, other years it will be in surplus.

Senator LUNDY—Can you tell me what else you used your discretion to fund in this current financial year?

Mr Paterson—As Mr Dainer indicated, it is not a clearly identified pot, if we can call it that—

Senator LUNDY—No, that is why I am asking you what you spent it on, as opposed to what is there.

Mr Paterson—It does move depending on the allocations that we make to divisions at different points in time. As you are aware, we have been through a process of restructuring the portfolio and we had to provide adequate resources to divisions to be able to accommodate the change in staffing levels. We achieved that more quickly than we had budgeted for, so it meant that there were some available additional resources. We have made additional commitments in terms of providing additional support for training within the portfolio, particularly in the IT area.

Senator LUNDY—I am pleased to hear it

Mr Paterson—We have made substantial investments in terms of lifting the quality of the IT architecture in the department to provide a platform that is stable for the use of staff to deliver what we ask them to deliver on. It provides an opportunity for us to have a degree of flexibility but, as Mr Dainer indicates, there is no guarantee in any particular financial year that there will be anything that is unallocated.

Senator LUNDY—I think you have made that clear. Can you tell me how much you have spent on additional IT related expenses?

Mr Paterson—Not off the top of my head. There is a variety of issues—

Senator LUNDY—Is it \$1 million? Is it \$5 million—and I presume that that is all in addition to what you pay Telstra.

Mr Paterson—I will come back to you on that specifically.

Senator LUNDY—Could you give me a breakdown of the expenditure? Also, if you have engaged any contractors for that purpose, could you show me where, on the table that you provided to me about ICT contractors, that fits into the scheme of things? So you received \$2 million from the secretary for the Commonwealth's contribution. When did the program start, and when is it scheduled to end?

Ms Kelly—The program was launched by Minister Hockey on 7 May, and it is scheduled to run through to the end of the financial year.

Senator LUNDY—The current financial year?

Ms Kelly—Yes. It is a short-term campaign.

Senator LUNDY—How much of the funding will go on generic advertising within Australia—like the ads involving Ernie Dingo?

Ms Kelly—Of the \$7 million, \$3 million will go to generic advertising. That comprises the Commonwealth's contribution of \$1 million, which See Australia is committing to generic marketing, and securing an additional \$2 million of marketing and advertising from media partners and sponsors.

Senator LUNDY—What about the rest?

Ms Kelly—That will go to tactical campaigns, which will include information on destinations and products that will largely be put in place by the state and territory tourism organisations.

Senator LUNDY—Are there any aspects of that that will not be put in place by the state and territory tourism organisations?

Ms Kelly—I will need to double-check that to give you an accurate answer. The majority of it certainly is being put in place by the STOs, but I will have to check.

Senator LUNDY—Yes, please, if you could take it on notice and give me a full breakdown of the remaining \$4 million and also, within that, how that is allocated to the states. Is it proportionally allocated to the states tourism organisations?

Ms Kelly—No. The process that was undertaken was that See Australia negotiated with the states as to how much money they had available to invest in the campaign and looked at matching their contributions. So really there is no formula. It is dependent on how much the states have had available and been prepared to invest.

Senator LUNDY—So out of the states' \$3 million pool it will depend on the proportion that they contributed to the \$7 million fund. How much money the states get out of it will depend on how much they contributed?

Ms Kelly—Yes.

Senator LUNDY—Of the original \$3 million spent, my understanding is that it was \$2 million from industry sponsors along with \$1 million of the Commonwealth's that goes to the advertising campaign. So \$3 million by states and state industry stakeholders and the remaining Commonwealth \$1 million is what is redistributed back out to the states.

Ms Kelly—Yes.

Senator LUNDY—Plus some other programs that you are going to take on notice to tell me about that are not state based.

Ms Kelly—Yes, that is largely a \$4 million tactical campaign that is being delivered by states and territories.

Senator LUNDY—Of which the Commonwealth is contributing \$1 million.

Ms Kelly—Yes; \$1 million of that.

Senator LUNDY—But there are still some other aspects of that campaign that are not driven by the states and that you are going to advise me on.

Ms Kelly—I would want to check that before I give you a definitive answer.

Senator LUNDY—I would be interested in whether there are any federal type campaigns within that because that would further diminish the Commonwealth's contribution to that state-driven aspect of the campaign, anyway. Given that it wraps up in a month, how will its success or otherwise be measured and assessed?

Ms Kelly—The states and territories will monitor an increase in inquiries—because most of the states and territories are also running travel businesses—to the state and territory tourist organisations. They will monitor hits to their web sites. They will look generally at the state of

the market and whether there has been an upswing in the areas that have been the subject of the advertising. See Australia also has a program of research and surveys in the market that looks at awareness and response to its generic campaigns.

Senator LUNDY—So will there be market surveys?

Ms Kelly—Yes, there will certainly be market surveys by See Australia.

Senator LUNDY—Will they be funded out of the \$7 million or found in the department's allocation?

Ms Kelly—They are funded by See Australia, which in turn is currently on a four-year funding program from the Commonwealth. So it receives Commonwealth and sponsorship funding and out of that funding it commissions market research.

Senator LUNDY—Will you be able to publish an evaluation of this particular aspect—this \$7 million boost to the domestic tourism campaign?

Ms Kelly—There will certainly be an evaluation done and made available to the Commonwealth and state and territory partners. I would not imagine that we would publish it, but if you have an interest in it, Senator, I can certainly organise for you to be briefed on the outcomes.

Senator LUNDY—Thank you. I will request that in advance of it occurring. On page 165 of the PBS it shows that the Commonwealth's contribution to the Australian Tourist Commission will fall from \$89.926 million in 2002-03 to \$89.278 million in 2003-04—a decrease of \$648,000. How does this reduction fit with the Commonwealth's commitment to increase funding for the ATC by \$24 million over five years as stated in the 2001-02 annual report? I think the reference there is page 56.

Mr Hopwood—Within the figure you just quoted is the amount for 2003-04 of \$4 million supplementary funding. The \$24 million that you referred to is for the period 2001-02 through to 2005-06—the first two years at \$6 million and subsequent years at \$4 million per annum. Within that figure is a base figure, including that additional \$4 million for next year and \$6 million in 2002-03.

Senator LUNDY—Can you just go through both the actuals and the out years?

Mr Hopwood—Certainly. The year 2001-02 had an additional \$6 million funding; 2002-03 had \$6 million; 2003-04, \$4 million; 2004-05, \$4 million; and 2005-06 also \$4 million.

Senator LUNDY—So for 2003-04, despite the fact that there is a reduction in the bottom line, that includes the \$4 million?

Mr Hopwood—Correct.

Senator LUNDY—That is a bit of a rip-off, isn't it? I thought you were going to get extra money.

Mr Hopwood—If you look at 2002-03, that had an additional \$6 million—so we have dropped from \$6 million to \$4 million in the additional funding. In 2002-03, it incorporated an item called the 'capital user charge' which is no longer represented in appropriations—which is \$600,000, approximately.

Senator LUNDY—Is the capital user charge between 2002-03 and 2003-04?

Mr Hopwood—Correct.

Senator LUNDY—Is that what you attribute that \$648,000 reduction to?

Mr Hopwood—It equates to about the same figure. There are a lot of other factors in there due to the indexation factors applied by the Department of Finance—so you have a base figure, the indexation supplements on top of that and the adjustment down from \$6 million to \$4 million which we talked about. There is a combination of several factors and the end result is that minor decline.

Senator LUNDY—Perhaps the ATC could tell me: given the capital user charge changes, indexation changes and all those other things, what does that mean for people on the ground? What is the comparison between your operational expenses for this forthcoming year and the current financial year?

Mr Boundy—In a practical sense it does not make a lot of difference. One of the things that frequently occurs overseas is the rising cost of media. For us to maintain a presence in the key markets of the world, we have actually had to withdraw from some of the lower priority markets, but it means that we will be focusing on the top 20 markets of the world which represent 90 per cent of the arrivals to Australia.

Senator LUNDY—I will come to that. I still want to get an indication of this bottom line impact for the ATC. I am not talking about additional expenses incurred by you at this stage—I will come to that. At the moment, I want an indication of the bottom line impact for the ATC. For example, does it mean that you have a net reduction in your operational budget allocation by \$2 million because of that change from \$6 million to \$4 million?

Mr Boundy—The reduction is less than one per cent; it is \$600,000, which makes very little impact on the way that we run the organisation. We are always trying to run it more effectively and we have had to make some adjustments to maintain our presence in key markets.

Senator LUNDY—Can you describe in which markets you have had to reduce your presence in order to fund a more expensive presence in key markets?

Mr Boundy—Yes. I should make the point at the outset that visitors to Australia come from 140 to 150 different countries. We have services through web sites and other means that are available to visitors from every country, but we have been actively promoting and have had a presence in 26 countries in the world. As we do every year, we looked at the prioritisation of markets and, as I indicated before, in order to maintain the previous levels of spending and effectiveness for the key priority markets, we have had to actively withdraw our presence from six markets. To answer your question, those markets are: Sweden, Denmark, Indonesia, South Africa, the Philippines, and Latin America.

Senator LUNDY—That is extraordinary.

Mr Boundy—These were markets where there was either a representative or—

Senator LUNDY—I am presuming that there has been a public announcement about this.

Mr Boundy—Yes, this has been in the press. The total expenditure in some of these locations in the world was less than half a million dollars and once you get below that you go below the threshold level at which you can do effective marketing. So we have had to take those hard calls because it is important to support those markets that are going to be the strongest for Australia.

Senator LUNDY—Losing a presence in six out of 26 countries is significant. Are you able to give an indication as to the number of international visits from those countries? Are you able to quantify in economic terms to the tourism industry what is going to be lost through the removal of the marketing program from these countries?

Mr Boundy—It is very difficult to make those estimates, but less than five per cent of the total 4.8 million visitors to Australia come from those countries.

Senator LUNDY—Less than five percent?

Mr Boundy—Yes. It is not as if they are going to be ignored though. It was only last week that I was having discussions with the head of Austrade about the ability to work together to capitalise on the presence that Austrade have in 60 countries around the world, whereas we are only in 20. As I say, servicing through the web site, which is one of the best web sites in the world, use of other agencies and some of the other programs of the ATC ensure that these markets are not going to be ignored. It is just that we will be reducing the active presence in those markets.

Senator LUNDY—Does that mean that there will not be any people there?

Mr Boundy—Yes.

Senator LUNDY—Whereas there were formerly people there.

Mr Boundy—In some of the markets, like Indonesia, we had a small office. In others we had either a part-time or a full-time representative.

Senator LUNDY—Going back to my point about what is lost to the tourism industry or the tourism market here in Australia, have you quantified the impact of the loss of that marketing presence in those six countries?

Mr Boundy—It is impossible to quantify. We would like to think that we had been doing a good job in those markets, but it is not as if visitors from those source markets are going to dry up. There will still be active servicing by the industry. It is worth making the point here that, whilst the government allocates \$90 million to international marketing, the total contribution from the private sector is in excess of \$350 million. A lot of the industry activities remain. We tend to provide a platform or a springboard for the private sector to build on in our marketing around the world.

Senator LUNDY—Were these six countries identified purely on a numerical basis of numbers of visitors, or what formula was applied to assess why these five countries were included? Was it the nature of the type of tourism market or tourism dollar that these countries provided? Backpackers come to mind, particularly with Scandinavian countries. What was the qualitative assessment applied to pick these countries?

Mr Boundy—We used a pretty sophisticated process of a matrix that looked at market attractiveness on about five different parameters against the ease of delivering programs in those markets, once again on about five different parameters, and we prioritised the markets accordingly. They are always difficult decisions at the margin. You could argue that we could even take a harder-nosed view that we perhaps should be in the markets that produce 80 per cent of the visitors instead of 90 per cent. But we believe that this more scientific approach to resource allocation took us a step forward. It is our best shot. This is not a precise science, but, as I say, these markets will not be ignored.

Senator LUNDY—Based on your logic, if the expenses relating to maintaining a presence in the other markets continue to rise—and I am sure you cannot point to any indicators that that will stop—and given that now additional funding to Tourism Commission is clearly not enough to maintain your presence in existing markets, we are going to lose more countries next year, and then more the year after that. What is going to happen? Are we going to end up with four?

Mr Boundy—Not necessarily. One could say that it really does not matter how much the appropriation is. We try to leverage the funds we have as effectively as we can around the world. Let me give you an example. There is \$1 million that we spend on the Visiting Journalist Program around the world—1,000 journalists coming to Australia every year, generating \$1 billion worth of publicity. In the same way, we use Ian Thorpe as a holiday ambassador in Japan to generate tens of millions of dollars of publicity. It is increasingly about us having our strategies right and using the money to leverage up and do things smarter. It does not necessarily mean that, as media costs around the world go up, we will reduce our presence in countries.

Senator LUNDY—I still think that the point I made is a fair reflection in terms of how you have traditionally funded campaigns in those countries.

Mr Boundy—I think that is right. If we did stay with the status quo, it would be increasingly difficult to fund campaigns. But I think our marketing is increasingly complex and sophisticated. There is an increasing use of the Web; there is an increasing use of direct marketing. It does not necessarily all depend on dollars for campaigns.

Senator LUNDY—With the additional funding—\$6 million, \$6 million and then \$4 million for the next three financial years—can you confirm that there is nothing in those additional funds now that can help offset some of the pressures we have been discussing? You are already using that—

Mr Boundy—The appropriation going forward will remain at basically similar levels and our five-year corporate plan takes that into account. The sorts of things that we have just been talking about in terms of doing things smarter reflect that more sophisticated marketing approach. The foreshadowed levels are what we are planning on.

Senator LUNDY—I note, again on page 165 of the PBS, that the industry contribution seems to be falling by some \$5 million. Can you outline the reason for that decline?

Mr Hopwood—Yes, there are several reasons for that. The majority of the \$5 million reflects an approach we are taking in 2003-04 for a greater emphasis on our brand marketing as opposed to our tactical cooperative. When we have tactical cooperative, we work with the

various industry partners. They give us revenue and we increase the marketing spend that we have. Obviously, our revenue goes up and so does our operating expenditure. When we go through cycles—and we are entering into a cycle now—we need to effectively refresh our brand position, and that means that the dollar spend goes more into the brand and the brand type advertising and our revenue drops accordingly. That is the cycle that we go through.

Mr Boundy—To add something, the other thing that has occurred over the last two years is that the industry has been hurting and a lot of the wholesalers that we traditionally partner with just have not had the funds to contribute. While Mr Hopwood's comment is correct, directionally we have also had some particular issues with the ability of certain partners to contribute.

Senator LUNDY—It strikes me as a little obvious that in the budget documents there is a decline of \$5 million from industry, and yet, under the previous program, we discussed how, of the \$7 million, industry itself has coughed up at least \$2 million or \$3 million all up within that. Are the two in any way related and could it be that, because the government put the bite on industry to fund the \$7 million campaign to boost domestic tourism, it is failing to come into your coffers from this other perspective?

Mr Boundy—No, I do not think there is any relationship. They are different sources of funding. The partners that we are talking about—

Senator LUNDY—But it is this pressure. You mentioned yourself the pressure on industry to contribute is getting greater and greater and it would seem to me to be an obvious correlation that, if they have had the squeeze put on them by the minister for that \$7 million special fund, of course they are going to find it harder to make contributions as stakeholders in the way that they normally would to the ATC.

Mr Boundy—With respect, there are no relationships between the two programs. Our key partners are overseas industry people and you are talking about domestic industry.

Senator LUNDY—So you do not think that is related?

Mr Boundy—There is no relationship. A lot of the overseas industry players, airlines and also the wholesalers have been through pretty tough times in the last two years. I do not think it is an attitudinal problem. I think it is probably more an ability to afford to participate.

Senator LUNDY—Again on page 165 of the PBS, it shows that total resources will fall from \$112 million to \$107 million. Is that the net result of that reduction of \$5 million from the stakeholder input?

Mr Boundy—Yes.

Senator LUNDY—And you said that the way you are going to deal with that reduction is to focus more on brand development as opposed to stakeholder partner initiatives. Is that an accurate summary?

Mr Boundy—Yes, that is right.

Senator LUNDY—In terms of that brand development, on 12 May Minister Hockey announced at the National Press Club a new international marketing campaign. Is that the program in which you are hoping to develop the brand?

Mr Boundy—No, the \$13.2 million that Minister Hockey announced is really response programs to the current crisis. The rebranding of Australia is something that we will probably roll out later in the year. They are quite distinct.

Senator LUNDY—With regard to the rebranding, what do you roll out? I am not looking for an advanced pitch of what you are going to do—but what does that mean? Is it a new advertising campaign for the international market? Is it CD-ROMs, videos, brochures with a new logo about Australia?

Mr Boundy—It may be some or all of those things but essentially it is redefined—

Senator LUNDY—Are there promotional videos for aeroplane flights?

Mr Boundy—Possibly. At the core of this is redefining the core essence of Brand Australia from a tourism perspective.

Senator LUNDY—That is pretty big.

Mr Boundy—It is, and it has not been done for five years. We think that in light of the changes in the world and the more competitive environment we are operating in, it is time to do that—to create some clear and compelling messages for people all around the world, in a consistent way, to understand our country.

Senator LUNDY—Are you engaging external assistance to help you with this campaign in the development of this branding exercise?

Mr Boundy—Yes, we have a domestic agency and we have agencies in the key regions around the world. The concepts have been developed in Australia but they are being tested now with our people and our agencies around the world for relevance.

Senator LUNDY—So you do a bit of focus group work with those international markets?

Mr Boundy—Yes.

Senator LUNDY—When is that going to be unveiled?

Mr Boundy—We would hope to be able to start communicating the key elements of the new branding in the second half of this year.

Senator LUNDY—Will the minister make a big announcement: ‘Here is the new Brand Australia and we hope a lot of people will come’?

Mr Boundy—We do not have particular plans for a launch but I could confidently say that our marketing by the end of this year will start to reflect this new branding.

Senator LUNDY—That implies that there will be a transition rather than a big bang change over.

Mr Boundy—I think that is right. We need to keep marketing Australia right through. The current campaigns, the \$13.2 million that you referred to is part of that activity.

Senator LUNDY—I was going to get you to fill that out in more detail. I am presuming the \$13 million, which includes the \$7.9 million the minister announced in the week previous to 20 May, would be spent on marketing in New Zealand and Japan. Is that correct?

Mr Boundy—That is correct.

Senator LUNDY—Is the \$13 million separate again? You said that it is separate to the branding exercise.

Mr Boundy—Yes.

Senator LUNDY—Where does it fit within your overall budget?

Mr Boundy—The funds for these campaigns have been taken from the current financial year. We reallocated a lot of funds. Of the \$13.2 million there was an original contribution to markets of \$4.8 million. We called some funds in from around the world, particularly from some Asian markets. We then reallocated another \$3 million back to the new campaigns. We topped up some existing partner contributions—airlines and other industry partners such as we talked about earlier—which totalled \$5.5 million. Altogether, we have a campaign across the four key markets of the world—which we think are the most conducive to travel, the most responsive markets—totaling \$13.2 million.

Senator LUNDY—So reallocated funding from within the ATC totalled \$4.8 million?

Mr Boundy—It was \$4.8 million from existing planned activity that the ATC had. Another \$3 million of ATC funds were reallocated to those particular markets—

Senator LUNDY—From those markets—

Mr Boundy—From other markets in the world. We virtually said, ‘Let’s start with a clean sheet. We will call all the funds in and we will allocate back to the markets that we figure—

Senator LUNDY—When you say ‘call the funds in’ are we talking about the six that were cut?

Mr Boundy—No. These are essentially programs that might have been running in markets like Singapore and Hong Kong that have been SARS affected. It is clearly not a clever thing to be marketing in those countries at this time.

Senator LUNDY—Where underspending occurred in, say, SARS affected markets, you have pulled that funding in and reallocated it?

Mr Boundy—Yes.

Senator LUNDY—How does that affect jobs in those areas? Have you had to lay people off in those markets?

Mr Boundy—No, and in fact our people in those markets have never worked harder. Their communication with the key partners has been one of the things that has kept the industry going. It is not so much the disease but the reaction to it.

Senator LUNDY—I was not sure whether calling that money in meant that you were actually pulling people out of offices for a period of time, or laying them off, or making them redundant, or telling them to go on compulsory holidays.

Mr Boundy—No.

Senator LUNDY—None of that—good. So that \$3 million that you have called in is money that they would otherwise have expended on their ongoing marketing activities.

Mr Boundy—Yes, and the marketing programs in those countries will return when the conditions improve.

Senator LUNDY—The next one says ‘Partners \$5.5. million’.

Mr Boundy—There was a significant contribution from Japan Airlines of \$3.4 million.

Senator LUNDY—So these are the international partners.

Mr Boundy—That is right. Qantas has been a very strong partner as well.

Senator LUNDY—Are these the same partners that are contributing \$5 million less?

Mr Boundy—Yes, but—

Senator LUNDY—Busted!

Mr Boundy—The particular partners that I have mentioned have been very good with their funding. We have many industry partners around the world—a number of airlines and a number of industry players.

Senator LUNDY—I might be more accurate this time—I think I was off the mark last time—but is the \$5.5 million increase in this program linked in any way to the \$5 million you lost from international partners and stakeholders under your normal allocation from that group?

Mr Boundy—To the contrary, we have been just delighted with the way that Qantas and Japan Airlines have been keen and very willing to contribute to these programs in the current environment.

Senator LUNDY—Are Qantas and Japan Airlines part of the group that reduced their contributions?

Mr Boundy—The \$5 million reduction includes all global airline and industry partners.

Senator LUNDY—Which includes Japan Airlines and Qantas. In terms of international partners, who else has contributed to make up the \$5.5 million?

Mr Boundy—We are starting to get into the area of commercial contracts, but I can say that Singapore Airlines has been a very good partner of ours around the world. A number of the large wholesalers, particularly out of the UK and the United States, are significant contributors.

Senator LUNDY—We will leave it at that. However, I do not accept your claim for commercial-in-confidence, I hasten to add. What are the four markets that are going to get special attention under this program?

Mr Boundy—We have already focused on New Zealand and Japan. In fact, the results from the New Zealand campaign have been excellent. The next phase is the UK and the United States markets. We think they are the markets that are most likely to respond to marketing.

Senator LUNDY—Why?

Mr Boundy—Most of them have direct flights to Australia. They are not SARS affected. In the case of the UK, we think there is an opportunity to stimulate demand.

Senator LUNDY—They were partners in war.

Mr Boundy—People in the United Kingdom are overcoming their concerns about transiting in places like Singapore as better safety information has become available, so we do believe that they are the most prospective markets.

Senator LUNDY—How did you identify the UK and the US as far as refocusing on these four markets goes?

Mr Boundy—Through our people around the world we have regular dialogue and it becomes pretty clear pretty quickly. We also have rich dialogue with the industry and the airlines in terms of forward bookings, so we can monitor consumer sentiment pretty quickly. I must say that the conclusion about these four markets was pretty obvious.

Senator LUNDY—They are also the markets in which you have always spent the most money anyway.

Mr Boundy—Indeed.

Senator LUNDY—So now they get more.

Mr Boundy—They have had extra focus because they are the most likely to respond to marketing at this time.

Senator LUNDY—When will this program start and when will it conclude?

Mr Boundy—The Japan and New Zealand programs are already under way. The US and UK campaigns have just started as well and will conclude within a few weeks.

Senator LUNDY—How long do these campaigns go for? Is it like a media blitz?

Mr Boundy—Yes. They are often in waves of three or four weeks at a time.

Senator LUNDY—Do you have any idea how much Australia's competitors for international tourism are spending in these markets?

Mr Boundy—There is no doubt that the competitor spend has increased. We hear all sorts of figures for appropriations from government. It is not often easy to find out how much is actually being spent. Certainly the spend from some of our Asian neighbouring countries to the north has increased significantly.

Senator LUNDY—Have you been able to quantify how \$13 million Australian dollars compares with some of the budgets from other countries?

Mr Boundy—We have a very good measurement of the effectiveness of our campaigns and I can say without any reservations that we think that our marketing programs are at least as effective as those of any other country that is marketing its own destination.

Senator LUNDY—I would hope so, but how do you compare on a dollar for dollar basis?

Mr Boundy—It is difficult when you do not always know the exact amount that is being spent by competitors, but the cost per response of our programs continues to fall and our own measures are giving us confidence that we are doing the right things.

Senator LUNDY—Can you take on notice what intelligence you are able to share about the competitors in those markets, particularly those four markets, and what Australia's spend is as compared to theirs.

Mr Boundy—We will do that.

Senator LUNDY—Going back to the existing \$4.8 million you found from within the department—was it within Tourism or within the ATC?

Mr Boundy—It was the ATC.

Senator LUNDY—That narrows it right down. Can you confirm that this amount of \$13.2 million, or whatever it is, is not new money.

Mr Boundy—That is correct.

Senator LUNDY—So with the \$4.8 million that you found within your programs, what other programs were forgone to provide that \$4.8 million?

Mr Boundy—The \$4.8 million was the original planned marketing programs within those countries. We found an extra \$3 million, which was reallocated.

Senator LUNDY—You went through the other \$3 million. So nothing had to be cut or foreshortened to find that \$4.8 million?

Mr Boundy—No.

Senator LUNDY—Thank you.

Proceedings suspended from 10.28 a.m. to 10.48 a.m.

[10.48 a.m.]

Senator LUNDY—I would like to continue on from a discussion regarding, in particular, the US-specific campaign. I had drawn to my attention an article in the *Australian*, dated today, about the film called *Finding Nemo*. The article is called ‘Aussie fish nets \$108m at the box office’ by Sophie Tedmanson. It says:

Last month the movie was featured in an Australian Tourism Commission—
that should be ‘Tourist Commission’—

marketing campaign encouraging American families to holiday Down Under.

Mr Boundy, you are quoted as saying:

This new campaign provides a great opportunity to capture the interest generated by the film to promote Australia as a place to visit now.

You went on to say:

In the past movies like *Crocodile Dundee*, *Priscilla*, *Queen of the Desert ... Mission Impossible 2 ...* have been hugely successful in inspiring movie-goers to visit Australia.

How does this campaign work and what sort of deal have you done with Disney to be able to back-end in on the popularity of that movie?

Mr Boundy—There is permission to use that film to promote the country. There have been no fees paid to Disney. It is just a beautiful complement to our other marketing programs. It is going to be huge in the United States, where it is already launched, and Japan as well.

Senator LUNDY—The box office takings have apparently surpassed *Monsters Inc.*

CHAIR—Which film is this?

Senator LUNDY—It is called *Finding Nemo*.

Mr Boundy—Senator, it is about a little fish that swims to the Barrier Reef and then to Sydney Harbour. Australia is exposed in a way that we can be so thankful for. The voiceovers are done by Australian actors—Good to leverage.

Senator LUNDY—Indeed—Barry Humphreys and Geoffrey Rush, just to name two.

CHAIR—Is it a kids' film?

Senator LUNDY—I think it is a kids' film, yes, but I am sure you would enjoy it, Senator Brandis.

CHAIR—If it is a kids' film, I would.

Senator LUNDY—How does that work? Can you use images from the film in your promotional material?

Mr Boundy—With permission. I do not think we are using images from the film, Senator. I think we are just linking in with some of the promotional activity around the film.

Senator LUNDY—Like what?

Mr Boundy—It is often in print—a lot of the print advertisements and the campaigns. It is not on television. I think the activity is magazine and daily press based, and also through the trade that can leverage off it as well.

Senator LUNDY—Apparently it is released here in August, so we will finally get to see it. Can you tell me where the regional tourism program is up to? My understanding is that applications for grants closed on 1 April.

Mr Peel—Senator, as you have indicated, applications have closed. We have 292 applications and we will be announcing the successful applicants in July.

Senator LUNDY—There is \$8 million available to be allocated, isn't there?

Mr Peel—There was \$8 million over four years.

Senator LUNDY—So how much in this round?

Mr Peel—In this round, \$1.5 million.

Senator LUNDY—Do you have any guidelines or parameters about the size of the projects that you can fund? Is there a top limit?

Mr Peel—Not necessarily, Senator, but I think the sorts of levels of funding for these grants over time have been \$50,000, \$20,000—in the tens of thousands rather than significantly more. The typical range is \$25,000 to \$75,000.

Senator LUNDY—I am not very good at maths, as you probably know by now. How many projects can you fund, say at \$50,000, into that \$1.5 million?

Mr Peel—About 30.

Senator LUNDY—It is not a high percentage out of 292 applications.

Mr Peel—No, it is not, Senator.

Senator LUNDY—It is obviously a very competitive program.

Mr Peel—It is an extremely competitive program, and historically we have had many more applications than funding available.

Senator LUNDY—Can you outline the process being used to assess the applications?

Mr Peel—Yes. The applications are submitted by the applicants and they are assessed by our various state and regional officers in Ausindustry. They are then reviewed by our tourism section in Canberra and submitted to a delegate in the department who makes the final decision.

Senator LUNDY—You have anticipated my question well. What level in the department?

Mr Peel—SES level; general manager level.

Senator LUNDY—Those at general manager level make the final decision on who gets the funding?

Mr Peel—That is right.

Senator LUNDY—Do those decisions have to go to the minister's office?

Mr Peel—The minister is advised of the decisions and the minister would normally make the announcement.

Senator LUNDY—Can the decisions by the delegate in the department be reviewed by the minister?

Mr Peel—No, the minister is at arm's length from the decision-making process.

Senator LUNDY—Would you be able to provide this committee with the assessment documents?

Mr Peel—What do you mean by assessment documents?

Senator LUNDY—The criteria against which you assess the successful applicants and the actual assessment.

Mr Peel—I can tell you what the criteria are now. The merit criteria are: potential to promote regional tourism growth, how the project fits in with tourism strategies for the region, value for money, and the capacity of the applicant to deliver the project.

Senator LUNDY—How do you document the assessment process when you are comparing applications with each other.

Mr Peel—Each application is individually assessed by AusIndustry staff in our various state and territory offices. They come up with a score for each application. The scores are then all aggregated nationally, reviewed by a small group in our Canberra office and submitted to the delegate for approval in a rank order.

Senator LUNDY—In a priority order?

Mr Peel—Yes.

Senator LUNDY—Are there any allocations applying to states—for example, proportionality?

Mr Peel—No, they are assessed on their merits. Although, I should say that, for this particular round, preference is being given to applications from bushfire or drought affected areas, so this one is a bit unusual in that respect.

Senator LUNDY—I was going to draw your attention to the *Hansard* from the last round of estimates where there was some discussion about this program and its ability to preference bushfire affected areas. Has the minister said that?

Mr Peel—Yes, the minister has asked us to do that and the guidelines have been amended to allow us to do that.

Senator LUNDY—Apart from that ministerial direction, the assessment process is still completely independent of the minister's office?

Mr Peel—Yes, the assessment process is at arm's-length from the minister.

Senator LUNDY—Have you set aside a proportion of the fund for these areas? How are you building that priority into your criteria that you mentioned before?

Mr Peel—We have not set aside any particular proportion. What we would do in the assessment process is give them extra marks, if you like, because they are from a bushfire or drought affected area.

Senator LUNDY—So it could push them up the list?

Mr Peel—Yes.

Senator LUNDY—Does the minister have an expectation of a percentage or proportion of projects to be related to drought or bushfire affected areas?

Mr Peel—No, the minister has not given us any targets in that respect.

Senator LUNDY—Will the successful applicants be posted on the department's web site?

Mr Peel—Yes, they will be.

Senator LUNDY—In the last round of estimates in February there was some discussion about See Australia looking at what they could do within the funding provided to them for domestic tourism for marketing assistance in drought and bushfire affected areas. Did anything come of that?

Ms Kelly—Yes. See Australia did launch an additional bushfire and drought oriented campaign for which we provided them with an additional \$160,000. That funded an Ernie Dingo advertisement that you may have seen on television 'In these troubled times' where he is sitting in a rural scene. That was the initiative.

Senator LUNDY—How long did that ad run for?

Ms Kelly—I will have to check for you. I do not have the exact dates for that campaign, but I can take that on notice.

Senator LUNDY—Could you provide me with the dates when that ran. I remember seeing the ad at least a couple of times. Can you explain where the Regional Tourism Program is being managed from within the department?

Mr Peel—It is managed from AusIndustry.

Senator LUNDY—How do you work with the tourism part of the department and coordinate the relationship?

Mr Peel—Effectively, the way that it works is that the department has policy divisions that develop policy in particular areas of industry, including tourism. AusIndustry delivers the programs on behalf of the department so AusIndustry is the program delivery arm. All of the programs that we deliver are connected to various policy initiatives in the department. We work very closely and on a regular basis with the tourism division and keep them informed of how the program is going and that sort of thing.

Senator LUNDY—Will the successful applicants for the Regional Tourism Program be posted on the department's web site?

Mr Peel—Yes.

Senator LUNDY—And, presumably, be delivered via a ministerial press release.

Mr Peel—I would anticipate that there would be a press release, yes.

Senator LUNDY—I am sure you are working on it already. I will focus on the ACT for the moment but ask the question more generally. Is there any additional funding allocated to the ACT to boost or to offset the decline in tourism as a result of the fires?

Ms Kelly—Yes. The ACT will be provided with a one-off payment this financial year of \$500,000—the actual payment is still in the process of going through—which is to help cover the cost of tourist promotion initiatives, particularly the Capital Autumn campaign, designed to assist recovery from the January downturn.

Senator LUNDY—Is that out of this current financial year's budget?

Ms Kelly—That is right.

Senator LUNDY—What are the terms and conditions associated with that money being given to the ACT?

Ms Kelly—To my knowledge, the contract has not yet been finalised, but the money is, as I said, to be directed to the marketing campaign entitled 'A Capital Autumn' which is largely complete. The money was asked for some time ago and Minister Hockey undertook to use his best endeavours to provide some money. It was put to the government as part of the broader ACT request for overall assistance post the bushfires and so it became part of that decision-making process. The department did find the \$500,000 from within its resources to pay the ACT that money this financial year.

Senator LUNDY—Is the fact that it has not been allocated as yet the result of the department's discussions with the ACT government? Is that how that will be resolved, or is it something else? Is it something that the minister is involved in—linking it with other moneys somewhere else?

Ms Kelly—Because it was part of a broader decision on providing post bushfire assistance to the ACT, the funding was not announced until early May, so it has simply been a matter of going through the process of putting a contract together. I do not think there is any impediment to that being finalised. We expect it to be finalised within the coming week or two.

Senator LUNDY—Is the fact that that part of the tourism campaign that that money was identified to support is nearly over going to jeopardise it or does that have no impact?

Ms Kelly—It has no impact. Can I just add to my previous answer. You asked how long the See Australia drought and bushfire campaign was to run. I now have that information. The advertisements began on 24 March for a four-week period.

Senator LUNDY—Do you expect that this \$500,000 for tourism assistance to the ACT will be finalised within a couple of weeks?

Ms Kelly—Yes.

Senator LUNDY—Can you be more specific, Mr Paterson?

Mr Paterson—Within the next couple of weeks. The answer to the question was yes. It is my expectation that it will be resolved very soon.

Senator LUNDY—What requirements on the use of the \$500,000 does the department have?

Ms Kelly—The key requirement is that the money is to be used for the Capital Autumn campaign and tourist promotion initiatives to assist recovery from the January bushfires, so there are no onerous requirements being placed on that funding.

Senator LUNDY—Was similar funding given to other bushfire affected areas in Victoria and New South Wales?

Ms Kelly—No. The department has not provided specific funding to Victoria or New South Wales.

Senator LUNDY—But it had previously.

Ms Kelly—Yes, there was some funding provided to New South Wales post the January 2002 bushfires. The department, as we have previously acknowledged, has provided money for See Australia to run a broader campaign which would assist those areas as well the ACT.

Senator LUNDY—When the government announced support for the ACT they talked of \$500,000 in bushfire relief. Is that the same as this \$500,000 or is the \$500,000 bushfire relief separate to that for tourism?

Ms Kelly—I do not have the details of the broader overall Commonwealth bushfire assistance to the ACT so I can only really refer to the \$500,000 that we have provided to them. That, plus the See Australia campaign, plus the emphasis in the regional tourism program on drought and bushfire affected areas, comprised the package of tourism assistance focused on drought and bushfire areas.

Senator LUNDY—What have you called that amount of money allocated to the ACT? Have you called it bushfire relief or have you called it tourism relief?

Mr Dainer—The measure is actually called tourism promotion in the ACT.

Senator LUNDY—Has the department conducted any impact studies on the effect of the 18 January bushfires on both ACT and regional tourism?

Ms Kelly—No specific studies have been done.

Senator LUNDY—Is it your intention to do any?

Ms Kelly—We have been provided with information from various regions, which is largely anecdotal information, and some empirical information, but it has not been our intention to do a formal study.

Senator LUNDY—Is that also true in relation to the See Australia response to drought or bushfire affected areas? Is that campaign and expenditure informed by any research?

Ms Kelly—All of the campaigns are evaluated. See Australia routinely evaluates every advertising and public relations campaign that it puts into the market; in fact, the ACT, I understand, are evaluating the Capital Autumn campaign. Routinely, if we contribute to marketing campaigns, they are evaluated.

Senator LUNDY—Retrospectively; so the campaigns are uninformed by research initially but you do evaluate them and do the research after to assess the effectiveness.

Ms Kelly—The See Australia campaigns are routinely informed by market research. The drought and bushfire campaigns were quick response campaigns to an immediate situation. There was not time taken to go and do empirical research about the impacts. There was some information collected about the impacts, but it did not extend to the extent of a formal survey of problems.

Senator LUNDY—DITR, for example, was not commissioned to do any specific research or analysis into drought or bushfire affected areas?

Ms Kelly—No, we have just completed a survey of about 2,200 tourism businesses around the country, which includes looking at businesses in the ACT and other areas. We have done some current research and that was focused on the impact of SARS issues on industry, but we did not do any focused specifically on bushfires and drought.

Senator LUNDY—In the preparation of the tourism budget for this forthcoming financial year was the submission from the Canberra Business Council taken into account? Specifically, it mentioned tourism and bushfire related tourism issues.

Ms Kelly—I would have to check as to whether we have the Canberra Business Council submission. As there were no specific budget initiatives in the tourism area in this budget, the answer is no because there have been no specific changes to the tourism budget.

Senator LUNDY—Does the department get involved in issues like the imposition—in some cases the non-imposition—of entry fees on national institutions in the ACT specifically but also more generally and the impact that potentially has on visitation?

Ms Kelly—We would get involved in two ways. If they were matters that went to cabinet, we would be involved in advising on cabinet submissions. That I do not think would be the case in most cases. If representations were made to the minister around these issues, the minister may take them up. We may prepare letters et cetera. In those ways, we may become involved.

Senator LUNDY—Apparently arising out of the national cultural institutions review, which is in the portfolio of the arts, whilst that review did not make a recommendation or a finding to impose user charges in national cultural institutions, apparently there has been

some sort of working party established to look at that. Would you be involved in any way on the consideration of user charges or entry fees to national institutions, given the link with visitation?

Ms Kelly—We are not on any such working party.

Senator LUNDY—Do you have an interest in those kinds of issues or do you not get involved?

Ms Kelly—We would only become involved if there were some implications raised for tourism.

Senator LUNDY—That is the point: in the business council submission, and generally, there are concerns raised about the impact of entry fees or user charges on visitation levels and, therefore, on tourism. To me, there is a direct link.

Ms Kelly—We would have an interest in the outcomes of the review and by monitoring whether there were any impacts on tourism as a result of changes to the user charging regime.

Senator LUNDY—But currently there is no working party or interdepartmental group to provide input into that consideration from a tourism perspective?

Ms Kelly—None that I am aware of.

Senator LUNDY—That is a shame. From an Australian Capital Territory perspective, Canberra was awarded five titles at the National Tourism Awards in Adelaide in February this year. In the context of that success but also more generally, is there a possibility for the National Tourism Awards to be conducted in Canberra at some point?

Ms Kelly—The Australian Tourism Awards are actually rotated around the states. They were in South Australia last year; they will be in Western Australia in 2004. I would have to check when the Australian Capital Territory's turn comes up but my understanding is that they will rotate through Canberra at some point in the future.

Senator LUNDY—So the national capital does get a guernsey?

Ms Kelly—I believe so.

Senator LUNDY—If you could you take on notice when that is scheduled and let me know, that would be good. Do you get involved in other ACT issues, like the permanent siting of Floriade?

Ms Kelly—No. We have not been involved in issues around Floriade.

Senator LUNDY—In this year's budget we noted that the National Capital Authority—obviously not in this department—has expanded into event management and the promotion of Australian National Capital activities. Are you involved in this in any way or was this arising out of a recommendation from the tourism division in DITR?

Ms Kelly—No. We are not closely involved in the decision making around the organisation of the ACT tourism budget or structures.

Senator LUNDY—This is federal money for the NCA. It is impacting, hopefully positively, on Australian Capital Territory opportunities to promote national capital attractions. You are not involved in any way?

Ms Kelly—We have not been, no.

Senator LUNDY—In terms of your communication and relationship with Canberra Tourism and Events Corporation, CTEC, how is that managed?

Ms Kelly—We interact with CTEC in a range of ways. The CEO of CTEC is a member of the Australian Standing Committee on Tourism, which meets twice a year. I referred earlier to the tourism response plan. We have a teleconference of CEOs at the moment every Monday morning to which the CEO of CTEC is an invitee. There are regular meetings of tourism CEOs. The ATC is a regular attendee and the department is an attendee as necessary. There is quite a lot of opportunity for interchange and discussion with not only CTEC but the other state tourism organisations as well.

