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ECONOMICS LEGISLATION COMMITTEE

Reference: Tax Laws Amendment (2010 Measures No. 1) Bill 2010

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SYDNEY

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**SENATE ECONOMICS
LEGISLATION COMMITTEE**

Wednesday, 3 March 2010

Members: Senator Hurley (*Chair*), Senator Eggleston (Deputy Chair) and Senators Bushby, Cameron, Pratt, and Xenophon

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cash, Colbeck, Collins, Coonan, Cormann, Crossin, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Hefernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, Marshall, Mason, McEwen, McGauran, McLucas, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Sterle, Troeth, Trood, Williams and Wortley

Senators in attendance: Bushby, Cameron, Hurley and Pratt

Terms of reference for the inquiry:

To inquire into and report on:

Tax Laws Amendment (2010 Measures No. 1) Bill 2010

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Committee met at 10.01 am

CHAIR (Senator Hurley)—I declare open this hearing of the Senate Economics Legislation Committee into schedule 1 of the Tax Laws Amendment (2010 Measures No. 1) Bill 2010. The bill was referred to the Senate Economics Legislation Committee for immediate inquiry on 24 February 2010. Schedule 1 of the bill will amend the superannuation legislation to introduce an optional and free clearing house service for small businesses. Medicare Australia has been named as the provider of the clearing house service. If passed, the measure will commence on 1 July 2010. The Senate has asked the committee to consider the following matters in its inquiry:

- whether the legislation will have unintended consequences for the superannuation market;
- whether the legislation is anti-competitive in relation to privately operating ... clearing houses; and
- whether Medicare is an appropriate agency to operate the clearing house—

service. The committee is due to report on 15 March 2010.

These are public proceedings, although the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

I remind members of the committee that the Senate has resolved that departmental officers shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions to superior officers or to a minister. This resolution prohibits only asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

[10.03 am]

GROZIER, Mr Dick, New South Wales Business Chamber; Australian Chamber of Commerce and Industry

CHAIR—I welcome Mr Dick Grozier, representing both the Australian Chamber of Commerce and Industry and the New South Wales Business Chamber. Mr Grozier, would you like to make an opening statement?

Mr Grozier—Thank you, Senator. Correctly, you have announced that I am appearing both for the Australian Chamber of Commerce and Industry and the New South Wales Business Chamber. The former body's membership consists of chambers of commerce and industry-specific associations, and collectively they represent in excess of 350,000 employers throughout Australia. The New South Wales Business Chamber operates in New South Wales and has affiliations with over 100 local chambers of commerce and collectively, through direct membership and affiliation, represents well in excess of 30,000 New South Wales employers. The New South Wales Business Chamber is a member of the ACCI.

Can I start by saying that we welcome the government's decision to establish a clearing house facility to assist employers to manage their superannuation contribution obligations under choice and which would provide a free service for small employers. Employers also welcome that. It is clear to us from talking to our members that superannuation obligations for many are onerous and that in many businesses superannuation guarantee compliance is key person dependent. We are very supportive of reforms to simplify compliance and to expedite contributions processing. Under the announced policy, the free facility was to be contracted to the private sector. This still seemed to be the case at the time of the 2008-09 allocation to the ATO for the establishment of the a facility and also at the time of the inquiry in late 2008. It also seemed to be the case that the clearing house facility would be generally available to employers with fee-for-service arrangements for larger employers.

There are three specific matters about the bill that we wished to raise with the committee. The first is who should be an approved clearing house and what that status might entail. The second is the small business facility. The third is when contributions should be regarded as contributions made to a fund. The bill currently provides that, where an employer makes a contribution to an approved clearing house, that contribution reduces the employer's charge percentage under the Superannuation Guarantee (Administration) Act and also that choice is satisfied if an employee's choice form is passed to an approved clearing house within 21 days. What is an approved clearing house is not defined except that it is a body specified in the regulations. There are currently a number of clearing houses operating.

Under the Superannuation Guarantee (Administration) Act, a contribution is not made on behalf of an employee until it is received by the fund. Only then is the guarantee charge offset. Currently, if a clearing house makes late payment to a fund, the employer incurs a guarantee charge. That will not be the case for an approved clearing house. Under the bill, payment is dated from acceptance of the contribution by the approved clearing house. Also, currently clearing houses are regulated by ASIC because they are non-cash payment facilities, which requires them to provide product disclosure information concerning their services including their approach to handling missed payments.