Senator LUNDY—Just going back to the preparation of the tourism green paper, can you confirm that the submission from the Tourism Industry Council of the ACT was taken into account when the green paper was drafted?

Ms Kelly—Yes, the views were certainly taken into account. Minister Hockey has met twice with the Tourism Industry Council over the period of formation of the green paper about particular issues.

Senator LUNDY—I know the green paper is coming out on Thursday, but are you able to tell me whether it addresses particular issues affecting different states and territories?

Ms Kelly—The green paper has a national focus. It is focusing on issues of national significance to the tourism industry.

Senator LUNDY—It does not really drill down into either geographic regions or state or territory issues?

Ms Kelly—In general, no.

Senator LUNDY—Does the Tourism Division get involved in issues like the need to redevelop the National Convention Centre here in Canberra?

Ms Kelly—No, we have not had any involvement to date.

Senator LUNDY—Could the Tourism Division and the Australian Tourist Commission take on notice to provide me with full cost details about their web site—the cost, contractors and time of signing.

Ms Kelly—Okay.

CHAIR—Thank you, ladies and gentlemen. We will now return to Geoscience Australia.

[11.24 a.m.]

Geoscience Australia

Senator LUNDY—Can you provide me with an overview of the implications of the 2003-04 budget on Geoscience's overall allocation?

Mr Williams—The money we received in the budget—the \$61 million over four years—goes to our petroleum program. I will ask Dr Powell, the Chief of our Petroleum and Marine Division, to give you a breakdown of how that money will be spent within his division.

Senator LUNDY—Could you take me to the page on PBS that shows that, please?

Mr Robinson—Page 128.

Senator LUNDY—We are looking at the core petroleum program?

Mr Williams—That is the one.

Dr Powell—The core petroleum program consists of the staff resources and laboratory operations of my division and will continue the basic geological work to promote Australia's petroleum potential for exploration purposes. That will be \$36 million over four years but is an ongoing commitment by the government to funding that program beyond that period.

Senator LUNDY—What does that involve?

Dr Powell—Basically, it is the salaries of 88 staff and the operations associated with their scientific programs in the office: the operation of the laboratories, the work in marketing the petroleum potential to overseas companies and to companies in Australia, and also the basic geological analysis work that is undertaken by those staff.

Senator LUNDY—So is that people out there, taking geological samples to suit—

Dr Powell—No, this is the offshore program. The second tranche of money is \$25 million over four years, which is the seismic data acquisition and preservation. That comprises funds to undertake surveys in the marine environment. It will comprise seismic surveys, geological sampling surveys from the seabed, in order to identify new frontier areas for petroleum exploration. In addition, there will be an amount of money for data recovery from the repositories of industry data. We have some half a million magnetic tapes of industry data which are made available to the industry but they are deteriorating and will be transformed from nine-track tape to modern media.

Senator LUNDY—How much of the \$25 million will be allocated to preserving the seismic data tapes?

Dr Powell—It is approximately \$10 million over four years.

Senator LUNDY—Is that evenly spread across that four-year period?

Dr Powell—We are doing the due diligence because we will take just about all the tape copying resources that are available in Australia to do this task. We will be consulting with the industry about the cash flow. It is tentatively scheduled for about \$1 million in the forthcoming financial year and \$3 million in each of the succeeding years.

Senator LUNDY—I would like to go back to the core petroleum program. You mentioned the work in marketing the petroleum potential that is going on within the laboratories at Geoscience Australia and the 88 staff.

Dr Powell—Yes, we do regional studies of the petroleum geology around Australia using a combination of industry data, data that we have collected and data that will be collected in the new program. Typically, we have geologists, geophysicists and geochemists who are analysing this data to assess the petroleum potential.

Senator LUNDY—That analysis of the existing data takes place in the lab.

Dr Powell—In the office.

Senator LUNDY—Is that where the 88 staff or a proportion of the 88 staff will be allocated?

Dr Powell—Yes, the 88 staff are people who have been working in Geoscience Australia for a number of years, but the program has been subject to a recurring funding program and this budget measure will continue that activity for the future.

Senator LUNDY—So will there be additional employment opportunities or will staff numbers remain the same?

Dr Powell—There will be some employment opportunities but relatively small. Because of our switch from an office based activity to a field based activity, we are looking at the distribution of the capabilities that will be needed to deliver that program and there will be a smaller number of new positions created. But it will not really change our net staffing position because we have used a number of temporary staff in recent years.

Senator LUNDY—So you will be getting rid of the temporary staff?

Dr Powell—Their contracts will not be renewed but they will be replaced by other people.

Senator LUNDY—Regardless of their terms and conditions of employment, will there be a net reduction?

Dr Powell—No, there will be a small net increase.

Senator LUNDY—Out of the 88 staff required for this project, how many are new staff?

Dr Powell—We would anticipate somewhere between five and 10.

Senator LUNDY—Not including other temporary staff.

Dr Powell—We have not engaged in a major field program for several years. Obviously, when you go to a field program you need different skills from those that we currently have.

Senator LUNDY—I appreciate that. I am trying to get inside that to find out how many of the 88 staff will be new staff for that project and how many staff from other areas whose skills are no longer required will be allowed to be made voluntarily redundant, or choose to go, or not have their contracts renewed, or whatever.

Dr Powell—Typically in a program like ours we have a small, constantly turning over, number of temporary staff who will be employed from periods of three to six months for specific activities. Typically, they are data related activities. Usually, at the end of the financial year, they come to an end and we switch to a number of new activities that will be required in the forthcoming year. There is a constant turnover of a small number of 10 to 20 staff in what we would call the temporary area to meet short-term issues.

With the advent of the new program there are a number of positions, particularly related to field operations, that we will need to fill in order to deliver on this program. We anticipate that there will be five to 10 positions in that area. There will still be some temporary appointments, but at this stage we have not worked out in detail how many that will be.

Senator LUNDY—Does that mean that, with the supplementation of 10 or so for this project, there will be 10 or so temporary staff that will not have their contracts renewed?

Dr Powell—Not necessarily. We have a pool of people that are constantly turning over. It is difficult to say that there will be a number of people finishing because of the new program and the change of direction. The tasks that we employed them for will be finished by 30 June and they were employed on that basis and with that expectation.

Senator LUNDY—I am not suggesting that they are not, I am just trying to get the actual numbers from you.

Dr Powell—At present we have of the order of 20 temporary and contract staff in the program who will be finishing, in the normal expectation, on 30 June. Some of those contracts will be renewed; some will not be renewed because they have been working on specific tasks.

Senator LUNDY—How many have been working on specific tasks that you do not intend to renew?

Dr Powell—I would have to take that on notice.

Senator LUNDY—Is it 10?

Dr Powell—No, it would not be 10.

Senator LUNDY—Is it more than 10?

Dr Powell—It would be less than 10 probably.

Senator LUNDY—Could you take that on notice. Do the 88 staff include those for the surveys for the collection of new seismic data or is that separate?

Dr Powell—The collection of new seismic data will be done on contract because we have to hire ships in order to do the survey work. The funding for the seismic data acquisition and preservation will be largely contracted out.

Senator LUNDY—But you would put Geoscience staff on those ships, wouldn't you?

Dr Powell—Yes, some of our staff will go as contract managers on the vessels but we will use contractors to do the work.

Senator LUNDY—To do the data collection?

Dr Powell—Yes, because these are specialised seismic acquisition vessels.

Senator LUNDY—I thought you used to have staff do that.

Dr Powell—We no longer operate our own vessel.

Senator LUNDY—When you contract the vessel to do this work, you also contract effectively the scientific researchers that collect the data on those ships as well?

Dr Powell—What we do is contract the seismic acquisition company to do the work. With that total package comes the geophysical acquisition scientists and the technicians, which are very specialist areas.

Senator LUNDY—So who do you contract?

Dr Powell—There are a number of international companies that service the northern—

Senator LUNDY—Are there any Australian companies?

Dr Powell—There are no Australian companies. There are a number of companies that operate in Australia.

Senator LUNDY—Like who?

Dr Powell—Fugro, for example.

Senator LUNDY—From where?

Dr Powell—Fugro is a Dutch-Norwegian conglomerate. And there would be companies like Geco-Prakla.

Senator LUNDY—Where are they from?

Dr Powell—Similarly, they tend to be European or American companies.

Senator LUNDY—Are there any others?

Dr Powell—The number of companies that would normally operate in Australia is probably three or four.

Senator LUNDY—Who are the other two?

Dr Powell—It is on the tip of my tongue; I cannot remember the name of the Brisbane based company at present; I can let you know.

Senator LUNDY—If you could take that on notice. I presume they are put out to competitive tender.

Dr Powell—Correct.

Senator LUNDY—Have you released the request for tender for this round of collection of new seismic data or does it work on ‘each trip’ basis? Do you contract them for 10 years?

Dr Powell—We are looking at the terms and conditions under which we will contract that data. Essentially, the announcement was made in the budget less than one month ago and we are going through the process. They are designing the specifications now.

Senator LUNDY—In terms of no longer having your own ship, when did you divest?

Dr Powell—In 1998.

Senator LUNDY—Have you always used external contractors since then?

Dr Powell—Yes.

Senator LUNDY—Including the scientific crew—the research crew?

Dr Powell—It is not a research crew in that sense.

Senator LUNDY—It is data collection.

Dr Powell—It is standard operating acquisition programs that are run for the industry and we particularly give them our specifications and we normally contract them.

Senator LUNDY—So since 1998 you have not had Geoscience employees on ships collecting that data themselves?

Dr Powell—We put on what in the industry is called the bird-dog, which is the contractee’s representative, to do the quality control aspects.

Senator LUNDY—And that is it?

Dr Powell—And that is basically it.

Senator LUNDY—Can you take on notice to provide this committee with the costs associated with all of those contracts since 1998?

Dr Powell—This is the contracts that we have undertaken in seismic acquisition since 1998?

Senator LUNDY—Yes. Are there any other areas where you contract ships, other than seismic acquisitions?

Dr Powell—We use the marine National Facility for work at sea and, traditionally, we have used it where we have applied for time on the vessel in a competitive scientific program basis. In the future, we are also proposing to contract that vessel for—

Senator LUNDY—So this is the marine National Facility?

Dr Powell—It is operated by the CSIRO marine division.

Senator LUNDY—Is that a boat?

Dr Powell—Yes.

Senator LUNDY—The marine National Facility is a boat run by the CSIRO?

Dr Powell—Yes.

Senator LUNDY—And you have used that before to collect seismic acquisitions?

Dr Powell—We have used it for small scale seismic acquisition. Seismic acquisition occurs at many different scales and intensities. We have used our own light seismic gear on board the National Facility.

Senator LUNDY—Okay, so what you had on your own boat, you put on the CSIRO ship?

Dr Powell—No, when we had the *Rig Seismic*, it was set up as a full scale industry equivalent seismic acquisition system. When we want to do that work, we contract equivalent industry ships.

Senator LUNDY—Right, to do all of it and you send a contract manager on that ship.

Dr Powell—There are certain types of work where you use small seismic systems—using high resolution where we have our own equipment which we will deploy.

Senator LUNDY—Which is different to what the industry ships look like?

Dr Powell—Yes, it is much smaller scale. The depth of penetration into the earth is much less and it has different resolution. We will use that on the marine National Facility.

Senator LUNDY—The CSIRO ship?

Dr Powell—Yes. CSIRO are the operators of the marine National Facility.

Senator LUNDY—Can you take on notice how much money that you have spent on that since 1998?

Dr Powell—Yes. We have also used French vessels for the *Marion Dufresne* and the *L'atalante* which we have contracted to do, particularly, swath mapping and high-resolution seismic data.

Senator LUNDY—Who is that?

Dr Powell—The vessels are operated by the French Polar Institute and the Institut français de recherche pour l'exploitation de la mer—IFREMER, for short.

Senator LUNDY—So a French vessel on which you use some of your own equipment, or not?

Dr Powell—No, we have used the equipment that comes with the vessels and that work has been done for the National Oceans Office. The funds have been provided by the National Oceans Office for us to contract that work.

Senator LUNDY—Do you provide a crew of researchers or scientists?

Dr Powell—We provide on-board scientists to manage—

Senator LUNDY—On the IFREMER ship?

Dr Powell—Yes.

Senator LUNDY—And Geoscience provides scientists for the marine National Facility?

Dr Powell—Yes. What They provide some basic capability and our scientists go on the ship and run the program.

Senator LUNDY—Can you take on notice to provide us with the costs incurred for the use of the IFREMER ship as well?

Dr Powell—Yes.

Senator LUNDY—What proportion of the \$25 million do you anticipate will go towards contracting a ship?

Dr Powell—We anticipate that approximately \$15 million will be spent over four years on contracting external vessels.

Senator LUNDY—I presume that the remaining \$10 million is for the data recovery program?

Dr Powell—That is correct, yes.

Senator LUNDY—Back up to the core petroleum program, we have gone through the staff issues and the science and data analysis. You mentioned marketing potential, what are the expenditure items under that category for that project?

Dr Powell—Every year the government releases new areas for petroleum exploration through the Department of Industry, Tourism and Resources. The write-up of the technical description of those areas and the technical marketing is undertaken by Geoscience Australia whereby we visit companies overseas to interest them in Australian petroleum exploration.

Senator LUNDY—So there is a travel budget in there?

Dr Powell—Yes

Senator LUNDY—How much is it?

Dr Powell—I will have to take that on notice.

Senator LUNDY—Who would go?

Dr Powell—Typically, a senior scientist and two other scientists would go on one of those visits.

Senator LUNDY—If you do not have a copy here, could you take on notice what the sort of itinerary that you are planning for that exercise is?

Dr Powell—The announcement of the release of acreage is normally made at the annual APPEA conference which is held in March-April this year. Typically you would send the scientists along with representatives from ITR to Japan. This year they were scheduled to go to China, but it was cancelled because of the SARS outbreak. They would also visit the United States and Canada and that has taken place in recent weeks.

Senator LUNDY—It has taken place in recent weeks?

Dr Powell—Yes.

Senator LUNDY—So that happens on an annual basis?

Dr Powell—That is correct.

Senator LUNDY—You also mentioned regional geological surveys.

Dr Powell—Our task is to try to open up new frontier areas for petroleum exploration, and so those surveys will be taking place in areas which we have identified as having petroleum potential.

Senator LUNDY—You are sending teams of scientists into specific areas of Australia to—

Dr Powell—It is all offshore; it is done off ships.

Senator LUNDY—Sorry, I am getting confused. How do those regional surveys work, then?

Dr Powell—We are going through a consultation with industry at the moment to identify potential areas that may be of interest to the industry down the track, and providing some basic data for them to evaluate those areas. The areas would be along Australia's southern margin, off south-west Australia; there would also be some areas off northern or north-western Australia and, perhaps, even on the Lord Howe Rise to the east of Australia.

Senator LUNDY—On the what?

Dr Powell—The Lord Howe Rise is a continental ridge, on which Lord Howe Island is located but which extends far to the north and south of that area.

Senator LUNDY—Just to clarify: are those regional surveys linked to where you contract the ships to go to?

Dr Powell—Yes. We will undertake seismic surveys off the vessels in those areas.

Senator LUNDY—So that regional survey is really how you establish a plan as to where to send the ships? I am sorry; I am not an expert in this area. I am just trying to gain a far better understanding.

Dr Powell—We identify areas of petroleum potential. Then, on the basis of some knowledge that exists, we would plan a survey. We would then contract a seismic vessel to do the survey over these areas, which collects information on the subsurface geology. We would then have a team of scientists work on the interpretation of those results, and they would prepare the material for release to the oil industry to demonstrate that the key elements of petroleum generation and accumulation may exist.

Senator LUNDY—What involvement does the industry have in determining where these surveys are conducted—that is, the places that you nominated?

Dr Powell—We have views on possible areas of interest, but we like to road test those views with other people because petroleum potential often lies in the eyes of the beholder. We are in the process of undertaking a consultation with national and international companies about areas that may be of interest.

Senator LUNDY—Then, as you said, you make that data available to them once it has been processed and analysed in some way.

Dr Powell—Yes.

Senator LUNDY—How much do they pay for it?

Dr Powell—The purpose of this program is to attract them to invest funds, and so we provide data at the cost of transport. We do not charge them large amounts for it.

Senator LUNDY—That is very interesting. Mr Paterson, we heard earlier that tourism operators have to pay for the data produced by the Bureau of Tourism Research on a cost recovery basis. Why do petrol companies not have to purchase the data to help offset the costs produced? It is all upside for them, isn't it?

Mr Paterson—It is not all upside—if only that were true—and it is not the petrol companies per se.

Senator LUNDY—Who is it, then?

Mr Paterson—We are talking about exploration in highly expensive, no guaranteed return areas. Australia competes in a world market for exploration dollars, and this is about providing precompetitive data to encourage people to invest very large sums of money in exploration within areas of Australia's interest. So it is about providing the infrastructure to encourage that investment to occur. In the absence of this public investment in the precompetitive data, it is unlikely that that investment will happen.

Senator LUNDY—So it is not really an apples to apples comparison with cost recovery for other industry sectors.

Mr Paterson—Not at all. As you are aware, there are government guidelines in relation to cost recovery that are applied generally across the public sector, and we apply those. This is a very specific program, with specific budget measures designed to encourage the development of that seismic data acquisition and that then builds into the acreage release that we spoke of yesterday. Mr Hartwell spoke of the nature of the acreage release and the encouragement of that investment. If people then discover some resource, that provides an opportunity for the commercial development of that resource when it is economic to do so.

Senator Minchin—And for us to tax them—

Senator LUNDY—Indeed. And I am sure you are very familiar with the amount of taxation revenue derived from such investments, Minister.

Senator Minchin—It is an appropriate return to the community.

Senator LUNDY—I was not here for the resources section yesterday, but thank you for that explanation. I think I am stating the obvious here: this program is designed specifically as an investment attraction initiative?

Mr Paterson—It is to encourage the exploration of those prospective areas: to develop the base geological data that is understood at the present time to get a much clearer picture of the potential locations where hydrocarbons may be discovered, and then to encourage what can be very expensive drilling operations by exploration companies—many of those are not large companies but relatively small, fleet-of-foot exploration companies that seek to develop the resource and then often enter into joint ventures for the subsequent commercialisation of those resources.

Senator LUNDY—Going back to the issue of contracting ships to do this work, you used to have your own ship—what was that ship called?

Dr Powell—It was called the *Rig Seismic*.

Senator LUNDY—Have you done any retrospective analysis of the cost-effectiveness of having got rid of your own ship and this obviously very extensive program of requiring ongoing seismic acquisition?

Dr Powell—I think there are really two issues here. If you own a ship, in order for it to be cost-effective you have to run it for 12 months a year, because the capital costs of having it doing nothing are very considerable. So there is a relationship between the utilisation rate and the effective day rate cost. Unless you have a program that occupies the ship time for a full year, it is not cost-effective to run it in-house.

Senator LUNDY—So this program will not?

Dr Powell—No.

Senator LUNDY—All together, how much of a year can Geoscience keep a ship out there doing productive things?

Dr Powell—In this new program?

Senator LUNDY—This combined with existing programs.

Dr Powell—About two to three months per annum, but that generates enough scientific results to keep scientists going for two to three years afterwards. The whole point is, if you have your own ship, you have to have a very large program to justify doing it in-house.

Senator LUNDY—On the actual raw figures, is there an increase or decrease in what you are actually paying out from *Rig Seismic* compared with the extent to which you contract ships?

Dr Powell—At the time when we were operating *Rig Seismic*, we were operating it for about six months of the year on our own program and three to four months a year doing commercial work.

Senator LUNDY—So you were contracting it out?

Dr Powell—We were contracting out. The difficulty you run into is that it is not really appropriate for a government agency to be running a commercial operation, because the risks involved in running ships are really quite large and the exposure to—

Senator LUNDY—I know it is a little historical now, but can you provide me with a full explanation of the rationale for divesting yourself of *Rig Seismic* and replacing it with contract ships, including the cost-benefit analysis at the time?

Dr Powell—That information is certainly available. It might take some time, however, to dig it out.

Senator LUNDY—I do understand that it is a little historical but I am interested. On a completely different issue, I understand that your IT outsourcing in Geoscience Australia is done by Telstra. Is that correct?

Mr Robinson—No, that is not correct.

Senator LUNDY—Who does it?

Mr Robinson—Only a small part of our IT is outsourced, and that relates to the former AUSLIG, which was part of the group 3 cluster.

Senator LUNDY—This is because of all the restructuring in the meantime?

Mr Robinson—Yes. After the old AGSO and the old AUSLIG joined together at the end of 2001, we went to market testing last year to comply with the government's IT outsourcing requirements. That included a whole of organisation approach—the proposal was to get bids for the new Geoscience Australia, including the AGSO and AUSLIG components. The analysis of that was completed late last year and a decision was taken to keep IT for the organisation in-house. At the conclusion of the move by AUSLIG to the Symonston location, which is under way right now, we will exit from the contract with CSC for the AUSLIG component and it will become a totally in-house GA operation.

Senator LUNDY—That CSC cluster 3 contract in relation to AUSLIG had effectively concluded, had it not?

Mr Robinson—It had been renegotiated by the group 3 members.

Senator LUNDY—With AUSLIG included?

Mr Robinson—No.

Senator LUNDY—That is my question.

Mr Robinson—We gave them good advance notice that we would be pulling AUSLIG out when they moved to Symonston.

Senator LUNDY—I understood that that renegotiation had taken place and AUSLIG was not part of the new group.

Mr Robinson—That is correct.

Senator LUNDY—Are you able to provide any observations about the former AGSO's experience within that cluster with the IT service standards?

Mr Robinson—The former AUSLIG's happiness?

Senator LUNDY—Yes.

Mr Robinson—I would not care to give any detailed analysis of the pluses and minuses.

Senator LUNDY—What about AGSO's experience?

Mr Robinson—AGSO's IT was always in-house. We were going through the market testing process over a number of years as we moved from one cluster to another.

Senator LUNDY—I am trying to think of the various clusters you would have been in at various points.

Dr Williams—We were never in a cluster.

Senator LUNDY—A formal cluster.

Dr Williams—When we were in the old Department of Primary Industries and Energy—which was at the start of the IT outsourcing era—as a first move towards outsourcing the department collected all of the IT from the six groups into one central area, so the old AGSO was internally outsourced to the centre of DPIE. Then when we became part of the old industry, science and resources portfolio those internally outsourced people came back into GA. From that point on we were involved with potential clusters and outsourcing in the science cluster, and ultimately we were in the situation Tony relayed where we were testing as a single agency. But throughout that time we maintained our own in-house IT.

Senator LUNDY—I trust it is all going well.

Mr Robinson—So far, yes. We are building capability.

Senator LUNDY—You obviously engage some externally sourced contractors for some aspects—for your web site and so on.

Mr Robinson—We have a mixture of ongoing staff and contractors providing the day-to-day service within the organisation.

Senator LUNDY—I will probably put some additional questions on notice in relation to that, but thank you.

Proceedings suspended from 12.01 p.m. to 1.33 p.m.

TREASURY PORTFOLIO**In Attendance**

Senator Coonan, Minister for Revenue and Assistant Treasurer

Treasury**Outcome 2.1—Fiscal**

Mr Richard Murray, Executive Director, Fiscal Group
Mr David Turvey, Acting General Manager, Debt Management Review Team
Mr Steve French, General Manager, Budget Policy Division
Ms Maryanne Mrakovcic, Budget Policy Division
Ms Jan Harris, General Manager, Commonwealth State Relations Division
Mr David Tune, General Manager, Fiscal and Social Policy Division
Mr Paul Roe, Manager, Budget Policy Division

Treasury**Outcome 2.2—Revenue**

Mr Greg Smith, Executive Director, Revenue Group
Mr Paul McCullough, General Manager, Individuals and Entities Tax Division
Mr David Martine, General Manager, International Tax and Treaties Division
Mr Peter Mullins, General Manager, Business Income Division
Mr Patrick Colmer, General Manager, Indirect Tax Division
Mr Roger Brake, General Manager, Superannuation, Retirement and Savings Division
Mr Gerry Antioch, General Manager, Board of Taxation Secretariat
Mr Phil Gallagher, Manager, Tax Analysis Division
Mr Peter Greagg, Manager, Tax Analysis Division
Mr Colin Brown, Manager, Tax Analysis Division

Australian Taxation Office (ATO)**Outcome 1**

Mr Michael Carmody, Commissioner of Taxation
Mr Kevin Fitzpatrick, First Assistant Commissioner, Aggressive Tax Planning
Mr Geoff Robinson, Assistant Deputy Commissioner, Small Business
Mr Mark Konza, Deputy Commissioner, Personal Tax
Mr David Diment, Assistant Commissioner, Personal Tax
Ms Erin Holland, Deputy Commissioner, Operations
Mr Murray Crowe, Assistant Commissioner, Operations
Mr Barrie Russell, Deputy Commissioner, GST
Mr Mark Jackson, Deputy Commissioner, Superannuation
Ms Lesley East, Assistant Deputy Commissioner, Superannuation
Mr Paul Duffus, Deputy Commissioner, Excise
Mr Greg Farr, Second Assistant Commissioner
Mr Peter Wilson, First Assistant Commissioner, ATO Technology
Mr Ian Read, Assistant Commissioner, Small Business
Mr Gregory Topping, Assistant Commissioner, Operations

Australian Prudential Regulation Authority (APRA)**Outcome 1**

Mr Stephen Glenfield, General Manager, Specialised Institutions Division
Mr Tom Karp, Executive General Manager, Diversified Institutions Division
Mr Brandon Khoo, Executive General Manager, Specialised Institutions Division
Mr Charles Littrell, Executive General Manager, Policy, Research and Consulting Division
Dr Darryl Roberts, General Manager, Specialised Institutions Division
Senthangalam Venkatramani, General Manager, Diversified Institutions Division

Treasury**Outcome 1—Macroeconomic**

Dr Martin Parkinson, Executive Director, Macroeconomic Group
Dr Jim Hagan, General Manager, Domestic Economy Division
Mr Steve Morling, Principal Adviser (Forecasting), Domestic Economy Division
Dr Steven Kennedy, Manager, Domestic Economy Division
Mr Nicholas Stoney, Manager, Domestic Economy Division
Mr Damien Dunn, Manager, Domestic Economy Division
Mr Graeme Davis, General Manager, Macroeconomic Policy Division
Dr Heather Smith, General Manager, International Economy Division
Mr Adam McKissack, Manager, International Finance Division
Mr Terry O'Brien, Manager, Macroeconomic Policy Division
Mr Colin Johnson, Manager, International Economy Division
Ms Veronique Ingram, Chief Adviser, International, Macroeconomic Policy Division
Mr Paul Williams, Assistant Statistician, Census, Demography and Geography Branch
Natalie Jozelich
Georgie Drummond
Alistair Nitz

Australian Securities and Investment Commission (ASIC)**Outcome 1**

Mr Mark Adams, Director, Regulatory Policy
Ms Kate Harvey, Director, Public Affairs
Mr Sean Hughes, Director, Regulatory Operations
Mr Carlos Iglesias, Executive Director, Infrastructure
Mr Jeffrey Lucy, Deputy Chairman
Berna Collier, Commission Member
Mr Ian Johnston, Executive Director, Financial Services Regulation
Mr Peter Kell, Executive Director, Consumer Protection
Mr Andrew Larcos, Government Relations Adviser
Ms Jan Redfern, Deputy Executive Director, Enforcement
Mr Richard Cockburn, Director, Corporate Finance
Mr Doug Niven, Deputy Chief Accountant
Mr Peter Wood, Executive Director, Enforcement
Ms Felicity Glennie-Holmes, National Media Manager

Australian Office of Financial Management**Outcome 1**

Mr Blair Comley, Acting Chief Executive Officer

Mr Pat Raccosta, Chief Financial Officer

Australian Competition and Consumer Commission (ACCC)**Outcome 1**

Professor Allan Fels, Chairman

Mr Brian Cassidy, Chief Executive Officer

Mr David Smith, Executive General Manager, Compliance Division

Mr Joe Dimasi, Executive General Manager, Regulatory Affairs Division

Ms Lee Hollis, General Manager, Enforcement Co-ordination Branch

Mr Robert Antich, General Manager, Compliance Strategies Branch

Mr Mark Pearson, General Manager, Mergers and Asset Sales Branch

Mr Tim Grimwade, General Manager, Adjudication Branch

Ms Helen Lu, General Manager, Corporate Management Branch

Ms Marlene McClelland, Director, Finance and Services

Ms Fiona Grant

Mr Nigel Ridgway

Australian Accounting Standards Board

Mr Angus Thomson, Technical Director

Takeovers Panel

Mr Nigel Morris, Director

Treasury**Outcome 3—Markets**

Dr Ken Henry, Secretary

Mr Jim Murphy, Executive Director, Markets Group

Mr Godwin Grech, General Manager, Competition and Consumer Policy Division (check title)

Mr Nigel Ray, General Manager, Financial System Division

Mr Bruce Paine, Manager, Financial System Division

Mr Mike Rosser, Manager, Financial System Division

Mr Damien White, Manager, Financial System Division

Mr Matthew Crooke, Specialist Adviser, Financial System Division (To Confirm)

Ms Sue Vroombout, Manager, Financial System Division

Ms Ruth Smith, Financial System Division (To Confirm)

Ms Joanne Evans, Manager, Financial System Division

Mr Murray Edwards, Manager, Financial System Division

Ms Bernadette Welch, Manager, Financial System Division

Mr Mike Rawstron, General Manager, Corporate Governance Division

Mr Mike Kooymans, Corporate Governance Division

Mr Andrew Sellars, Manager, Corporate Governance Division

Ms Kerstin Wijeyewardene, Manager, Corporate Governance Division

Mr Peter Martin, Australian Government Actuary

Ms Susan Antcliff, Australian Government Actuary

Mr Michael Burt, Australian Government Actuary
Mr Chris Legg, General Manager, Foreign Investment Policy Division
Ms Karen Gilmour, Specialist Adviser, Market Integrity and Payments Unit

Axis Australia

Mr Les Hosking, Chief Executive Officer

National Competition Council**Outcome 1**

Ms Michelle Groves, Director
Mr Ross Campbell, Director
Mr Alan Johnston, Director
Ms Deborah Cope, Acting Executive Director

Corporations and Markets Advisory Committee**Outcome 1**

Mr John Kluver, Executive Director

Australian Bureau of Statistics (ABS)**Outcome 1**

Mr Dennis Trewin, Australian Statistician
Ms Susan Linacre, Deputy Australian Statistician, Population Statistics Group
Mr Rob Edwards, Economic Statistics Group
Mr Graeme Hope, First Assistant Statistician, Corporate Services Division

Productivity Commission

Mr Robert Kerr, Head of Office
Mr Garth Pitkethly, First Assistant Commissioner

ACTING CHAIRMAN (Senator Chapman)—I declare open this public hearing of the Senate Economics Legislation Committee. This afternoon the committee will commence examination of the Treasury portfolio. The committee will consider proposed expenditure for the department and agencies in the order in which they appear on the circulated agenda. The committee has authorised the recording and rebroadcasting of its public proceedings in accordance with the rules contained in the order of the Senate of 31 August 1999 concerning the broadcasting of committee hearings.

I welcome Senator the Hon. Helen Coonan, the Minister representing the Treasurer, and officers of the department and associated agencies. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds whereby any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

I direct witnesses to the resolutions agreed to by the Senate on 25 February 1988 concerning the conduct of Senate committees, in particular resolution 9 and resolution 10. I remind officers that an officer shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to the minister. Witnesses should note that the evidence given to the committee is protected by parliamentary privilege. I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. At the conclusion of the hearings, the committee will set a date for the receipt of written responses. The committee

will prepare a report on its examination of estimates, which will be tabled on or before 21 July 2003. Does the minister wish to make an opening statement?

Senator Coonan—No, thank you.

ACTING CHAIRMAN—We will proceed to questions.

[1.35 p.m.]

Department of the Treasury

Senator SHERRY—Where will the Government Actuary be appearing?

Mr French—At outcome 3.

Senator CONROY—I have some questions in relation to the bond market, which I vaguely thought would be under 2.1.

Mr Murray—Strictly, output 2.1.1 does cover the bond market, the review of the bond market and the management of debt; however, most of those issues had been, until recently, handled by Mr Comley.

Senator CONROY—I know they have been recently handled by Mr Comley, yes.

Mr Murray—Unless you want him to come up here this afternoon, he would be quite happy to cover off those issues during the AOFM session. We are in the committee's hands.

Senator CONROY—I would not want to disturb him at short notice. I am happy to move on and come back to them under AOFM more directly. Commonwealth-state financial relations—am I in the right ballpark?

Mr Murray—You are. That is output 2.1.2.

Senator CONROY—I would like to start with the guaranteed minimum amounts. I understand that the formulas for these GMAs were set out in the original intergovernmental agreement from 1999. Have they been reviewed since, or do the original formulas still apply?

Mr Murray—I am not aware of all of the background on this. This pre-dates me, but I do understand that there have been some changes, like the low-alcohol beer subsidies component, for instance. If you were to look on page 13 of Budget Paper No. 3, the low alcohol beer subsidies arrangements came into being following the 2002 ministerial council meeting of Commonwealth and state treasurers and finance ministers. That was added to the formula. That is one area I know where there have been changes. I do not think there have been changes anywhere else.

Senator CONROY—Okay. As far as you know, all the rest of them have stayed pretty much as is. Is there any provision in the IGA for a review of these formulas?

Ms Harris—Not that I am aware of.

Senator CONROY—In the out years after the transitional arrangements cease to apply, my understanding is that the GST revenue raised by the Commonwealth and distributed to the states will still be subject to some degree of fiscal equalisation. Is that correct?

Ms Harris—That is what is specified in the current IGA: they will be distributed according to HFE principles.

Senator CONROY—The fiscal equalisation is determined again by some quite complex formula administered by the Grants Commission. Is that correct?

Ms Harris—That is right. Every year the Commonwealth Grants Commission determines relativities for each state in terms of the distribution of the GST.

Senator CONROY—Was Treasury asked for its views in the recent Garnaut-FitzGerald review of Commonwealth-state financial arrangements?

Ms Harris—Not that I am aware of. I am sorry; I am not quite sure what your question is about.

Senator CONROY—I thought there was a major review by FitzGerald.

Ms Harris—There was.

Senator CONROY—I was wondering whether they sought your advice, sought your input.

Ms Harris—I was not around when they first started doing the review, so I cannot tell you definitively yes or no.

Senator CONROY—But you are not aware of it.

Ms Harris—No, I am not aware, but I would like to take that on notice, if I could, just to check.

Senator CONROY—Have you read the final document?

Ms Harris—Yes, some time ago.

Senator CONROY—Does Treasury have a view on the final recommendations?

Ms Harris—Not specifically, no.

Senator CONROY—What are the fundamental economic principles that you think should underlie the Commonwealth-state financial arrangements?

Ms Harris—It is important to remember that the HFE principles were agreed by the states and territories; they wanted the GST revenues to be distributed according to HFE principles. They have both efficiency and equity grounds sitting underneath the way in which the Commonwealth Grants Commission looks at relativities. They have a particular formulation—and I cannot remember it precisely—that each state should be able to offer a standard level of service, and that is the basis on which they determine whether or not one state has relative needs compared to other states.

Senator MURRAY—The Commonwealth Grants Commission presently has three commissioners, and a fourth commissioner has been added to it. In theory that should make a difference, and I wondered if there was a reason for that which arose from Treasury's interest in the area or anything of that sort.

Ms Harris—I am not sure what you mean by 'make a difference'. The actual administration of the CGC comes under the Department of Finance and Administration.

Senator MURRAY—I know.

Ms Harris—But I am not quite sure what you mean by ‘make a difference’. Make a difference to what?

Senator MURRAY—When you increase from three to four it is a considerable jump, and my assumption was that the nature of the relationship has been altered by the workload which has been added because of the GST and other complicated Commonwealth-state interactions. I wanted to know, from a Treasury point of view, if you have noted that or if it has made any difference to you or if you have any opinion on it.

Ms Harris—I was not around and so I was not aware of the background to the appointment of the fourth commissioner, so I cannot really comment on that.

Senator BARTLETT—Can I ask some questions on the Commonwealth-state issue?

ACTING CHAIRMAN—Yes, Senator Bartlett.

Senator CONROY—Provided you are not going to be an hour or two.

Senator BARTLETT—No, three hours if that is all right! I have a few questions about the First Home Owners Scheme. In the forward projections for this grant, the assumption is a reduction in take-up of between 19 per cent in New South Wales and 29 per cent in the Northern Territory and Tasmania. Can you explain why that reduction is not evenly spread across the board and why you think there will be higher take-ups in, for example, New South Wales?

Ms Harris—I cannot specifically explain that to you. Most of our projections for the First Home Owners Scheme are based on forecasts that are done in our economic area, so it would probably be better to take that matter up with them. But I can certainly take it on notice.

Senator BARTLETT—That would be useful. Who would be the people to ask?

Ms Harris—I think the Domestic Economy Division does forecasting on housing.

Senator BARTLETT—So questions about the differences you are expecting in different housing markets would be better put to them?

Ms Harris—Yes.

Senator BARTLETT—What accountability mechanisms do you have for ensuring that the states and territories are granting these funds to eligible first home owners?

Ms Harris—The management and running of the schemes is a matter for the states, so it is very much up to the states to provide information and ensure that the data they are providing is accurate.

Senator BARTLETT—So you do not have any way of ensuring at federal level that they are granting the money to eligible people?

Mr Murray—There are certainly guidelines that relate to this scheme. As far as I am aware, the state and territory administrations have various fraud and other checking mechanisms in relation to the proper implementation of their schemes.

Senator BARTLETT—You provide this amount of money—\$930 million, I think, in the current financial year—direct to the states for them to administer, but you do not have any

mechanism at federal level to ensure that the guidelines you have are being implemented correctly?

Mr Murray—As far as I am aware, we get returns from the state and territory administrations in accordance with the guidelines we have laid down. I am not aware of any evaluation arrangements in relation to the scheme.

Senator BARTLETT—Has there been any audit of the allocation of the grant by states and territories in the last year, or do you have any plans do one this year?

Mr Murray—I am not aware of any performance audits that have been carried out by the Auditor-General and I am not aware that he has any planned. At this stage we do not have any internal audit planned for 2003-04, but our audit committee is still discussing with our internal auditors, Deloittes, the extent of our audit plan within the Treasury for 2003-04. Whether the First Home Owners Scheme would be one of the areas audited we have not yet determined.

Senator BARTLETT—Given that this is just a direct payment straight from federal level, what incentives are there to ensure that the funds are fairly, efficiently and legitimately distributed by the states—that the states are implementing the guidelines and distributing the funds appropriately?

Ms Harris—They give us figures which they say are true and accurate, so I am sure that they have appropriate mechanisms in place to ensure that they can vouch for those numbers. I can check with the person who is responsible for the area and get back to you on what specific things they may have in place.

Senator BARTLETT—That would be appreciated. Are you able to provide a breakdown by income level of the first home owners who receive the grant?

Ms Harris—No.

Senator BARTLETT—You do not have that sort of information?

Ms Harris—No.

Mr Murray—It is not a means tested grant, so we would not have that information.

Senator BARTLETT—So there is no direct way of assessing how much of it went to low-income earners and how much went to high-income earners?

Ms Harris—No.

Mr Murray—Not that I am aware of.

Senator BARTLETT—Are you able to provide a postcode and electorate breakdown of the take-up of the grant?

Ms Harris—We do not have that information.

Senator BARTLETT—Who would have it?

Mr Murray—The states and territories may have that information, but we would have to check on that. Whether or not that information would be accurate, I would not know, but they certainly should have some information at least on postcodes.

Senator BARTLETT—So the information that is provided to you by the states does not even include whether it is a grant to somebody in a city, in a regional town or anything like that?

Mr Murray—Not that I am aware of, but we could check that for you.

Senator BARTLETT—That would be appreciated. The description of your outcome is:

Spending measures should be effective in meeting their stated objectives, minimise behavioural distortions and deliver significant economic and other benefits compared with costs, thus contributing to the wellbeing of Australians.

How do you assess that outcome in terms of the effectiveness and efficiency of the first home owners grant?

Ms Harris—The first home owners grant was designed to be paid to all first home owners with no distinction between income levels or whatever. It was specifically designed to be a grant that is paid to all new home buyers. It depends on what efficiency criteria you are applying, but delivering that program is relatively straightforward.

Senator BARTLETT—What efficiency criteria do you apply when you are measuring it?

Ms Harris—We look at questions about allocation of resources—whether or not there are distortions in the way the scheme operates and that type of thing.

Senator BARTLETT—Do you have any specific performance indicators or other things with which to measure the effectiveness of the program?

Mr Murray—The basic rationale for the scheme is that the introduction of the GST would feed through into the cost of building and construction and eventually flow through into the secondary home market, and this was a measure intended to give some equity to first home buyers because they would be facing some increased costs. Second home buyers, of course, would already have some of that cost capitalised into the existing dwelling which they would be selling to buy the second or subsequent residence. So there was an equity issue here which was the main basis and rationale for the scheme. As Ms Harris has said, it is a fairly straightforward scheme. It is a standard, one-off payment and it goes to every first home buyer. It is a matter of following the guidelines to ensure that people are in fact first home buyers. There is some fuzziness around the margins because people may have had some indirect ownership in homes in the past, but our guidelines have tried to sort out those sorts of definitional issues at the margin about what a first home buyer is.

Senator BARTLETT—What mechanisms do you use to measure the effectiveness of this scheme in meeting the stated objective of providing some equity in those circumstances, and how do you measure that or ensure that it minimises behavioural distortions?

Mr Murray—It is reasonably straightforward. Obviously first home owners are getting the grant. It is probably of greater benefit to lower income than higher income first home buyers, because it is a set lump sum. So the benefits are fairly straightforward. There is not much to measure other than that we are delivering the funds to the states and the states are efficiently passing those on to legitimate first home buyers.

Senator BARTLETT—And you have been able to assess that there have been no significant market distortions or behavioural distortions as a consequence?

Mr Murray—We are not aware of any.

Senator BARTLETT—Do you looking for any? Have you got any way of measuring them? Or is it just that nobody has suggested any?

Mr Murray—It would be very difficult because, apart from assuming that the equity interests of first home buyers are being satisfied, it is a bit difficult to judge whether or not there is a full flow-on of benefits, because there may be some price effects in all of this. How you would sort that out from the ongoing price effects in both the first home market and the second home market would be very difficult to disaggregate. I am not sure exactly how we would go about measuring that, if in fact we thought that it was a priority.

Senator CONROY—I want to move on to special purpose payments. Can you give me an overview of the budgetary process for these payments? For example, to what extent is Treasury involved in setting the parameters for the payments or are they entirely run by the portfolio department involved?

Mr Murray—The government looked at the whole issue of special purpose payments last year and decided upon new guidelines for special purpose payments. Those guidelines are basically to retain the current input controls over special purpose payments and also to give some focus and some weight to outcomes from the delivery of special purpose payments. This was in recognition that special purpose payments are in areas of direct state and territory responsibility and that the Commonwealth was making a contribution towards those responsibilities with some stated national objectives. The government decided that it wanted to be able to have some adequate measurement of the delivery of outcomes on social and economic national objectives.

Senator CONROY—Where are those guidelines set out?

Mr Murray—Those guidelines were set out in a letter from the secretary to the Treasury to the heads of Treasury.

Ms Harris—We have also included them in the BP3. There is a general explanation of them there.

Senator CONROY—Budget Paper No. 3?

Ms Harris—Yes. It says:

The Government is seeking greater accountability in Specific Purpose Payment agreements to improve policy outcomes and deliver better value for money.

Senator CONROY—Does it then go on to detail those?

Ms Harris—It says:

All new and renegotiated Specific Purpose Payment agreements will include statements of key objectives and the respective responsibilities of the Commonwealth and the States, combined with agreed reporting of financial information and detailed performance indicators.

Senator CONROY—I am not sure that is quite the sort of detail I am after; is it possible to get that letter tabled? Is it a confidential letter? I presume it is not given it is just an agreement about what the guidelines are.

Mr Murray—It is a confidential letter between the Secretary to the Department of the Treasury and the heads of the Commonwealth-state treasuries, because it deals with other matters that were being negotiated at the time.

Senator CONROY—I appreciate you can delete the first paragraph, with the ‘Dear Richard, How are you today? The footy was good on the weekend’ type of stuff in it. How do we get a copy with slightly more detail than has been described in Budget Paper No 3?

Mr Murray—Can I take that on notice, Senator Conroy, and see what information we can get on that?

Senator CONROY—Sure. These are large expenditures of public money so I presume if there are criteria around them that we are able to get access to the criteria.

Mr Murray—Yes, we will certainly take it on notice to see what information we could make available. But certainly the essence of it is set out on page 19 of Budget Paper No. 3.

Ms Harris—That is right.

Senator CONROY—The essence is one thing but I am a bit of a stickler for the fine print. If you could take on notice what it is we can get access to, that would be much appreciated. Could I also make the point in relation to Mr Comley that we are happy to stick with him in AOFM but we do have some questions that probably traverse into your area specifically, Mr Murray. If it is not too much of an imposition, could we get you back at the same time? Your choice is that you can give him a ring now and say, ‘Come on down,’ or you can come back when he is on.

Mr Murray—I intend to appear then anyway. If that does relate to issues like valuation of debt, I would certainly have other colleagues—

Senator CONROY—Valuation of net worth or assets.

Mr Murray—I can probably cover that issue here.

Senator CONROY—Finance has covered it very adequately. Can I just take this as an example. When the government embarks on its negotiations for the new Australian health care agreement, who is responsible for providing a recommendation on what the appropriate quantum should be? Is it Treasury, DOFA or Health? Who is the lead? Is it an IGC? Take me through that process.

Mr Murray—This is the responsibility of the Minister for Health and Ageing. The Department of Health and Ageing is the responsible department.

Senator CONROY—You are keeping an eye on them—you and Finance—surely.

Mr Murray—But certainly there are interdepartmental discussions about those sorts of SPPs. With the health one, of course, being quite a major SPP, there are certainly discussions between central agencies and the line agency on those agreements.

Senator CONROY—I would like to go back to the original IGA from 1999. I note that it included the commitment that:

... the Commonwealth will continue to provide specific purpose payments to the states and territories and has no intention of cutting aggregate SPPs as part of the reform process set out in this agreement,

consistent with the objective of the state and territory governments being financially better off under the new arrangements.

Does that sound right?

Mr Murray—That does sound familiar.

Senator CONROY—The intention here seems to be that the SPP support would not be diminished and that general revenue funds from the GST would be in addition to these existing SPP commitments. Is that a reasonable interpretation?

Mr Murray—My understanding is—and Ms Harris probably knows a lot more about this area than I do—that yes, that is an aggregate commitment by the Commonwealth.

Senator CONROY—Was there any further specification at that time as to what was meant by ‘no intention of cutting aggregate SPPs’?

Ms Harris—No.

Mr Murray—Not that I am aware, no.

Senator CONROY—Was that in nominal terms, real terms, terms of maintaining existing service levels or some other metric?

Ms Harris—There has been no agreed specific benchmark. The states do a monitoring mechanism themselves, but there has been no agreed specific benchmark in relation to that.

Senator CONROY—What does Treasury think it means?

Mr Murray—I think it is quite unclear what it does mean—and certainly, as Ms Harris has said, there is no specific settlement of what that means. But, at the ministerial council meeting each year—

Senator CONROY—I am sure it is debated.

Mr Murray—The states bring forward an analysis of whether, in real per capita terms, that commitment is being kept.

Senator CONROY—I appreciate that. You have told me what the states think it might mean. What does Treasury think it means? What do you think it means, Mr Murray or Ms Harris?

Mr Murray—I am not sure that what I think it means is relevant.

Senator CONROY—You are the Treasury representative. I am asking you for an interpretation of an agreement that has been signed.

Mr Murray—To be truthful, it has never been specified other than in those general terms. I am not aware of any clarification that has been made on that point by the Commonwealth.

Senator CONROY—How has the commitment been interpreted in practice, then? If you do not have a specific, how do you start the parameter discussions when there does not seem to be a fence?

Mr Murray—I think it is quite clear that, in aggregate terms, the Commonwealth has been making a commitment that satisfies the states’ benchmarks of both real and real per capita. So it has never really come to a head.

Senator CONROY—So you are confident that, in both real terms and real per capita, aggregate SPPs have been met.

Mr Murray—Indeed.

Senator CONROY—I would like to move onto the budget treatment of SPPs. Am I correct in understanding that the SPPs are set out in table B1 of Budget Paper No. 3 and have all been included in full in the budget forward estimates?

Ms Harris—Yes, that is correct—B1.

Senator CONROY—And that is into the forward estimates as well?

Ms Harris—B1 goes out to 2006-07.

Senator CONROY—Can someone explain to me how they are treated in the general budget tables in Budget Paper No. 1—say, for example, the operating statement on page 2-14 and the table of expenses by function on page 6-7?

Mr Murray—The table on page 6-7 I do not know about. That is a department of finance statement. On the operating statement, it all depends. These payments are expense payments, so they could be what we previously would have called recurrent spending, payments of a capital nature or other sorts of payments. But the main part of this—I am pretty sure I am right—would be under ‘grant expenses’ in the operating statement.

Senator CONROY—Could you just repeat that.

Mr Murray—They are under grant expenses—if, in fact, they are expenses.

Senator CONROY—If they are expenses?

Mr Murray—They may be capital payments.

Senator CONROY—So they would be treated differently?

Mr Murray—Yes. And Mr French is telling me that the capital payments are in the capital transfers line of the operating statement.

Senator CONROY—So grant expenses and capital grants, and capital grants are treated in the capital transfer line. In particular, I want to understand how SPPs are treated in the budget forward estimates. Let us take the issue about years beyond the immediate funding agreement. Do the forward estimates include some sort of assumed pattern of future funding?

Mr Murray—Again, this is a department of finance responsibility. It can differ from agreement to agreement, as I understand it, but quite often it takes on a similar pattern to the pattern of the previous agreement.

Senator CONROY—For the purposes of simplicity, you just keep it constant, in other words.

Mr Murray—That has just been the convention—or at least the practice.

Senator CONROY—Budget Paper No. 3 is your budget paper, though.

Mr Murray—Yes.

Senator CONROY—I know we had a discussion just recently about the interaction between Treasury and Finance and these things. For simplicity, you just assume constant

dollars in the out years when the agreement has terminated. If it finishes in 2004, if you were doing 2005 and 2006, you would just assume constant dollars and plug those numbers in?

Mr Murray—It could be or it could be in terms of the spending pattern within that agreement. There could be a certain pattern of growth in a previous agreement.

Senator CONROY—So in real terms, you plug in a real—maintaining a real—

Mr Murray—Correct.

Senator CONROY—You would not just pick a value that you thought you might be able to sell it for in the future.

Mr Murray—No.

Senator CONROY—That was just a Finance in-joke for the Finance guys watching.

Mr Murray—We are not into speculating—you know that, Senator.

Senator CONROY—Actually, Ross Gittins thinks you are—he is remarkably poorly briefed, but he does think you are. I will assure him you are not. Let us take, for example—just so I can be absolutely clear, because I think I understand you now—the Australian health care agreements. In last year's budget, there were payments included in the SPPs table right through the forward estimates period even though the agreement was due to run out.

Mr Murray—That is correct.

Senator CONROY—And that does apply across the board?

Mr Murray—That is correct, unless it is a terminating SPP with no particular prospect that it is going to be renewed.

Senator CONROY—It is unlikely that health, for instance, is not going to be renewed.

Mr Murray—Exactly.

Senator CONROY—There will just be a lot of haggling.

Mr Murray—The health care agreement is a part of the whole Medicare arrangement, so you would assume that that would be an agreement that would be renewed.

Senator CONROY—You mentioned that it is in real terms. Do you take into account the basis of service costs in the future when you are making that calculation?

Mr Murray—That sort of detail you would have to address to the department of finance. I do not know whether they do any adjustments for those sorts of things.

Senator CONROY—What happens when it comes to negotiate the actual agreement? Do you then adjust the figures according to the opening bid by the Commonwealth? How does it work? Never having been in this position, I am in your hands.

Mr Murray—That is when the line department goes back and looks at all of the parameters to work out what would be a reasonable offer for a new agreement. They would then have discussions with the central agencies on those particular parameters.

Senator CONROY—On page 179 of Budget Paper No. 2, dealing with the Australian health care agreement, are you essentially saying that the saving indicated there is the

difference between what you had assumed in the forward estimates and what the Commonwealth has actually offered?

Mr Murray—That is correct.

Senator CONROY—So is this budget adjustment applied across the board whenever such funding negotiations commence?

Mr Murray—Yes. If there is a decision made by cabinet to make an offer, that decision is then duly reflected in the budget papers, as are all cabinet decisions.

Senator CONROY—Are they always declared as a separate measure?

Mr Murray—Unless—

Senator CONROY—Or do you sometimes tweak them to reflect the numbers without further public declaration?

Mr Murray—Correct. If a decision is made but not publicly announced, there may be something placed in the contingency reserve. Between, say, cabinet making a decision and the time of the budget, there may have been no announcement. But, if there is a public announcement or it is publicly announced in the budget, and that is a cabinet decision, then it would be reflected under that functional estimate.

Senator CONROY—I note that the contingency reserve—and I do have some questions on the contingency reserve—is scheduled to grow a fair bit again this year. Does that reflect that you anticipate that moneys will be moved across into it out of these Commonwealth-state agreements or is that a little too broad?

Mr Murray—Not that I am aware, no.

Senator CONROY—So when the states are arguing, the number you put forward in the budget is the real term of growth, not reflective of—

Mr Murray—If you are referring to the health care agreement, the cabinet decision that is then reflected here is then the public offer, and that is the money that is put in the budget. There is certainly no other money in relation to this agreement in the budget.

Senator CONROY—Just going back to the discussion we have been having on the numbers you put in before the cabinet decision—because you have to put a number in before the cabinet decision is made—

Mr Murray—We do not put any numbers in before cabinet decisions.

Senator CONROY—When you are putting the forward estimates out for a few years after the agreement has been—

Mr Murray—Oh, I see what you mean. The department of finance does those estimates, yes.

Senator CONROY—So that estimate goes out there and it is based on attaining real growth.

Mr Murray—It could be a real growth pattern; it could be a nominal growth pattern.

Senator CONROY—You said earlier that it is real growth. You assured me that it was real growth.

Mr Murray—In the health care agreement, I am sure it probably was, but it took into account various other factors as well coming out of the previous—

Senator CONROY—What sort of other factors would they be?

Mr Murray—There were various factors on growth that were built into the health care agreements—into the existing ones—about hospital utilisation, the ratio between inpatients and outpatients in hospitals and demand for services between the public and the private hospital sectors. Those sorts of parameters are built into the existing agreement, and that sort of pattern would then, as I understand it, run on into the forward estimates.

Senator CONROY—So in the case of health it is more than just simply real funding being maintained?

Mr Murray—That is how you partly got the 28 per cent real increase in the life of the current agreement.

Senator CONROY—But that is not what actually was delivered. That is what you forecast into your forward estimates, but that is not what was actually delivered in the end after the negotiations.

Mr Murray—That is what was delivered over the five years of the existing agreements running out on 30 June 2003.

Senator CONROY—It is less than the money that was originally forecast in the out years.

Mr Murray—The offers in the proposed new agreements are certainly less than the money that was in the forward estimates, as reflected here in the measure.

Senator CONROY—Let us now move on to the budget treatment of contingent funding subject to the finalisation of negotiations.

Senator MURRAY—Whilst you are waiting, can I ask a question?

Senator CONROY—Please.

Senator MURRAY—Under the mirror taxes provision at page 22 of Budget Paper No. 3, it says:

... mirror taxes are recorded as both Commonwealth revenue and negative revenue, with no net impact on the Budget.

The government introduced mirror tax arrangements in 1998 to ensure that the states were not financially disadvantaged by the High Court decision in *Allders*. My question is simply this: do you know why the Commonwealth records mirror tax arrangements in this manner but refuses to record GST arrangements in the same manner?

Mr Murray—I have no background in this at all. What page were you referring to?

Senator MURRAY—Page 22 of Budget Paper No. 3. It just seems inconsistent to me that mirror tax arrangements are recorded as Commonwealth revenue and negative revenue whereas the GST, which is a similar situation, is not recorded as Commonwealth revenue,

despite the advice of the Auditor-General to the contrary. I just wondered if Treasury had a view on it.

Mr Murray—I think this is probably a question best addressed by our Revenue Group, who are in outcome 2, but are scheduled to follow on. I am sorry; I do not have any background in the mirror tax arrangements and neither does Ms Harris, so it probably would be best to address that question to somebody later on.

Senator MURRAY—Thank you. I am sure Senator Conroy will carry it forward if I am otherwise engaged.

Senator CONROY—Are you suggesting that you are not going to be with me, doing the hard yards as usual?

Senator MURRAY—We have a mutual interest in ensuring that these things are properly reflected in the accounts, don't we?

Senator CONROY—That is exactly right. I want to talk about the treatment of contingent funding. Are these payments put in the forward estimates on the basis of the initial announcement by the Commonwealth even though the deal has not been finalised?

Mr Murray—In the contingency reserve?

Senator CONROY—Yes.

Mr Murray—They would not normally be placed in the contingency reserve. You are talking of a circumstance where a public offer has been made.

Senator CONROY—Let me be more specific. Let me return to the example of the Australian health care agreements. Please bear with me. As I understand it, the Commonwealth has made an opening bid.

Mr Murray—Yes—well, it has made an offer.

Senator CONROY—Call it whichever you like, Mr Murray. But some of this funding is contingent on the states meeting certain conditions, which we talked about earlier.

Mr Murray—Correct.

Senator CONROY—Is this contingent funding already in the budget forward estimates under the assumption that the states will meet these conditions?

Mr Murray—My understanding is that that is correct. All of the money, as I understand it, is in the measure as outlined in Budget Paper No. 2.

Senator CONROY—Is this budget adjustment applied across the board whenever such contingent funding is at stake?

Mr Murray—It may vary from circumstance to circumstance. I do not know. Certainly—

Senator CONROY—Let me give an example—the national competition payments. It is assumed that the states will meet their obligations and hence receive the payments pretty much in full—unless you are trying to buy an ACCC vote, and then you can blackmail a state—as has been the case so far. How are they treating NCC?

Mr Murray—I may have to check this, but my understanding is that they are fully in the budget—well, everything is in the budget—

Senator CONROY—I hope so or you are catching Finance's bad practices.

Mr Murray—They are fully identified in the budget, but, with the national competition payments, the current arrangements run out before the forward estimates run out. I think it is in 2005-06. For 2006-07, the government has placed something in the contingency reserve because there have been no negotiations as yet on what are going to be the new national competition arrangements. That is a good illustration of a situation where no decision has been made on what even to offer and so there is just money there in the contingency reserve to ensure that money will be available.

Senator CONROY—I am just trying to understand how the government treats the contingent funding. I think I said contingent reserve before; I actually meant contingent funding.

Mr Murray—If I can make it quite clear, in a normal circumstance, where they have made an offer, even though it may be contingent on meeting certain conditions, while that offer is on the table, there is an assumption that those conditions would be met. That is the offer, and that money is placed and identified in the budget.

Senator CONROY—With NCC, you have placed money even after the agreements have finished. Is that what you said?

Mr Murray—There is one year, and that is 2006-07, for which there are no arrangements. There is not even an offer.

Senator CONROY—Is there going to be a new competition agreement?

Mr Murray—I do not know. That is presumably up to—

Senator CONROY—If you have bothered to put a number in, you must have some indication that at least the government want to do it.

Mr Murray—That is what the contingency reserve is for, but, at the end of the day, it is up to the Commonwealth and the states and territories to come to an agreement on that.

Senator CONROY—If the government said to you that there was going to be no new NCC agreement, you would not have put any money in there.

Mr Murray—No.

Senator CONROY—Because it would be a program that was ending.

Mr Murray—That is right.

Senator CONROY—So presumably the government has not told you that there will be no further agreement.

Mr Murray—Correct.

Senator CONROY—At the last estimates, I thought we established that it was going to be an ongoing process. I am not trying to be tricky; I am just trying to remember where we got to last time.

Mr Murray—You were probably talking to our Markets Group.

Senator CONROY—It is clear that we need a bigger desk over there!

Mr Murray—The problem for us is that we have our finger in everybody's pie.

Senator CONROY—That is the way it should be.

Mr Murray—You ask us the questions, but you probably need to ask them the questions as well.

Senator CONROY—I think it was actually the NCC that said it. They are underneath your department.

Mr Murray—Exactly, but they are even further removed from us.

Senator CONROY—I am really just trying to get a handle on this. I have three examples here, and I am just trying to understand how you account for them in the budget papers. One is, to use your word, the offer. One is like the NCC, where you assume they are going to meet obligations, so it is just straight budgeted for. What about Commonwealth payments—for example, the higher education package, which has similar contingent funding? Is this also already accounted for in the forward estimates on the assumption that the conditions are met? That is a slightly different variation again on the previous two types of examples.

Mr Tune—Yes, that is correct. Those numbers are fully in the budget, on the assumption that that package will be accepted.

Senator CONROY—I would now like to move on to general fiscal policy. When I checked the record from the last time, I noticed that this topic was pretty much one that we had a good chat about, though I think we had a few problems on some other topics.

Mr Murray—I did not think we ever had problems on any topic!

Senator CONROY—We do on trying to delineate between your responsibilities and those of Finance. Someone has even suggested to me that even the answers we got were fairly Delphic. I am hoping I can make a bit more progress than last time. In your answer last time, you stated:

We would start looking at the basic overall parameters about budget strategy for the next budget around September or October ...

Was that the case again for this year's budget?

Mr Murray—Yes.

Senator CONROY—Then presumably you update your thinking as new economic data become available after that. It is an iterative process over eight or nine months.

Mr Murray—That is correct. It feels like 12 months!

Senator CONROY—I am intrigued by your answer from last time about where we are in terms of balancing the budget over the cycle.

Mr Murray—Yes.

Senator CONROY—I will not quote it back to you and put you on the spot—I have it here if you want it—but essentially you seem to be saying that, while some data, some theory and some modelling help, it basically comes down to judgment. Is that a fair representation?

Mr Murray—I do recall saying that.

Senator CONROY—I would like to explore with you this sense of how all the rest of us can work out where we are in terms of balancing the budget over the cycle. After all, this is the primary objective of the government. Page 1-5 of Budget Paper No. 1 says that the primary objective of the government's fiscal strategy is to balance over the cycle. I am just trying to get an understanding of your thinking on this. How do you define the economic cycle? Could I start at that basic level.

Mr Murray—That is pretty tricky.

Senator CONROY—It must be hard balancing it then, if it is pretty tricky to define.

Mr Murray—That is why this is the longer-term objective or the medium-term objective. We do have some shorter-term, more operational objectives. You can take a cycle from—

Senator CONROY—So balancing over the cycle means that you can go into deficit as you did last year?

Mr Murray—Yes. You can go from peak to peak or trough to trough.

Senator CONROY—Surplus to deficit to surplus.

Mr Murray—Well—

Senator CONROY—That is still balancing the cycle.

Mr Murray—Exactly. But I do point out to you that the government has some more operational supplementary objectives. The important one—and I draw your attention to 'Fiscal strategy' on page 1-5 of Budget Paper No. 1—

Senator CONROY—Increasing net worth.

Mr Murray—I have not got that far. It says:

... maintaining budget surpluses over the forward estimate period while economic growth prospects remain sound.

That would be our main operational—

Senator CONROY—What is the definition of not remaining sound?

Mr Murray—If you are going into negative growth, that would not be remaining sound.

Senator CONROY—So you have got to plunge into negative growth?

Mr Murray—Given the sort of growth that we have had in the recent past and that is forecast for this year, we would look upon that as prospects being sound.

Senator CONROY—You are in fiscal deficit next year though, Mr Murray; that is an important indicator. The Treasurer has lauded this, as has Treasury. I am sure I could find some quotes from Dr Henry—he is fond of quotes. He has lauded the fiscal balance over the years, and you are in fiscal deficit next year. Are the economic parameters unsound? Is that why we are in fiscal deficit next year?

Mr Murray—Not all. I would draw your attention to the underlying cash balance—

Senator CONROY—Ah, the underlying cash balance—that number that Treasury so readily dismissed in previous years.

Mr Murray—I cannot recall us readily dismissing cash balances.

Senator CONROY—You were championing the fiscal balance, saying: ‘Time to move on; we’ve educated everybody. Fiscal balance is the go.’

Mr Murray—I do not recall us ever doing that, but certainly the underlying cash balances for 2002-03 and 2003-04 are clearly in surplus during a period of sound economic growth.

Senator CONROY—But you are in fiscal deficit.

Mr Murray—Not in 2002-03 and 2003-04.

Senator CONROY—No, but you are in one of the next two years.

Mr Murray—Yes.

Senator CONROY—Does that indicate that we have got some unsound economic circumstances?

Mr Murray—No.

Senator CONROY—Or some unsound numbers, or is there a negative growth in there somewhere that we have not noticed?

Mr Murray—No, it does not indicate that at all.

Senator CONROY—What does it indicate?

Mr Murray—It indicates that there is a divergence between the underlying cash balance and the fiscal balance. That is what it indicates. The fiscal balance does have in it more longer-term factors, particularly the Commonwealth superannuation liability.

Senator CONROY—Yes; you might have noticed I had a chat with Finance about that very issue.

Mr Murray—I noticed you had that chat. That is a main driver of the wedge between the underlying cash balance and the fiscal balance. If you are looking at the overall macroeconomic effect of the budget on the economy this year, then those sorts of longer-term fiscal developments, which are very important, are not of such consequence this year.

Senator CONROY—We have moved out of the medium term now into the longer term.

Mr Murray—No, all I am pointing out is that if you are looking at just what the effect of the budget is on the economy this year then the underlying cash balance is the one that we look at, and certainly the one that the financial markets look at. The fiscal balance is an accruals concept that tries to get at a similar measure, but it does take into account some longer-term developments like superannuation liability. All I am saying is that those liabilities are important and they show up quite clearly in developments in the balance sheet. It is not that we are ignoring them, but you are asking me about an indicator at this particular point in time.

Senator CONROY—Mr Murray, was it you who wrote the 1999 publication *Fiscal policy under accrual budgeting*?

Mr Murray—No.

Senator CONROY—Do you have any idea who wrote that in Treasury? It was a whole publication about how the fiscal balance is the key measure. Does anyone want to own up to being the author? Blair is not here; he is pretty prolific.

Mr Murray—I do not think it was even Mr Comley. I do not recall who it was.

Senator CONROY—On page 2 of that particular publication it says:

Following the introduction of accrual accounting, the Government will aim to achieve fiscal balance—the accrual counterpart of the underlying cash balance—on average over the economic cycle.

Does that ring any bells? Come on, someone must be going to fess up to it soon.

Mr Murray—I certainly cannot say that I recall that particular sentence in that particular document.

Senator CONROY—Lost it, have you? Would you like us get you a copy? I know that the Treasurer has lost his copy.

Mr Murray—I am sure that I can get access to that document.

Senator CONROY—He threw it out the window at about 10.12 this morning! We will see if we can track one down for you. Going back to the economic cycle, you were trying to define it for me and I distracted you. Please continue.

Mr Murray—All I was going to say was that you can look at the economic cycle in various ways. From peak to peak or from trough to trough are probably the most conventional ways to look at the economic cycle.

Senator CONROY—What is the average period of the economic cycle? We have had a bit of a bull run. Does that mean that the economic cycle has been 14 years, because there has been no trough?

Mr Murray—It probably does mean that. There have been some ups and downs along the way.

Senator CONROY—Sure, but they have been relatively modest.

Mr Murray—This has been a very long cycle, there is no doubt about that.

Senator CONROY—So it is not really possible, then, to look into the future and forecast a cycle? You can only look back and say, 'That was a cycle'?

Mr Murray—I am not an expert on business cycles, but that is probably a fair observation.

Senator CONROY—Tragically, I once wrote a paper on them, but I will not bore you with that.

Mr Murray—In many ways, to talk about cycles as something predictably regular is not very meaningful.

Senator CONROY—What rate of economic growth would you consider the norm around which the fiscal cycle should be based?

Mr Murray—Looking at the long run, real growth is about 3½ per cent and that is the growth that is built into the budget numbers. I think that is set out in budget statement 3, but I am not quite sure where.

Senator CONROY—I note that the Treasury secretary, Dr Henry, told the Melbourne Institute dinner on 7 February that the average growth rate in the Australian economy over the past 40 years was 3.75 per cent, as opposed to your 3.5 per cent in the out-year projections to the budget.

Mr Murray—That is correct.

Senator CONROY—Which one would be your measure of the average growth rate?

Mr Murray—Certainly in the budget it is 3½ per cent, and that has been fairly standard now for a while.

Senator CONROY—Are you understating it, given Dr Henry's figure of 3.75 per cent?

Mr Murray—No, we have to project this forward a bit, because we have to take into account demographics. We have to look at what is going to be the underlying employment growth and we have made assumptions there that that is probably 1½ per cent with two per cent productivity gain to give you the 3½ per cent forward projection. We are looking backwards, but we are also looking at forward projections of the employment outcome.

Senator CONROY—Thank you, someone has found a copy of *Fiscal policy under accrual budgeting*. They must have found the Treasurer's after he tossed it out the window—along with his dummy—this morning! I will see if I can find a name in here of who was responsible for it.

Mr Murray—In terms of those parameters, Mr French has kindly pointed out to me that it is on page 1-5 of Budget Paper No.1.

Senator CONROY—No-one has been brave enough to do a Blair Comley and put their name to it—it is just a Treasury document, from what I can see here. You are saved, Mr Murray.

Mr Murray—Most of us are fairly modest!

Senator CONROY—I hope Blair isn't watching. No, there is no name on it. Never mind—we will keep searching for the author. So you factored in some productivity issues for the next couple of years as opposed to Dr Henry's long-term figure?

Mr Murray—We have put in two per cent going out to 2006-07. That is the sort of performance we had over the 1990s.

Senator CONROY—So you have narrowed the cycle?

Mr Murray—I think we are being fairly optimistic, at least over this period, about ongoing productivity performance. But of course we have noted, as we usually do, in our more long-term piece—budget statement 4—the need for ongoing attention to policy reform if we are to sustain that sort of productivity performance.

Senator CONROY—You mentioned that it was a little hard to predict the length of the cycle. I do not think you said it was meaningless but I got the impression you meant that the

US studies showed that it was fairly hard to predict the length of a business cycle. If it is hard to predict the length, that must make it almost impossible to balance over the cycle, wouldn't you say?

Mr Murray—In operationalising this sort of medium-term approach you certainly need to take a reasonably conservative view that at some stage you are going to need to adjust to the possibility of deficits. There is no doubt about that.

Senator CONROY—This government has certainly run a deficit and it is going to run a fiscal one in the near future.

Mr Murray—In operationalising this, whenever there is a downturn what we call the automatic stabilisers in fiscal policy would operate. By that I mean that with lower growth you would automatically have lower tax revenues and you would probably be paying out higher unemployment benefits et cetera. But, on top of that, every government would take some discretionary fiscal action in a downturn. At that stage, under this scenario, the government would need to be quite clear about the amount of room it would probably have to move. It would want to know that the fiscal stimulus would operate fairly quickly in an operational sense—that it would have an effect on the economy fairly quickly and return it to balance in a reasonable period of time. If it were going to balance over the cycle it would certainly have to be running some surpluses—and reasonably large surpluses—to counterbalance that. We have seen that in the current cycle.

Senator CONROY—No; the surpluses we have going forward are pretty pitiful on anybody's assessment. It seems to me that the only logical basis for a policy that balances over the cycle is to say that our benchmark growth rate is some number or other so that when you are below the benchmark you will start to look towards some stimulus and when you are above it you will start to run up surpluses. I think that is pretty much what you have just described.

Mr Murray—Yes.

Senator CONROY—What is the magical number—3.5 per cent, you reckon?

Mr Murray—The magical number for what?

Senator CONROY—I said that you need to start with a benchmark growth number to work around. We were discussing 3.75 per cent—Dr Henry's long-term growth figure over 40 years—versus your 3.5 per cent.

Mr Murray—Our working benchmark is 3½ per cent. Bear in mind that we are moving into a different demographic era than the past 40 years.

Senator CONROY—So people are ageing faster?

Mr Murray—No; because of demographic factors, employment growth is less than—

Senator CONROY—The Treasurer aged a couple of extra years this morning, but I did not think the rest of us did. Isn't the conventional means of measuring progress against this objective to determine the structural balance—that is, the cyclically adjusted budget balance? Does that seem reasonable?

Mr Murray—You certainly can do work on that; but there are a lot of conceptual issues around what the structural balance is, and how to operationalise the structural balance can be quite difficult. You have to know exactly where you are in the cycle.

Senator CONROY—That is what we have you for.

Mr Murray—That is why we have much more pragmatic supplementary objectives such as the one I quoted.

Senator CONROY—So you think this is not a pragmatic objective?

Mr Murray—To balance over the cycle? I did not say that.

Senator CONROY—You just said you have much more practical—

Mr Murray—I think it is a very laudable medium-term objective, and it does mean that government is under a fair amount of discipline, particularly if the economy goes into negative growth—as I have tried to explain.

Senator CONROY—If the benchmark is 3.5 per cent—

Mr Murray—To try and become precise on this by modelling what the structural deficit or surplus is—

Senator CONROY—I thought that was why we had Treasury. I thought that was why we collected the finest minds.

Mr Murray—You may have Treasury to do some of the modelling background to this but, as we all know, good modelling also takes good judgment. That is what we do on top of that.

Senator CONROY—That is very fair. So the benchmark is 3.5 per cent. Why the fiscal deficit next year?

Mr Murray—As I said, there is a wedge between the fiscal and cash balances anyhow, and the government's main objective is the underlying cash balance, because it is running surpluses on that cash balance.

Senator CONROY—I thought I read you the government's main objective; the Treasurer has announced that the main objective is the fiscal balance. It is something championed by your own documents, so I am concerned that you may be accidentally misleading the committee.

Mr Murray—I would never do that. I am trying to recall exactly what your quote was, so you have me at a disadvantage. You were talking about the fiscal balance over the cycle and, as I tried to explain, the fiscal balance is subject to longer-term developments. Therefore, it is much more meaningful, as far as we are concerned, to focus on the cash balance. The cash balance and the fiscal balance have their pros and cons depending on the circumstance.

Senator CONROY—Never a truer word was spoken. Is it not also the case that the Commonwealth published an estimate of the structural balance in the 1996 budget papers?

Mr Murray—I am not aware of that.

Senator CONROY—In 1996 they did.

Mr French—I am not aware of it either. It may be the case, but not as far as I am aware.

Senator CONROY—It was discontinued that year.

Mr French—If it were published, I suspect it would reflect some of the difficulties Mr Murray was alluding to earlier.

Senator CONROY—It is chart 4, ‘Structural Budget Balance for Australia, OECD Estimates’ on page 1-13 of the budget paper.

Ms Mrakovic—They are OECD estimates.

Senator CONROY—I only said that you published them.

Ms Mrakovic—Certainly we have published OECD estimates of the structural balance.

Senator CONROY—Why did you stop publishing them?

Mr Murray—I am at a disadvantage here, because I was not aware that we published it in the first place. I am not aware in what context it was published—whether it was part of our longer-term piece in the budget. I am not even sure what budget statement it is in.

Senator CONROY—It is on page 1-13, over from 1-12 in Budget Paper No. 1 1996. The heading is ‘Future policy flexibility’.

Ms Mrakovic—If memory serves me correctly, that chart was also accompanied by quite a few paragraphs that cautioned against the use generally of structural balance estimates. It certainly discussed that these were available but also cautioned against the use and interpretation of them.

Senator CONROY—It is perfectly reasonable to put all the warnings in.

Ms Mrakovic—I do not think that there was anything specific that went to why they were included in that year and not included in the next. I think that, in the context of introducing the medium-term fiscal strategy and trying to essentially discuss in general terms the types of concepts, it was thought to be useful in that particular year. But I think, as has been indicated in hearing after hearing, there are general concerns about essentially relying on structural balance estimates over a long period of time to basically make assessments about the stance of fiscal policy.

Senator CONROY—Do you do any internal calculations on the structural balance?

Mr Murray—Certainly not in Fiscal Group.

Senator CONROY—Would anywhere else possibly do them?

Mr Murray—You could ask Macroeconomic Group. They have overall responsibility for macroeconomic policy and they may do some analysis.

Senator CONROY—I appreciate the points you make about having to be careful about relying on it, but we are just asking about whether it is publishable.

Mr Murray—We certainly do not do any work on that in terms of the operationalisation of the budget.

Senator CONROY—So you would not be able to tell me whether or not this budget is estimated to be in structural surplus or deficit for 2003-04?

Mr Murray—That is correct.

Senator CONROY—Would the Macroeconomic Group possibly be able to tell me?

Mr Murray—I do not know. It is possible. You could ask them.

Senator CONROY—What do you reckon the odds are?

Mr Murray—I do not know. They have never told me. They may tell you.

Mr French—I am certainly not aware of any work done over recent times.

Ms Mrakovcic—I am sure they would be appropriately cautious in coming to a conclusion on that matter, given the concerns they have over the use of potential output, potential output gaps et cetera.

Senator CONROY—Are you aware that the British government continues to publish an estimate of the structural balance to allow scrutiny of how it is going with respect to its golden rule? Do not tell me the British Treasury are smarter than the Australian Treasury. Stand up for yourselves!

Mr Murray—I am not aware.

Senator CONROY—But the British Treasury are not smarter than us.

Mr Murray—They are certainly not smarter than us.

Senator CONROY—I am pleased to hear it.

Ms Mrakovcic—They may be less cautious.

Senator CONROY—Are you aware that Access Economics calculates a structural balance? I know that they are very incautious—possibly even frivolous at times—with their calculations.

Mr Murray—I did read some press report on Access Economics' work on this. I have never discussed it with them—or they have never discussed it with us, as far as I am aware.

Senator CONROY—You mentioned that you need to be cautious. Would you dismiss the structural balance as a way of being able to measure balance over the cycle, even though the OECD and the British Treasury do these calculations?

Mr Murray—I would not dismiss it out of hand. I think that what I would say is that you would not want to rely on that sort of analysis for the year-to-year operations of a particular budget. I think that is the point. But, on the evolution of fiscal policy—

Senator CONROY—But you did say that, when you are trying to work out when the economic cycle was, it is a longer-term picture. Surely, you can help me with that.

Mr Murray—Structural balance would have its usefulness in that context.

Senator CONROY—I turn back to the question of the overall fiscal stance. Treasury starts advising the government on the overall parameters for the next budget back in September-October.

Mr Murray—Yes.

Senator CONROY—It then updates this as further economic data becomes available, presumably with respect to updates on external factors and updates as the internal budget measures take shape. Is that reasonable?

Mr Murray—That is reasonable; yes.

Senator CONROY—Do you do a before-the-event assessment of how expansionary or contractionary various budget measures might be?

Mr Murray—Not necessarily before the event. We would be putting forward advice to the Treasurer fairly early on, but we would then have to take into account the preliminary look at possible budget measures back in November-December. Then the expenditure review committee starts in February-March—and we would be giving advice to the Treasurer at that point in time as well. He would have the economic outlook before him plus the stance of where the budget is and where it might be moving to.

Senator CONROY—So you would bowl one up and say, ‘This individual item will mean this projection and the aggregate of all these individual items gives us this projection.’ You would provide that sort of information for them to know where they would be at if they did not make any discretionary changes. Is that a fair way to describe the process?

Mr Murray—Correct. It would be pretty difficult to estimate at that point in time whether a budget would be stimulatory or not.

Senator CONROY—I understand that. How long—and the answer to this is probably ‘as long as a piece of string’—does it take for the budget measures to have their full impact felt in the broader economy? I have done work on how long it takes monetary policy to, but not fiscal policy.

Mr Murray—It all depends on what the measure is. You could have a measure like a family payment—

Senator CONROY—That would be almost instantaneous because that is spent almost immediately, isn’t it, depending on the introduction date?

Mr Murray—Depending on the introduction date and whether there are offsetting savings effects of the measure, but certainly pitched to low and—

Senator CONROY—They have no discretionary savings or they are negative savers and they spend most of that sort of money, so it would churn through pretty quickly from the date of implementation, I would have thought.

Mr Murray—You would expect that that would have a fairly immediate effect. Infrastructure spending could take quite a while. You then have to take into account the longer-term effect of budgetary measures. If you were going from a surplus into a deficit, then that may illicit quite a strong savings response from the community as it believes that it will be hit by higher taxes later on—so some sort of Ricardian equivalence effect. You would need to take that into account.

Senator CONROY—Did you do an estimate of the impact of the personal income tax cuts in the recent budget on the broader economy?

Mr Murray—It is not our role in the Fiscal Group to take that sort of measure into account.

Senator CONROY—Who would do it?

Mr Murray—It would be the role of the Macroeconomic Group to look at that. They would be looking at reasonably small numbers I would have thought. In an economy of \$700 billion plus—

Senator CONROY—I think that we have had the sandwich and milkshake example done to death; you do not have to do it again. The Treasurer indicated that the decision to offer tax cuts was taken quite late in the budgetary process. I will quote to you from the *7:30 Report* where the Treasurer says:

Pretty late in the process, once we were pretty confident of the figures.

... ..

... I was in touch with the Prime Minister while he was overseas but I was back here doing things, so he wasn't discussing these in Texas.

So the PM is over on the ranch with George. The Treasurer finishes by saying:

I was back here working on them.

It was not too long before budget night that the Prime Minister was on the ranch, is that right?

Mr Murray—That is correct.

Senator CONROY—How many weeks before the budget was given down was that? Was it two to three weeks before the budget was handed down that the Prime Minister strapped the spurs on and was home on the range?

Mr Murray—I cannot recall, but it was not that long before the budget.

Senator CONROY—It was 2 May that he was on the ranch and the budget was on 13 May. Does that sound about right?

Mr Murray—That sounds about correct.

Senator CONROY—When the Treasurer says, 'Pretty late in the process, once we were pretty confident of the figures,' he must have had some idea where things were at two weeks out from budget day.

Mr Murray—We did.

Senator CONROY—What is your assessment of the personal income tax cuts in terms of their expansionary fiscal policy impact?

Mr Murray—I do not think that I am qualified to answer that.

Senator CONROY—I think you are being bashful.

Mr Murray—I have already indicated that, in terms of the total economy—

Senator CONROY—It is a modest amount.

Mr Murray—Modest.

Senator CONROY—So shall I ask the Macroeconomic Group or just leave it with you?

Mr Murray—You can just leave it with me. They will probably give the same answer.

Senator CONROY—Do you think that that impact will continue out into the forward years—the modest little milkshake and sandwich?

Mr Murray—You have a jump down, if you like, and that is the stimulatory effect. That continues.

Senator CONROY—It does?

Mr Murray—Yes, but I would not have thought it adds to growth. If there is a stimulatory effect—

Senator CONROY—You would or would not?