We understand that clearing houses typically also provide service standards about timing of transfer and late transfer—a contractual matter, but in many cases clearing houses might indemnify employer clients from late transfers which are the clearing house's fault. However, while matters such as maximum transfer times and missed payment response times are subject to disclosure and contract, they are not themselves regulated. The regulation making power in the bill, which is the power to make a regulation to specify a body as an approved clearing house, does not appear to provide capacity to make regulations requiring an approved clearing house to comply with specified processing times. Regulated processing times would seem desirable when providing that transacting with an approved clearing house discharges superannuation guarantee obligations.

The notion of an approved clearing house which enables employers to discharge guarantee and choice obligations by transacting it is very welcome. Because payments to it are payments to the fund, there appears to be a case for providing transaction time requirements in return for the benefit of being an approved clearing house. We believe the capacity to become an approved clearing house should be open to clearing houses in general. This would mean that the full benefits of an efficient clearing house system would be available to employers. Such a clearing house system could help drive reform of the superannuation system overall in such

areas as how payments are made to funds, what sort of information is required by the fund and interfund transactions.

The second point is that the bill provides that the guarantee charge, or choice requirements, are met by contributions into, or passing the form to, the approved clearing house if the approved clearing house accepts the payment or information. To the extent that this addresses wrong payments or incomplete or inadequate information, this is clearly a reasonable provision. However, the explanatory memorandum advises that this capacity to refuse payment is intended to ensure that only a small business registered with an approved clearing house will be able to discharge their superannuation guarantee obligations by paying into it or passing the choice form.

If we have understood this correctly, this requirement to refuse seems to suggest that, if a small employer increases in size to 20 or more employees, payments will be refused. This understanding appears confirmed by the second reading speech. Apart from the complexity of administering this gate and the technical administrative burden imposed on an employer which is growing his or her workforce, or even one who is contemplating a request for a job-share arrangement, it seems to directly and negatively impact employers who might best benefit from the facility. Employers who have seasonal workforces, which means that their workforce fluctuates from its usual small number to 20 or more for a seasonal period, would, depending on how the requirement to refuse is given effect, seem well advised either to not register in the first place or to not use the facility at seasonal peak times. In either case it would seem unhelpful. These seasonal employees are the ones who would impose the greatest superannuation guarantee administrative burden on the employer and where the greatest benefit of the approved clearing house facility would seem to fall. In our view, clearing houses which are approved should not be confined to processing payments for employers with workforces below 20 but that approved clearing houses should be able to process payments from their employer base. Charging arrangements would come into play when an employer makes contributions on behalf of 20 or more employees.

The third point we wish to raise concerns transactions with an approved clearing house which are regarded as payments made to or information passed to the fund. The bill provides that these are obligations under the Superannuation Guarantee (Administration) Act to meet the guarantee and past choice forms and the obligations under the Superannuation Industry (Supervision) Act to pay deducted employee contributions within 28 days of deduction. This deeming is supported as far as it goes. However, many employers make superannuation contributions monthly. Indeed, it is our impression that a majority of employers may make monthly contributions and that certainly a majority of employers have contributions made on their behalf paid on a monthly basis. With one exception, with the standard form of superannuation provision, modern awards do not impose monthly contributions on employers, but many former state or federal awards did. That exception, I might add, is that deducted employee contributions must be paid to the fund within 28 days of deduction, and the standard form of modern award clause contains that provision.

As well, partly as a legacy of earlier forms of award superannuation provisions, many employers are standard employer sponsors of one or more funds and trustees can impose monthly contribution requirements. Agreements may also contain such terms—and numbers will because of the earlier award legacy. The bill does not provide that a payment to an approved clearing house discharges any of these obligations. So, for example, under the bill an employer registered with an approved clearing house who pays a deducted employee contribution to the clearing house within 28 days has complied with his or her obligations under the Superannuation Industry (Supervision) Act, but if the approved clearing house is late paying the fund, that employer would seem to have breached the standard modern award clause. Nor are contribution requirements under agreements or trust deeds indemnified by payment to an approved clearing house. In our view, all timely correct payments to an approved clearing house—and, we would say, with regulated processing times as a result of being approved—should be deemed to be the payment to the fund for all obligations.

CHAIR—Thank you. You have raised a number of issues in there, and a number of those we will take back to Treasury to clarify, including the issue of seasonal and job share employees. I will try to summarise your position: you are happy with the clearing-house arrangement but think that it should be open to a number of businesses. Would that reasonably sum up your position?

Mr Grozier—We are supportive of the idea behind the notion of an approved clearing house. We think that that notion should bring with it regulation about processing times and also mispayment response times and those fairly regular parts of the system in return for the advantage of being an approved clearing house, which

is that that is deemed to be a complying payment. We are very supportive of that. We believe that all clearing houses should have the opportunity to be registered as approved clearing houses, yes.