Mr Murray—Would not. I may be wrong, but my analysis of this would be that it has added a stimulatory effect, and then, because it is a permanent tax cut, it retains that level of increased GDP unless there is some sort of saving offset that might detract from that.

Senator CONROY—What was the policy rationale for the stimulus?

Mr Murray—The best person to answer that would be the Treasurer, but my understanding is that the Treasurer, having looked at the numbers in consultation with the Prime Minister, decided that there was room to deliver tax cuts, believing that lower taxes were good for incentives and good for efficiency within the economy, and to return those funds to taxpayers.

Senator CONROY—That seems to be slightly at variance with the argument about trying to run surpluses when growth is above 3.5 per cent. Did you advise them to do this on the basis that we are going to be only on 3.25 per cent and we need a bit of a tax cut to get ourselves back up to that long-term average?

Mr Murray—Not at all. We advised the Treasurer that, if he took this measure, there would still be surpluses.

Senator CONROY—One dollar is a surplus. Plus one is still a surplus.

Mr Murray—I am not sure the Treasurer would live comfortably with a \$1 surplus.

Senator CONROY—But, for the purposes of the discussion, \$1 would equate to a surplus.

Mr Murray—No, appropriate surpluses, which, as you can see, the government has delivered.

Senator CONROY—What is an appropriate surplus—just for my information? You said it, not me.

Mr Murray—One dollar would not be an appropriate surplus.

Senator CONROY—Two dollars?

Mr Murray—No.

Senator CONROY—Four dollars? The famous \$4—the sandwich and a milkshake. Is that a surplus?

Mr Murray—We would look upon what the government has delivered, in terms of the 2.2, 1.3, 1.2 and then 4.7 in the out years, as appropriate surpluses, and that was the advice that we gave to the Treasurer.

Senator CONROY—I might return to appropriate surpluses at some point with you. I assume that, with this late decision from the ranch in Texas, this necessitates some substantial

recalculation of the budget tables pretty late in the process. Were the economic forecasts also redone to take into account the additional fiscal stimulus?

Mr Murray—Not that I am aware of. Certainly, there were changes to the tables.

Senator CONROY—Would you be aware of them if they were done?

Mr Murray—I would be aware, yes, but I am not aware of any changes to the forecasts, and they would have been probably within rounding error anyhow.

Senator CONROY—You could end up next to Senator Vanstone in an ad with a statement like that.

Mr Murray—Certainly, I am not aware of any—

Senator CONROY—Tax cuts—within rounding error. I like it. I want to move on to paid maternity leave. Has Treasury done any work on paid maternity leave?

Mr Tune—Yes.

Senator CONROY—In the last 12 months?

Mr Tune—Yes.

Senator CONROY—Are you able to share with us what options have been explored and what sorts of costs are involved?

Mr Tune—We have done some exploration and looked at the costing of the Human Rights and Equal Opportunity Commission proposal.

Senator CONROY—That is Pru Goward's proposal?

Mr Tune—Yes. That is ongoing; it is not complete yet.

Senator CONROY—I thought the Minister for Finance and Administration had indicated that it was not a goer. You have not noticed that?

Mr Tune—I have seen statements by Senator Minchin.

Senator CONROY—So you have just ignored them?

Mr Tune—No, it is under consideration by the government. I think Senator Minchin said that more recently, in fact.

Senator CONROY—You have basically modelled Pru Goward's package?

Mr Tune—She got NATSEM to do a costing. A certain methodology was used as part of the consideration of that which is part of the normal policy process we go through. We would have a good look at that in conjunction with—

Senator CONROY—Have you now costed it to your satisfaction?

Mr Tune—We are looking at the costing NATSEM have done and running through some of the assumptions with them. As I said, that is incomplete at the moment.

Senator CONROY—So you have not put any recommendations forward yet?

Mr Tune—No, there are no recommendations to government at this point.

Senator CONROY—When do you anticipate completing your process?

Mr Tune—Sometime in the next couple of months, probably.

Senator CONROY—Okay. Has Treasury been doing any work on welfare reform more generally; in particular, considering further reforms to the taxation and welfare system?

Mr Tune—It is an issue we constantly look at; it is a sort of bread-and-butter issue for us.

Senator CONROY—Have you established a process for that within Treasury?

Mr Tune—No. My division within Treasury has that as part of its—

Senator CONROY—So it is you.

Mr Tune—Yes, and there are processes within government with which we are associated. Some of those we are centrally involved in and some of those we are monitoring and other departments are looking after. For example, we have contact with the one that is being run by Minister Vanstone and Minister Abbott on the welfare reform exercise but it is basically being run from FaCS and DEWR.

Senator CONROY—What are they up to?

Mr Tune—A series of consultations are going on around a paper on a single work force age payment that was released publicly late last year.

Senator MURRAY—Are you keeping an eye on the Senate committees?

Mr Tune—We are indeed.

Senator MURRAY—There are two looking at that area right now.

Mr Tune—That is right. The one we are looking at in particular and monitoring is the Senate Community Affairs References Committee inquiry into poverty.

Senator MURRAY—And the Senate Employment, Workplace Relations and Education Legislation Committee on the [Workplace Relations Amendment \(Protecting the Low Paid\) Bill 2003](#)?

Mr Tune—The bill that is before parliament, yes.

Senator MURRAY—That is worth looking at as well.

Senator CONROY—Your division in Treasury is looking at this and there are some other departments involved in a slightly separate process. Do you have a combined process overseeing these?

Mr Tune—One of the issues we are looking at—and I think Mr Murray alluded to this earlier—is the issue of the follow-on implications from the Intergenerational Report and some of the implications of the ageing population. The government has asked us to chair a group of Commonwealth departments which is looking at some of the implications of that and what policy options may be available over a longer time period—not so much immediate options but things that may be done structurally over a longer period of time.

Senator CONROY—I am glad Senator Sherry is not here, because he would probably ask you questions on that for the next three hours. We are safe as long as he is not watching. Has the Treasurer asked you to do anything on PML specifically?

Mr Tune—We are part of a whole-of-government process that is looking at it.

Senator CONROY—When Pru Goward produced her report she did not just send you a copy and say, ‘Can you cost this?’ Or did the Treasurer say, ‘Can you give us a bit of an overview of this?’

Mr Tune—No, it was a report to the government and the government is looking at that as part of its policy processes. The Prime Minister has announced that the government is looking at issues around work and family, and that is one of the issues that is being looked at in that context.

Senator CONROY—What are the objectives of the process that you are working on?

Mr Tune—Which one? I have named about three so far.

Senator CONROY—I will go back to the first one, on PML. What is your objective?

Mr Tune—Our role in that is to provide advice to the government on paid maternity leave or other options that may assist work and family balance.

Senator CONROY—And what is the objective of the welfare taxation process?

Mr Tune—We have a number of objectives, I suppose, but our key objective there is to ensure that the welfare system and its interaction with the income tax system maximises participation opportunities, reduces disincentives and has adequate participation requirements for those on income support—those sorts of policy issues.

Senator CONROY—Have you identified what the major problems and impediments of that issue are?

Mr Tune—Of what?

Senator CONROY—The interaction between tax and welfare issues.

Mr Tune—There is a range of issues around some of those we talked about in budget statement 4 in fairly general terms. There are issues around the level of taxation; marginal tax rates; the way they can interact with income test withdrawal rates that may, depending on how they operate, have an impact on incentives; eligibility criteria for welfare payments; participation requirements for welfare payments—all of those things can have an impact.

Senator CONROY—Have you got a time frame for reporting on that? It seems that you are pretty busy at the moment.

Mr Tune—Probably over the course of the next six to eight months.

Senator CONROY—You are going to have to try and grab some of Mr Murray’s empire; it has been getting bigger.

Mr Tune—I am part of Mr Murray’s empire.

Senator CONROY—Grab more of it. So the next six to 10 months, did you say?

Mr Tune—Six to eight months, something like that.

Senator CONROY—Going back to PML for a second, have you looked at any models other than Pru Goward’s?

Mr Tune—We have certainly looked at overseas models around paid maternity leave. They are somewhat different of course because of the nature of the systems that operate in most

other countries where they have a social insurance system, whereas we have basically a flat-rate benefit, general revenue finance income support system. They have been looked at but there are other forms of assistance that the government currently provides through things like maternity allowance, which has a somewhat similar objective but is not entirely the same. All of those things are being considered.

Senator CONROY—Thank you very much. I have no more questions.

Mr Murray—Before we finish, I want to make a clarification about the tax cuts and their stimulatory effect—

Senator CONROY—They are suddenly very stimulatory?

Mr Murray—No, I want to point out that we were aware, in the run-up to the budget, of moves in other parameters as well. The exchange rate, for instance, had appreciated further, and this is an issue that you could discuss with the Macroeconomic Group. However, those sorts of effects always occur between when the budget numbers are settled down and the delivery of the budget. Some of those effects are moving to stimulate and some are moving in the other direction. We had a range of factors there, but the central forecasts and risks around those forecasts, as the Macroeconomic Group will assure you, were not really going to change that much.

Senator CONROY—You have got to draw off at some point.

Mr Murray—I want to seek a clarification as well. Do you want to cover now the moves to change the treatment of government debt in the budget?

Senator CONROY—As in the super, do you mean?

Mr Murray—No: moving to market value of debt.

Senator CONROY—I think I am coming back to it with you and Mr Comley at that point.

Mr Murray—Yes, but that will probably entail my budget colleagues joining us as well at that time.

Senator CONROY—Okay, sorry I was just going to lump it all in together.

Mr Murray—That is fine.

Senator CONROY—I could check that and come back to you if you like, so that you can go and not have to come back. I suspect that is when I will be doing it, but I will let you know after the break.

Proceedings suspended from 3.13 p.m. to 3.32 p.m.

Australian Taxation Office

Senator CONROY—Mr Carmody, at the last session you undertook to get back to us about the methodologies used to determine the extra revenue expected from various extra compliance initiatives. I just looked through our records, and the committee do not seem to have received any response at this stage.

Mr Carmody—Sorry about that. I can give you a broad outline now.

Senator CONROY—Did you prepare one?

Mr Carmody—I did not know that that was on the list of questions that was given to me to respond to, but I am happy to provide that in detail if you would like.

Senator CONROY—Please do.

Mr Carmody—One of the major areas for investment that was set to provide dividend from an extra investment by government was our large business program. I think we foreshadowed total collections, which included the improvement of about \$50 million, of \$800 million. We have already collected between \$850 million and \$900 million on that, so there has been an overachievement of the outcome there. We projected a 2:1 return in our GST operations. We are running above 2:1—possibly around 2.5:1 or so. Our debt collection had an overall figure of \$1.46 billion, which included the increased debt projected to be collected. We are on track to overachieve that.

In some of our small business areas, we are running slightly behind, but they were not large amounts. If you look at the total dividend—if you want to call it that—from the extra investment, we will over-achieve the outcome in relation to that. That is notwithstanding that our selection processes for the additional staff meant that we could not get all people on, fully trained, from day one, so we have actually underspent in this year in the extra resources provided by government. It is recorded in the budget papers that we have given back \$50 million of that because it was a one-off lag in recruitment. Overall, that is the picture.

Senator CONROY—You also undertook to answer some questions on notice regarding consultancy with Econtech. They are one of my favourite modellers, so I am always interested in what they are up to. We only got those back literally this morning. Were you aware of that? They were provided to the committee this morning.

Mr Carmody—I am broadly aware that some questions were only recently supplied to the committee, yes.

Senator CONROY—Do these ones ring a bell as being only recently supplied?

Mr Carmody—Sorry?

Senator CONROY—Do these ones in that batch that were only recently supplied ring a bell?

Mr Carmody—It has been a while since I looked at them. I cannot really comment.

Senator CONROY—You indicated in the answer that you were not prepared to release the report. Is that correct.

Mr Carmody—That must be the answer that we have given you.

Senator CONROY—Could you give us reasons why.

Mr Carmody—I do not know that I have anyone here who can help me answer that question.

Senator CONROY—Could you chase someone up. We will be here for a little while.

Mr Carmody—I am sure we will be. I will see what is possible.

Senator CONROY—I note from your speech on 14 March this year that you stated that you would be updating and publishing this—you were talking about the compliance program—at the start of each income year. Are you on track to meet this target this year?

Mr Carmody—Yes, if you consider July the start of the income year.

Senator CONROY—Should I consider January?

Mr Carmody—No, I would not consider January. We are working towards a July release of that, and next week we are also releasing a much more detailed program on large business compliance. My intention is to annually release the overall compliance report, but on an occasional basis—to take some key elements of that and broaden out the detail and the depth of the compliance issues and approaches that we apply to particular market segments or whatever. Next week, we are releasing a fairly detailed report or review of large business compliance.

Senator CONROY—Do you think it would be more useful to set the publication date in advance of the end of the financial year tax rush?

Mr Carmody—Most returns do not come in until months after July. We have made a big step, first, in producing the report and publishing the report, and, secondly, in getting the report out in July rather than December. I will see.

Senator CONROY—So you think it is something you could work towards rather than—

Mr Carmody—Yes. We will see if we can continue to improve that. It gets tied up with our whole planning processes.

Senator CONROY—You go on to note that the first of your more detailed sectoral studies in this area will focus on the large and international segment.

Mr Carmody—Yes.

Senator CONROY—How are you going with that work? Is it on track?

Mr Carmody—It will be released on Tuesday of next week.

Senator CONROY—Would you like to give us a scoop?

Mr Carmody—No.

Senator CONROY—The *Financial Review* is sitting up the back there, but okay. Will you be publishing additional revenue estimates along with that work?

Mr Carmody—I think we have been through this before on occasions. The revenue estimates published in the budget papers take account of an expected level of compliance that is supported by our compliance program. So the revenue estimates for next year would take account of the expected impact of our compliance programs—that is, the revenue estimates already included in the budget papers. So, for example, from the additional investment in large business, I think our large business was projected to go up a further 100 and something million dollars. That is already reflected in the budget papers, and so with the other additional returns promised from the investment.

Senator CONROY—I would like to get your views on the feasibility of publishing estimates of the tax gap, which is defined as the difference between the tax due under the

collection laws of the Commonwealth and the tax actually collected by the ATO. I am advised that the Internal Revenue Service in the US publish estimates of a gap. Are you familiar with that?

Mr Carmody—Over a number of years they have attempted to publish such estimates. I do not know that there is an absolute level of confidence in that. I think that there is also—

Senator CONROY—Could you explain what you meant when you said that there was not confidence?

Mr Carmody—My understanding—

Senator CONROY—One is a figure that is printed at the beginning of the year and the other is a figure that is printed at the end of the year.

Mr Carmody—You asked me to say what the difference was between the amount theoretically payable—I do not think you used the word ‘theoretically’, but I will—under our laws, if you could review every transaction and determine whether that tax was paid, and the amount actually collected. My view is that it is mission impossible to determine that. In the past the IRS have attempted to do that by conducting a very extensive sample auditing program and then attempting to extrapolate from that. The reason I said what I said about confidence is that I think that was ceased a few years ago, although they are looking at whether they can try again. I do not know that their level of confidence in it was absolute.

There are also other very significant issues in relation to the resource cost of doing that. You are doing it randomly; therefore, you are spending a lot of your resources on cases that do not come out with a result. That is the nature of a random, as opposed to a targeted, approach to where risks are. Secondly, I think there were concerns about the cost to the American community. So, on the grounds that those issues about attempts at sampling like that and the diversion of resources required for it are very significant—and then there is the question about what additional information it gives you to enable you to actually reduce the gap—I certainly would not be recommending it.

Senator CONROY—I think you are being a little harsh there. I would have thought that, with the appropriate health warnings, it would still be valuable for a degree of transparency and accountability. This is a number that goes into the budget papers.

Mr Carmody—We put into the budget papers the estimated collections that reflect the results and impact of our compliance programs. That is what we do. That is very different from trying to pull out of the air a figure that would say, if—somehow, magically—the tax law were perfectly applied to every transaction and item in the economy, the amount collected would be this. I just do not believe it is possible to achieve that.

Senator CONROY—But the government makes the same criticisms of the figure that you plug into the budget papers. The Audit Office has recommended that it should be using the figure you are talking about that goes on to the budget papers; they do not want to use it so they keep getting qualified accounts.

Mr Carmody—This is a different estimating issue as I understand it.

Senator CONROY—The government argues that it is not a reliable figure, the one that you are now touting as more reliable than this other one.

Mr Carmody—No. I am sure Mr Smith would like to have another discussion about the alternative basis of calculating revenue for a year. The budget estimates reflect the estimated collections for the coming year which are based on the impact of our compliance programs. I was answering what I thought was a different question of whether it is possible to calculate the revenue gap, as I think you described it, in an accurate way. You mentioned the IRS. They have had some attempts at it—that has stalled in recent years, although they are looking at it again. But I have also outlined what they have to go through to do that. From my perspective, given the resources I have and the impact on the community, more is to be gained by ensuring that those resources are directed at those areas that we have identified as being at risk of noncompliance and addressing those risks rather than bothering—which you would do in random samples—with the total income tax of people who we do not believe are doing anything wrong. Given the size of income tax, I think that is where I would sit.

Senator MURRAY—I have a follow-up query. Mr Carmody, I am interested in the same area but from a different direction. There are two figures that we know. One is total income tax collections and estimates—and estimates are materially affected by precedent; what you got last year influences your perspective as to what you produce next year—

Mr Carmody—Yes.

Senator MURRAY—The other one is slightly more rubbery but is still out there as a government figure, and that is the tax expenditures area. I am interested in what the real tax paid is per demographic cameo of income tax payout. For instance, take a person earning \$100,000. What is their actual tax paid and, if you took into account the likely effect of tax expenditures on them, what is the real consequence of that? I cannot recall the statistics on \$100,000 but you have got them somewhere. You might have a real, effective actual income tax paid of 33 per cent. If you knock off the tax concessions, some of which did not come through the income tax system—for instance, the private health insurance rebate does—and it might come down to 28 per cent. So when somebody writes to me and says, ‘I earn \$100,000 and I am sick of this 47 per cent tax rate,’ I can say, ‘Hello, chum, your real net tax impost is such a figure.’ Is that work done, being contemplated or capable of being done?

Mr Carmody—I do not have the taxation statistics in front of me. They produce a range of charts of occupations and segments of the community but I do not know that they go to that level of detail. It is not in my consciousness—and I do not even know whether we could do that at the moment, but our pattern of approach is reflected in the taxation statistics that we publish.

Senator MURRAY—You do it where it comes through the income tax system—so actual income tax paid less the various rebates and you arrive at a net tax payable figure—can you do it per demographic cameos?

Mr Carmody—There is a range of those in the taxation statistics. I do not have those in front of me, but there is a range of them.

Senator MURRAY—Obviously, there is value to a policy political person. But from a tax department’s perspective is there any value in you arriving at the real net figure, which is the actual tax payable net under the income tax system less the tax expenditures which are not recorded through that?

Mr Carmody—I am not sure what information or intelligence that would give us to enable us to do our job better. The taxation statistics that we produce are more a by-product of what we do naturally. So, just off the top of my head, I cannot think of a particular compliance approach reason why we would do that. Obviously, we look at compliance for these various rebates and so on. But I think what you are querying really goes more to issues of policy—of levels of effective tax and so on.

Senator MURRAY—I think you are right; I think it is a policy political position, particularly given the pressure we are all under about tax rates. At the heart of my question really is whether your systems key in the tax expenditure calculations or, rather, they are left outside and held within Treasury.

Mr Carmody—It depends on the nature of the tax expenditures. If we deliver them through the system, it may be that we have that information. But, if they are not delivered by us, I just do not know. I could examine what is possible, but I do not know.

Senator MURRAY—Could I, through the chair and through the minister, ask if you would not mind taking it on notice and just letting us know what is in your data system—

Mr Carmody—What matching is possible.

Senator MURRAY—from the tax expenditure area, so that I know what is excluded?

Mr Carmody—I will do that.

Senator MURRAY—Thank you.

Senator CONROY—I want to move to the issue of high-wealth individuals, which I think you have been dancing around. Do you still have a High Wealth Individuals Taskforce?

Mr Fitzpatrick—Yes, we do have a High Wealth Individuals Taskforce.

Senator CONROY—What is it up to at the moment? Here is a chance for you to give a paid ad on behalf of the tax office.

Mr Fitzpatrick—We are managing compliance by high-wealth individuals. That is what we are up to.

Senator MURRAY—So you have not reduced the number of high-wealth individuals.

Mr Carmody—Hang on, we do not want to reduce the number of high-wealth individuals in this country. The more high-wealth individuals, the more tax we collect.

Mr Fitzpatrick—It depends where you draw the line as to what is high wealth.

Senator CONROY—I was just about to ask that very question: just how high-wealth do you have to be before you are a person of interest to the task force?

Mr Fitzpatrick—Over the last six years or so since the task force was established we have drawn the line at people who control wealth of around \$30 million or more. At present, we estimate that 600 to 650 people are in that category. Obviously, the number of taxpayers would be significantly higher, because we look at the trusts and companies they control and operate their businesses through.

Senator CONROY—So you are looking at 600 to 650 entities, which is less than the number of people?

Mr Fitzpatrick—No. We are looking at about 650 individuals who control companies or trusts—

Senator CONROY—So it is many more.

Mr Fitzpatrick—It is many more.

Senator CONROY—Could you draw us a diagram of that?

Mr Fitzpatrick—That depends on how complex you want to become. Some individuals control a large number of companies and trusts; some control a very small number. It varies. As you would know, many people run their businesses through companies and trusts.

Senator CONROY—How many entities is it, roughly?

Mr Fitzpatrick—Over the 650 or thereabouts?

Senator CONROY—Yes.

Mr Fitzpatrick—I am not sure that I have those figures. I would imagine that it would be over 10,000.

Senator CONROY—It is over 10,000 entities?

Mr Fitzpatrick—From memory—

Senator CONROY—I will not hold you to the exact number. I understand that there is a bit of variation. But it is around 10,000.

Mr Fitzpatrick—I might have said something in the media about this recently. I will have to check. I think the number is around that.

Senator CONROY—How many staff do you have at the moment?

Mr Fitzpatrick—We have about 110.

Senator CONROY—So it is about three people each, is it?

Mr Fitzpatrick—No. It does not work that way. We operate on a risk management approach. Obviously, we monitor some taxpayers much more closely than others. We have a rolling program of monitoring over a period of time. The higher the risk, the greater examination from us in relation to that taxpayer's affairs.

Senator CONROY—What are some of the broad areas of the tax law this leads you into?

Mr Fitzpatrick—There are a range of arrangements and issues we would look at over a period of time in our audits. One of the areas which we have been focusing on over the last year has been in relation to capital gains tax. As I think I have said before at one of these hearings, we are closely looking at the sale of business assets, restructures and reorganisations to ensure that the appropriate capital gains tax is paid on sales of assets. We have certainly seen some evidence of some concerns in that area. In the compliance program we published last December and, as the commissioner indicated a few minutes ago, which we are about to publish again soon, we have indicated some of the areas we are focusing on, and capital gains tax is one of those.

Senator CONROY—I am advised that the 1998-99 edition of *Taxation statistics* was the last to include a table on the income and tax arrangements of individuals with taxable incomes of more than \$500,000 and that that table was not included in 1999-2000. Is that correct?

Mr Fitzpatrick—I do not recall, but if you are talking about individuals with taxable incomes over a certain figure—

Senator CONROY—I think it was \$500,000.

Mr Fitzpatrick—that might not necessarily include high-wealth individuals, because, as I said, many of those run their business through a company or a trust and they do not necessarily have high levels of individual income.

Senator CONROY—How many of the 600 to 650 would have taxable incomes of less than \$500,000?

Mr Fitzpatrick—I do not know the answer to that but, as I said, most would run a business through a company or trust. They might get franked dividends from the company which they control, they might get distributions out of trusts they are beneficiaries in or they might get salaries—it varies.

Senator CONROY—Why was the table dropped?

Mr Fitzpatrick—I do not know.

Senator CONROY—This was the general taxation statistics, not just the high-wealth taxation statistics.

Mr Fitzpatrick—This is statistics about individuals with high levels of income?

Senator CONROY—With taxable incomes of more than \$500,000. You previously had a table in there and it is not there now.

Mr Fitzpatrick—I do not know the answer.

Senator CONROY—Do you think it should be put back in, Mr Carmody?

Mr Carmody—I do not know. I would have to look at why it was taken out in the first place. I just do not know.

Senator CONROY—Could you take on notice to answer why it was taken out and whether or not you would be looking to included it again?

Mr Carmody—I am sure we can.

Senator CONROY—Could you find out who made the decision to drop it?

Mr Carmody—I will examine why it was taken out. I am not quite sure what the benefit would be of naming individual tax staff who make these decisions.

Senator CONROY—It could have been Mr Petroulias! Could you provide the committee with a comparable table for 1999-2000 and 2000-01—cumulative figures, if necessary? Even if you are not putting them in your statistics, could we get the updated tables?

Mr Carmody—I will examine whether we have that information.

Senator CONROY—Will you be including it in the 2000-01 edition of *Taxation statistics*?

Mr Carmody—I do not know. It is not something that has crossed my mind to date and probably normally would not cross my mind. Having examined why it was there and why it was taken out, I will examine whether it should be put back in.

Senator CONROY—Thank you.

Senator MURRAY—Mr Fitzpatrick, by occupation, barristers and solicitors do not really fall into that category, do they?

Mr Fitzpatrick—Not generally. There might be some, but not generally.

Senator MURRAY—A lot is written about arbitrage, the attractions of the company tax rate being lower than the top income tax rate, the attractions of capital gains tax percentages being so much lower and so on. Have you found in your work that you have been able to analyse the effects and the nature of arbitrage at all?

Mr Fitzpatrick—As I said, many wealthy taxpayers run businesses through companies and trusts. That has been longstanding. We have looked at capital gains, as I mentioned before, more in the context of whether those companies or trusts are seeking to avoid capital gains liabilities as distinct from the discounted capital gains for individuals recently introduced. We have not, to my knowledge, seen any real evidence of exploitation of that discounting of capital gains, but obviously that is an area which we would be looking at.

Senator MURRAY—You would assume from some of the commentary—and you would have the corporate memory—that, pre the capital gains tax changes, pre the drop in company tax from 36 per cent to 30 per cent—the typical high-wealth individual would have had a profile of entities and after those changes you would see the profile change. My impression is that the profile has not changed—in other words, that the typical relationship of trusts and companies to a high-wealth individual before this happened is the same as subsequently. Would you agree with that impression?

Mr Fitzpatrick—Most of the evidence we have is that that would be right. There may well have been minor changes. There would have been some changes in different groups, but generally speaking what you say would be right.

Senator MURRAY—This is again an important policy issue for the government and parliamentarians concerned with this area. The constant statements that arbitrage is occurring at a high rate are used as a justification for lowering the personal income tax rate. I think there is a lot of baloney spoken about it, frankly, and I look for real evidence. You are the people who have the data to tell us whether there is real evidence of this.

Mr Fitzpatrick—One of the areas where there might be arbitrage is in respect of the alienation of personal services income—that is, true personal services income put through a company or a trust arrangement.

Senator MURRAY—Isn't the motive there more commonly that you have much more attractive write-off provisions for expenses rather than the arbitrage effect of the actual income tax rate?

Mr Fitzpatrick—To some extent. I was going to say that there may be to some extent more opportunity to deduct expenses through a company or trust than individually, certainly, but I think that, in the area of high-income taxpayers, it is more trying to have that income

taxed through the company or trust arrangement. We have not seen much evidence of that in the higher wealth task force over the last few years, because there is not much of true personal services income derived. There is the occasional case where that has happened, and there was one case in the court in the last 12 months, when the court found in favour of the taxpayer. The court held that it was not personal services income. But we have not seen that as a major area of risk in the high-wealth area.

Senator MURRAY—Still in the high-wealth area, you have had a great deal to do with the tax office crackdown—for which I compliment you all—on mass marketed tax effective schemes and aggressive tax planning. Are you able to measure materially the effects of your campaign in the high-wealth tax compliance area?

Mr Fitzpatrick—We just need to be careful. Mass marketed schemes and high wealth do not go hand in hand.

Senator MURRAY—But the claim has been that numbers of high-wealth individuals have been very interested in tax effective schemes, some of which have been cracked down upon—not all.

Mr Fitzpatrick—It is not our experience that the people we look at in the high-wealth area have been involved in mass marketed investment schemes.

Senator MURRAY—Not even employee benefit schemes offshore?

Mr Fitzpatrick—Not so much in the high-wealth area that we are talking about. Certainly, there have been high-income people—presumably to some extent high wealth, but not to the level that we are talking about—involved in employee benefit schemes, but we have not seen very many. I am not sure of any high-wealth people—the 600 or so that we were talking about earlier—involved in those sorts of schemes. As I said, we certainly see people with high incomes involved in those schemes. We need to be careful about what we are talking about here—whether it is high-wealth people or taxpayers more generally.

Senator MURRAY—I am just focusing on high wealth for the moment.

Mr Fitzpatrick—The 600 or so that I mentioned earlier that we have examined or are examining in the task force have not generally been involved—if at all—in the mass market investment schemes or employee benefit schemes.

Senator MURRAY—So their area of interest has remained that which it has classically been—namely, the most effective from a tax minimisation point of view entity structure and, of course, offshore arrangements?

Mr Fitzpatrick—There are a variety of arrangements. Certainly, in the mass marketed area we saw a number of film schemes which were mass marketed. We have seen evidence of some high-wealth individuals involved in what I call tailored film scheme arrangements—tailored to their own circumstances. They were not going into a prospectus based film scheme; they were going into other types of more tailored film scheme arrangements—similarly structured but not necessarily the same. We have certainly seen evidence of that. One of the things we have found over the years is that some of the arrangements might initially start as being more tailored for people like high-wealth individuals. They then might get marketed more broadly or more widely to a range of taxpayers. So film schemes have

been one area where we have certainly seen evidence of high-wealth individuals being involved as well as higher income people more generally—as well as the mass marketing of some of those types of arrangements or techniques to the broader population. There are other types of arrangements which high-wealth individuals have been involved in which are somewhat tailored to their own circumstances.

Senator MURRAY—Thank you. That is all I have on high wealth.

Senator CONROY—I am just wondering how much revenue you are targeting with your 600 to 650 individuals.

Mr Fitzpatrick—I can tell you how much revenue has been collected from our audit activities if that is the question.

Senator CONROY—I am happy to take it up, but that was not my question. How much potential tax liability are you looking at—

Mr Fitzpatrick—There is no potential or targeted figure to collect each year from high-wealth individuals. As in other areas of our compliance work, we look to examine the risks and to address those risks. That results in collections of additional tax from audit activity. It is also important that in—

Senator CONROY—You must have an estimate of what you are seeking to recover. If you did not, how do you justify having 100-odd people working on it?

Mr Fitzpatrick—If we collected no money over two or three years, we would reduce the numbers of people, because the risk would be lower. That has not been our experience to date. As time has gone on, we have collected more, I think. In the last couple of years, we have collected more than in the previous years, as some of the more complex cases have been finalised and taxes have been collected. I do not put a targeted figure on collections. It will vary, depending on the types of cases, what stage they are at in their finalisation and whether the case has been heard in the courts or taxpayers are prepared to concede or settle cases.

Senator MURRAY—But your realised revenue—actual money in the bag—has been greater than your actual costs, hasn't it?

Mr Fitzpatrick—Yes, significantly so. That is why we have not abandoned the task force.

Senator CONROY—Could you tell us what the declared tax bill is in aggregate for these 600 to 650 people?

Mr Fitzpatrick—No, I do not have that figure.

Senator CONROY—Can you get it for us? We will be here for a while.

Mr Fitzpatrick—Not today—or tomorrow, I suspect.

Senator CONROY—You are coming back tomorrow.

Mr Fitzpatrick—I do not think it will be available for some little time. We would have to look at all of the entities—not the 600 or so individuals. To answer that properly, we would need to look at the entities, including the trust distributions, to see who paid tax out of the income derived in the trust. We would obviously look at the taxes paid by the companies. That would take some little time to get.

Senator CONROY—Perhaps you would take that on notice then.

Mr Fitzpatrick—Yes.

Senator CONROY—You mentioned that you would tell us how much they brought in.

Mr Fitzpatrick—Yes. Over the last six years, there were collections of around \$750 million from audit activities.

Senator CONROY—The last 12 months? Do you have a figure for that?

Mr Fitzpatrick—About \$250 million, I think, has been collected in the present financial year. A relatively small amount of those collections is still in dispute. That is how much has been collected from audits.

Senator CONROY—Let me just get this right. It is \$750 million over six years.

Mr Fitzpatrick—That is correct—collected through audit activities.

Senator CONROY—That is from between 600 and 650 people.

Mr Fitzpatrick—The population has varied over the six years. Some people have come in and some have gone out. But those are entities generally—it is generally through entities as opposed to single individuals.

Senator CONROY—Because of your extra work, your extra auditing and chasing them down their various burrows, you have raked in \$750 million, give or take a bit due to some ongoing argument, from between 600 and 650 people—accepting that some people have come and gone.

Mr Fitzpatrick—That is right, from the entities which they control.

Senator CONROY—That is very impressive.

Mr Fitzpatrick—Thank you.

Senator MURRAY—I always look for it in your annual report.

Senator CONROY—Do you budget into next year? From the sound of it, it is growing—200 at the end of 750 sounds like it is a growing figure rather than a decreasing figure.

Mr Fitzpatrick—The total will be growing, hopefully, each year.

Senator CONROY—But annually? In six years, you have not pulled in \$200 million annually.

Mr Fitzpatrick—No, that is right.

Senator CONROY—I appreciate that at the beginning in the early stages you would not have understood the structures as well, and you have refined it over the years and you are able to sort of chase them down deeper burrows.

Mr Fitzpatrick—But I think I mentioned once before here that the amounts raised per year will vary depending on the cases which have resolved or been finalised in a particular year and whether taxpayers have conceded, paid up, settled or whatever. That will vary because some of the cases vary in their amounts. Also, I would expect—and there is some evidence of this—that, because of our actions, taxpayers are voluntarily improving their compliance. That

continues to occur. There will be fewer high-risk issues and cases involved and the audit collections may well not be as great as each year goes on.

Senator CONROY—Do you get to claim that extra increased compliance as part of your \$750 million?

Mr Fitzpatrick—No. The \$750 million relates to—

Senator CONROY—Can you hypothecate it so you can say, ‘Because we’ve been chasing them, they are now just coughing it up voluntarily.’ I am just trying to help you with your budgetary claims there. Is Mr Carmody is now snaffling this money that you flushed out and you are not getting the credit for it?

Mr Carmody—No, I give him every credit.

Mr Fitzpatrick—Not personally; I do not get extra pay or anything! We do try—and always have done—to influence improved compliance behaviour. That will be reflected in additional voluntary compliance through what we would call indirect revenue as distinct from direct from audit activities. It is very difficult to measure the indirect effect, because there would be a variety of factors one could imagine in cases which impact on the level of taxes paid via a company, a trust or an individual in a particular year. We believe that our actions over a period of time now have influenced behaviour in a number of individual cases where they are paying more tax voluntarily than they used to. We will attempt to measure that as best we can to give a more comprehensive assessment of the effect of our work.

Senator CONROY—Thanks for that, Mr Fitzpatrick. I want to move on to some questions about the use of bankruptcy by high-income earners to avoid payment of tax. Is it correct that the ATO established a project in December 1997 to look at the compliance issues in the legal profession and that one of the issues flagged at that time was the use of bankruptcy to avoid payment of tax?

Mr Topping—Yes.

Senator CONROY—What were the parameters of that project? Do know how many staff were assigned to it when it was set up?

Mr Read—Back in 1997 there were probably about 15 staff involved. There would have obviously been a profiling stage with the majority of those staff at that point in time, so half of them would have been undertaking analysis work.

Senator CONROY—So that is suggesting that there would be a natural diminishing after that?

Mr Read—No.

Senator CONROY—Or a natural growth after that?

Mr Read—There is a growth at the moment.

Senator CONROY—Does that project still exist as a separate entity?

Mr Read—Yes, it does.

Senator CONROY—What are the current staff numbers?

Mr Read—The total number is 22.

Senator CONROY—Do you report on any of this activity in the annual report each year?

Mr Carmody—We do report regularly on it.

Mr Read—We have not done so in the last annual report.

Senator MURRAY—Is that because you are worried about being sued?

Mr Carmody—No, not at all. I think it was a cycle I had signalled in the two reports previously, and then in the report before last I outlined the outcomes of our activities because it was a topical issue.

Senator MURRAY—I was in jest.

Senator CONROY—Why was it not reported on this time, Mr Read?

Mr Read—As the commissioner said, it had been reported in two previous reports and—

Senator CONROY—It is still topical—you are on camera now, let me promise you.

Mr Read—Yes, and there were other issues as well that the commissioner highlighted in the last annual report that were quite topical. The project was ongoing. I am not sure of the exact reason why it was not included in the last annual report.

Mr Carmody—I think the general explanation is that with annual reports there are certain things you are obliged to report on—we do those, and then we tend to report on a range of different issues each year according to the major issues we are confronting at the time. It was just that we had been through two cycles with that—we had given a fair indication and there were other issues that we sought to include in the report this time.

Senator CONROY—When was the decision taken to spread your attention more widely to other professions as well in relation to this issue?

Mr Topping—We had actually been looking at these right from the commencement. We had looked originally in the 2000-01 annual report. The commissioner reported on persistent debtors generally. As a result of some early analysis we looked more broadly at the issue of persistent debtor behaviour across the entire debt population. This led us to the identification of around 700 cases in the first instance. They were, and are, managed by another project—the persistent debtors project.

Senator CONROY—Mr Read, your 22 staff are separate from the persistent debtors?

Mr Read—That is correct.

Senator CONROY—They focus purely on the barristers themselves?

Mr Read—Barristers and solicitors.

Senator CONROY—So they are particularly persistent debtors?

Mr Read—That is right.

Mr Carmody—Some of them are.

Mr Read—There obviously has been a change over time.

Senator CONROY—A few of them are getting the hint that that is not optional?

Mr Read—That is right.

Senator CONROY—Well done. How many staff do you have on your persistent debtors program?

Mr Topping—At the current time, there is a core of seven staff. They have been involved in analysis and the management of a number of specific cases, but some of those cases are handled more broadly by other case management staff in the operations environment.

Senator CONROY—How many hard-core cases are you handling, Mr Read?

Mr Read—If you are referring to the earlier annual reports, we identified those with over \$100,000 in debt in New South Wales.

Senator CONROY—At this point, I was thinking in terms of numbers of individual cases rather than dollars.

Mr Read—There are 973 barristers with debt nationally. I will have to get back to you on the number of solicitors.

Senator CONROY—Would it be a comparable figure? I do not know what the ratio in the broader community is.

Mr Read—There would be more solicitors.

Senator CONROY—Would there be substantially more than that?

Mr Read—Yes.

Senator CONROY—If you could come back to us with that information later today, that would be much appreciated.

Mr Read—The population is probably about six or seven times greater for solicitors than barristers.

Senator CONROY—That is still a very high incidence though of hard-core tax avoiders.

Mr Read—I suppose we have had a change over the last three years, especially with barristers in New South Wales, from a lodgement of about 56 per cent to a lodgement of about 97 per cent now.

Senator CONROY—Three years ago, only 56 per cent of barristers bothered to put in a tax return?

Mr Read—Had lodged on time. There was continual effort over the last three years and now we have lodgement of 97 per cent in New South Wales.

Senator MURRAY—I seem to recall that one particular barrister had never lodged.

Senator CONROY—Yes, one of them had slipped through. Senator Coonan, this is your old stamping ground. What has been going on?

Senator Coonan—I did not do any stamping there.

Senator CONROY—I would hope not. One in every two that you bumped into each day was not putting in their tax returns on time.

Senator Coonan—It is a very busy profession, Senator Conroy. I am glad that they eventually get around to putting it in.

Senator SHERRY—Is being busy an excuse for putting your tax return in late?

Senator Coonan—No, I am not suggesting that it is an excuse.

Senator SHERRY—You seem to be implying it.

Senator Coonan—No, I am not even implying it. It might explain it.

Senator CONROY—Mr Read, did you say that it was 97 per cent in New South Wales?

Mr Read—That is right.

Senator CONROY—So you were one of the three per cent, Senator Coonan?

Mr Carmody—No, 97 per cent lodge on time now; three per cent do not lodge on time.

Senator MURRAY—Is that the same nationally?

Mr Read—No. We are now undertaking the analysis nationally. Our major focus has been on New South Wales. From February 2002 we have broadened the project into barristers and solicitors nationally. We are running TFNs against the various lists and rolls to identify the total population.

Senator CONROY—Did you say that 56 per cent failed to lodge on time three years ago?

Mr Read—Yes.

Senator CONROY—Was that in New South Wales or the national figure?

Mr Read—New South Wales.

Senator CONROY—Minister, you never lodged late? You weren't one of the 56 per cent who lodged late?

Senator Coonan—Whether you lodge late or not might depend on whether you have an extension of time. I do not know. It is a very generic—

Senator CONROY—My accountant handles it for me.

Senator Coonan—And for me, I might add.

Senator CONROY—I hope so. New South Wales seems to have a particularly entrenched culture there that you certainly seem to be getting on top of.

Mr Read—There are about 170 outstanding tax returns nationally for barristers of a population of about 3,680.

Senator MURRAY—That is six or seven per cent. I do not know if you recall that, in the answer to a question on notice to you last year, E56, they said that lodgement increased from 70 per cent in New South Wales in May 2001 to 96 per cent at the end of January 2002. So it is a very recent improvement.

Senator CONROY—Thank Paul Barry. Of those 170 returns, how many back years are they behind?

Mr Read—Of those that are behind, demands have been issued for lodgement on all of those and, where not lodged, prosecution action .

Senator CONROY—Are they two or three years behind?

Mr Read—I am sorry, I do not have that with me. I can easily obtain that.

Senator CONROY—If someone could, that would be great. It is now 97 per cent in New South Wales. What is the percentage nationally now?

Mr Read—I cannot give you that answer just at the moment.

Senator CONROY—Will you be able to get it to us shortly? We will be here for a little while.

Mr Read—I do not think the analysis has quite been broken down to get it back to you tonight. You will probably get it tomorrow afternoon.

Senator CONROY—That would be great. Thank you.

Mr Read—As far as barristers go nationally, as I said, there are about 170 returns outstanding.

Senator CONROY—Out of 6,000. It sounds like it is pretty high now nationally.

Mr Read—Out of 3,680.

Senator CONROY—You indicated that solicitors were a bit worse. Would that apply to their return rate now as well?

Mr Read—As I said, we have not done the total picture on solicitors nationally as yet, so I have not got the full data available to give you any advice on their overall lodgement.

Senator CONROY—Going back to the persistent debtors program, there are 700 cases. Are they broken down into any particular other professions? Who else makes the shame file?

Mr Topping—I am not sure about the shame file, but we have done some further analysis and that has now led us to look at—you are damned if you do and damned if you don't—subsets of the medical and accounting professions.

Senator CONROY—Doctors and accountants.

Mr Topping—Yes. I should point out that further analysis of the medical profession does not show them as having a rate of debt that is higher than the more general debtor population.

Senator CONROY—And accountants?

Mr Topping—It is difficult to say with accountants, because the way in which we do our analysis requires us to try to make matches. Where we have not already done it, our proposal is to try to make matches with the records of various professional associations. With the accounting profession, in many instances they may be members of more than one association.

Senator SHERRY—More than one accounting association?

Mr Topping—Yes—more than one professional body.

Senator SHERRY—Financial planners do not come into the picture?

Mr Topping—I do not have any information on financial planners.

Senator SHERRY—I will pass the good news on.

Senator CONROY—What are the current operational arrangements in the ATO for looking at your persistent debtors? Is there a separate unit?

Mr Topping—In the first instance there is, I suppose. There is a project team, but they have been managing some individual cases and they have also been doing some analysis. It is important to have regard to what we identify as a persistent debtor. There are a number of different factors, often in combination. They could include the period for which a debt is outstanding, the extent of legal action required to obtain payment and not meeting a payment arrangement where there is no sound reason for that—in other words, where cash flow seems to be okay. There are also people who we think might have been seeking the shelter of insolvency administration. The overriding identifier is demonstrated behaviour to avoid the payment of tax obligations through the use of those measures.

The way in which we would deal with a person identified as such is to notify them of that fact and of the fact that we will perhaps manage their lodgment and debt situation more closely. When they come to the attention of the unit we might say to them, ‘Whatever the normal requirements are for lodgment, we expect you to lodge without the sorts of concessions you would get through your tax agent or whatever.’ It is about letting them know that we are going to pay much closer attention to their affairs.

Senator CONROY—I note that the Assistant Treasurer, in association with the Attorney-General, issued a press release on this issue on 2 May.

Senator Coonan—That is true.

Senator CONROY—Senator Coonan, I congratulate you on how heavy going it was, as press releases go. Hopefully you will be able to explain to me some of the more arcane legal points. As you well know, I am not a lawyer.

Senator Coonan—Perhaps you could give me a copy of the press release, as I do not have it with me. I will have a go.

Senator CONROY—I do not have a copy here but I am sure my questions are so thorough that I can just work my way through it with you.

Senator Coonan—You have probably committed it to memory.

Senator CONROY—As I said, it left me breathless and I am hoping for your assistance in understanding it. Can we take it that this expresses in broad terms the state of play—that this summarises where you are at?

Senator Coonan—That is my understanding. It has been developed with the Attorney-General, so there is some cross-portfolio progress.

Senator CONROY—Do you want to add any more recent developments to the public record?

Senator Coonan—Not publicly, no.

Senator CONROY—The press release also flagged the release of a joint task force report entitled *The use of bankruptcy and family law schemes to avoid payment of tax*. Could you start by setting out what that joint task force is? Is it still going?

Senator Coonan—My understanding is that it had some residual work, but I just have to check that.

Senator CONROY—What is its membership at the moment?

Senator Coonan—I will just have to check that for you. I am just making a note of it.

Senator CONROY—While that is being checked, were they all public servants or was there external representation?

Senator Coonan—My understanding is that there was certainly external consultation, but I will just have to check the actual membership.

Senator CONROY—So there was external consultation?

Senator Coonan—That is my understanding; yes.

Senator CONROY—Can you also tell us when it was constituted, how often it met and what its ongoing roles are? Could you further explain what the residual is, how often it meets, whether everybody who was on it is still on it and those sorts of things? I note that appendix 1 provides some data on bankruptcy by profession. Am I right in assuming that the cases set out there are cumulative—that is, each year's data represents new cases and does not just count existing cases over again?

Senator Coonan—I will find that out for you.

Senator CONROY—I ask because, if that is the case, by my addition—over the six years of data presented in the appendix—there are 184 cases totalling ATO debts of over \$23 million, at an average of nearly \$130,000 for each case. Does that ring a bell, Mr Read?

Mr Read—Which appendix were you looking at?

Senator CONROY—I was looking at appendix 1 to the press release.

Mr Read—We do not have that press release.

Senator Coonan—We are getting a copy.

Senator CONROY—I was hoping you had a copy. Who is working on this in the tax office?

Mr Read—I was involved in the task force.

Senator CONROY—This is appendix 1 to the task force report, I should have said. Would you be able to answer questions on this, Mr Read? Are you the appropriate person from Tax or are there other people who were working on it with you?

Mr Read—There are other people working on it with me.

Senator CONROY—But you are the senior officer?

Mr Read—That is right.

Senator CONROY—So I can ask you to help with any questions Senator Coonan needs to refer?

Mr Read—Yes.

Senator CONROY—Are you able to tell us whether there was external representation on the committee?

Mr Read—At the actual committee meetings there was not external membership—

Senator CONROY—Was there some external member who did not come to the committee meetings?

Mr Read—No. There was consultation with externals but not—

Senator CONROY—What sort of externals? Who were you consulting with?

Mr Read—There was the New South Wales Bar Association on the tax side. I understand that Attorney-General's, through their various membership in family law and other areas, were also in consultation. I am not sure of the actual bodies they were discussing with.

Senator CONROY—Senator Coonan, will the information you are seeking be able to clarify which organisations were consulted with?

Senator Coonan—I said that I have made a careful note of what you need to know and I will seek that information. I just do not have it with me.

Senator CONROY—I was just saying that this was possibly adding to the questions. Will that information be able to be returned to us this afternoon?

Senator Coonan—I will ask. A lot of it is cross-portfolio. Now I have it; thank you. A lot of the issues relating to the recommendations relate to the Attorney's portfolio. Obviously, I would want to just confer there and make sure that I get the information accurately to you.

Senator CONROY—I appreciate your desire for accuracy, but as Tax and Treasury are here I naturally assumed that someone, such as one of the people you are consulting, would be able to answer a question about the task force.

Mr Carmody—I think Mr Read from Tax indicated that a consultation has occurred, but it was carried out by representatives of the Attorney-General's Department.

Mr Read—With other groups, but they were not members of the task force. There was a consultation process.

Senator CONROY—I am trying to find out who they were. Surely Tax was part of the consultations.

Mr Read—We were in consultation with the New South Wales Bar Association.

Senator CONROY—So the New South Wales Bar Association was one of them?

Mr Read—Yes, but it was general consultations at the same time as the task force was meeting. The discussions we had with the association were taken into account in our overall discussions at the task force meeting. It was not as though the New South Wales Bar Association was making representations.

Senator CONROY—As you heard, I added up those 184 cases. Are you able to confirm—this is in appendix 1 of the report—that over the six years there were 184 cases, totalling ATO debts of over \$23 million? I assume I can add them up, and they are not cumulative.

Mr Read—If that is from appendix 1, that is under the IFSA data about insolvency.

Senator CONROY—Yes.

Mr Read—I have not added them up.

Senator CONROY—Am I able to add them up, or are they cumulative? I am sure my maths are relatively close to the mark. It is a question of whether I am able to add the figures up as I have or whether they are cumulative. That is the only issue there.

Mr Read—I am sorry, I am not sure. I cannot confirm that at the moment.

Senator CONROY—Working on the basis that my maths are correct, we are talking about over 30 cases per year on average and over \$6 million in debt being accumulated in each of those years. That is an alarmingly number of debts. Mr Carmody, you have been focusing on this. Is it alarming?

Mr Carmody—I do not have the detail here. I do not question your mathematics, but you raised the question about whether they are cumulative, and I do not know the answer to that. You asked me: is it alarming? Clearly, the reason we embarked on the exercise we have been discussing for the last hour was that we were significantly concerned by what we found.

Senator CONROY—Do you have an update for these figures for 2002 yet?

Mr Read—Not for insolvency at the moment. Up to March 2003, the overall tax debt for barristers nationally was \$54.2 million.

Senator CONROY—That is a lot of barristers going bankrupt.

Mr Carmody—He did not say bankrupt, he said debt. You need to be careful. I know we started out this whole conversation on serial bankruptcy, but it has broadened very significantly to debt.

Senator MURRAY—Is that figure a national one or only for New South Wales?

Mr Read—That is for barristers nationally. For New South Wales barristers, the debt at March was \$40 million.

Senator CONROY—So they are the overwhelming majority?

Mr Read—That is right.

Senator CONROY—How many cases is that?

Mr Read—That is 550 cases.

Senator CONROY—Was this debt or bankruptcies?

Mr Read—This is debt.

Mr Carmody—Most of what we have been talking about since the commencement is debt, not bankruptcies.

Senator MURRAY—When you say that it is debt, is it the tax payable or is it the tax payable plus interest and penalties?

Mr Read—I would have to clarify that.

Senator CONROY—You mentioned a figure for barristers. Do you have the figures for the other professions, Mr Topping?

Mr Topping—No.

Senator CONROY—Will you take that on notice?

Mr Topping—I am not sure that we have that sort of information, but I will check.

Mr Read—You mentioned before that you would like details on the solicitor population. I do have that for New South Wales. As at March 2003, there were 1,749 debtors with a total debt of \$47 million.

Senator CONROY—Do you have a national figure for solicitors or are you able to get one for us?

Mr Read—No, I will not be able to get that for you.

Senator CONROY—You have not branched out into the other states yet—I appreciate that it is early days.

Mr Read—We are getting that data now. We have to check to make sure that the lists match with TFNs at the moment.

Senator CONROY—That is okay. I am sure we will get a chance to talk about this at the next estimates in November.

Mr Read—I look forward to it!

Mr Carmody—It is probably worth putting on the record that debt is not necessarily an unusual event in tax matters. Sometimes when you look at isolated cases—

Senator CONROY—It is unusually large for barristers and solicitors, that is all. We are wandering around in the barrister and solicitor world at the moment.

Mr Carmody—I am trying to point out that debt itself is, typically, quite substantial. I think the annual report reported that, at the end of last year, there was a collectable debt of about \$5½ billion, which is a bit over three per cent of collections. We need to keep in context that the mere fact that someone has a debt is not necessarily unusual; at the same time, we have indicated that we have focused on these areas because of our concern at the levels.

Senator Coonan—The other issue, Senator Conroy, from the point of view of the bar association—I am not sure what may have happened with the law society—is that there is now compulsory reporting of bankruptcies, and you need to show cause why you should continue to hold your practising certificate.

Senator CONROY—It is a very welcome initiative. I am sure Mr Carmody particularly welcomed it.

Mr Carmody—I did.

Senator CONROY—Does that apply to the other state bar associations?

Mr Read—It is in New South Wales.

Senator Coonan—Certainly it is New South Wales.

Senator CONROY—It is New South Wales only?

Mr Read—That is right.

Senator CONROY—Mr Carmody, would you welcome it—

Mr Carmody—I would welcome it from many professions. Any profession that would like to join in such an initiative would be a wonderful thing for the tax system of the country.

Senator CONROY—What about the other bar associations in the other states, given there seems to be a particular difficulty in this profession?

Mr Carmody—The issue has been of most concern in New South Wales. I think the figures have shown that, so I certainly appreciate the initiative. But, yes, I think it is a valuable initiative that I would welcome.

Senator CONROY—In the other states?

Mr Carmody—Yes.

Senator CONROY—Are you negotiating with any other professions on similar sorts of codes of conduct?

Mr Carmody—A range of professions have codes of conduct about meeting tax affairs, but they are not necessarily going to the lengths of the New South Wales Bar Association.

Senator CONROY—But it seems to have led to an enormous—97 per cent—compliance with just lodgement. It seems to have really shifted—

Mr Carmody—There is probably a range of factors leading to that, including some of our own actions in achieving that.

Senator CONROY—I was not suggesting that you were not a factor.

Mr Carmody—We are not presently actively negotiating with a range of associations, but I will take on board your suggestion and see what value there would be.

Senator CONROY—The outcome with New South Wales barristers seems to have been spectacularly successful, with the publicity they have received and the actions you have taken.

Mr Carmody—That was relevant to the particular circumstances we faced there.

Senator CONROY—I accept that. I think that a combination of all those factors seems to have made a huge difference in the industry. I thought that maybe they would understand that they could avoid the publicity if they offered to do the same in other states. It would just seem a sensible, practical thing to do. Would you welcome that?

Mr Carmody—I would welcome the other bar associations taking that initiative, yes.

Senator Coonan—Bear in mind that they are not everywhere, because the profession is not a divided profession in some states. So there are not bar associations as separate associations.

Senator CONROY—The arcane world of the legal profession; it is well beyond me. When did you first approach the New South Wales Bar Association for discussion? Did you approach them, Mr Carmody?

Mr Carmody—Going back in memory, we did talk to them, yes. I met with the president, Ruth McColl, on one occasion to discuss issues with them. That was around the time it had a high public profile.

Senator CONROY—Was it before or after the article appeared? I think there were a couple of articles, but I meant particularly Paul Barry's in the *Sydney Morning Herald*.

Mr Carmody—The meeting I am talking about was after that.

Senator CONROY—It followed?

Mr Carmody—The meeting I had with the president was after that, yes.

Senator CONROY—Could you take me through the process you follow when looking at cases? How do these cases come to your attention? Is the trigger when the ATO is listed as a creditor at bankruptcy proceedings? How do you get onto these, other than through reading the *Sydney Morning Herald*?

Mr Carmody—I just need to point out that I had raised this issue, not naming people, in my annual report before those articles appeared. So it was not that we were reacting to *Sydney Morning Herald* articles.

Senator CONROY—But you did not have a meeting about it until after the *Sydney Morning Herald*, as you said—

Mr Carmody—No.

Senator CONROY—turned it into a high public profile issue, as I think you described it.

Mr Carmody—Yes, but what I am pointing out is that I had indicated publicly that this was an area of concern and that we were taking action on it. I think part of the reason it became such a public issue was that particular individuals were named, which is different from me speaking about a general issue.

Senator CONROY—A *Current Affair* and others followed a number of individuals into and out of court and into their taxis. I think that certainly brought it home to a few people.

Mr Read—The ATO actually funds the public examination, and so indemnifies the trustees to take on these issues.

Senator CONROY—So, in terms of how they come to your attention, is the trigger that the ATO is listed as a creditor?

Mr Carmody—No. In the main, we are well aware of these individuals well beforehand because of our normal debt recovery action.

Senator CONROY—Do you have a list of cases of particular interest—where it looks like tax avoidance, not just a straightforward bankruptcy? I do not want to sound silly; there has just been an extraordinarily large number in this profession. Do you keep a list of the cases?

Mr Carmody—I am not sure about a list of cases. Generally, the issues we have been talking about are where there is an acknowledged debt that just has not been paid. As a natural part of our concerns here, we have done some initial examinations of whether there are other than debt issues—whether there is use of tax avoidance approaches. But I do not have the final analysis of that.

Senator MURRAY—That is the broken windows approach, isn't it?

Mr Carmody—The broken windows approach; what is that?

Senator CONROY—You will have to explain that to both of us.

Senator MURRAY—You don't know about the broken windows approach?

Senator CONROY—No.

Senator MURRAY—It was a New York police initiative. They established that whoever broke windows was invariably involved in other acts of crime—

Senator CONROY—Zero tolerance.

Senator MURRAY—Yes—and that people who do one thing wrong will do other things wrong. That is basically the theory.

Mr Carmody—It raises questions to be examined.

Senator CONROY—So Mr Carmody has a zero tolerance approach to barristers who avoid their taxes.

Mr Carmody—I do not think that is exactly how it was described.

Senator MURRAY—Do you wish it was?

Senator CONROY—Would you like a zero tolerance approach?

Mr Carmody—I would like them to pay their tax on time and we will do everything to seek to achieve that.

Mr Read—Of those who have over \$100,000 in debt, they are individually case managed.

Senator CONROY—For the purposes of calling it something, how do they get onto your list? What are the criteria?

Mr Read—To begin with, it is the normal operations activity. With this particular project, we have identified all the individuals for barristers and we are doing that for solicitors. We have already identified the barrister population. Because it is there within the project, they are already on the list and we will continue to monitor their debt levels.

Senator CONROY—Does this intersect with Mr Fitzpatrick's high-wealth individuals? Is there a crossover between this at all?

Mr Read—Any of those that may be involved in the aggressive tax planning area have been identified and they have either been passed over to—

Senator CONROY—So you do pass them over to Mr Fitzpatrick at that point?

Mr Read—They are case managed. Depending on the level of debt or their activities, they may well fit within this project or with Mr Fitzpatrick's.

Senator CONROY—Could you take me through the case managing. You were just starting to when I interrupted you there; I apologise. They sort of bob up on your list and now they are case managed.

Mr Read—I said that those that were over \$100,000 in debt are individually case managed. An officer will be looking to see that the arrangements that have been put in place by the individual are managed all the way through and that the payment arrangements are met. When that does not occur, other activities are undertaken to ensure that the debts are either paid or we start taking the steps through to bankruptcy.

Senator CONROY—I did see some articles that the New South Wales Bar Association were blaming you for the fact that nothing had happened on this earlier. Did you see any of those articles at the time? They seemed a bit grumpy at you.

Mr Carmody—No, I do not recall that specifically.

Senator CONROY—How many cases have you got on the list at the moment, including the ones below \$100,000?

Mr Read—For total debt, there are 973 nationally.

Senator CONROY—Is that barristers or solicitors.

Mr Read—For solicitors I only have the number for New South Wales and that was 1,749.

Senator CONROY—That is right. Thanks.

Mr Read—Basically, around barristers, there are 115 that make up the \$40 million in debt. They are the ones that are over \$100,000 in debt.

Senator CONROY—Do you suspect a tax avoiding motive when this happens? How do you chase it? You have a large tax bill with them and they suddenly go bankrupt. What do you do next?

Mr Read—Our activities so far have been by way of public examination and indemnifying the trustees to identify where the assets have gone, what they did with the income and seeing if we can claw back any assets that are still available.

Senator CONROY—How successful are you at clawing these back at the moment? Have you clawed much back?

Mr Read—I cannot give you the actual figure. There are a number of public examinations still under way.

Senator CONROY—Have you clawed any back?

Mr Read—Yes, we have, but I will have to come back to you with the dollar amounts.

Senator CONROY—Can you do that later today or tomorrow morning?

Mr Read—Hopefully tomorrow morning.

Senator CONROY—I note an *A Current Affair* item about a gentleman who had put all his assets in his wife's name—the house, which she was living in, and all of that sort of stuff. Has that case been completed?

Mr Read—I cannot comment on that.

Senator CONROY—I presume that means it has not been completed.

Mr Read—No, I think the secrecy provisions would not allow me to discuss that.

Senator CONROY—You went into secrecy provisions in the settlement?

Mr Read—No.

Mr Carmody—He is responding to the fact that you asked him to comment on an instance which could be clearly identifiable.

Senator CONROY—It was on national television.

Mr Carmody—That is national television. You know that the tax office does not comment publicly on individual taxpayers' affairs.

Senator CONROY—I was just asking whether the case had been completed. It is a matter of court record.

Mr Carmody—I do not think we have that detail; I do not know.

Mr Read—There have been a number of cases on *A Current Affair*.

Senator CONROY—I was not trying to make you do anything—I just thought you might know whether it had been completed. How many cases do you currently have before the courts?

Mr Read—We have 10 cases of bankrupt barristers presently before the courts or planned. Through public examination the trustees are examining those, plus another 12 related parties that are involved.

Senator CONROY—Would that mean partners, wives?

Mr Read—That is right.

Senator CONROY—Any solicitors?

Mr Read—I would have to check. I do not have that information.

Senator CONROY—Did you mention that you have won a couple of these cases, or were you not sure?

Mr Read—I said that I would go away and check.

Senator CONROY—But you must know if you have won one.

Mr Read—We have collected assets from barristers, if that is a win.

Senator CONROY—I am prepared to say, ‘Big tick—that is a win for you.’ But you will come back with the details of that?

Mr Read—That is right.

Senator CONROY—How would you measure the success of the ATO over the six-year period in recovering debt across these professions?

Mr Read—Across all the professions?

Senator CONROY—Start with the barristers, but I am happy to then move on to the other professions. I also want to ask how much debt you have recovered, but you may need to take that on notice for tomorrow morning.

Mr Read—Yes.

Senator MURRAY—I am not sure how much the tax office can react to this, but my concern is that there will be follow-on consequences. I would be very concerned about trust accounts—solicitors’ trust accounts and so on—being in the hands of people who were not lodging tax returns, not paying their taxes, in dispute for debt or before the bankruptcy court. I would be concerned about criminal possibilities, because that opens up the prospect of confiscation of assets under state laws which permit the confiscation of assets where the acquisition of those assets cannot be proven to have been achieved legitimately. There are a series of related areas. My only question to the tax office is: do you talk to other agencies

about their paying attention to those other areas in the same way as, for instance, you talk to ASIC about attending to mass marketed schemes, disclosure and so on?

Mr Carmody—I think you would be raising organisations that the secrecy provisions would not allow us to reveal details of.

Senator MURRAY—I am sure all those things have occurred to you. If they have not, perhaps you would put them in mind, and if they have I look forward to you having great success.

Mr Carmody—Again, I think you are probably talking about organisations that under the law we would not be entitled to talk about taxpayers' affairs to.

Senator CONROY—I take you back to some remarks on this issue that you made in a speech dated 17 September 1999. I think you were at the American Club. You said:

In response therefore I am giving advance notice that in fulfilling my responsibility under the law to advise the Parliament on the working of the Act I propose including in my 1999-2000 Annual Report details of those persons who have a substantial debt outstanding at 1 January 2000 and who have a history of playing hardball in the way I have outlined.

Does that ring a bell?

Mr Carmody—Yes, it does.

Senator CONROY—When it came to present that annual report, though—I do not have the exact date, but I assume it was in late 2000—you stated:

In my September 1999 address to the American Club, I announced my intention to include, in this annual report, the names of taxpayers with a substantial outstanding debt and a history of what I described as 'playing hardball' and 'serial bankruptcy'. However, I have subsequently received advice that doing so would be outside my legal powers.

Did you take legal advice before you made the original remarks at the American Club?

Mr Carmody—No, I did not.

Senator CONROY—A bit of a frolic, was it?

Mr Carmody—Someone disagreed with my view, obviously.

Senator CONROY—Someone from inside the tax office?

Mr Carmody—No, this was independent legal advice.

Senator CONROY—It was not the Attorney-General? He did not give a ring and say 'Oi'?

Mr Carmody—No.

Senator CONROY—That might be considered independent legal advice in most places.

Mr Carmody—No, the Attorney-General certainly did not.

Senator CONROY—Who was it from? Who gave you this independent legal advice?

Mr Carmody—I am—

Senator CONROY—He gratuitously phoned you up and said—

Mr Carmody—No-one gratuitously phoned me up. You know from experience at these hearings that I am particularly sensitive to the issue of—

Senator CONROY—This is not about that.

Mr Carmody—Of the secrecy provisions—

Senator CONROY—This is not about a tax matter. It is about someone giving you legal advice

Mr Carmody—and respecting—

Senator CONROY—It is about someone giving you legal advice.

CHAIR—Order! Senator Conroy—

Senator CONROY—It wasn't you, was it, Senator Brandis?

CHAIR—Order! Let Mr Carmody finish. Mr Carmody, please finish your response.

Mr Carmody—As I said, I am particularly sensitive to respecting those issues, so, through my office, I sought advice. It was not someone who rang me up to offer advice. I sought advice. It might have been the Solicitor-General that I sought advice from. And the advice at the time, which I reported in my annual report, and the advice I received that I was acting on, was that there were questions about that.

Senator CONROY—What is the secrecy issue involved there?

Mr Carmody—I do not recall. The secrecy issue is whether it is about disclosing taxpayers' affairs and whether the fact that it was in the annual report allowed for disclosure. I think the advice I got at the time certainly raised significant questions about that. Subsequent to that, there might have been advice that relaxed that opinion, but my mind is a bit hazy now as to that.

Senator CONROY—Who was that second advice from?

Mr Carmody—I am not sure.

Mr Read—I cannot recall.

Mr Carmody—I would have to look it up, but I suspect it would be from the Solicitor-General also.

Senator CONROY—So you got initial advice from the Solicitor-General, and then you think you may have got subsequent advice from the Solicitor-General.

Mr Carmody—You are asking me to go back to 1999.

Senator CONROY—It was a big speech.

Mr Carmody—Whether it was—

Senator CONROY—It stuck in my mind at the time. I remember it.

Mr Carmody—We deal with many issues day by day. I would have to go back and look at the detail of the sequence.

Senator CONROY—You have a pretty good understanding of the powers of the tax commissioner, I would think. I do not mean this in any way to be derogatory, but you are not famous for being flamboyant in terms of your public pronouncements.

Mr Carmody—Yes.

Senator CONROY—I presume you wrote this speech yourself, particularly this part. It was a big step.

Mr Carmody—Pretty much.

Senator CONROY—To announce something of this magnitude. You must have thought about it, had a read of your powers, and felt pretty comfortable before you made that speech.

Mr Carmody—Certainly I was of the view at the time, given that, if you go back in history, the tax annual reports used to name people who were—I forget the description: evasion, avoidance or something like that. People used to be named in annual reports many years ago. I suspect that in the back of my mind was the fact that those sorts of cases had been named so it would not be an issue if I was to name these. The distinction that arose was that the former were about people where there was tax avoidance or evasion as distinct from whether you actually paid your debt. All I am telling you is the sequence of events.

Senator CONROY—I am just trying to get an understanding of it.

Mr Carmody—What I did was, at the time that I wrote the report—perhaps reflecting a level of frustration at the behaviour—

Senator CONROY—It was a speech rather than—

Mr Carmody—The speech, sorry—perhaps reflecting a level of frustration at the behaviour.

Senator CONROY—But you must have done some due diligence. You obviously felt you could do it.

Mr Carmody—I have just explained to you what went through my mind—that in previous annual reports there had been naming of people who had undertaken evasion or whatever, and I felt comfortable at the time that I would be entitled to name.

Senator CONROY—So you felt comfortable at the time.

Mr Carmody—Having said that, I am, as you said, not a flamboyant personality—

Senator SHERRY—Appropriately modest.

Senator CONROY—Flattery will get you everywhere, Senator Sherry.

Mr Carmody—And, when I got to the point of being confronted with names, I naturally felt that it would be prudent at that stage to get confirmation advice.

Senator CONROY—The sequence you described earlier sounded to me as though you got the Solicitor-General advice before you were confronted with the naming.

Mr Carmody—After I made the speech, and towards the preparation of the annual report, I sought advice to give me comfort. As you pointed out, it was a big step to name individuals, and it was one where I wanted to confirm my powers.

Senator CONROY—Was there a nagging in the back of your mind in the days or months then that you might have stepped over the line or that you were possibly going to step over the line?

Mr Carmody—I had not stepped over the line, because I had not named anybody at that stage.

Senator CONROY—But you were considering it.

Mr Carmody—As I said—

Senator CONROY—Did somebody else say to you at the time, ‘Look, should you just check this?’ Obviously, in your mind you felt comfortable—even though, as you say, it was perhaps frustration and anger at people’s persistent behaviour.

Mr Carmody—There may have been some discussion in the office, but in my mind it was purely a fact that I was then at the point of taking the step of putting names to these people. I can tell you that, whenever I would do that, my natural inclination—confronted with the reality of that—would be to seek advice.

Senator CONROY—So you sought advice shortly before you finalised the annual report.

Mr Carmody—I cannot remember the exact time, but, in the lead-up to the preparation of the annual report, advice was sought.

Senator CONROY—In the lead-up. When did you receive the second advice?

Mr Carmody—I do not know.

Senator CONROY—You may have already explained this: why did a second set of advice come through from the Solicitor General or somewhere else?

Mr Carmody—Whether it was final advice or draft advice in the sequence of issues, of people then going back and questioning—the natural iteration of occasions is that if a position/advice is given—it may be that having read the advice that further questions are asked or further positions are put. I do not have in my mind the specific sequence of that.

Senator CONROY—So you got some initial preliminary advice perhaps. Is that the way to describe it?

Mr Carmody—I do not know how to describe it because—

Senator CONROY—because you then iterate on—

Mr Carmody—Lots of iteration. We are trading in territory where my recollection is not as firm. My only recollection is that I took the precautionary step of ensuring that advice was sought and that led me to reports I did in the annual report. I have a nagging sense in my mind that there might have been some subsequent developments and I was just sharing that with you.

Senator CONROY—So you can confirm that nobody outside your office suggested you seek legal advice?

Mr Carmody—That is right. There is certainly no suggestion, nothing in my mind, that would suggest at all that anyone from outside the organisation had raised that issue with me.

Senator CONROY—Could you just double check that, so that we have got that absolutely firm. I would appreciate it if you could take that on notice.

Mr Carmody—I will do that.

Senator CONROY—You say that you have now received some further advice which has, I think you said ‘relaxed the position’. Do you now feel that you can name serial bankrupts in your annual report?

Mr Carmody—I was only giving you something that I described as nagging in the back of my mind. I would have to go back and look at the detail of the advice.

Senator CONROY—If that second advice came through it would indicate that there is a new view.

Mr Carmody—If my nagging doubts reflect reality then that would change the position—but I would need to look at that.

Senator CONROY—If your nagging doubts are resolved and the legal advice says you can do it, are you prepared to do it?

Mr Carmody—If it continued to be a significant issue I would certainly consider that.

Senator CONROY—I think we have got 973 barristers.

Mr Carmody—No, we are dealing with something somewhat different here. The initial issue that I was dealing with was the notion of serial bankruptcy.

Senator CONROY—Serial bankrupts.

Mr Carmody—As I said, I was expressing a level of frustration at that behaviour. We have moved on now to issues of people with debt. As I have already indicated to you, at the end of last year we had a collectable debt of \$5.5 billion or something like that. I do not think anything is going to be achieved by naming everybody that has a debt with the tax office.

Senator CONROY—If it is a tax debt and it was a one-off occurrence, that is fine. Mr Read, of these cases that you are looking at—to keep it simple because I think you have got the figures handy—how many New South Wales barristers and solicitors have been to bankruptcy more than once? How many of them could be considered serial bankrupts by Mr Carmody’s interpretation?

Mr Read—As at May 2003, we have 14 that have gone bankrupt twice.

Senator CONROY—And how many was it previously?

Mr Read—Previously?

Senator CONROY—Was that as a percentage of the total bankrupts? Was that lower or higher than previous years?

Mr Read—I am sorry, I do not understand the question.

Senator CONROY—What are the outstanding debts of the 14 serial bankrupts?

Mr Read—Sorry, I cannot give you that advice just at the moment. As far as their bankruptcies are concerned, they no longer have an actual tax debt. As to whether or not they

are now practising, or as far as their normal income-producing activities are concerned, I would have to get back to you on that. Does that explain?

Senator CONROY—I think so. If you could just track down the outstanding debt figure, that would be great.

Mr Read—Is that the amount of debt that they had when they went bankrupt?

Senator CONROY—How much debt did they get out of by going bankrupt?

Mr Read—That will take longer than tomorrow to get back to you.

Senator CONROY—Was there a particular group of tax advisers who were advising, particularly in New South Wales? Were one or two companies working for the barristers, or did the barristers understand that this was the way to get around it and they did not need the external advice?

Mr Read—They have not needed external advice.

Senator CONROY—Do-it-yourself bankruptcy to avoid tax.

Senator MURRAY—Mr Carmody, I know the answer to the question, but just for the record: is the annual report tabled in parliament?

Mr Carmody—Yes, it is.

Senator MURRAY—It attracts parliamentary privilege, doesn't it?

Mr Carmody—There are questions about how it is tabled, but I think that is right.

Senator MURRAY—Therefore, you could name them?

Mr Carmody—I could. I did consider that, but I did not think it was appropriate for me to do it if I would not be entitled to do it under the normal exercise of the secrecy provisions. I did not think it would be appropriate for me to seek to use parliamentary privilege to avoid the operation of the secrecy provisions.

Senator MURRAY—So it is more a moral and ethical decision than a legal one?

Mr Carmody—Probably.

Senator MURRAY—You could not be sued or charged.

Mr Carmody—I know I could not be sued, but that was not the issue for me. I wanted to act in accordance with my responsibilities under the secrecy provisions, and I did not see it as appropriate for me to seek to employ the technique of parliamentary privilege.

Senator MURRAY—My brief intercession is designed just to make the point that there is no legal impediment, though there may well be moral and ethical impediments.

Mr Carmody—I certainly took the view that it would be inappropriate for me to take that course.

Senator CONROY—In your view, you could not have been charged under the privacy provisions if it was in the annual report?

Mr Carmody—I do not know.

Senator CONROY—I am just generally interested.

Senator MURRAY—Not under privilege.

Senator CONROY—So privilege covers breaches of the—

Senator MURRAY—You cannot charge somebody for something which is privileged under parliament.

Senator CONROY—Is that your understanding, Mr Carmody?

Mr Carmody—I do not know the full detail. That issue was raised, but I did not pursue it any further.

Senator SHERRY—It is a bit risky. Mr Carmody, earlier you were obviously expressing a level of concern and perhaps frustration about this issue of naming serial bankrupts, and there was a discussion about the secrecy provisions and how appropriate they are in that context. I have raised this issue before, and I think you were present. Do the secrecy provisions prevent the tax office reporting back to complainants about superannuation guarantee payments?

Mr Carmody—Yes.

Senator SHERRY—Can you appreciate the level of frustration, and sometimes anger, that is expressed by complainants about not being able to report back as to their circumstances in respect of an SG breach?

Mr Carmody—Yes, I can.

Senator CONROY—Is it possible to get a copy of the legal advice you were given?

Mr Carmody—I do not know that it is normal to do that. I will take that on notice.

Senator CONROY—It is just legal advice to the commissioner. It is not to the individual workings of anybody's tax.

Mr Carmody—I will take that on notice.

Senator CONROY—You will take on notice whether you can get it for us?

Mr Carmody—Yes.

Senator CONROY—After you made your speech, did anybody who was potentially a namee contact you to suggest that they would sue you if you did or that it was a breach of the Privacy Act?

Mr Carmody—I do not have any recollection of any such approach to me.

Senator CONROY—You will come back to us on the second advice?

Mr Carmody—On whatever the description of it is.

Senator CONROY—The nagging in the back of your head?

Mr Carmody—Yes, that one.

Senator CONROY—I would like your comments on some of the issues involved in the area. From reading the task force report, it seems to me that the essential parameters have been pretty well understood for a long time—at least since you set up your legal profession project link 5½ years ago—but there still does not seem to have been a lot of concrete action. I would appreciate your guidance on these technical issues. As I said, I found the press release

a little hard to follow. Let us start with the issue of how the secrecy provisions work. Recommendation 1 deals with the disclosure of ATO information to a trustee to enable a fuller picture of the financial affairs of the bankrupt. Is that a fair summary?

Mr Read—On my reading, it is more about guidelines to ensure that we appropriately disclose the information.

Senator CONROY—That is what I am saying—the recommendation deals with the disclosure of ATO information to a trustee to enable a fuller picture of the financial affairs of the bankrupt. Is that what it is?

Mr Carmody—Yes, it is about guidelines.

Senator CONROY—It seems reasonable. It does not seem that hard. Has that been implemented yet and, if not, why not?

Mr Read—There was a meeting held on 20 May to work through the issues. I am sorry, but I cannot advise you of the end result at the moment. It was not a major issue. It was only internal guidelines which, as I understand it, should be provided by 30 June.

Mr Carmody—The attachment to the minister's press release answers the question of progress on the report.

Senator CONROY—I am asking: why has it not been implemented?

Mr Carmody—It is saying that it will be in place by 30 June 2003.

Senator CONROY—The point is that it is fairly simple and straightforward. I want to know what caused the delay. I think Mr Read said it was a small matter?

Mr Read—As far as the total recommendations go, yes. It is an issue that we will have acted upon by 30 June. It would be to put in the proper procedures within our receivables management policy to ensure that staff understand.

Senator CONROY—When did you first start calling for reform in this area? Was that your first cry for help in 1999? Was that your anger and frustration back then? Would that be classified as your first public foray on it?

Mr Carmody—I do not recall actually calling for reform. All I did was talk about a compliance issue that we were confronting.

Senator CONROY—Recommendation 2 deals with the release of publicly available information to prescribed industry or professional associations. This is a little mystifying to me. If this information is publicly available, why on earth are there restrictions on the ATO supplying it at the moment?

Mr Carmody—I believe that is the legal position we have.

Senator CONROY—Help me. This is publicly available information.

Mr Carmody—Yes, but I think we have been through this in a series of discussions before. It is the view of the law that we cannot actively provide this information, and the progress on the response is noted there.

Senator CONROY—What sort of publicly available information are we talking about?

Mr Carmody—Probably the court orders.

Senator CONROY—Court documents?

Mr Carmody—Yes. It is an issue of whether we collate this and provide it to somebody or whether they access it themselves.

Senator CONROY—What is the legal problem? I do not understand what the legal problem is. I know you mentioned that you have talked about this before, Mr Carmody, but please help me.

Mr Carmody—We have advice that there are serious questions about whether this would be in the course of an officer's duty. So, as is normal, we are taking that approach.

Senator CONROY—Do you have a web site? I do not want you to hide your light under a bushel. When you have a victory in court, do you list it on a web site: 'Here's a victory'?

Mr Carmody—Press releases are sometimes released.

Senator CONROY—So you would issue a press release saying, 'We've had this win'—it is just that you cannot forward the press release to the professional organisation? You cannot tell them to look at your web site for the details of the court order?

Mr Carmody—Perhaps I could do that. Our position is that we have advice on these particular circumstances that there are serious concerns about whether we are able to do that and whether it would be in the course of an officer's duties. I am not going to expose an officer to possible problems as a result of that, so we are working on the basis of that advice.

Senator CONROY—Is posting it on your web site part of you indicating that the matter has been settled satisfactorily: 'Here are the court orders'?

Mr Carmody—The issue of where we do press releases is about the general compliance effect and the impact of that on compliance. I know that these are fine distinctions and they may perplex us all, but in this area I operate on the basis of independent advice because of the sensitivities in this area—and that is the nature of the advice that we have.

Senator MURRAY—As long as the advice is not from one of those barristers.

Mr Carmody—It is not. We obviously would not seek advice—

Senator CONROY—Who is the advice from? Is the Solicitor-General giving the advice?

Mr Carmody—I do not know, but I suspect that that would be the normal situation. I am told that we have a number of advices on this issue—all saying the same thing, I assume.

Mr Read—That is right.

Senator CONROY—That is lawyers; it is a bit of a club really, isn't it? I am not a lawyer, so I am allowed to say that. Is it a problem if, in the course of an officer's duty, you have a victory, you prepare a press release, you attach the court order and you post it on your web site?

Mr Carmody—We have taken the position that—and I assume we got advice at the time; I do not know—on this individual—

Senator CONROY—Is the problem in giving it to some person, or is it that, by posting it on your web site, you would be in breach?

Mr Carmody—We would not be doing it if we felt that it was a breach of the law. As I said, these are issues of distinction and we could have a long discussion on them, and sometimes I have to ask questions myself—I agree with you. But we took the precaution of getting independent advice from an appropriate source on this issue, and we operate on the basis of that advice.

Senator CONROY—When you seek your independent advice, what sort of due diligence do you do? Before the people you are seeking your independent advice from give you the advice do you ask them whether they have ever had a tax problem and, therefore, they have no conflicts on these matters? I understand it causes chaos for High Court judges. That is the only reason I am asking.

Mr Carmody—I assume the advice would typically come from the Solicitor-General.

Senator CONROY—But you specifically said that you went outside for independent advice.

Mr Carmody—I am saying that I believe the advice we have received on this—

Mr Read—Not all advice has been from the Solicitor-General.

Senator CONROY—I am sure the Solicitor-General does not have a conflict in this area. How do you establish—particularly if you went to New South Wales; it would be pretty hard to find a non-conflicted lawyer in New South Wales from the look of some of this. How do you establish no conflict of interest?

Mr Read—Given that the project has been seeking the advice, we are well aware of—

Senator CONROY—Who not to ask?

Mr Read—Yes.

Senator CONROY—Is that a breach of any internal walls—Chinese walls?

Mr Carmody—I am sure it is just a matter of due diligence.

Senator CONROY—I understand that this is a reform that has been called for by the industry and some professional associations to assist them in their attempts to uphold professional standards. Is that right?

Mr Read—That is right.