CHAIR—You are saying that existing clearing houses are ASIC regulated. The fact that ASIC regulates them does not necessarily mean that they all comply. Would it not be easier if you had one agency, particularly a government agency like Medicare, being the clearing house in terms of monitoring things like processing and transaction times and compliance?

Mr Grozier—We do not have a view one way or the other as to whether Medicare is an appropriate body for being an approved clearing house. The problem we see with the current legislation is that it would appear that it would be the only approved clearing house. There would seem to be two losses to the system with that. A clearing-house system which encourages employers to use clearing houses seems to us to provide a strong driving force in the superannuation system for improving a number of areas where there are inefficiencies in processing, because they would effectively have quite a lot of market clout and be able to start to tell the funds that they want the funds to act in fairly consistent ways with respect to each other. The second loss if that, as we understand both the current legislation and the intended supporting regulation, Medicare would be confined to small businesses. That being the case, it would seem not to bring sufficient reach over the whole of the system to be able to do the sort of monitoring that I think your question was directed towards.

CHAIR—But, as I understand it, clearing houses do exist and they tend to be employed by the larger businesses. So that system that you describe, of having an ability to put pressure on superannuation funds, is there already for the larger businesses; it is just that this is in fulfilment of a government commitment to provide a low-cost or free service to small businesses who might struggle or choose not to pay the kinds of fees that the existing businesses charge.

Mr Grozier—From an employer's point of view and indeed from the superannuation system's point of view, I think, the processing demands and needs of funds are the same whether employers are small or large. In other words, the system itself would be improved if there were standard information requirements and regulated transactional times. The particular area at the moment which is obviously calling out for that is transfer between funds but also how payments are received by funds. Bringing uniformity to those sorts of processes is not a particular type of benefit for small business as opposed to large business.

On your earlier question, which went to the regulation of the system, I think we would agree with what I understand to be behind the question—that is, whether or not the current regulation of clearing houses is adequate. We would certainly say that, with respect to something that had the status of an approved clearing house under the bill, it would be important to have required processing times and response times for these sorts of eventualities as part of a condition for approval.

CHAIR—Thank you.

Senator BUSHBY—Thank you, Mr Grozier. What interaction have you had with either Treasury or Medicare on the development of the government's proposal?

Mr Grozier—None, Senator.

Senator BUSHBY—None at all? You are here also representing ACCI. Has ACCI had any interaction?

Mr Grozier—It is my understanding that, apart from a seat on the superannuation consultation committee, it has had no interaction. I understand that ACCI has written to the minister requesting to be on any working parties associated with the implementation of the Medicare facility.

Senator BUSHBY—You have raised a number of points, which I think are reasonably well argued and well supported so I do not need to go through all of those in great detail. In general—and the chair touched on this—the current clearing houses provide what services to your members? How does it work?

Mr Grozier—It will a bit depend on the clearing house, and it is not an area I have a massive amount of expertise in. Clearly, they will accept composite payments from their clients and distribute them to the one or more funds that are appropriate for their employees. It will a little depend on the contract the clearing house has with the employer on such things as the way that the employer pays the contribution into the clearing house as to what obligations fall between the clearing house and the client about timeliness of payment to the clearing house, whether or not there is indemnification for late payment—which might or might not be the clearing house's fault—and the like.

Senator BUSHBY—It is fair to say that the clearing houses that currently exist are private organisations that have effectively developed to meet a market demand for the services they offer?

Mr Grozier—I think that would be a fair comment.

Senator BUSHBY—So there is a market demand out there amongst employers for a service of this type, but it does not cover all employers or all employers are not taking advantage of that opportunity. Have you had a look at the services that the proposed Medicare option will provide and how that will work? Have you looked in any detail at how it will actually impact on how your employer members will—

Mr Grozier—My understanding of how Medicare will operate has been derived from such things as the public development of a policy, some of which has been by press release, and the exposure draft, explanatory memorandum and the bill that was finally tabled. That is publicly available information.

Senator BUSHBY—You have raised as a result of that some issues regarding the differences if your members take advantage or if employers in general take advantage of this clearing house by sending their payment directly to the approved clearing house on that meeting their requirements or discharging their obligations under the super guarantee legislation. At that point, that is received by the clearing house whereas, for people who do not have that advantage, their obligations are not discharged until they are actually received by the funds. Also, there is the fact that there is no timing requirement for getting them out on Medicare for what it does with those funds after it receives them.

Have you come across any issues to do with the actual information that needs to be processed in order for Medicare to link up the information that employers hold about employees, and what the funds need to be able to process at the other end?

Mr Grozier—With respect to duty of care, no. It is certainly the case at present that different funds require different sorts of information from contributing employers, and I can only presume that clearing houses therefore have to try to meet what are currently the various fund requirements. Presumably they have to go back to employers to obtain sufficient information for the particular fund that they might have.

Senator BUSHBY—Information, which I have suggested, that private clearing houses have over many years spent tens of millions of dollars actually developing systems to make that happen. It works quite well at the moment in ensuring that the information individual super funds require to data-match information coming from the employees is done in a way that is most efficient and effective and reflects the fact that different super funds offer different options and products. A lot of them have insurance products which require information about different things depending on the type of product they are offering. The clearing houses have over many years put all that together.

Minutes of the superannuation clearing house working group acknowledge that a lot of that information will not be able to be processed through Medicare, and those minutes acknowledge that there will be a loss of functionality in terms of what Medicare can offer as a clearance house compared to the private ones that are currently operating. Does it concern you if that were the case? I will give you further examples. According to those minutes potential loss of functionality include: BPay will be the only payment method supported; there will not be any direct credit or debit or using EFTPOS facilities or even sending cheques; industry standard formats will not be used in terms of data matching; exception processing and return procedures have not been defined with the superannuation industry as there do not appear to be any regulatory requirements in terms of standards of data matching; and validation will not be done until data reaches the fund on some critical data element such as member numbers. Currently, if private clearance houses validated that point before they passed it on, validation to ensure that the information coming is correct will not actually occur until it arrives at the fund some time later. If that is the case, which it appears to be from the minutes of the Medicare working group, would that be of concern to you and your members?

Mr Grozier—I think, Senator, the answer to that would have to be yes. Whilst we are not supportive of a compulsory clearing house system we can certainly see advantages for many employers in a system which assists them to minimise the administrative problems of superannuation.

Senator BUSHBY—We all acknowledge the concept of a clearance house is a good idea, but it is the delivery of that that needs to be done properly.

Mr Grozier—To the extent that the limitations you have alluded to might adhere to Medicare providing a service or the service, clearly that is to the detriment of the system and to the detriment of employers, and clearly it is less likely to be as much use as it could have been.

Senator BUSHBY—It appears that for the approved clearance house concept Medicare Australia is the only organisation that can actually obtain that, which appears to be the case, but we will test that with Treasury

later. If that is the only organisation that can actually obtain that status, will that have any competition impacts?

Mr Grozier—It is my understanding that the competition impact that that might create is intended at the moment to be limited by confining Medicare to employers with fewer than 19 employees, and, as our submission suggests, we see that as a significant defect in the system. If an employer were to register with Medicare for its clearing house facility and that restriction were not there then clearly there would be a significant competitive disadvantage if other clearing houses could not become approved.

Senator BUSHBY—What advantage would Medicare have, on the basis of your knowledge of how this would work, compared to other clearing houses that are not approved?

Mr Grozier—The clear and obvious advantage is that, provided a proper payment is made, it has been made, at the moment, in compliance with the Superannuation Industry (Supervision) Act and the Superannuation Guarantee (Administration) Act—but hopefully for all obligations with respect to contributions. That is a clear competitive advantage. To the extent that a clearing house offering a facility for employers generally has that as an advantage in the marketplace, it has a competitive advantage. It is for those reasons, in part, that we think the advantage should be associated with requirements imposed for approval.

Senator BUSHBY—I am aware of the time. I am not sure what the chair intends to do given that we started late.

CHAIR—We will probably push the time through and see how we go.

Senator BUSHBY—Okay. You raised the issue of how the government originally undertook to take the matter of the clearing house to tender with private industry and how it then at some point changed its mind and announced that it was going with Medicare and that there would be no tender process. Are you aware of whether the government has performed any sort of cost-benefit analysis for awarding this to Medicare?

Mr Grozier—I should make the caveat that I am not in the superannuation industry; rather, I am there because it is a concern for our membership. I primarily relate to them in workplace relations rather than superannuation. I say that because it may well be that there are things which have gone on which have escaped my attention. But certainly there does not appear to have been the release of very much—or any—information about why this decision has been made, and I guess that in principle that is a cause for concern.

Senator BUSHBY—We have already discussed the fact that there is a private industry in which superannuation clearing houses already have met a market need. Through the government becoming a player in that market—whenever the government enters any market; often there is good reason—it has the potential to distort that market. Do you think that in general, when government is looking to enter a market—for whatever reasons it considers to justify that—a cost-benefit analysis or an analysis of what impact that might have on the industry should be undertaken and that that should be part of its consideration when it is looking at the benefits and the costs of its entering such a market?