Senator CONROY—Who made such calls?

Mr Read—The New South Wales Bar Association has.

Senator CONROY—What was the ATO's response?

Mr Carmody—The ATO's response, as we have said, is that we took advice and felt that we could not give it.

Mr Read—We have worked with the New South Wales Bar Association. As part of their requirements, they ask their members to provide assurance that their tax obligations have been met.

Senator CONROY—That is now?

Mr Read—That is right.

Senator CONROY—The ATO have been critical, though, of professional associations for not taking action on this issue. Is that fair?

Mr Carmody—I am not sure whether we have expressed that.

Senator CONROY—You have never said anything like that in those moments of anger and frustration that you were describing before about systemic abuse?

Mr Carmody—I do not recall ever saying that. Given that you have raised the question, I would have to say that we have already noted the action taken by the New South Wales Bar Association as very positive.

Senator CONROY—Are we any closer to solving this particular problem as we are weighing up the various considerations?

Mr Carmody—The statement in the minister's press release is that there has been progress.

Senator CONROY—Have we made any progress? Do we have a solution? Do we need a law change—is that the only solution?

Mr Carmody—Based on the advice, we cannot provide what is asked for at this stage. There is the question of whether the Bar Association does have access to these records. Then you have to weigh up the issues of the benefits in those circumstances competing with the general issues that go with maintaining secrecy under our tax laws. I am sure they are the sorts of issues that are being weighed up.

Senator CONROY—When journalists contact you at the tax office and inquire about these issues, do you release information to them—as in this information that is public record?

Mr Carmody—We provide press releases. As far as I know, that would be the only circumstance in which we would be communicating with journalists. The initiative is through our press releases.

Senator CONROY—So all you would ever give to a journalist is a press release?

Mr Carmody—I do not deal individually with journalists.

Senator CONROY—The 'you' was not meant to be singular; the 'you' was meant to be the tax office.

Mr Carmody—I know. My understanding is that we might give statistical data and things like that.

Mr Read—Just reinforcing what the commissioner has put in the earlier press releases or the earlier annual report.

Senator CONROY—Let us move on to the issue of looking through various structures to get a true picture of the asset position. This seems to be pretty central to the whole issue—would you agree?

Mr Carmody—This is the report of the task force. I do not know whether I can add anything more than what is referred to.

Senator CONROY—I am just seeking some clarification of the press release. These are recommendations and statements of where we are at, and I am seeking some information on issues I do not understand. I am hoping that you can help clarify some of them.

Mr Carmody—I do not think I can add anything more to what is in the statement.

Senator CONROY—The press release refers to this being considered in a further issues paper. Where is the process at in terms of consideration of the issues paper?

Senator Coonan—Senator Conroy, you will have appreciated that recommendations 1, 2 and 12 relate to this portfolio. The rest of the recommendations are being progressed through the Attorney-General's Department.

Senator CONROY—Does that mean we do not know?

Senator Coonan—I am not in a position to give you any further information about the Attorney's issue.

Senator CONROY—Mr Read, are working on a committee that is looking at this?

Mr Carmody—I do not know that we can give you any more. This is a matter before government, and it seems appropriate that, just as the minister has announced in the press release—

Senator CONROY—No, in actual fact it is the exact opposite. It is a nice way to try to close it down, Mr Carmody, but it is, in actual fact, the exact opposite.

Mr Carmody—I not trying to close it down; I am trying to help you in saying that the ministers have released a press report giving the progress—

Senator CONROY—And in the press report it talks about a further issues paper—

Mr Carmody—That is right.

Senator CONROY—which is not a matter before government. So I am asking: where are we at in the preparation?

Mr Carmody—It is a matter to be considered by government and, therefore, it is part of the policy development process.

Senator CONROY—No, the second paper has not been produced yet, so it cannot be considered by government. I am asking: where are you at with the preparation of the second issues paper? Mr Read, are you working on a committee that is working on this issues paper? Senator Coonan seemed to suggest that this was purely a matter for the A-G's, so I am just asking: has Tax no input into the second issues paper?

Mr Read—We have input into recommendations 1, 2 and 12.

Senator CONROY—No-one is working on this second issues paper to do with looking through various structures?

Mr Carmody—I do not know who is working on the issues paper, and I do not know further progress.

Senator CONROY—I am asking you: is anyone in Tax is working on it? It is a pretty straightforward question, Mr Carmody.

Mr Carmody—Straightforward question that—

Senator CONROY—It is not a matter before government. It is a pretty straightforward question.

Mr Carmody—I am explaining to you that I do not know the answer.

CHAIR—Order! Senator Conroy, please let Mr Carmody finish his responses. Mr Carmody, can you finish what you were in the middle of saying?

Mr Carmody—All I am saying is that I do not know the answer to the question.

Senator CONROY—Mr Read, you were working on the previous task force. Senator Coonan has indicated that there are residual issues that are still the subject of the ongoing task force. Is this one of the residual issues?

Mr Read—We have continually been providing advice on issues around those recommendations.

Senator CONROY—Yes, and one of those recommendations is to refer to the issues paper.

Mr Carmody—The paper says:

It is recommended that a committee of AGD and ITSA officers be established ...

Senator CONROY—Is recommendation 12 being considered in the issues paper?

Mr Carmody—I apologise, Senator, I am on the wrong recommendation—or was I on the right recommendation? Recommendation 12—progress on report—says:

The Treasury, ATO and AGD are currently examining the adequacy of the existing penalties ...

That is the status.

Senator CONROY—You are working on that one?

Mr Carmody—That is what it says, yes.

Mr Read—That is right.

Senator CONROY—Great.

Mr Carmody—You were asking about recommendation 3, and the ministers' press release notes that the recommendation relates to a committee of the Attorney-General's Department and ITSA.

Senator CONROY—I appreciate that they have got the lead role in it. I am just surprised that, on this issue—because it is a complex issue that goes to structure—there would not be any ATO ongoing input. That is all I am seeking to establish.

Mr Carmody—It may be that they will consult with us.

Senator CONROY—So, as far as you know—and I hope that you will take this on notice—no-one is working on it, but if someone is working on it, you will let us know.

Mr Carmody—I would not know whether these officers from A-G's and ITSA are working on it or their progress, but I am sure that there will be consultations with us.

Senator CONROY—If anyone is working on it, you will come back to us and let us know?

Mr Carmody—I think that is a matter for the Attorney-General's.

Senator CONROY—No, if someone from the tax office is working on this issues paper, it is a matter for the tax office, Mr Carmody. All I am asking you to do is let us know.

Mr Carmody—I will take on notice whether we can provide you with any information to satisfy your question.

Senator CONROY—Thank you. How are we going on recommendation 12?

Mr Read—The ATO has provided comments on all the other recommendations.

Senator CONROY—Good grief—it has taken 20 minutes. Where are we at on recommendation 12? Mr Read, you are working on that still, I think we have agreed?

Mr Read—That is right.

Senator CONROY—How are you going on that?

Mr Read—We have provided our comments on the recommendations and that is ongoing dialogue between the various departments involved.

Senator CONROY—Have you made any recommendations to increase the penalties?

Mr Carmody—This is about development of policy and—

Senator CONROY—I thought Mr Read said that it was about penalties.

Mr Carmody—as part of the policy development process, we would not be providing advice—that is a matter provided to government.

Senator CONROY—I thought Mr Reid said that recommendation 12 was on penalties.

Mr Carmody—It is. If we have recommendations that go to the policy of the law, then we provide them to government. That is part of the policy development process. It would not normally be a practice of this committee to reveal policy advice to government.

Senator CONROY—You have not previously taken such a precious approach, Mr Carmody.

CHAIR—Senator Conroy, I will not allow you to insult Mr Carmody like that. Now cut it out. You owe him an apology.

Senator CONROY—Is it a sensitive issue for you, George?

CHAIR—No, it is not. I have tolerated a pretty robust exchange, but I will not allow gross discourtesy to senior officers like Mr Carmody who is going out of his way to be as obliging to your questions as possible. Mr Carmody's objection is properly taken. Perhaps I should have intervened a little earlier. I will have a look at the provision of the standing orders about policy, but please govern yourself a bit, Senator Conroy.

Senator CONROY—Thank you for your opinion, George. Mr Carmody, the point I was making was that you have often made announcements about what you think policy should be. I appreciate that you have been stripped of your policy since then—which is what has happened; they have taken tax policy off you. I am not trying to uncover some deep, dark secret, I was just wondering—

Mr Carmody—I think I have been particularly consistent that once an issue is before government and we are involved in any policy advice, I give that to government and have not spoken about it openly.

Senator CONROY—So you are an independent statutory authority?

Mr Carmody—I think that we have been through this before. I think that I am an independent statutory authority—

Senator CONROY—There is nothing else they can take off you, Mr Carmody.

CHAIR—Just so that we can focus our thoughts on this, let me read the provision again. Resolution 16, of the resolutions agreed to by the Senate on 25 February 1988 concerning the procedure to be observed by Senate committees for the protection of witnesses, states:

An officer of a department of the Commonwealth or of a State shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister.

Senator CONROY—Which department is Mr Carmody an employee of?

CHAIR—As I understand it, that has been interpreted by the practice of all Senate committees to include agencies and statutory authorities like the ATO.

Senator CONROY—That was a quick one, George, off the top of your head. Well done. I was trying to find out whether the tax office has a view on this issue, given that it is a public debate. That is what I am trying to do.

Senator Coonan—Senator Conroy, you know that that is asking for an opinion; it is a matter of policy. What recommendations are made to government as part of this process is not a matter to speculate about, nor is it a matter for these officers to be second-guessing what government will do about it. I think that the lines are really being crossed.

Senator CONROY—I am happy to move on. Has anything concrete been implemented with respect to the recommendations from the task force report?

Senator Coonan—The public position is in the press release.

Senator CONROY—By my reckoning, we have four that are still in the process of being implemented, whether by drawing up guidelines or developing amendments; three that are still being weighed up; and five that have just been flicked past, to be dealt with by a further issues paper. According to my addition, that comes to a round zero that have actually been implemented. Do my maths add up, Mr Carmody? Do you have any idea? Is that a policy question?

Mr Carmody—The matter is outlined in the minister's press release. That is the matter on the public record.

Senator CONROY—So, six years down the track from when this process first started, we still have zero implemented.

Mr Carmody—We have outlined a significant number of steps that we have taken to deal with the issue. Our compliance approaches have been implemented, and you have already noted—in fact, I think you congratulated us on it—the outcome of those. You related it back to six years ago, which was when this issue was raised as a compliance issue. What I am pointing out is that there have been significant steps taken and significant things achieved over that six-year period. Matters that go to the law have been outlined in the minister's press release.

Senator CONROY—I repeat: of the 12 recommendations, six years down the track none have actually been implemented yet.

Senator Coonan—The substance of the matter is with the Attorney's portfolio. Perhaps the Attorney's estimates would be an appropriate place to take up how this is progressing. From this portfolio's perspective, we can answer with respect to recommendations 1, 2 and 12.

Senator CONROY—Thank you for agreeing with me that you have successfully implemented none of these recommendations.

Senator Coonan—I have not agreed with you at all, Senator Conroy. I have referred you to a process whereby you can obtain information about the substance of the lead portfolio in relation to this report.

Senator CONROY—Has any action been taken by the government to combat the serial failure to lodge a tax return by these people, as highlighted in some prominent cases in the media, Senator Coonan?

Senator Coonan—We have just been dealing with that for about the last hour and a half.

Mr Carmody—I think we have outlined, in extensive terms, the actions that we take.

Senator Coonan—The government treats it as a very serious matter. There is no excuse for people not complying with the tax law. The tax office's task is to put in place procedures to identify where there may be noncompliance and to remedy it. I think we have just had, for about an hour and a half, particulars of where there have been significant milestones achieved in doing just that.

Senator CONROY—I understand that you highlighted, in the same annual report, that some form of withholding system might be required to tackle this issue. In fact, in a previous estimates session, the ATO said:

There is provision within the new tax system legislation to introduce reporting or withholding regulations or provisions. They have not been activated as yet.

Have you ever recommended that they be activated?

Mr Carmody—No, I do not believe so, but I do not—

Senator CONROY—Careful: that could be a policy question!

Mr Carmody—I probably overstepped the mark. I do not talk about policy issues. The position is as I have stated in the annual report. But we believe that we are making significant progress by the actions that we are taking.

Senator CONROY—So nothing has been activated?

Mr Carmody—As a matter of public record, nothing has been activated, but a lot of action has occurred since then. It is because of the action—

Senator CONROY—There has been a lot of publicity—generated by Paul Barry, in the main.

Mr Carmody—I just want to reiterate—

Senator CONROY—I forgot: you have issued an annual report. I am sure the tax punters out there have read it faithfully.

Mr Carmody—The speech that I gave in this report—

CHAIR—Mr Carmody, what do you want to reiterate? You have the floor. Just keep talking until you are finished.

Mr Carmody—I just want to reiterate that I had raised these in a speech and in my annual report before then. It was not as though we were doing nothing before then; indeed, the opposite.

Senator CONROY—You were then gagged on your main threat! You said you going to name and shame, and then you did not.

Mr Carmody—‘Gagged’ is certainly an incorrect—

Senator CONROY—Legally gagged.

Mr Carmody—description of what occurred. We have been through that. I acted on legal advice that I had at the time. As to the other issue you raised, the question of withholding raises significant issues; but since then a lot of water has passed under the bridge and a lot has been achieved, and we believe we will continue to work with our existing strategies.

Senator CONROY—I note that the task force report talks on page 18 about ‘an instruction from the Attorney-General that procedures should be put in place to ensure that Commonwealth departments and agencies do not engage the services of counsel who have improperly become bankrupt’. I also note that the Attorney-General put in place an interim measure to this effect back in March 2001. To your knowledge, has a permanent measure now been put in place?

Mr Carmody—I do not have that knowledge but I am conscious of the original instruction.

Senator CONROY—Senator Coonan, has the Commonwealth engaged any counsel since that time who have improperly become bankrupt—in other words, people who were not previously but have become bankrupt?

Senator Coonan—I am sure the Commonwealth would never improperly engage any counsel.

Senator CONROY—Do you take any steps to keep an eye on this?

Mr Carmody—I do not know of the steps or procedures that were put in place to reflect the Attorney-General’s interim announcement; I am not conscious of those. I am sure appropriate steps were put in place.

Senator CONROY—Presumably when you seek legal advice it is from a different division to the one Mr Read is in charge of—is that right?

Mr Carmody—It generally goes through our ATO solicitor; I think that would be the normal course for getting legal advice.

Senator CONROY—Is the ATO solicitor allowed to call up the investigations unit to seek advice from them?

Mr Carmody—For what purpose?

Senator CONROY—To see who they are not allowed to employ.

Mr Carmody—I am not fully aware of the procedures that have been put in place, so I would have to take that on notice.

Senator CONROY—I presume there are Chinese walls to some degree—or do you believe that in this instance you should not have a Chinese wall?

Mr Carmody—We obviously act in accordance with the law. What I am saying is that I am not conscious of the particular procedures. I would have to take that on notice.

Senator CONROY—I was interested to note on page 14 of the task force report that the Senate Economic References Committee discussed this issue in its report *Operation of the Australian Taxation Office* dated 9 March 2000. I also note that the government did not respond to this report. Minister, is the government going to respond?

Senator Coonan—I am not aware of that.

Senator CONROY—Will you take that on notice.

Senator Coonan—Yes.

Senator CONROY—I also understand that my colleague John Murphy has placed no fewer than 66 questions on the House of Representatives *Notice Paper* about this issue to the Attorney-General or the Treasury ministers or both, and that in return he has had a grand total of three answers. Have these questions on notice been reaching the tax office?

Mr Carmody—Questions to the Attorney-General?

Senator CONROY—To Treasury ministers as well.

Mr Carmody—If questions on notice were put to Treasury ministers they would, as a natural course, go to the Treasury or the tax office as appropriate.

Senator CONROY—I understand that parliamentary procedures require that such questions be answered within 60 days. Has the tax office met the deadline on these ones? I am happy for you to take it on notice, Mr Carmody.

Mr Carmody—I do not know about all of these questions. I will take it on notice and see what is possible.

Senator CONROY—Minister, are you aware of whether or not you have had a chance to answer any of those questions from my colleague Mr Murphy?

Senator Coonan—There are many questions on notice, Senator Conroy. I will have to check whether or not any relating to Mr Murphy have come to me.

Senator SHERRY—I have some questions about the proposed surcharge tax rate reduction and the details contained in the explanatory memorandum to the bill. Could it be confirmed that the costings under the charter of budget honesty at the last election and the budget figure for 2002-03 show that the proposed cost of the measure for tax reduction was \$370 million over three years?

Mr Gallagher—The number sounds familiar. Certainly, there is a revision in the cost estimates.

Senator SHERRY—I am getting to that. I just want confirmation that the original costing, prior to the election, under the charter of budget honesty and then in the 2002-03 budget was a total of \$370 million for the tax cut.

Mr Gallagher—The surcharge rate reduction went: minus \$50 million, minus \$120 million, minus \$200 million.

Senator SHERRY—So it was \$370 million. Is that correct, Mr Gallagher?

Mr Gallagher—Yes. It was \$370 million over the three years up to 2005-06.

Senator SHERRY—The recently released explanatory memorandum shows that the cost of this has blown out to \$525 million over three years. Is the EM correct?

Mr Gallagher—That is the revised estimate. The surcharge revenue collection has been higher than originally expected—

Senator SHERRY—I am going to get to that. There are couple of issues there that I want to explore. Are the costings in the EM in cash, accrual terms or both?

Mr Gallagher—They are in cash.

Senator SHERRY—You started to touch on the change to assumptions. Could you explain why there has been such a substantial increase in the cost of this measure? According to my calculations, it is just over 40 per cent.

Mr Gallagher—There has been a significant upward revision of surcharge revenue since the original election costings. Those costings were done in September 2001. It has been apparent that collections have been growing, and there has been a revision of estimates to reflect the growth in surcharge revenue collection. That growth is also reflected in the budget papers.

Senator SHERRY—I assumed that you would identify that issue—the increase in surcharge tax revenue collection. The increase in surcharge tax revenue collection for 2003-04, 2004-05 and 2005-06 is 19 per cent, 20 per cent and 21 per cent. It is approximately 20 per cent over the three years. Yet the increase in the cost of the measure is approximately 40 per cent. So, in part, you are right about the increase in the revenue that you are projecting. But there must be another reason there has been a revision to the costing.

Mr Gallagher—I would have to check the numbers. As far as I am concerned, the major reason is an increase in the revenue.

Senator SHERRY—Looking at the increase in the revenue—you are right; it is a reason and I have no argument about that—it seems to explain about half of the increase in the

additional cost of the measure. I am looking for an explanation as to the other factor. There must be some other factor. Have you changed an assumption?

Mr Gallagher—Not that I am aware of. As I have said, I will take that on notice and recheck the figures, but I am sure that most of this revision is about a change in revenue estimates.

Senator SHERRY—I could understand if it was relatively modest. But when this is subjected to a charter of budget honesty election promise and there is a 40 per cent increase in the cost, it is a worry. Have you anything to add?

Mr Gallagher—Nothing to add.

Senator SHERRY—The EM does not give the cost for the year 2006-07. Our forward estimates include figures for 2006-07. What is the estimated cost of the surcharge tax reduction in that year?

Mr Gallagher—It is an unpublished number. I will take that on notice.

Senator SHERRY—You say that it is unpublished, but you have a figure?

Mr Gallagher—There will be a figure, yes.

Senator SHERRY—The estimates give us figures for 2006-07. Why can't you give me the figure now? It is a matter of fact. The estimates give these figures for that particular year. I do not understand what the problem is.

Mr Gallagher—I will take that question on notice.

Senator SHERRY—Moving to the cost of the low-income co-contribution measure, again I had a look at the EM and again there has been a significant upward revision to the cost of this measure. Firstly, are the costings in cash or accrual terms or both?

Mr Gallagher—Cash.

Senator SHERRY—Can you confirm that the charter of budget honesty costing prior to the election was a total of \$337 million over four years?

Mr Gallagher—The co-contribution itself?

Senator SHERRY—Yes, the charter of budget honesty election costing.

Mr Gallagher—That \$337 million may include three years of the low-income measure. I would have thought the costing went minus \$95 million, minus \$100 million, minus \$105 million for the co-contribution itself, but I can check the charter of budget honesty costing.

Senator SHERRY—In the 2002-03 budget figures, the three-year costing for 2003-04, 2004-05 and 2005-06 is a total of \$270 million. Is that correct? That is in the budget for 2002-03.

Mr Gallagher—Yes, that sounds correct. That is the \$300 million I had minus the \$30 million, which is the low-income rebate offset.

Senator SHERRY—Yet the explanatory memorandum shows a cost of \$355 million over those three years. That is a 30 per cent increase. Can you give us the reasons why there has been such a significant increase again?

Mr Gallagher—The costs of the co-contribution have been re-estimated on the basis of data associated with the superannuation surcharge. The re-estimation led to a higher cost than was available from an estimate based on the original low-income superannuation rebate data. So it is a switch of data. There is also an increased allowance for take-up in the costing.

Senator SHERRY—What is the increased allowance for the take-up in the costing—approximately?

Mr Gallagher—It varies from year to year, but there is a behavioural impact as the years go by in terms of the increased take-up of the co-contribution in the numbers.

Senator SHERRY—So the behavioural impact that you are now predicting has changed from the behavioural impact that you would have predicted in the original costing?

Mr Gallagher—The election costing was done in a very short period of time and, as I said, it was done off the low-income superannuation rebate data set or data. It did not have a significant allowance for behavioural change in it. We have re-examined the costing, and we have re-examined the data on which the costing is based.

Senator SHERRY—You made some incorrect assumptions in the original costing, or you have changed the assumptions?

Mr Gallagher—We have changed the assumptions, yes.

Senator SHERRY—That is given as a different figure.

Mr Gallagher—There was a reasonable static costing from that particular data source.

Senator SHERRY—It has given us a significantly new figure.

Mr Gallagher—It is a significantly new figure.

Senator SHERRY—The EM does not provide a cost for the year 2006-07, and that is within the forward estimate period. What is the cost in that year?

Mr Gallagher—Again, that is an unpublished number and I will take the question on notice.

Senator SHERRY—Again, I cannot see the problem. It is in the forward estimate period; why wouldn't that figure be given, as you know it? Minister, can you add anything as to why it is a problem to provide that figure? It is in the published forward estimates.

Senator Coonan—The answer is that we will take it on notice, because it is not a published figure. It may be appropriate to give it to you, but we would prefer to take it on notice.

Senator SHERRY—We have not yet seen the legislation relating to contribution splitting for couples. However, there are some costings in the 2002-03 budget on this proposal. I want to clear up firstly whether there is a revised start date for this proposal—or are we still working on the existing starting date?

Mr Brake—There have been no announced changes to the start date, and the budget last year reflected a 1 July 2003 start date.

Senator SHERRY—So, as a consequence, there are no revised costings?

Mr Gallagher—That is correct.

Senator SHERRY—There could be?

Mr Gallagher—There could be but, in actual fact, we have not revised—

Senator SHERRY—There is no revision of the costings at this point?

Mr Gallagher—No. It is quite a small costing. It is not of the order of magnitude of the other revisions.

Senator SHERRY—What is the current RBL limit—approximately?

Mr Brake—For lump sums or pensions?

Senator SHERRY—Both.

Mr Brake—For the 2002-03 income year, they are \$562,195 for lump sum payments and \$1,124,384 for pensions.

Senator SHERRY—Is it likely that it is higher income earners who would get close to or breach the RBL limit—inadvertently, presumably? We are dealing with high-income earners in terms of—

Mr Gallagher—It is a very high level of superannuation accumulation, and that suggests a significant level of remuneration. It is likely that people who are in excess of their reasonable benefit limit would be higher income earners.

Senator SHERRY—Perhaps I could just give you a figure and you may be able to comment, Mr Gallagher: from the figures that I have been given and that I have looked at in an actuary's report, a person on an \$80,000 income throughout their career and contributing for 40 years, would get a lump sum of \$461,500.

Mr Gallagher—We would need to check that calculation. It is unlikely that somebody on \$80,000 would in actual fact only have SG.

Senator SHERRY—If you doubled the contribution, say, 18 per cent, a person on \$80,000 would come close to \$1 million if they had 40 years of contributions.

Mr Gallagher—Is that in real or nominal terms?

Senator SHERRY—Real terms. I do not deal in nominal terms, unlike some others.

Mr Brake—I am sorry; when you say 'real'—

Senator SHERRY—Today's dollar terms.

Mr Brake—Just to clarify, the RBLs are actually indexed to AWOTE, not to prices. So is this real in terms of being deflated by the wages or prices?

Senator SHERRY—Mr Gallagher, do you have a figure available at the moment of the level of contributions and income that would be required to get close to \$1 million in total superannuation accrual?

Mr Gallagher—I do not have that number with me at the moment. There are significant tables in Treasury's submission to the superannuation inquiry into adequacy. I imagine if you double the contribution rate, you might get close.

Senator SHERRY—But it is high-income earners we are talking about overwhelmingly?

Mr Gallagher—I would expect so.

Senator SHERRY—Unless a person of modest income was in an extraordinarily generously defined benefit fund.

Mr Gallagher—It is possible, but it is generally high-income earners.

Senator SHERRY—It is very unlikely.

Mr Gallagher—Yes. That is a very large amount.

Senator SHERRY—Do we have any statistics on the number of people who have come within, say, \$50,000 of the RBL in the last year?

Mr Gallagher—No. In taxation statistics, I think the number published is the number of people with an excessive component. It does not give any estimate of the people whose component was nearly excessive.

Senator SHERRY—Is it possible to get figures?

Mr Gallagher—That is a small sample issue. It is really a question for the Taxation Office as to whether such estimates are derivable.

Senator SHERRY—The tax office is still with us.

Mr Jackson—I can pull out some statistics, although this is probably not strictly my area. We would have to look to see what sort of information we have to see whether we could get that sort of stratified sample of data. I am not sure, to be honest.

Senator SHERRY—I would have been surprised if you had it with you here today. Please take that on notice. Mr Gallagher, you mentioned that a number of people exceed the RBL. Do you have that figure?

Mr Gallagher—No, I do not have a copy of the tax stats with me and unfortunately the commissioner said that he did not have one either. I recall that it is of the order of 100,000 people in a year, but I would have to take the number on notice.

Senator SHERRY—The number of people who exceed the RBL?

Mr Gallagher—I think so.

Senator SHERRY—With \$100,000 a year?

Mr Gallagher—With an excessive component.

Senator SHERRY—Please take that on notice.

Mr Gallagher—Yes. There might be 50,000.

Senator SHERRY—Mr Gallagher, at the last estimates we spent a reasonable amount of time analysing the overseas residents measure. That is the measure that relates to transferring your superannuation offshore if you are a temporary resident, and the tax office collects some tax from that transfer of moneys. Have you got an approximate figure for the amount of superannuation payments by overseas residents in a financial year? You went into a fair amount of detail last time in analysing various visa classes to work out payments into

superannuation by temporary residents and added it to the existing bank. Do you have an approximate figure for the amount of superannuation paid?

Mr Gallagher—The original costings did come up with an estimate of the number. I do not have that number with me.

Senator SHERRY—You do not know approximately what it was?

Mr Gallagher—I cannot recall. These are costings we did in 2001.

Senator SHERRY—This measure has now been in place for almost a year. Can I have the year-to-date revenue collection?

Mr Gallagher—There are two issues. Firstly, I do not think that is a published number and, secondly, I do not think I am totally up to date on what the revenue collection is.

Senator SHERRY—Why isn't the figure published?

Mr Gallagher—I think you would need to wait until the end of the year.

Senator SHERRY—Do you have the year-to-date figure though?

Mr Gallagher—No, I do not have the year-to-date figure.

Senator SHERRY—Is it correct that the published figure for 2002-03 was \$70 million? That was the projection.

Mr Gallagher—This was in the original election costings?

Senator SHERRY—In the budget. I think it might have been the same figure in the election costings.

Mr Gallagher—The original number was \$70 million for 2002-03.

Senator SHERRY—The figures I have are a total of \$325 million in the election costing, under the charter of budget honesty, and the same figure in the 2003-03 budget papers—a total of \$325 million. That is correct, isn't it?

Mr Gallagher—Over what period did you get \$325 million?

Senator SHERRY—From 2002-03 to 2005-06—a total of \$325 million.

Mr Gallagher—Yes.

Senator SHERRY—That \$325 million is the figure in both the election commitment costings—the charter of budget honesty—and the 2002-03 budget. That is correct, isn't it?

Mr Gallagher—Yes.

Senator SHERRY—For the first year, 2002-03, \$70 million was the projected revenue figure. Is that correct?

Mr Gallagher—Yes.

Senator SHERRY—Who in the tax office has been overseeing or has knowledge of the collection of revenue in this area? Mr Jackson, do you have knowledge of this revenue collection area?

Mr Jackson—Yes, I do.

Senator SHERRY—Can you give me the year-to-date figure?

Mr Jackson—I would not have any information on that yet. Funds are not required to report to us until 31 October, so we will not have information of that nature until then.

Senator SHERRY—Have they reported anything yet?

Mr Jackson—No, not yet.

Senator SHERRY—Have you had any communication from superannuation funds on this matter?

Mr Jackson—We have spoken to funds extensively about the whole issue of the departing non-residents, but we do not have information. We have not talked to them specifically about the amount of money they are remitting back to the—

Senator SHERRY—My next question is: what have they indicated about the take-up and transfer out of the fund overseas by overseas residents?

Mr Jackson—They have not given us any indication on that, at this stage.

Senator SHERRY—Nothing at all?

Mr Jackson—Not that I am aware of.

Senator SHERRY—Are you the one who has handled this communication directly with the funds, or have other officers done that?

Mr Jackson—A number of people in the office speak to funds and we have key client managers—people who deal with them—but generally anything of that nature would come to my attention, and I am not aware of anything at this stage.

Senator SHERRY—Have they given any indication of the identified number of overseas residents who have taken up the offer to transfer it out of the country?

Mr Jackson—No, I do not have any of that sort of information.

Senator SHERRY—So it will be reported by the funds at the end of the financial year. When would you get the figure from the different superannuation funds?

Mr Jackson—We would expect 31 October; I think that is the reporting date.

Senator SHERRY—You may be aware that there was some discussion in the migration estimates about this particular issue. I understand that there were some discussions between the tax office and migration about some changes in order to improve the potential collection—identification of these people, communication to them. Can you just confirm—

Mr Jackson—Is this the box on the departure card asking for an email address and the like?

Senator SHERRY—Yes. That is a new initiative, isn't it? It has not been in place over this financial year?

Mr Jackson—No, it has not been.

Senator SHERRY—It is to be put in place but I was not given a date. Do you have a date?

Mr Jackson—I would have to check, but I understand it will be for the reprint of the cards, which is in July. I would have to check on that.

Senator SHERRY—So the cards are reprinted—I understand there was a bit of a tussle about who would pay for it—and then they will be distributed on some date after July?

Mr Jackson—That is right, yes. I understand that we are paying for it.

Senator SHERRY—Yes, I understand that that tussle was settled. You wanted to try to get the revenue; they insisted that you pay. I understand that this was an approach from the tax office to migration to request that the information be put on these cards?

Mr Jackson—We have talked to a number of people. We have talked to Customs as well as DIMIA. There has been an ongoing series of discussions that goes back to 2001—I think there were some preliminary discussions. I guess I should point out that, in dealing with this issue of departing workers, we have a strategy in three parts. The first part is to look at those who have already left the country, because there is an issue for us about the validity of an address that we might have for them. So, with people who have already left and gone off to South Africa or wherever, or who are on a working holiday around the world, the further they move on in time, the less likely we are to be able to contact them.

Senator SHERRY—I accept that. With people who have left, we are dealing with the existing bank of moneys within superannuation funds in the country, aren't we?

Mr Jackson—That is right. We had a whole range of strategies around that, and our first focus was to get that under way. We are moving on now—

Senator SHERRY—Just before you move on to the next aspect of the focus and the strategy, how have you been tracking down these people to inform them about the bank of the money?

Mr Jackson—There are a number of things. I can run quickly through some of the things we have done, if that would help.

Senator SHERRY—Yes.

Mr Jackson—First of all, we have set up a web site where temporary residents can log on and go through the process of filling out an electronic form and sending that off to us.

Senator SHERRY—Are we talking here about those who have left?

Mr Jackson—Those who have left, yes. They have to have left and to have permanently departed to be able to make the claim.

Senator SHERRY—To claim the money.

Mr Jackson—Yes. We have liaised with DIMIA on that and set up a direct link, because one thing that needs to happen is that DIMIA need to certify that the person has left the country permanently. Once that is done, there is a transfer to the fund and the fund then has the information which enables it to make the payment and the withholding which was talked about earlier for October. The second thing is that we have done a range of international advertising, including in things like Qantas's *Inflight* and some key travel guides.

Senator SHERRY—I have a number of questions on this issue and the answers will probably involve a fair amount of detail, on which I will probably ask questions as we go on.

Proceedings suspended from 6.30 p.m. to 8.00 p.m.

Senator SHERRY—Perhaps if we just take two steps back: I think we started with the web site. Is that a Treasury web site?

Mr Jackson—No, that is Tax web site.

Senator SHERRY—Just before we go into this, we are talking here about measures to communicate to hundreds of thousands of people who have already left the country, who have already got the bank of superannuation contributions in the country. Can you tell me approximately when the web site got up and going?

Mr Jackson—I cannot tell you precisely, but it has been running for some time—certainly from the start of this calendar year or earlier.

Senator SHERRY—What has been the response to that web site? How many hits are you getting, inquiries?

Mr Jackson—We have had some thousands a month. I think the last month it was 5,246.

Senator SHERRY—Roughly.

Mr Jackson—Roughly.

Senator SHERRY—Surprisingly accurate!

Mr Jackson—There are a couple of issues around that. First of all, all our research tells us that the group of clients we are seeking to target here are very familiar and comfortable with and prefer to deal with us electronically, through web sites, email and the like.

Senator SHERRY—Yes.

Mr Jackson—The second thing is that industry was fairly keen for us to complete the link that we had with DIMIA to avoid getting into a paper shuffling war and they would have to rework and send bits of paper back to people, so part of that process was getting all that up and running together. That is all working. When a form is submitted by someone who is making a claim over the 5,000, whatever the amount is, that automatically goes to DIMIA for clearance that they have permanently departed before going over to the fund for the payment to be made. Part of the process of getting that up was making those things all happen at once rather than us just put a web site up and then end up effectively printing stuff out and sending it round the countryside.

Senator SHERRY—Right.

Mr Jackson—There were some other things I was just going to go through there with you.

Senator SHERRY—Yes.

Mr Jackson—There is an international advertising campaign, which includes Qantas magazines, key travel guides, fact sheets and forms displayed at the tourist refund scheme offices.

Senator SHERRY—Have you had any evaluation of the advertising campaign?

Mr Jackson—We have not as yet, but we will be looking at that shortly. We have linked the web site to a range of other web sites, again just in line with our view that people were very keen to deal with us electronically. So when they log on to the DIMIA web site, the Customs web site or any of those sorts of sites, they will see a link to our web site to make the claims. We have had a direct mail-out to all people who we believe are affected here who have left the country, so nonresidents who have permanently departed were sent the letter.

Senator SHERRY—That is a lot of people. There must be well over a million nonresidents in the last 10 years. What are we talking about in terms of a mail-out?

Mr Jackson—The ones we have been able to identify. I do not have a number for the mail-out, but I can get that for you.

Senator SHERRY—Isn't there a fair chance when you are mailing out to these people that they have moved?

Mr Jackson—That is one of the issues. That is what I was saying to you when we started and you asked about the departure card. The key issue for us is to try to get this part of the process under way as quickly as possible before those people move any further than they already have, and of course a number of the people we have written to here will have left and we will not make contact with them, but the more we can get to quickly, the better chance we have. We are writing to all those we have been able to identify.

Senator SHERRY—You do not have any idea what proportion that is.

Mr Jackson—Proportion of?

Senator SHERRY—Yes, those you have been able to identify to write to?

Mr Jackson—Yes, as a proportion of what, the total number of visitors?

Senator SHERRY—Say of temporary residents who have left in the last five years.

Mr Jackson—I do not believe I would be able to get that but I will see if we can.

Senator SHERRY—Do you know what the response has been to the direct mail-out?

Mr Jackson—Again, I do not have that figure to hand. I suspect it will not be high. The mail-out has not gone that long ago. We have also been working with the recruitment agency peak body to distribute information through their recruitment agencies. A number of those recruitment agencies maintain contact with the departed temporary residents, particularly where they are in industries like IT and they are on a sort of round-the-world placement from time to time. We are obviously working with superannuation funds through their newsletters, web sites and member statements to provide information. DIMIA have leaflets in their overseas business centres. The minister issued a press release a little while ago.

Senator SHERRY—I saw that but, realistically, how many temporary residents who have departed the country would have read it?

Mr Jackson—I am not sure, Senator. It could well get reported.

Senator SHERRY—I can understand why the minister issued a press release but I think realistically the hundreds of thousands who have left the country—

Mr Carmody—It is all just part of the broader scenario.

Senator SHERRY—Yes, it could be as successful as the children's accounts for super but, anyway, that is another issue.

Senator Coonan—But then you would not know how many, would you?

Senator SHERRY—We know it is one, unless you tell me otherwise, but I will be interested in an update. Sorry, Mr Jackson.

Mr Jackson—I guess it is the range of things that we have put in place to try to contact and make aware those people who have already left the country. For those who are here—and obviously a number of these things overlap—there is the web site. We have used Tax Time 2002. There was a satellite seminar, a broadcast, an e-link to the web site and information in *TaxPack*, so we were partially targeting agents who might well be preparing tax returns for those who are preparing a final return for departure.

We did trial a booth at the Sydney Airport to see if we could actually catch people as they cleared Customs. We trialled it for about six or eight weeks and it was not terribly effective. The issue that we run into there is that Customs are struggling with the airline departure times to get people clear of the border to allow them to get to their aircraft. By the time people did their duty-free shopping and got through Customs, they did not have a lot of spare time to fill out their superannuation forms on the way past, so we have discontinued that. But we did give that a try.

Customs have been distributing fact sheets and answering inquiries there. Again, there are the links to the various web sites, the DIMIA employers handbook, *Don't give a job to an illegal worker*. We have an updated reference there. We have done a number of seminars at various locations and various times to people who may be affected by this. Again we have contacted the recruitment service agencies and had superannuation funds distributing letters. We have had some education campaigns on SBS radio in various languages and at various times. There has been a media release, the government's education newsletter, a booklet from Industry and Tourism entitled *Getting down to business: temporary residents*—and various ATO publications. We have had a domestic public education campaign fairly recently, and then the outgoing passenger card will come into effect, I understand, in July. They are the sorts of things for people who are here at the moment.

I have a similar list for those who are not yet here but they would again include the web site; whilst it was running, the trial of the booth at the airport; the DIMIA booklet entitled *Sponsoring a temporary overseas employee to Australia*; the web site links; the DIMIA booklet on the working holiday maker program; DIMIA fact sheets; recruitment agency; advertising campaign in Qantas magazine and key travel guides; DIMIA leaflets in various overseas—

Senator SHERRY—Mr Jackson, similar types of things?

Mr Jackson—Several things of that nature. It is a fairly extensive campaign right across a range of—

Senator SHERRY—The ballpark figure on the costs of this operation so far?

Mr Jackson—I think we should probably have that to hand. The mail-out that I mentioned earlier has gone out to 100,000 people or thereabouts.

Senator SHERRY—Out of a potential number?

Mr Jackson—That is difficult to say.

Senator SHERRY—Mr Gallagher said there were 275,000 people by this measure in a single year and 180,000 would have superannuation coverage, in a single year. That is from the *Hansard* of March. That mail-out was to people who had already left the country, and there must be millions who have got super in Australia. Goodness knows what the figure is.

Mr Jackson—Yes, it could be difficult to know.

Senator SHERRY—So 100,000 letters have gone out to those people, whatever the response is. Mr Gallagher, do you still hold the assumptions that you made in respect of costing this measure, the revenue to be raised?

Mr Gallagher—We have had a closer look at the take-up assumptions and at the moment we have downgraded our take-up assumption on this costing.

Senator SHERRY—From what to what?

Mr Gallagher—I cannot recall exactly.

Senator SHERRY—You said 80 per cent take-up rate on this measure at the last estimates.

Mr Gallagher—Yes.

Senator SHERRY—What has it been downgraded to? You must have some idea.

Mr Gallagher—No, I cannot recall. It was very detailed analysis. I will take it on notice, Senator.

Senator SHERRY—I have actually asked a number of the superannuation funds about what has been happening and they gave me a figure of around 10 per cent. Would that figure surprise you?

Mr Gallagher—It depends when the figure relates to.

Senator SHERRY—This financial year to date.

Mr Gallagher—There has been a lot of recent activity promoting this measure, to give people the opportunity to take their money out of Australian superannuation accounts when they leave the country. If you have a number from February, it may have been a low take-up number—

Senator SHERRY—Mr Gallagher, you gave me the take-up rates. We spent a fair amount of time at the last estimates. You gave me good, accurate figures that you had at the time. You have now told me it has been downgraded, but you cannot tell me what the take-up rate has been downgraded to.

Mr Gallagher—No.

Senator SHERRY—You could tell me last time. Why can't you tell me now?

Mr Gallagher—I have not come prepared for that question but also, I think, initially the long discussion reflected the material published in the election 2001 costings, so it was already published information.

Senator SHERRY—I sent a letter to the committee, which I assume was passed on. I did the courtesy of notifying well in advance that I would be asking detailed questions. The third point in my letter states:

... assumptions used in costing measures relating to child superannuation accounts, overseas residents, deductible contributions by the self-employed and any revision to these assumptions following the implementation of these measures ...

Even though I have given advance notice in writing, you cannot give me the new assumption?

Mr Gallagher—No, I cannot, Senator.

Senator SHERRY—If the figure is 10 per cent, and not 80 per cent as you indicated, that would mean a substantial loss to the projected revenue from this measure, wouldn't it?

Mr Gallagher—Yes. That is a hypothetical question, Senator.

Senator SHERRY—You have admitted you have downgraded it.

Mr Gallagher—Yes.

Senator SHERRY—You cannot tell me, despite my giving you a week's notice in writing, about any new assumptions? You cannot tell me today. If it is 10 per cent—let us assume it goes up to 20 per cent over time, but I am told at the moment it is 10 per cent—you are facing a potential shortfall of a couple of hundred million dollars over four years.

ACTING CHAIR (Senator Watson)—Senator Sherry, does that 10 per cent include the 200,000 do-it-yourself super funds?

Senator SHERRY—No.

ACTING CHAIR—That could be another factor.

Mr Gallagher—Any revision to the estimates will already be reflected in the budget estimates of revenue.

Senator SHERRY—I suggest to you that you have not come here with the figures today quite deliberately so that you do not have to admit to me what the new assumptions are and what the loss of revenue is. Could I suggest that to you?

Mr Gallagher—You have.

Senator SHERRY—Yes. Do you agree or not?

Mr Gallagher—No.

Senator SHERRY—I gave you a week's notice in writing.

Mr Gallagher—Yes.

Senator SHERRY—That is an unusual step, I think, for any senator to take. Mr Gallagher, let us just have a quick overview of the areas I have asked questions about. I have not gone to super contributions for children yet, but we have had a major revision of the take-up rate from the election package, which you were involved in making the assumptions for through to the budget last year.

Mr Gallagher—Yes.

Senator SHERRY—There is a major revision down. That's correct, isn't it? I am not going to a current take-up rate. There is a major revision down in the take-up rate of the children's accounts as part of the government's election package.

Mr Gallagher—Yes, we revised that down.

Senator SHERRY—And a massive revision down of last year's budget.

Mr Gallagher—Yes. Take-up is a very hard thing to anticipate.

Senator SHERRY—But that is a matter of fact, isn't it?

Mr Gallagher—Yes.

Senator SHERRY—In the low-income earners' co-contribution we have had a significant revision upwards.

Mr Gallagher—Yes.

Senator SHERRY—Phased reduction in the superannuation surcharge tax cut—a massive revision upwards in the cost, from \$370 million to \$525 million. There is another significant variation, isn't there?

Mr Gallagher—Yes.

Senator SHERRY—You have admitted the downward revision in assumptions on the revenue to be raised from the nonresidents who permanently depart Australia—yet another significant change—but you cannot give me the detail. Mr Gallagher, here are four very substantial matters. It is not one; it is four very substantial matters in terms of the costing of the government's package prior to the election through to this point in time. There have been major changes in four of those elements. That is correct, isn't it?

Mr Gallagher—There have been changes in four of those elements.

Senator SHERRY—Yes, major changes. We are not talking about five per cent or 10 per cent. I could accept that as par for the course, but we are looking at major changes, aren't we?

Mr Gallagher—In total, yes.

Senator SHERRY—And the nonresidents who depart Australia is not the only revenue measure, but in terms of the government's election package and the funding of the government's superannuation package initiatives, it is about one-third or two-fifths, approximately, of the money needed to fund the package, isn't it—the projected revenue, \$325 million?

Mr Gallagher—The revenue from the temporary residents' superannuation was part of the costing offset in the original package.

Senator SHERRY—Yes. \$325 million, wasn't it?

Mr Gallagher—I will have to check.

Senator SHERRY—You have already confirmed that. There is no argument about that. The only other net addition to revenue was the \$9.4 million from the quarterly superannuation

guarantee contributions. How can we believe your assumptions when you make such major errors in the four major components of the government's superannuation package?

Mr Gallagher—These are very new things, Senator. We did not have a history on which to make assumptions about what would occur and what would not occur. We made the best assumptions we could in the short period of time we had to do so during the election campaign.

Senator SHERRY—But under the Charter of Budget Honesty, at least in this area, we rely on you for costings.

Mr Gallagher—Yes.

Senator SHERRY—There are four major revisions of the government's package, all to their detriment—significantly so. Why should we believe you in terms of future costings in this area?

Mr G. Smith—Senator, the costings were the best costings available to the Treasury at the time. They are revised, but rarely published, subsequently. They are the best costings available at the time. I think we have already indicated that there has been a significant growth of revenue in some of these heads which was not anticipated at the time, and that underlies some of these changes.

Senator SHERRY—Thanks, Mr Smith. I do not want to be overly personal about this, Mr Gallagher.

Mr G. Smith—You are impugning the reputation of the Treasury, Senator.

Senator SHERRY—No. Can I just get my next question in, and you might understand.

Mr G. Smith—You can speak to me if you wish, Senator.

Senator SHERRY—What I have done, Mr Smith, is to go through and highlight in four areas where substantially it was wrong.

Mr G. Smith—Yes, it was wrong. It is quite common for our costings to be proven to be wrong. That has happened all through history. We provide the best possible costing at the time. These are certainly not the worst ones we have done. We have done much worse than this, like the capital gains tax and many others in history. That is the nature of some costing exercises, but it does not assist to impugn the reputation. It was the best available information and it was published at the time.

Senator SHERRY—Mr Smith, what conclusion should I draw when I give notice in writing that I am going to ask for these sorts of figures in detail—which is a reasonable courtesy, I thought, to extend to you and to Mr Gallagher—and he does not come with the figures?

Mr G. Smith—He does not come with the figures because what you are asking for is material that the government has not published and has never published in the past.

Senator SHERRY—But Mr Gallagher gave me these figures on the last occasion.

Mr G. Smith—What he gave you were the published figures.

Senator SHERRY—He gave me the assumptions on the last occasion, no problem. Because things have turned out fairly bad, I do not get the figures this time, even though I have asked in writing.

Mr G. Smith—We are not denying you the figures—

Senator SHERRY—You are denying me the figures.

Mr G. Smith—We are denying you nothing.

Senator SHERRY—Rubbish!

Mr G. Smith—We took the question on notice. That is what we are required to do and that is what we are doing.

Senator SHERRY—Mr Gallagher, with the problems that you have had in this area in terms of costing, don't they highlight how difficult it is to make assumptions in these types of areas? It is not easy to make assumptions, is it?

Mr Gallagher—The issue has been the behavioural assumptions concerning take-up and to produce costings well in advance of any legislation or administration of a policy, such that you do not know what effect the administration or the legislation will have on actual behaviour. There is a variety of issues here. It is also the case that, in terms of total superannuation revenue, the increase in surcharge revenue and other revenue has more than covered the variations in the costings in the package, I think.

Senator SHERRY—We do rely on your best efforts, don't we, in terms of costing election commitments?

Mr Gallagher—Yes.

Senator SHERRY—And you put your best effort into it, didn't you?

Mr G. Smith—And they were signed by the Secretary of the Treasury as a result.

Senator SHERRY—Yes, of course. Senator Coonan, the extra cost of this exclusive tax cut for high-income earners has now gone up by 40 per cent from \$370 million to just over \$500,000. The extra cost of the low-income earners' co--contribution has gone up from \$270 million to \$355 million. That is an extra 31 per cent. I accept that the lack of success of superannuation accounts for children is an offset. There is a risk that the overwhelming revenue measure—the \$325 million tax collected from nonresidents—is going to fall significantly short, because the assumptions have been downgraded, so how do you pay for your election promises?

Senator Coonan—Senator Sherry, you prefaced your question with a statement that I certainly do not agree with, and that is that there is an exclusive tax cut for high-income earners. I did not want that to stay on the record unchallenged. It might be a good rhetorical flourish, but it does not have much substance to it. Obviously, there are higher revenue heads, in effect, that are going to pay for these matters. I reiterate what has already been said, that you can hardly be surprised that assumptions made in the way in which the costings are put together are sometimes not correct and we have to accommodate that.

Senator SHERRY—In relation to an update on the children's superannuation accounts, we managed to identify one which we had a discussion about at last estimates. Do we have an updated figure?

Senator Coonan—I have not got an updated figure. I can say, however, that I have personally had several letters from people who have been looking at how they can access a child account. I am not in a position to give you a definitive figure. I would say, however, without canvassing the issue exhaustively, that it is a voluntary initiative and it is there for people to take up if they wish. There is no compulsion attached to it.

Senator SHERRY—When will we have some updated figures?

Senator Coonan—It has not been in for a year yet, so certainly not for a little while.

Senator SHERRY—But when will we have it? When will the tax office get the data on this?

Mr Jackson—It will be the surcharge run, which I think is November, Senator. That would be the first time that we would have any information. We would have to look there to dates of birth.

Senator SHERRY—Mr Gallagher, are you confident you will make the 47,000 assumption? Have you considered reviewing your assumptions in this area as well?

Mr Gallagher—I think this is a very small revenue consequence. We will have to wait and see how we go against the 47,000.

Senator SHERRY—It is not the revenue issue that I am questioning here. It is 470,000 costed prior to the election, which I understand you made or contributed to the making of the assumptions on—470,000 down to 47,000 in the budget last year. I hope the take-up is more than one. Are you not willing to concede that you might have been a touch optimistic on the assumptions?

Mr Gallagher—I have already conceded that I have been a touch optimistic by revising downwards before.

Senator SHERRY—Another revision down by 90 per cent?

Mr Gallagher—I think we will wait for the information. As I said, there is a very small amount of revenue involved.

Senator SHERRY—It is not the revenue issue that I am going to. It is the '470,000 children's accounts' blazing headlines before the election—the wonders of compound interest. I can recall all the quotes from the Prime Minister.

Mr Gallagher—I do not recall the numbers being used in any advertising prior to the election. I do not recall that assumption being used. There was some emphasis on the accounts, but not on any particular numbers in the Treasury costing.

Senator SHERRY—You stand by 47,000 then?

Mr Gallagher—It has not changed.

Senator SHERRY—Do you stand by the figure though?

Mr G. Smith—The figure in the current estimates is based on 47,000.

Senator SHERRY—Would you accept my suggestion that it perhaps should be revised down by about 90 per cent to, say, 4,700? Would you accept that?

Mr Gallagher—I will talk to a number of people about what numbers we should use.

Mr G. Smith—The next revision will be from MYEFO.

Senator SHERRY—Time will tell who is right!

Mr Gallagher—Can I add to an answer I gave previously concerning RBLs?

Senator SHERRY—Yes.

Mr Gallagher—You asked me previously about the number of people with excessive ETPs. In 2000-01, the number was 598, reflecting an amount of \$27,149,222. Over time it has varied, but since 1997-98 the numbers have been around 600 in terms of people with excessive ETPs.

Senator SHERRY—Thank you for that, Mr Gallagher.

Mr Jackson—Senator, you asked me before about the amount of money we had spent on the departing superannuation. We have \$3 million allocated to that and, whilst we have not quite finished our campaigns and our work there, we have spent a good part of that in the process.

Senator SHERRY—Thank you, Mr Jackson.

Senator BARTLETT—I have a few questions on the expense estimates for the baby bonus. The budget statements Treasury estimates last year estimated the expense for the current year at \$85 million and for the forthcoming year at \$250 million. This year that has been revised down to \$60 million and \$170 million respectively, so around about 30 per cent for both this financial year and next financial year. Why has that occurred? Has there been less take up of it?

Mr Gallagher—We have revised our estimate down to a 70 per cent take-up by new mothers in 2002-03. In the original election costing we said that actual costs may well be lower than estimated because take-up may not be 100 per cent and actual incomes may well recover in the preschool years, more than is apparent from the cumulative income distributions used. We noted in our election costing that we had used the maximum possible take-up and that take-up may actually be smaller than that. That is what in fact has transpired.

Senator BARTLETT—Last year's Budget Paper No. 2 had forward estimates for 2004-05 of \$390 million and the following year of \$510 million. Are they revised down as well now?

Mr Gallagher—The forward estimates have been revised down. Page 171 of the Treasury portfolio budget statement is where the revised estimates occur.

Senator BARTLETT—Is it solely because of a smaller percentage of take-up or also the percentage of women returning to work within 12 months?

Mr Gallagher—We are unsure of that. We hope to undertake an investigation of the data to have a look at the characteristics of mothers claiming the payment, such as their labour force behaviour and their income distributions. When we originally costed it we said that both of these factors were uncertain. We will attempt to use the data that has been collected to date

to get a better idea. As we said at the time, there was no longitudinal data from which the costing could be done. There was no data which said, 'Mother's earnings look like this. Then they have a child and then their earnings look like this. Then they return to work.' There was nothing we could base it on which was a longitudinal time series. We have attempted to estimate the longitudinal data using cross-sectional data from income surveys.

Senator BARTLETT—Have you done any research on why there is a lower than optimum take-up?

Mr Gallagher—Not as yet. The data is only becoming available for the program now.

Senator BARTLETT—In those initial estimations, the costings, how much did you take into account the percentage of women who returned to work within the first year of having a child?

Mr Gallagher—I cannot recall, Senator. I will need to take that on notice.

Senator BARTLETT—Thanks. Have you done any evaluation of the efficiency and effectiveness of the scheme in terms of its target group and whether it is achieving its policy goal?

Mr Gallagher—In Treasury we have not. I do not know what activity has been undertaken in the tax office on that subject. We hope to understand it a bit more. It is a very interesting area where we have had no data like this before and it has a number of ramifications for public policy.

Senator BARTLETT—Some of these you may have to take on notice but if I could just run through them. Firstly, how many families did you estimate would receive the baby bonus and how many have received it so far?

Mr Gallagher—In the election costing we estimated 245,000 births would be eligible. In the initial years of the payment it was not only for first children but it was for first and subsequent children. We estimated the full cohort of women who would have an eligibility. I suppose our estimate of a 70 per cent take-up says that we expect that eventually we will have 70 per cent of the cohort taking up initially. We will monitor that because obviously, as people become more familiar with the payment and the method for claiming it, we might expect the take-up would go up.

Senator BARTLETT—Are you able to give us the average payment families have received from the baby bonus to date?

Mr Gallagher—It is very important to remember that the first year was a half year and the election costing was based on an amount of \$346. I think we are coming fairly close to that in terms of take-up via the ATO so far.

Senator BARTLETT—Are you able to give us the median, minimum and maximum payments families have received?

Mr Gallagher—No. I am not able to do that, Senator. I, or maybe the tax office, could take that on notice.

Senator BARTLETT—If you could take it on notice, thank you. Also—and this will probably be on notice as well—the average base year taxable income and the average claim year incomes would be handy.

Mr Gallagher—I will take those on notice.

Senator BARTLETT—And could you give us a breakdown of recipient numbers in terms of the baby bonus payment for the base year taxable income?

Mr Gallagher—There is another issue in terms of the uncertainty we have. We are not certain about how many women have used 2001-02 as their base year and, therefore, will not receive payment until 2003-04. Base year is one of the factors which might be involved in this take-up. If you use as your base year the year in which you have the child, it will impact on the apparent take-up so far.

Senator BARTLETT—If you could as much as possible, I guess, provide a breakdown of the recipient numbers in terms of the payments, base year taxable income and claim year income. I think you would be able to get some data now on the number or percentage of mothers who received the baby bonus on their 2001-02 tax return and who have returned to work. At this stage you are working on that 70 per cent rate, extending out into the future years?

Mr Gallagher—That is the nature of the revision at this point. As I said, it may vary as we have future claims information.

Senator BARTLETT—Thank you for that.

Senator MURRAY—I have some questions on mass marketed tax effective schemes. Mr Carmody, the situation when the select committees were looking at the issue and discussing the matter with you was essentially that the tax office knew what tax claims were out there and what the penalties and interest attached to them were, but had no idea at that time what the likely settlement outcome would be and how the revenue flow would look. I assume that, as a result of the settlement action taken by the ATO and the resolution of a high number of taxpayer cases, you have a clear picture as to the outcome of that. I wonder if, for the record, you could bring us up to date.

Mr Carmody—I do not think we have that figure available but we will take it on notice and see what we can provide.

Senator MURRAY—I am not after exact figures because that might involve too much digging for you. Essentially, I would like the original number of taxpayers affected, the number who have settled, the number who are outstanding or in dispute, the time frame under which those who are outstanding and in dispute might be resolved—on average, obviously, not every single case—and the total recovered and settled as a result of actions.

Mr Carmody—I think we do have the answers to some of those questions.

Senator MURRAY—If you would prefer to bring it back to me in a whole package so it is easy to read and understand, I do not mind receiving it on that basis.

Mr Fitzpatrick—Perhaps we can deal with some of them, Senator, if you wish.

Senator MURRAY—Certainly.

Mr Fitzpatrick—We have received settlement offers from around 87 per cent of those who entered into the mass marketed investment schemes. Most of those now have been finalised by way of amended assessments. There are some still outstanding, largely because we are still clarifying the information to enable us to give effect to the settlement offer. About 37,000 taxpayers have settled. Of the 13 per cent who have not, which is around 5,000 taxpayers I believe, we are in the process now of deciding objections by those taxpayers against their assessments which means the taxpayers will have the opportunity to decide whether to pursue the dispute through the courts or the Administrative Appeals Tribunal. There are some cases already at the court or AAT with a range of schemes. We are looking to work with the AAT, particularly where most of them are—and perhaps where most of the future ones will go—to seek to have cases progressed to hearing largely in accordance with where most of the numbers are in a particular scheme type.

I do not know how long it will take to resolve these approximately 5,000 cases. I do not think it will be done very quickly, assuming most of those will lodge appeals to the AAT or to the court. With further cases heard and decided by the court there are a couple awaiting decision, which have been heard even though we have had some decisions already. That might resolve those unsettled cases. The time frame for resolving them all is such that it will not be done quickly with 5,000 cases. In relation to the taxes collected, I do not have figures for the amounts collected as a result of amending those assessments where we have effected settlements. We can try to get those figures for you.

Senator MURRAY—In my head I have about \$1.5 billion.

Mr Carmody—We will have to look at what we can provide. As to collections, you would remember that part of the arrangement was that there was a payment period over which they could pay it off.

Senator MURRAY—That was to be one of my questions: of the 87 per cent, how many of them have availed themselves of the two-year time frame?

Mr Fitzpatrick—We can make some inquiries about that. Some of those have already paid. I am not sure how many.

Senator MURRAY—I don't want to put you to excess work. If it is easier for you to take a snapshot and say, 'We have examined 500 and this is how it looks,' that is easy enough for me, because you can extrapolate it out.

Mr Fitzpatrick—Thank you. I think that answers most of your questions but not the tax collection figures.

Senator MURRAY—Would I be right in thinking that from precedent with other cases, for unsettled claims before the AAT and the courts if they go to appeal and so on, you can look at a five- to seven-year time span before it is settled?

Mr Fitzpatrick—I am not sure it takes that long.

Senator MURRAY—I am thinking of back to the date when the settlement offer was made.

Mr Fitzpatrick—Last year. I would be hopeful it would be much quicker than that. It does depend on whether there are appeals against first-instance decisions. That obviously takes

longer to resolve a matter. We are certainly intending to work with the AAT, and I know they are interested in doing so, to have an effective program for these outstanding cases to try to get cases heard. As I said, there are a number of cases in a particular scheme type which are still unresolved. We want to try to progress those and that might help resolve all of those other cases.

Senator MURRAY—Mr Fitzpatrick, on a back of a cigarette box kind of estimation—and I don't smoke, so that might put at risk my calculation—I have had in my head that about \$500 million is what is at stake with those who have not settled.

Mr Fitzpatrick—Half a billion dollars in outstanding taxes?

Senator MURRAY—Yes.

Mr Fitzpatrick—I do not know.

Senator MURRAY—Can you give me a guesstimate? I am not looking for you to work through several thousand cases; I would like a guesstimate just so that I can get a feel for the figures.

Mr Fitzpatrick—We will do our best there, Senator.

Senator MURRAY—The issue of mass marketed tax effective schemes will never go away for as long as there are entrepreneurs and companies who want to make money out of people's need to minimise tax. I am getting a fair bit of mail on employee benefit schemes and those sorts of things. Are you finding it as difficult to manage, as an issue, as you did in the early days of agricultural and other schemes which were at the heart of the Senate inquiry, or have you found yourselves better equipped through that experience of dealing with aggressive tax planning? Attached to that question, do you think you will need to talk to the government about policy changes as a result of what you are seeing on that front?

Mr Fitzpatrick—I will answer the last question first. The government did make an amendment to the law from July 2000 to deal with contributions to non-complying superannuation funds. As a result of our advice to government at the time and despite our views about these particular schemes not being tax effective—in other words, they did not work in our view—because of the ongoing marketing by some of those particular arrangements, the parliament passed an amendment of the law to deal with those contributions. There has been some change in the law since we have been examining these types of employee benefit schemes. The numbers we are talking about in employee benefit schemes, covering superannuation schemes and employee benefit trusts mainly, are much less. We have identified about 7,800 taxpayers involved in these types of arrangements, so it is significantly fewer in total numbers of taxpayers affected.

Senator MURRAY—It is still a lot to write letters to.

Mr Fitzpatrick—Yes. We have been looking at these now for a few years and there have been some decided cases now in the courts. In the controlling interest superannuation area there are about 3,500 taxpayers involved. Whilst there is an outstanding case still awaiting decision by the full Federal Court, there has been a full Federal Court decision in relation to that type of arrangement. Most taxpayers have accepted the decision. We announced in March that penalties in relation to those arrangements would be excised in the light of the Federal

Court's decision in one particular case on penalties. We also announced reduction of the general interest charge up to a certain period and it is my understanding that many taxpayers are agreeing to finalise their involvement in that particular arrangement.

There have been two decisions involving employee benefit trust cases to date. In both cases the court held that the deductions were not allowable. Some taxpayers have settled their arrangements; others still have outstanding objections. I expect we will have further litigation in that area. It is fair to say we have learned from our experience in mass marketed schemes—how to manage these, in communicating better with taxpayers and in trying to have cases progress through the courts or AAT in a reasonable time frame. That is not particularly easy. They do take time. I imagine that these matters will not be resolved quickly.

The other point about employee benefit schemes is that they do vary a lot on their facts. Taxpayers tell us their facts are different to the case of *Essenbourne* which was decided a few months ago, and they wish to pursue. Some of them certainly have said that to us. They believe they can differentiate their case from the decided case. They are not straightforward, but we are progressing through them. I expect further cases to be heard in the courts over the coming 12 months when we get further clarification of the law in relation to both income tax and fringe benefits tax.

Senator MURRAY—I will preface my next question by remarking that I am not one of those who automatically think that every court case they have ever read is written in plain or clear English. It is often extremely obtuse and how some of those people determine what the meaning is within a complex judgment is beyond me. It reminds me of the days when law was not written in plain English, as they now try to do. Having said that, I have not read this case and, therefore, I do not cast any aspersions on the judgment. Are you familiar with an editorial by Peter McDonald, the National Director of Taxpayers Australia? The editorial of 28 April 2003 says:

The ATO, however, has chosen to accept that part of the *Essenbourne* case that it likes and has rejected those parts that it does not like.

It goes on to quote the tax commissioner. The end of the editorial says:

The position adopted by the ATO has identified a fatal flaw in tax law and a fatal flaw in administration of the law.

They then say that either the parliament must inquire into it or it should go off to the Inspector-General. Parliament does not like to get involved in these sorts of issues until they become mass community issues which they should attend to, because they are often very complicated and technical and you end up taking sides. The question I want to pose to you is, do you respond to these kinds of allegations made about you—and I do not mean by the man in the street, as it were, but by professional associations—in a formal way and rebut them? Do you deal with them in any way? Is the explicit statement fair—that you are cherry-picking your way through these cases?

Mr Fitzpatrick—Senator, I am aware of that article and I have formally responded to Mr McDonald. If necessary, I can provide my formal response to you or to the committee.

Senator MURRAY—If you could do that and also provide a copy of the editorial, because I have not given this to the committee, and they will then have the two together.

Mr Fitzpatrick—Yes, I can certainly do that. I am not sure whether Mr McDonald has published my formal response in his magazine.

Senator MURRAY—I have not seen it.

Mr Fitzpatrick—Hopefully he will. In my formal response, I did address the points raised in the editorial. I said in my response that I think there was clearly a misunderstanding of the tax office's position, and I believe he has misunderstood the position. In our announcement in March this year about our position on employee benefit trusts—which is what he is talking about there and which is one of the schemes we are talking about under employee benefit scheme arrangements—we did express our position following the decided case in *Essenbourne* by the Federal Court where, as I indicated earlier, the court held that deductions claimed were not allowable. In that case it went on to say that it did not believe that fringe benefits tax was payable. Effectively, the court held that the scheme based on evidence in that case was not tax effective—it did not work, in other words. We did not appeal that decision on FBT essentially because the scheme did not work when deductions were held not to be allowable.

Senator MURRAY—Does that mean, therefore, you took the view that, if the main case is proven, you certainly do not have to deal with the subordinate issue?

Mr Fitzpatrick—That is correct. We did say in the announcement in March this year that that was the reason we did not appeal. We have now announced that in cases like the *Essenbourne* case—in our view, most of the employee benefit trust cases are similar—we will maintain disallowance on deductions and decide objections which are outstanding. We have also decided to settle cases on appropriate terms, if taxpayers wish to do so. We also mentioned that, because in some of those cases we had issued FBT assessments as well, we would not decide objections against FBT. We will leave those outstanding.

We indicated that the question of FBT applying in any of these types of cases still needs further clarification and it will vary depending on the facts as to what the court might find, in our view. It may well be that in some cases involving arms-length employees, as distinct from non-arms-length employees as was the *Essenbourne* case, deductions are allowable but FBT does apply. We will be looking to clarify the position of the FBT law in appropriate cases before the courts in the future.

We are not disregarding the decision of the court in *Essenbourne*. Our position is clearly that we will maintain disallowance of deductions and decide objections accordingly. If taxpayers wish to settle, we will settle on terms which we believe are reasonable, which is a small rate of penalty and the general interest charge, as well as a disallowed deduction but no FBT. If taxpayers wish to pursue their case in the courts or AAT, we will do that. As I said, I think Mr McDonald misunderstood what we said in March. Our position is clearly consistent with the decided court decisions to date.

Senator MURRAY—Because of the kinds of inferences that come through so much that you have to deal with in this area, are you taking a proactive stance of giving informed and detailed briefings to specialist writers, editorialists, associations et cetera, which deal in these areas?

Mr Fitzpatrick—Senator, we did issue a detailed information sheet in March when we made that announcement. I think the commissioner gave a speech at that time, indicating our position, and at the same time we published a fairly detailed information sheet for people to understand our position and the reasons for our position. I am not aware of other people misunderstanding that position. Clearly in my view, Mr McDonald has. I have received a small number of representations from others and I either have responded or will be responding to those. I do not see a need at this point in time to go further than that.

Senator MURRAY—Either they are publicising what they are doing far more or they are doing far more—I think the latter—but ASIC is very busy having a look at prospectuses, validating exaggerated claims and all that sort of thing. Have you found there has been a run-on effect to the matters you have to deal with from the tax office—in other words, there is a slowing down of problems with respect to schemes—or is it too early to tell?

Mr Carmody—The general position is that we are not seeing the sort of mass marketed evidence of the past. I think you started this period of questioning by saying there will always be those who will promote and provide schemes to people who want to try to reduce their tax, and so I think it is fair to say that we continue to see a significant number of what you might call more tailored or more boutique—however you want to describe them—schemes. We are not seeing the same sorts of issues like the mass marketed schemes, though.

Mr Fitzpatrick—That is correct, Senator. Certainly in the area of investment schemes, which was the issue with these mass marketed schemes, all the intelligence tells us that it is almost impossible for promoters or project managers to sell investments in those types of schemes or arrangements without a product ruling from the tax office giving clearance on the tax position. The product ruling initiative, I think, has been one which has made a significant difference to the marketing of these types of arrangements, as well as the action taken by the tax office and the court decisions subsequently.

Senator MURRAY—I am not sure that I should give this letter out, because I do not know its status, but I would let you know that an accountant in my own state did a sample of his clients and the debt of 10 clients before the Senate committee recommendations was \$559,556 average and the debt after taking up the offers was \$239,143, so well less than half the original. He was concerned about the real hardship and pain for people, including issues of suicide. He says unequivocally that the outcome has been very beneficial. He says:

In the media the impression has been given that most taxpayers are not happy with the settlement. In my personal opinion, this is not the case. I believe that over 95 per cent of people are happy with the decision.

He has a large number of clients. Would you regard that as relatively typical of those who have accepted the settlement? Obviously, those who have not would not be happy.

Mr Fitzpatrick—I think most people believed the settlement offer we made was fair and reasonable. There are a small number of people who have indicated otherwise and seek to make representations, but I believe they are very much in the minority. Certainly, some taxpayers are not happy, but believe that the settlement offer was fair and reasonable in all the circumstances. I think that those who understand the court decisions since the offer was made and accepted by so many, would believe they made the right decision to settle.

Senator MURRAY—The last area I want to cover tonight in this broad area concerns a response to Senator Conroy. The question was E247/248 and referred to promoters of foreign tax havens. I am not going to go into detail, so you do not need to get any nuts and bolts people to deal with this. The types of arrangements and schemes that were identified as presently being under examination included—and there were six schemes named—asset stripping, boat charter schemes, investments in foreign life insurance policies, employee welfare fund/benefit arrangements, Internet marketing expenses schemes and offshore round-robin profit shifting, including the use of debit cards. Of those six areas that you indicated as a concern, which is the most serious or which would occasion you the most concern presently?

Mr Fitzpatrick—Certainly asset stripping is an area of concern when people take steps to strip assets out of a company. I am not aware of the number of participants we have identified in each of those schemes, so I cannot really answer your question at the moment. We are investigating all of them of course. In at least two cases, we have issued either a taxpayer alert or a tax determination. In all of them we are still undertaking investigations. I do not have information which would indicate whether one or more are more prevalent in the way they have been marketed or implemented.

Senator MURRAY—Your brief note attached to your question on asset stripping does not say much, but it seems to indicate that asset stripping is from an entity to a person, not from an entity to an entity. You say:

Company assets are transferred in a tax-free form to Australian directors or shareholders.

It is not shifting it from one vehicle to another; it is realising it in the hands of a person. Is that right?

Mr Fitzpatrick—That is my understanding, Senator, but I am not familiar enough with the whole detail of that arrangement to give you a complete answer.

Senator MURRAY—Mr Carmody, these matters are not capable of being exposed in any real sense in the budget papers. I would ask that you consider having a good section on the whole mass marketed tax effective area in your annual report later this year. That would be very useful.

Mr Carmody—I will take that on board.

Senator MURRAY—Thank you.

Proceedings suspended from 9.12 p.m. to 9.24 p.m.

Senator McLUCAS—I want to ask some questions about the application of the GST on the environment management charge, commonly known as the reef tax, in North Queensland. Last week I spoke in estimates on the Environment and Heritage portfolio about the Great Barrier Reef Marine Park Authority. During that time Senator Hill said he recollected that the government policy was that the GST would not be applied to the environment management charge. Is that the recollection of the minister or the office?

Mr Russell—I cannot answer the question on what undertakings were given. I can give you an outline of how the GST applies in that situation. The environment charge is levied between the authority and the tourist operators et cetera. That is not subject to GST, as I understand. I think a division 81 determination has been made, so GST is not applied to that.

However, when the operators sell their tickets to the tourists, the charge becomes just another cost in their overall cost envelope and forms a part of their retail price. GST is applied to the retail price of the tickets. The undertaking in the sense of not applying GST to the charge itself is correct. The way the transactions play out in terms of the retail end of that is that it is another cost that is picked up in the actual charge to the customers.

Senator McLUCAS—The history of the EMC, essentially an agreement between the government of the day and the marine park industry, was that in good faith the industry agreed to collect the environment management charge, given that the cost to government of levying that charge would basically negate its effect. It was on the basis of that agreement that this charge is applied to visitors to the Great Barrier Reef. Essentially the industry collects it on behalf of the government for nothing. You said that it is another cost in the ticket to go to the reef. It is not the way it is shown on that ticket. It is shown as a separate charge collected on behalf of the government, not the authority, as an additional charge to visit the reef.

Mr Colmer—There is a whole swag of government charges and I am not referring to the Great Barrier Reef Marine Park situation here. Under what is called division 81 of the GST Act there is a whole series of government charges which are GST free. Those charges are included in that on the basis of a ministerial determination which is made every six months. The environmental management charge for the Great Barrier Reef Marine Park is one of those items. I am not familiar with the detail of how it is dealt with in ticketing and how it is actually shown on the ticket but there is a variety of other charges in a similar situation. They are usually included in the ticket. I can have a look at it and get back to you.

If you have any further information, I would appreciate that so that we can give you a detailed answer. It may well be that the issue around the way the charge is dealt with on the ticket is something between the operators and the consumer; I really do not know. As a general principle, that sort of charge is subsumed into the price of the ticket.

Senator McLUCAS—Is it relevant how that is shown on the ticket? If you pay \$100 to go to the reef, the price of that goes onto your docket and then GST is applied to that, plus a \$4 EMC—a total of \$115 to go to the reef.

Mr Colmer—In terms of the operation of the GST, it is probably not. In terms of the perceptions people might be trying to create, it may be. There are a number of other taxes—for example, excise—subject to GST. Some people might like it but no-one has suggested that you should pay your excise separately and the GST on the excise-free price just by putting that on an invoice. That is not the way the system generally operates. To my knowledge, there are not any unique circumstances around this environmental management charge but I am aware that it has been an issue. I just do not have the details with me tonight, so we are happy to look at that.

Senator McLUCAS—Do you concede that essentially the EMC is collected by the industry on behalf of government?

Mr Colmer—That is almost certainly the case. There is a large number of similar charges.

Senator McLUCAS—At no cost to government?

Mr Colmer—It varies on the sorts of charges.

Mr Smith—I would assume the legal incidence of the charge is on the operators, not the customers.

Senator McLUCAS—Yes. The operator has to collect that EMC.

Mr Smith—They are not collecting it on behalf of anyone; they are paying it. They pay charge to the—

Senator McLUCAS—I think they would beg to differ with you, to be frank.

Mr Smith—But there is a question of law. The law imposes the charge. The law has been exempted under division 81 from application of the GST. The question is: what is the law? We will need to check that but it is our understanding that this charge is imposed on the operators, just as an excise is imposed on a producer of alcohol or whatever. If they are representing that as legally imposed on the customer, that is not the reality as the law would have it.

Senator McLUCAS—Is there a difference in law between a charge imposed on the operator and a collection activity by the operator on behalf of government?

Mr Smith—Yes, a total difference.

Senator McLUCAS—And how would you ascertain which law is in effect here?

Mr Smith—The Great Barrier Reef Marine charge has been found to be a tax, hence it is listed under division 81.

Senator McLUCAS—It is a tax?

Mr Smith—Division 81 is intended to be in respect of state taxes.

Senator McLUCAS—Is division 81 where Determination 2000 (No. 2) would have come from? Is that that sort of document?

Mr Smith—There has been a number of determinations.

Mr Colmer—That looks like the one, Senator, although you only have the cover page there. The full document is almost two inches thick.

Senator McLUCAS—It lists at 6.1 the EMC being exempt—

Mr Colmer—That is right, Senator, and that is exempt from the GST at the point at which the operator remits it.

Senator McLUCAS—Yes, I understand the point you are making.

Mr Colmer—The question as to the exact nature of the EMC is one that we will look at and clarify. I suspect it will largely revolve around the law which applies that and the way that fee is calculated, but we can look at that and get back to you.

Senator McLUCAS—It would be handy if you could do that. There have been a number of decisions that, to my way of reading it, are essentially telling operators that they have to now repay the GST on all of the EMC that they have charged since the instigation of the GST.

Mr Colmer—Decisions made by whom?

Senator McLUCAS—The tax office. I am not positive about that. The documents I have are not complete.

Mr Russell—If you could provide those documents to us, we could look into that for you, Senator. I would assume, though, that they would relate to if operators have not paid the full amount of GST on the retail price of the ticket and if they have, in error, excluded the value of the marine charge.

Senator McLUCAS—If it is a tax, then we are levying the GST—a tax—on that tax.

Mr Smith—No, the GST is not levied on a tax. The GST may be levied on a price which has been influenced by taxes and other charges as costs in the supply of an item. Take alcohol: there is GST on alcohol and also excise on certain types of alcohol and the excise is a cost. Hence, when the GST ultimately is paid by a consumer at the point of retail, the excise is incorporated within the cost structure of the price upon which the GST is levied. It happens in all sorts of places.

Senator McLUCAS—I understand what you are saying, but my concern is that there was a clear understanding by the industry at the beginning of the GST that the EMC would not attract the GST. That was broadly canvassed in Queensland. It was Senator Hill's recollection of what the discussions had been that the government are going back on an agreement that they made with the industry at that time. I have correspondence from government members which states '... seeks intervention with the ATO to honour a government commitment to the marine tourism industry to exempt the Great Barrier Reef Marine Park environment management service charge from the goods and services tax'. Firstly, we are going back on that commitment by government; secondly, we are going back on a good faith agreement that started when the EMC was negotiated with the marine park industry that that would be collected on behalf of government at no charge to government.

Mr Smith—The implication of that is that the charge is not in fact levied on the operators, whereas it is our understanding that it is, which is something we are happy to check. It is also the case, as I think you have acknowledged, that the GST is listed as not applying to this charge when levied on the operators.

Mr Colmer—That is right.

Senator McLUCAS—What consultation or awareness raising does the ATO undertake with various sectors of industry when we can go this far down the line and find that, retrospectively, there is an enormous amount of money that is going to have to be repaid if the ruling is upheld that the GST does apply to the EMC? What consultation do you have with industry to tell them that this is not going to happen, that what they are doing isn't in fact complying with law?

Mr Russell—We have a range of consultation processes. The principal one would be through our tourism industry partnership—and I do understand that this has been traversed. The consultation around the actual policy would not be a tax office undertaking. Our consultation would be around the administration and the interpretation of the rules.

Senator McLUCAS—Who does the explanation to industry, whatever sector?

Mr Russell—Once a policy is set, the explanation of how we would administer it and what the interpretation is would be an ATO responsibility.

Senator McLUCAS—What consultation was undertaken with the marine park tourism operators?

Mr Russell—I would need to take that on notice, Senator, and go back and check exactly the details.

Senator McLUCAS—I would appreciate that. I have a series of letters from senior people in the industry, writing to each other, saying, ‘As a result of this determination, we are now exempt’—almost celebratory that they have been successful in ensuring that a tax would not be levied on their tax that they were collecting on behalf of government. Now we are three years down the track and we find that that is not the case. Is there any opportunity for there to be a review of the ruling, of the changed position?

Mr Russell—We will look at the actual ruling, but it sounds to me, on the description we have given you, that that is a correct interpretation of the law as it stands. If that is the case, it would need a policy change to change that.

Senator McLUCAS—Government can make a discrete ruling that the EMC will not attract a GST?

Mr Russell—No, a legislative change.

Senator McLUCAS—A legislative change to that effect?

Mr Russell—Yes.

Mr Smith—The government has already, through division 81—along with I am not sure how many thousands of other examples of this kind—determined that it is exempt from GST when charged under division 81. That is the provision that was put in to enable various governments to get a clear determination as to what was and what was not a tax for the purposes of the GST exemption from taxes. There are thousands and thousands of these; I do not know how many, but I think it really is in the thousands. There have been a number of determinations. There have been hundreds of millions of dollars spent on educating people as to what that means. If there has been a misunderstanding in this industry, that is something that we will have to have a look at.

Senator McLUCAS—And it is possible to make that ruling retrospective to the beginning of the GST?

Mr Smith—I will have to check when the determination under division 81 was applied.

Mr Colmer—I am not sure when it applied. It has probably been in there since the start.

Mr Smith—The original division 81.

Mr Colmer—But I do not know that for sure. I think, though, that while it may or may not be possible to do something at the other end, whether or not it is a good policy is a different question and whether or not it is practical from an administrative perspective is another issue that would need to be looked at. I think that division 81 does make it clear that in the hands of the final recipient there is no GST levied on it and it may boil down to a pricing issue for the individual operators in terms of how they have chosen to pass that on to their consumers. We need to look at it, so we will.

Senator McLUCAS—I need to make that very clear. I understand that the authority is not levied a GST. I am asking whether it is possible for the government through legislation or the tax office through another process to ensure that the collection by the operators does not attract GST.

Mr Smith—That is not provided for. If we have understood this tax properly, if the legal incidence of the tax is on the operators who are merely passing it on as one of their costs in the pricing that they charge to their clients—if that is what is happening, which is what tends to happen in nearly all of these cases—there is no current provision in law that would lead to an exemption for the supply of tourist services on the Great Barrier Reef in respect of that tax cost—its incorporation within their pricing structure. There is no such provision. That would not be something that the tax office could deal with. It would have to be a policy change and a legislative change.

Senator McLUCAS—Is it possible legislatively to do that?

Mr Smith—As a matter of technical reality, there are a number of GST exempt suppliers, of which food is perhaps one of the more famous—or certain types of food, anyway.

Senator McLUCAS—We can have the reef and food.

Mr Smith—I am not aware of any example where a part of a price is exempt from GST. That would be unprecedented.

Senator McLUCAS—You can understand the frustration of these operators. They have been working for three years with a very clear view of what their responsibilities are.

Mr Smith—We only have your information on that. I am afraid I am not across that at all. If we could have some of that, it would save time, but it is up to you.

Senator McLUCAS—I will provide it to you in a different form.

Senator CONROY—Commissioner, I want to have a chat about tax havens. Don't look so pleased, Mr Carmody! We did talk about this at some length at the last estimates and I wanted to follow up with some questions. What action are you taking to identify tax agents and tax advisers who may be marketing tax schemes using offshore tax havens?

Mr Fitzpatrick—Senator, we are examining a number of arrangements, as we have already spoken about, which are promoted into various tax havens. Vanuatu is one significant area where there are a number of schemes under examination and which we discussed a few minutes ago with Senator Murray. Through our normal intelligence sources, we seek to identify what may be being promoted in various seminars called, I think, wealth creation. We have identified certain arrangements being promoted involving the use of some tax havens. We obviously examine the higher risk promoters we identify in this area to see what they are doing, and will continue doing that.

Senator CONROY—How many tax agents or tax advisers operating in Australia have been identified as marketing schemes using tax havens?

Mr Carmody—I do not know about tax havens, but we have focused on promoters. I think we gave you some details at the last estimates. In Vanuatu we had seven promoters under examination and two of those were examining possible criminal action. Overall of the

promoters we have identified, there are something like 12 promoters we are examining at the moment that seem to be involved in the use of tax havens.

Senator CONROY—How are we going with those two where you were considering legal charges? It was four or five months ago. Is there any update?

Mr Carmody—I think on one of them we have already worked with AFP and DPP. One of them has progressed to that stage and I think the other is progressing towards that stage.

Senator CONROY—Have you identified individuals or companies wholesaling these schemes to tax agents and tax advisers?

Mr Fitzpatrick—There are various forms of promotion, Senator.

Senator CONROY—This is the wholesaling. This is a step back—the people who design them and then pass them on to the promoters.

Mr Fitzpatrick—I am not familiar with how the ones we have under examination presently have gone about promoting them, other than through the seminars I mentioned. I am not able to answer to what extent they onsell them through tax advisers. It would vary, depending on the particular type of scheme being promoted, who might get involved.

Senator CONROY—I am trying to get to the people who design the schemes and then pass them on to the promoters. The promoters are good, slick salespeople but they are not the brains in the design.

Mr Fitzpatrick—It depends. Our understanding is that promoters involve people who design and/or market aggressive tax planning arrangements, tax schemes.

Senator CONROY—Sorry?

Mr Fitzpatrick—As we understand the term and use the term, those who design and/or market tax planning arrangements or schemes. Some of them design and market directly themselves; others market them through others. They are not all done in the same way and they are not all done in the same way as maybe you are thinking of mass marketed schemes over the last few years. Some of those were certainly sold through salesmen to various groups of people. That is not necessarily the way all schemes are marketed, including those involving tax havens. It varies.

Senator CONROY—I am not after the retail promoter. Do you have a fix on the people behind that retail end?

Mr Fitzpatrick—We have a fix—using your term—on those who we see are the ones who design and/or market arrangements which we believe do not comply with the tax law. We are investigating those higher risk promoters, whether they are firms or individuals.

Senator CONROY—Are these people behind the promoters onshore or offshore?

Mr Fitzpatrick—Many of them are onshore—the ones we are looking at.

Senator CONROY—Is there a pattern in the way the wholesalers of these schemes operate? Do people from overseas come to Australia at particular times of the year to promote their schemes?

Mr Fitzpatrick—I am not aware of any particular pattern involving promotion of tax haven arrangements which we have concerns about.

Senator CONROY—No particular pattern?

Mr Fitzpatrick—Not that I am aware of.

Senator CONROY—There isn't a sort of end of financial year?

Mr Fitzpatrick—I do not think necessarily in this area that is concentrated at the end of the financial year. We see it happening through the course of a year.

Senator CONROY—It isn't confined to the last month?

Mr Fitzpatrick—No, I do not believe so.

Senator CONROY—In Australia you suddenly see all the schemes—like the olive trees—marketed in the last two weeks before the end of the financial year?

Mr Carmody—Increasingly we are seeing that pattern—

Senator CONROY—A bit more sophistication.

Mr Carmody—I don't know about sophistication, but to the extent that pattern was true in the past, the sort of schemes and marketing that we are seeing now, the promotion we are seeing now, is a year-round affair.

Mr Fitzpatrick—At this time of the year there is a lot of emphasis these days in various journals and the media generally, warning people off end of the year schemes that are being marketed. I think that is a very positive sign.

Senator CONROY—Say there are 20 promoters. How many agents are marketing their products?

Mr Fitzpatrick—I am not aware of the answer to that. I said before that some market their own arrangements in different ways. They do not necessarily market in the same way as the mass marketed investment schemes are marketed. It would vary as to how arrangements are marketed to people.

Senator CONROY—You are not aware of any pattern at all?

Mr Fitzpatrick—Involving tax haven arrangements? No, I am not.

Mr Carmody—I am not aware of patterns. I do not know the exact pattern getting through this, but certainly with these promoters we are tracing through—and have progressively traced through—to a number of schemes we have concerns about and a number of participants or clients of those. I do not have in my head how those clients, if you want to call them clients, were approached, but I do know that we have certainly identified a significant number of people who have been enticed into these arrangements. At the moment I do not have a pattern of how that is done.

Senator CONROY—When you say clients, are you talking of victims or the people who are retailing?

Mr Carmody—I am talking about the participants. What I see from our examinations is that we have been able to identify increasingly and progressively the participants in these

schemes that are being promoted. What I do not have in my head at the moment is the chain of distribution, if you want to call it that.

Senator CONROY—Yes, I am looking for that chain of distribution.

Mr Carmody—I will take that on notice, because I know that we have identified a significant number of people that have been involved in these arrangements. I think in the Vanuatu cases we have identified something like 2,000 people as participating in the arrangements that we believe are of concern. I will have to take on notice what the tracing was through to that.

Senator CONROY—Are you looking to try and establish, to use your phrase, the chain of distribution?

Mr Carmody—Certainly. If you look at how we increasingly approach this, we are doing a bit of direct marketing ourselves. Looking more broadly at scheme promotion, we get access to participant or client listings through our access powers and increasingly what we are now doing is writing directly to people that we have identified as potentially having been approached, let alone whether they have actually participated. Where we are aware from our information that they have been approached, we have embarked on a program of writing to those people explaining that we have some concerns.

Mr Fitzpatrick—That applies not just to tax haven promotion.

Mr Carmody—I am talking more generally, yes.

Mr Fitzpatrick—Perhaps one of the lessons learned from mass marketed schemes is to have a more integrated approach—to not only concentrate on taxpayers investing in particular schemes but also very much promoters and their associates—in the way the commissioner outlined.

Senator CONROY—Are you checking tax agents and advisers to see whether they are marketing for promoters?

Mr Carmody—This is not directly to your question, but it illustrates the sorts of things we are doing. Where we have identified promoters and schemes that we believe, on the evidence we have, do not pass muster, we have identified that tax agents have been approached by them in one form or another. In those cases, we have commenced to take the early step of writing to those tax agents and advising them that we are aware that they have been approached on particular arrangements, and increasingly what we will be doing is specifying our concerns about those.

Senator WATSON—But you now have legislation to prosecute the promoters, haven't you?

Mr Carmody—There is not specific legislation. There are issues around the Crimes Act and others where fraud might be involved—that people can be prosecuted in respect of that.

Senator WATSON—Are you using those provisions?

Mr Carmody—We refer those to the Australian Federal Police or the Director of Public Prosecutions.

Senator WATSON—How many of these promoters have you put in to the police?

Mr Fitzpatrick—There would be a range of them over the last few years involving investigation by the Federal Police. Some have been referred on to the DPP.

Senator WATSON—Could you give it year by year, approximately? Is it one, two, a dozen or hundreds?

Senator CONROY—What line do the promoters have to cross before they are referred to the police?

Mr Fitzpatrick—If there is potential fraud being committed.

Mr Carmody—For example, if asset stripping or something was involved in the arrangements, that would clearly be referred to the police and the DPP.

Mr Fitzpatrick—There are a number of cases at various stages of progression. Some are in the courts. Some are not. Some are under investigation.

Senator WATSON—My question was how many cases did you refer off to the DPP in each of the last, say, two or three years?

Mr Fitzpatrick—We will take that on notice and give you an accurate answer, Senator. What number of years did you say?

Senator WATSON—Three or four years. That is the promoters and the tax agents.

Mr Fitzpatrick—These are promoters which have been referred on to either the Australian Federal Police and the Australian Crime Commission, some of which have gone on to the DPP, some of which have been charged and some of which are still under investigation.

Senator CONROY—What are the legal obligations of tax agents and tax advisers when recommending the use of an offshore tax haven scheme to a taxpayer?

Mr Fitzpatrick—They have an obligation to advise their clients about how the law operates. One would expect they should be advising them how to comply with the law. If a scheme, in their view, does not comply with the law, they should be advising their clients accordingly.

Senator CONROY—You would hardly expect them to devise a plan and then tell them that it does not comply with the law.

Mr Fitzpatrick—They may not have designed it themselves. Many people might go to their tax agent or tax adviser, having heard of something else being promoted, and I would expect that tax advisers and agents would tell them how they saw the law applying.

Senator MURRAY—The difficulty with that response, as you will recall from the mass marketed tax effective schemes, was that often schemes which were blatantly unacceptable—not necessarily fraudulent, but unacceptable—had a QC's advice or something attached to them. That is the difficulty with that sort of answer.

Mr Fitzpatrick—Tax advisers should know that under our system of self-assessment a taxpayer can get a private binding ruling to protect his or her position, and that is when they do get protection.

Senator MURRAY—That is right.

Mr Fitzpatrick—They may well be able to tell them what the tax office has said about a particular arrangement or features of an arrangement which would indicate the tax office's view about a certain arrangement being considered. They might seek a product ruling, for example.

Senator CONROY—What action are you taking against these agents or advisers who are enlisting taxpayers into non-tax compliant schemes?

Mr Fitzpatrick—We examine those who are marketing arrangements, as we have talked about. We have an increasing focus on those who we call promoters, but might well include tax advisers, who design and market particular arrangements we have concerns about or have a view about. As the commissioner said, we increasingly provide warnings to tax agents and advisers about concerns we have about particular arrangements or the features of them. They are the sorts of actions we take in respect of tax agents and tax advisers. I should add that we examine the affairs of those promoting such arrangements to see whether they comply. History would tell us that many promoters of tax schemes are not very compliant in relation to their own affairs.

Senator CONROY—Have you referred many off to the DPP at this stage?

Mr Fitzpatrick—I have taken that question on notice from Senator Watson.

Senator CONROY—Is there any other sort of action you take to discourage these promoters? Do you advertise, go out in the trade journals? What are the sorts of things you do?

Mr Carmody—Often these are arrangements where our view of the law might well be contested and we have to face, when we start putting out alerts before we have concluded our view, how appropriate it is for us to act before there is, firstly, a concluded view on our part and, secondly, whatever court processes go through to determine the final position under the law.

Senator CONROY—Say you saw an ad in the paper to come along to a seminar on a tax scheme that you thought was a bit dodgy. Would you pop along, Mr Carmody, stand up at the front and go, 'Well, you know, fellas ...'?

Mr Fitzpatrick—Not me personally.

Mr Carmody—Not me personally.

Senator CONROY—What deterrent value that would have!

Mr Fitzpatrick—Some people do go along to find out what is going on, and if we have concerns we will try to provide early warnings of those concerns to the community.

Senator CONROY—Yes.

Mr Carmody—You see that increasingly through alerts, through the process I have talked about, about writing to people we have seen who have been approached by promoters and so on.

Senator CONROY—At the beginning you referred back to our Vanuatu conversation last time. You mentioned you had a particular focus on offshore tax havens in Vanuatu.

Mr Carmody—Yes.

Senator CONROY—Are there other high-risk jurisdictions you are now focused on?

Mr Carmody—Vanuatu probably arose out of the AUSTRAC data, but there are schemes in other tax havens that we are concerned about and we have details of those.

Mr Fitzpatrick—Vanuatu is certainly the most prevalent of the ones we are looking at presently involving particular arrangements being promoted or which have been promoted over recent times. There is the occasional scheme in other places: British Virgin Islands, Western Samoa. Vanuatu is the main haven.

Senator CONROY—It is certainly still up there as the leader?

Mr Fitzpatrick—In relation to those under investigation, yes.

Senator CONROY—Sorry, you were just talking down while you were reading your list, so I did not quite catch all the names.

Mr Fitzpatrick—I mentioned Western Samoa and I mentioned British Virgin Islands as two other havens which we are looking at particular arrangements in.

Senator CONROY—Are you able to just briefly outline the number of promoters, schemes and taxpayers involved in Western Samoa and Virgin Islands?

Mr Carmody—What I have is four promoters, British Virgin Islands, one we are preparing for referral to DPP I seem to have here, and a reasonable number of arrangements that we are looking at on Virgin Islands. But that is the only information I have in front of me at the moment.

Senator CONROY—Mr Fitzpatrick, have you nothing more to add?

Mr Fitzpatrick—Nothing more to add. The commissioner has answered accurately.

Senator CONROY—Any idea on the amount of revenue at risk in these two countries?

Mr Carmody—It is too early to put a figure on that in the course of our investigations.

Senator CONROY—Other than the one you mentioned just then, are there any other taxpayers or scheme promoters you are investigating with a view to prosecution?

Mr Carmody—I think we have taken on notice the question from Senator Watson that we will go through the total picture.

Senator CONROY—That one was referrals to the DPP. This is the step earlier.

Mr Fitzpatrick—It depends on the stage of investigation. We will answer the ones which Senator Watson has questioned on, the ones we have decided to refer to investigation by the police or potential prosecution. I am sure there will be others in future where our investigations reach the stage where we do refer.

Senator CONROY—How much of the ATO's resources is being devoted to pursuing these offshore tax havens?

Mr Fitzpatrick—We look at tax havens in different areas of the office. We have a promoters task force which looks at higher risk promoters more generally, not just tax haven

promoters. They are involved in some of the tax haven promoted schemes and promoters. But there are other areas of the office also involved. We work across different areas to ensure—

Senator CONROY—How many staff would you have working in the office?

Mr Fitzpatrick—I would not have a number of actual staff working on particular tax haven promoters. It would vary over a period of time. As I said, we have a special task force of 55 people which looks across a range of promoters. There are others in the ATO who also have a role to play, consistent with investigating promoters in different types of schemes, consistent with our integrated approach at looking at tax planning arrangements. We look at not just the scheme or the investors but also the promoters and their associates. They cross different areas of the organisation, from large business through to small business.

Senator CONROY—Mr Carmody answered my question about Western Samoa and the Virgin Islands. Did you say you would take on notice to give us some more information on the promoters, taxpayers, prosecutions and dollars for those two areas?

Mr Carmody—I have given you—

Senator CONROY—You have given me what you had available to you.

Mr Carmody—information on British Virgin Islands and I do not think we will have any more.

Mr Fitzpatrick—The information we have provided on the British Virgin Islands is—

Senator CONROY—You did not have any dollars, for instance.

Mr Fitzpatrick—We are not in a position to give the dollars at the moment. The investigations are ongoing.

Senator CONROY—Western Samoa?

Mr Fitzpatrick—The same would apply.

Senator CONROY—You are actually engaged in a prosecution of somebody but you do not know how many dollars you might be losing?

Mr Carmody—No, I said that we are examining the affairs related to four promoters. With one of those we are looking at the possibility of referral to the DPP.

Senator CONROY—That is what I said, looking at.

Mr Carmody—What I am saying is that at the stage of our investigations, we do not have a reliable figure as yet as to what the total scheme revenue risk might be.

Senator CONROY—Have any new schemes come to light as a result of your enforcement activities?

Mr Carmody—Day by day, I think.

Senator CONROY—What is the general outline? Are there one or two big ones that are preferred to others?

Mr Fitzpatrick—Are you talking now generally, broadly, not just tax havens?

Senator CONROY—Any new schemes. You sort of laughed—which I am sure you do—that they were probably variations on old ones, no doubt. Any favourites at the moment that you have come across?

Mr Fitzpatrick—It depends. We look at features of arrangements which concern us. We have published our view about those features of arrangements or schemes which certainly concern us and we would be looking to examine and investigate. The schemes do vary but some of them have common features and common patterns and trends. We have published those at varying times as part of our warning to people about what to look out for. In the compliance program we published last December and in the one about to be published in July I have outlined and we will again outline the areas which caused us to have a close examination. It is a way in which we are trying to be more open with the community about those issues or those features of arrangements which we believe give rise to a risk to revenue.

Mr Carmody—As Mr Fitzpatrick said, if you go to our web site you will find details of the sorts of features and schemes we expressed concerns about. You will also find alerts about the ones we are currently alerting the community to.

Senator CONROY—What have you established about the purposes of the very large amount of funds—I think it was \$2.5 billion we were talking about last time—flowing from Australia to Bermuda?

Mr Carmody—Our investigations are continuing across Bermuda, Cayman Islands and Vanuatu, as we have talked about. With Guernsey, we are continuing to refine our understanding. It is too early to have a complete picture of that. If you take Bermuda, I think I mentioned at the last hearings that, of the \$2.6 billion, about \$2.2 billion related to financial transactions through a large clearing house type of organisation in Bermuda. This is a global picture but essentially what they relate to is broadly the spot market. They are generally about achieving Australian dollars to fulfil export orders, other speculation or whatever. You can trace almost all those funds to three substantial financial institutions. On the face of it, there does not seem to be anything particularly—

Senator CONROY—Three here in Australia?

Mr Carmody—That are based here or have operations here; so we have been able to access the bulk of that. We are a large trading global organisation. The Australian dollar is one of the most highly traded. I think it is about eighth or something like that.

Senator CONROY—Sixth, I think.

Mr Carmody—There is a very big spot market. If you are looking to purchase goods, you will take a spot on the spot market to acquire Australian dollars and so on to meet your commitments. Around about \$2.2 billion of that from Bermuda, to the extent we have examined it at the moment, appears to be transactions dealing with the spot market.

Senator CONROY—Who are the three companies?

Mr Carmody—You asked that before, and I do not propose in public hearing—

Senator CONROY—They are engaged in legitimate transactions—

Mr Carmody—There is nothing wrong with these.

Senator CONROY—You have cleared them?

Mr Carmody—But I have a practice of not naming organisations here. I do not think it is consistent with my responsibilities.

Senator CONROY—Which part of the Privacy Act would you be breaching by telling me about three companies that are legitimately trading?

Mr Carmody—It is all about section 16 and issues about naming and things that go to the taxation affairs of taxpayers.

Senator CONROY—I would have thought most companies would welcome the tax commissioner saying, ‘These companies are engaged in legitimate behaviour.’

Mr Carmody—Whether it is legitimate or not, I do not name people. What I am conveying to you is that we have examined these. Some of these are financial institutions that have global operations and there will be questions about where the backroom operations occur and to the extent that there is any percentage on the spot transaction or something that might go to the financial institution that is approached. These have dealings that are clients of them or other financial institutions. The money typically does not go to Bermuda. It is related to legitimate transactions into other countries. The issues that go to the tax liabilities in relation to that trading, in respect of over \$900 million of that we have in fact examined their financial tradings and we have in place advance pricing agreements. We are feeling pretty confident on those issues too. So, as far as Bermuda goes, the vast bulk of it, on our examinations to date, appears to be based on legitimate financial transactions mainly going to the spot market to fulfil export orders or others.

Senator CONROY—The fact that only \$250 million comes back should not be seen in any way as odd?

Mr Carmody—No. As I said, my main focus has been on the outflows. I have not studied in full the inflows.

Senator CONROY—There is not much to study as an inflow. About 10 per cent comes back.

Mr Carmody—In Bermuda. But then in other countries—a lot of these dealings in the Australian dollar or whatever do not necessarily require a correlation between where a spot transaction is done by someone looking to fulfil an export order and someone performing some other financial transaction. It may be from a range of countries, including from tax havens. The point I am making is that we have been progressively working through, taking the larger amounts. There is still a range of transactions we want to get further details on before we will be satisfied.

In relation to the Cayman Islands, almost all of the amount recorded in there has to do with an arrangement that we were examining, irrespective of the tax haven. It was really the financial side of it and the use of a tax haven was irrelevant to us. That is an arrangement we are looking at for other reasons. We need to continue to pursue that, and that takes care of almost all of the outflow that went to the Cayman Islands.

As we go to Guernsey, we are getting into lower amounts now. It is around \$216 million. The bulk of that, getting towards 40 to 50 per cent, appears to be payments for package tours

through Europe. I think this has something to do with the UK but it is just payments for tours around Europe or whatever. We are progressively working through and dealing with them. The picture emerging is that there are areas, as you would expect, where we have some concerns. Some of them relate to the issue of whether it is a tax haven. In some of them, as I pointed out in relation to the Cayman Islands, the issue of a tax haven is a bit irrelevant to the issue we are concerned about.

There is still more to work through, but the big bulk numbers appear to relate more to the issues of financial trading, the fact that Australia is a participant in the global economy and the relationship of our dollar.

Senator CONROY—I mentioned the \$250 million inflow. Are you examining that? It is just that you said you were primarily focused on the outflow.

Mr Carmody—I said I had been primarily focused but, as a normal part of our operation, we will do a bit of risk management here. We will not get down to a few dollars here or there where it looks as if there is a reasonable basis for it. We are progressively working through the outflows but we are also checking the primary inflows. It is just that my particular focus has been on the outflows.

Senator CONROY—Can you take it on notice and let us know what the inflows are?

Mr Carmody—I will take on notice to give you the sort of picture I have talked about on the outflows to the extent that we have it on the inflows.

Senator CONROY—That is great. Thanks.

Mr Carmody—I do have a bit on Guernsey. There is a bit of inbound for travel packages into Australia, so there you go.

Senator CONROY—You would agree that there are some risks and concerns for you in Bermuda and the Cayman Islands? Is that a fair interpretation?

Mr Carmody—Whenever we see trading through tax havens we need to make sure there are not risks, so it is a factor we take into account. As I said, in Bermuda the vast bulk of it appears to be quite okay. That is the pattern we are seeing, but I am not dismissing the fact that we have concerns. As I indicated, in relation to Cayman and in relation to almost all of that, we have concerns but they are not particularly related to the tax haven issue.

Senator CONROY—With Guernsey you mentioned that 50 per cent were packaged tours. Are you looking at the other 50 per cent?

Mr Carmody—Yes, progressively, but once you get past those figures you are getting down to pretty small amounts.

Senator CONROY—I appreciate that.

Mr Carmody—We will look at and do a risk analysis on those.

Senator CONROY—Have you looked at the potential for evasion using bogus transactions, ostensibly for payment of legitimate insurance and shipping services, as a means of moving money offshore?

Mr Carmody—I have mentioned that we are looking progressively at these. Some of the amounts that have been identified do go to reinsurance figures. They tend to be smaller than the ones I have talked about. They are ones that we will look at, but we have not got into the detail of those as yet.

Senator CONROY—Have bogus transactions come onto your radar screen?

Mr Carmody—We do not know that they are bogus yet. In fact, I doubt that they are bogus. From memory, we lost a case on one of those insurance matters.

Mr Fitzpatrick—There is no evidence that I am aware of in our investigations of these flows to date that there is any significant number of bogus transactions.

Senator CONROY—Mr Carmody, you mentioned that you tried to prosecute one and failed. Is that what you said?

Mr Carmody—No. I think there was an issue of captive insurance. We did not prosecute—it was just a question of the application of the law. I think it was a captive insurance case that was taken in the early nineties.

Mr Fitzpatrick—I cannot recall it.

Mr Carmody—The courts found in favour of the taxpayer, and that is the law.

Senator CONROY—I might come back to tax havens. On part X of the Bankruptcy Act—

Mr Carmody—I should mention that Mr Fitzpatrick will be off tomorrow dealing with issues of tax avoidance, so he will not be here.

Senator CONROY—You're off to Bermuda, are you—the cricket has finished!

Mr Fitzpatrick—No, I am just off to Sydney. Senator, I will correct something I mentioned earlier about high-wealth individuals. You asked the number of entities they control. I said about 10,000. It is closer to 13,000.

Senator CONROY—Thanks very much. Did the ATO participate in a recent review conducted by ITSA of part X of the Bankruptcy Act?

Mr Topping—We made submissions to the review.

Senator CONROY—You weren't on a committee?

Mr Topping—No.

Senator CONROY—A couple of submissions, did you say, or just a submission?

Mr Topping—A submission.

Senator CONROY—Is it publicly available?

Mr Topping—Not yet.

Senator CONROY—Mr Carmody, will it become a public document?

Mr Carmody—It would not be normal for it to become a public document if we made submissions to these sorts of operations.

Senator CONROY—No chance of this one becoming public?

Mr Carmody—I doubt it.

Senator CONROY—Senator Coonan, you would be happy if it became public?

Senator Coonan—No, I would not.

Senator CONROY—Did you participate in roundtables conducted by ITSA?

Mr Topping—I do not know the answer to that question. I think we made a written submission.

Senator CONROY—A written submission only. Were you concerned that part X was being abused to avoid tax debts?

Mr Topping—On occasion we have expressed concerns to ITSA about particular cases.

Senator CONROY—You've previously advised of concerns in this area?

Mr Topping—We have raised concerns, but the number of cases is very small.

Senator CONROY—When did you raise those concerns?

Mr Topping—In the last couple of years we would have raised concerns around cases.

Senator CONROY—Who did you raise the concerns with? Directly with ITSA?

Mr Topping—Directly with ITSA.

Senator CONROY—With the Attorney-General?

Mr Topping—Not that I am aware of.

Senator CONROY—Just to ITSA. Have you done an estimate of how much revenue has been lost due to the abuse of part X arrangements?

Mr Topping—No.

Senator CONROY—You have raised concerns, you have put in a submission, but you haven't done a calculation?

Mr Topping—They were in the course of specific administrations.

Senator CONROY—But you said you had been concerned enough to raise this with ITSA previously—on an individualised basis, I think you said.

Mr Topping—Just as any other creditor has the ability to do that.

Senator CONROY—Have you sought to set aside any part X arrangements?

Mr Topping—We have considered it. Ordinarily, we would need the support of the other creditors, and that has not usually been forthcoming.

Senator CONROY—You've never actually set one aside?

Mr Topping—Not that I am aware of.

Senator CONROY—Are you investigating any other part X arrangements?

Mr Topping—In what sense?

Senator CONROY—In terms of lost revenue.

Mr Topping—No. As I say, as a creditor we have raised concerns only about particular cases, and also in the course of this current review, and they have not gone to—

Senator CONROY—Does the ATO have any dedicated staff working on investigations of part X arrangements?

Mr Topping—Not dedicated staff; we would have staff who work in our insolvencies and legal recovery areas and who would attend creditors meetings.

Senator CONROY—Who do you normally send along to a creditors meeting? Mr Carmody, do you keep a busy diary; pop along to a few of these; frighten the creditors?

Mr Carmody—No.

Senator CONROY—Who would normally go? Do you send a senior staff member?

Mr Topping—We would send our more senior debt operatives and in some instances we would send senior technical officers.

Senator CONROY—Did you say ‘more senior’?

Mr Topping—We would have a number to attend.

Senator CONROY—Do you have any policies or practices that you follow when attending part X creditors meetings—for example, procedures to establish the bona fides of other persons who present themselves as creditors at the meetings?

Mr Topping—We would normally rely on the independence and integrity of the trustee.

Senator CONROY—Have you changed your policies or practices since you became aware of the potential abuse?

Mr Topping—Not that I am aware of.

Senator CONROY—I would like to turn to some questions specifically about the cash economy arising from the commissioner’s press release dated 7 November 2002. The release talks about the Cash Economy Task Force. Can you tell us what its membership is, how often it meets, what its lines of responsibility are and what it does?

Mr G. Robinson—With the Cash Economy Task Force, a number of people within the ATO have responsibility for addressing this issue. It is a very broad issue, as you would appreciate, and a lot of the strategies are in the design of the new tax system—the use of the ABN and BAS statements and all those types of things. The task force has the responsibility of assessing the risk and developing strategies. There is a wide range. I can go through some of the strategies that are part of it.

Mr Carmody—The task force includes some representatives from outside the tax office who assist us. In 1990-something we released publicly a report from what was then referred to as the Cash Economy Task Force which set the pattern of our approaches for that period. What I was alluding to in that statement was that, now that we have a different tax system, I had commissioned the task force to work towards assisting in reshaping our approaches. Obviously, we had already started to adopt new approaches with the different tax system we were dealing with. This Cash Economy Task Force does include tax office staff but it also includes tax practitioners and people from industry associations, business and academia. I am looking for a broadly based report from them and it is my intention to release that when it becomes available.

Senator CONROY—Did you say you would release the names when they are available?

Mr Carmody—No. I said that when they have completed their report, it is my intention to release the report.

Senator CONROY—I will go back to asking: who are the members?

Mr Carmody—I do not have details of the individual members. I have mentioned the areas they are from. We would have to take that on notice.

Senator CONROY—How often does it meet? Would that have to be on notice?

Mr Carmody—I would have to take those sorts of details on notice.

Senator CONROY—What are their lines of responsibility?

Mr Carmody—They are providing a report through Neil Mann who is the deputy commissioner of our small business operations. The report would initially come to him before being submitted to myself.

Senator CONROY—Is the cash economy risk quantification project under this task force?

Mr Carmody—What do you mean? I need further explanation about ‘risk quantification’.

Senator CONROY—I understood there was a project called the ‘cash economy risk quantification project’. I am happy to accept that there is not.

Mr Carmody—What was the original question?

Senator CONROY—Is it under the task force?

Mr Carmody—I do not know that it would be under the task force.

Senator CONROY—Does it exist?

Mr Russell—It is a normal part of our risk management process. Where we identify a potential risk—be it in the cash economy or elsewhere—one of our normal operating procedures is to carry out an initial sampling exercise to try to quantify the extent of the risk in that area. I understand there are about eight or nine of those exercises going forward at the moment within the cash economy targeted industries.

Senator CONROY—It isn’t directly under the task force? It is part of your ongoing compliance, if I can use that word?

Mr Carmody—Yes.

Mr Russell—Yes. But we would be carrying out that exercise within the focus of the cash economy work.

Senator CONROY—Do you feed information into the task force?

Mr G. Robinson—The role of the task force is to develop approaches. It is provided with input and provides its interpretation of what is going on.

Senator CONROY—I presume they link.

Mr G. Robinson—Yes.

Senator CONROY—It would be silly if you were wandering off, Mr Russell, in one direction, without talking to Mr Robinson. It would make sense that you are chatting.

Mr G. Robinson—Basically, you have the task force at a strategy advisory level—people from a wide range of fields—and then that particular approach that Mr Russell outlined was within the office. That is the approach that we take to address and audit risks.

Mr Carmody—As I said, we released back in 1999 or something like that the original task force report which set the pattern for our operations. What I have really asked them to do is to step back a little bit because we are continuing with our operations on the cash economy. Part of that is the risk quantification to make sure we are targeting the right areas. While that sort of information would be relevant, I am really looking for the task force not to be in our day to day operational environment but to be stepping back from that and giving us the value of their input, given the situation with the tax system as we have now.

Senator CONROY—I understand that process. I appreciate that you cannot not tell me everybody who is on the task force, but I want to ask you if one particular organisation or person is part of it. I will come to some questions about the building industry a little later arising out of the Cole royal commission. Are you consulting with anyone from the CFMEU, which has raised a range of issues through the Cole royal commission. Are they part of the external advice?

Mr Carmody—I do not know that they are on the task force, but we certainly have consulted with them.

Mr Read—They are not on the task force, but we have had regular meetings with the CFMEU as part of building and construction.

Senator CONROY—They seem to have a lot of practical experience at combating, from their perspective, the cash economy. I am glad to hear that you have been talking to them. I thought they might be able to provide you with some useful thoughts in this area. In your release you quote you say:

The Tax Office estimates an extra \$2.6 billion will be collected by June 2003 as a result of The New Tax System's impact on the cash economy ...

How do you measure what is specifically coming in due to tax reform?

Mr Carmody—That was an estimate of the fact that you can look at the individual measures under the new tax system. We believed that, given the way those measures worked and the impact of that, there would be \$2.6 billion over and above the estimates from the individual measures. What we said—and the Australian National Audit Office in one of their reports referred to this—is that it is very difficult to get down to an individual one for one measure, although we will progressively be looking at the impact on particular segments and trends. We do not have a conclusive position there. What we do have is the fact that the revenue estimates which included those are at least on the positive side now. That is not conclusive.

Senator CONROY—Over the years I have probably discussed with you at length many times estimates on the black economy, Mr Carmody.

Mr Carmody—Yes.

Senator CONROY—You seemed particularly bolshie in this press release.

Mr Carmody—Did I?

Senator CONROY—You did. You said:

The Tax Office estimates an extra \$2.6 billion will be collected by June 2003—
that is actually now—

as a result of The New Tax System's impact on the cash economy and collections to date are consistent with that outcome.

Mr Carmody—That was just a restatement of the original estimates.

Senator CONROY—How much have we collected now? Are we on target? Do we have \$2.6 billion extra?

Mr Carmody—I have indicated that—and you can go to the ANAO report for a look at the approaches there—it is very difficult to measure that part of the impact, although we are continuing to work on that.

Senator CONROY—But you say 'collections to date are consistent with that outcome'. I am now saying to you, do we have an extra \$2.6 billion?

Mr Carmody—That was a reflection of the point that I made to you previously: that \$2.6 billion was included, therefore, in budget estimates and, while we do not have precision as to the individual impact, the overall collections, of which this figure was included in the estimates, are certainly meeting expectations. That is what that was a reference to.

Senator CONROY—So you can put your hand on your heart here and state on the public record that an extra \$2.6 billion has been collected by June 2003?

Mr Carmody—No, I am putting my hand on my heart and saying that we had estimated that the impact was \$2.6 billion. We have not been able to individually go down and confirm that \$2.6 billion of collections, but what I have said is that the overall collections, which are incorporated in the estimates for overall collections at \$2.6 billion, are certainly on track.

ACTING CHAIR—What are the areas in which that collection is taking place? Is it in individuals, corporations, or what areas?

Mr Carmody—I think predominantly the small business area was where the estimate was based.

Senator CONROY—I am not trying to trip you up. It is just that you say that the extra \$2.6 billion will be collected by June 2003 'as a result of The New Tax System's impact on the cash economy'. You are being quite specific about what is going to cause the extra \$2.6 billion, and now we have got to June 2003 and you do not quite want to pin the tail on the donkey.

Mr Carmody—No. What I am saying to you is that those words were meant to express the position that I have expressed to you this evening.

Senator CONROY—I think I will review the *Hansard* on that and come back. I am scratching my head a bit!

Mr Carmody—It is late in the evening.

Senator CONROY—It is late in the evening, so I am not sure that I am going to be able to quite put that together in my head.

ACTING CHAIR—The brain is not working as fast as earlier, Senator Conroy.

Senator CONROY—Yes, it's had a busy day. What do you make of reports in the press that consider that tax evasion in business to consumer is still rife? For example, I note that Kevin O'Rourke from PricewaterhouseCoopers stated on 2SM on 24 February 2003:

I don't think the GST has been all that successful in cracking down on the black economy. I think the black economy is thriving and was always going to thrive. I think the GST combined with the Australian business number system, those two together, have tightened up business to business transactions but business to consumer is still open slather.

Mr Carmody—I would not use the words that that gentleman has used. You can look at what I have consistently said on this. First of all, there is no silver bullet to remove the cash economy.

Senator CONROY—Would you like me to go and get the Treasurer's quotes on the silver bullet—it was called the GST?

Mr Carmody—Secondly, the new tax system has certainly improved integrity in the business to business sector. The following things have all certainly impacted on the cash economy, and certainly in the business to business area: the ABN; the no ABN withholding; the fact that many people registered and therefore put their identities before us for an ABN and to register for GST to be able to claim their input tax credits; complemented by the fact that we receive much more timely information through business activity statements, which helps us assist in targeting our activities and expectations; and the fact that we receive, with the new tax system, a much more widely distributed field operation.

I have said before that in the area of business to consumer there is some assistance through, first of all, the expanded field operations and, where a business operating with consumers has significant purchase or inputs, then through the GST system we get better information that can relate ratios to input tax credits and so on. But the increased integrity is not as strong in the business to consumer area as it is in the business to business area.

Senator CONROY—Would you say the higher the proportion of labour the lower the compliance or the harder it has been to improve the integrity?

Mr Carmody—In business to consumer, if it is primarily their own labour then there is not the same inducement to be part of the input tax credits and so on, and so the risk is higher there.

Senator CONROY—It is harder to drag them into the system? I do not know; I am trying to pick a figure—60 per cent labour, 40 per cent materials. Is that the way you look at it?

Mr Carmody—I would not go with those figures. If it is 40 per cent materials they would probably want their input tax credits for 40 per cent. But if they are right up at the high end of their own labour—I cannot put precise figures on that, but certainly if overwhelmingly it is their own labour—then the risks are higher.

Senator CONROY—I noted that you were quoted in the *Age* on 16 May—

Mr Carmody—You keep reading those things. I'll have to shut up so I don't get all the questions!

Senator CONROY—You know I follow your public utterances closely, Mr Carmody. I hope you've worked that out over the seven years we've been chatting! You were quoted as saying:

I am particularly concerned by the apparent widespread acceptance in the community that not paying tax on cash is OK.

Were you talking about attitudes on the part of the consumers or the businesses selling them services?

Mr Carmody—Those expressions are primarily to do with business to consumer, but it does flow through to business to business. Consumers are often businesspeople themselves and perhaps reflect similar attitudes at times.

Senator CONROY—Did you see that article on 16 May? Did it make your clippings?

Mr Carmody—It might have, but I do not—

Senator CONROY—Your picture is in it.

Mr Carmody—Is it? Is it a good one?

Senator CONROY—It is not bad—it could even be one of you here.

Senator Coonan—I thought you said one with hair.

Mr Carmody—Yes, so did I. I thought that was getting a bit personal!

Senator CONROY—No. Sorry, that is just my accent and it being late at night. It could very well be sitting at the table there. John Quiggin was quoted in the same article.

Mr Carmody—Was he? Is there a picture of him?

Senator CONROY—Thankfully, no—because I have met John! I've known him for years. He says:

There's no fundamental difference between family trusts and doing a job for cash. I mean, one is legal in the way things are legal for people who can afford high-priced lawyers, and the other isn't. They're basically ways of dodging tax, and everyone knows that. To the extent that everybody knows the people on top are dodging, obviously you're not going to get a culture of compliance at the bottom.

ACTING CHAIR—That was Mr Quiggin, not Mr Carmody.

Senator CONROY—Yes, it is Mr Quiggin. He goes on to say the majority of the federal cabinet has family trusts. He made that point at the beginning of that quote. Does anyone want to take a long handle to Mr Quiggin?

Mr Carmody—I do not agree with his comments.

Senator CONROY—Minister?

Senator Coonan—I do not agree with him either.

Senator CONROY—We must make sure we post him the *Hansard* so he is suitably reprimanded. Your press release notes that the task force will report on more effective ways of dealing with tax evasion in business to consumer transactions in the next financial year, which is almost upon us. Has it reported?

Mr Carmody—No, it has not.

Senator CONROY—How are we going to slip those new measures into the next financial year if it hasn't reported yet?

Mr Carmody—As I said, we have not been standing still in this area. Indeed, in our compliance program we report the fact that what we call 'community information' has led to 40,000 tip-offs, if you want to use that expression, and that has led to \$44 million being raised in the previous year, and that continues to be a significant source in that area. But the committee has not reported yet and I cannot do anything on their report until it is received.

Senator CONROY—Any idea when it might be received?

Mr Carmody—I suspect, given the progress report I was given recently, that it will be a few months before we are in the final position.

Senator CONROY—I guess I will ask you more questions on that in November. I know you will look forward to that. Can you take on notice to get a comprehensive list of all the schemes using tax havens, how they work and which jurisdictions they are operating in? You mentioned that there are new schemes bobbing up all the time.

Mr Carmody—We did give you some descriptions on Vanuatu—

ACTING CHAIR—He has answered the question.

Senator CONROY—No, he mentioned there were new schemes bobbing up all the time. I am just wondering if we can get a list.

Mr Carmody—That was a general question, not necessarily about tax havens.

Senator CONROY—I am asking for a general description.

Mr Carmody—I have indicated that with the ones we have gone public on we have put out alerts on that are on our web site. We have also mentioned the sorts of features we are concerned about, and that is on our web site.

Senator CONROY—I am sure you are working on more than just what is on your web site.

Mr Carmody—I am sure we are, but they are in a position where we do not feel confident enough to make an alert on them yet. There are questions of how early we can be and our satisfaction about whether or not they are arrangements we have concerns about. Many things come to us and we have to get to a position of at least getting a first-brush understanding of them before we are even at a point where we would put an alert out. There are many of those that we continue to look at.

ACTING CHAIR—Senator Conroy, before you continue, because you only have four minutes to go, could you give us some areas where you wish to start at nine o'clock in the morning?

Senator CONROY—I do not want to drag some new officers to the table and start on a new section now and then start again in the morning.

ACTING CHAIR—Could you give some indication of what you want to start on tomorrow morning?

Senator CONROY—I thought I read out the list earlier. I am working my way through it: subcontractors, building and construction.

Mr Carmody—Charter boats.

Senator CONROY—Charter boats, yes.

Senator Coonan—Diesel fuel.

ACTING CHAIR—That is enough to get us going. Thank you.

Committee adjourned at 10.54 p.m.