Mr Grozier—I think that we would not disagree with that.

Senator BUSHBY—The government also undertook to deliver this by 1 July last year. Do you have any comment to make on that?

Mr Grozier—I am unaware of why times may have changed. Arguably that puts some pressure on this inquiry. From our point of view, we think that the most important thing is to get a good system.

Senator BUSHBY—I have a couple of final points. You mentioned that the regulation-making power in the bill does not appear to provide capacity to require specified processing times. Can you explain your understanding of the regulation-making power that has been provided under the proposed bill.

Mr Grozier—Yes. It would seem to me that it is a power to name one or more entities as an approved fund.

Senator BUSHBY—And nothing further?

Mr Grozier—It is confined to that, yes.

Senator BUSHBY—Thank you. You also mentioned that there is a capacity to refuse payments if a small business has too many employees, basically, and that the second reading speech confirmed this. What aspect of the second reading speech, in your mind, confirmed that?

Mr Grozier—The second reading speech is, as is the bill, eloquently brief, but at one point the minister made the point about Medicare's operations being confined to small employers. The explanatory memorandum spoke about the right to refuse—as I have chosen to call it—payment if the payment is made by someone who

is not a registered small employer with the approved clearing house. I have implied that, one way or another, payments would not be processed if it went over 19.

Senator BUSHBY—So there is nothing else in the legislation that seeks to limit payments to fewer than 20 other than the capacity to refuse?

Mr Grozier—Nothing that I can recollect.

Senator CAMERON—What is the most important issue for ACCI and the New South Wales Business Chamber? Is it removing what you have described as an onerous burden on small business or injecting competition into the process? What is more important?

Mr Grozier—That is an interesting question. Quite clearly, I think employers interests are benefited by having a simple-to-comply-with system and the less onerous that it is the better it is for both levels of compliance and costs on the business. Developing an improved superannuation system is also of long-term benefit for employers as well as employees. I do not think we would want to say, 'Let's abandon one to get the other.' We think that it is important to try to reform some of the obvious inefficiencies in the superannuation system and we believe that a significant, efficient clearing house system would have more than one player. I will come back to that. That is one of the ways that, obviously, beneficial change could be driven. The advantage of competition in this is in part that it will encourage transparency of pricing structures and also help to reduce pricing of transactional services by clearing houses.

Senator CAMERON—So if the government persists in its position, that means that you are saying that you would oppose that free service to your small business members?

Mr Grozier—We are not saying that. Quite obviously, small businesses and the two chambers welcome the provision of a free service to small employers. What we would be saying is that we have missed the opportunity to help reform the superannuation system in significant ways which would not only benefit employers but would also benefit employees. It would seem to me that prompt and efficient processing of contributions goes to fund administration costs, when employees' accounts are credited, and the like.

Senator CAMERON—You said in your submission that the processing was the same for small and large firms. I have always understood, and the argument is put to government continually by employer organisations, and by political opposition at times, that small business is special—that significant issues that apply to small business do not apply to business generally. That is why arguments have been made for different industrial laws and different approaches on competition. Now you are saying that on this issue small business is not different—that small business is the same?

Mr Grozier—Not quite. I apologise if I spoke in a way which was somewhat misleading. What I was trying to say at that point was that reforms within the system which improve things like processing efficiency and so on are equally in the interests of small and large businesses. A system that has fewer costs in it and fewer transactional difficulties will look the same for a small business as a big business, and they would all benefit in the same way. In that sense, there are no special requirements of small businesses.

Senator CAMERON—How many of your small businesses have said that they would prefer that this legislation did not go through because the principle of competition does not apply?

Mr Grozier—I do not know that that conversation has been had. The point I was seeking to make about competition is, again, that there is an interest for employers, as well as employees, in having a more efficient system. One area of inefficiency is some sort of competitive control of transactional costs and the like.

Senator CAMERON—Have you made a submission on this to the Cooper inquiry?

Mr Grozier—It was my understanding that the Cooper inquiry was explicitly not dealing with the clearing house issue.

Senator CAMERON—But if that were an issue for the superannuation industry in general you did not make a submission?

Mr Grozier—No.

Senator CAMERON—Did you make any submissions to the previous government on this onerous burden on your members when they introduced competition?

Mr Grozier—If I understand your question correctly, you are asking whether we made submissions to the predecessor government about the costs in the superannuation system. Representations, yes. We made submissions—

Senator CAMERON—No, not as to the costs but as to this specific question issue of compliance. That is the question.

Mr Grozier—Could you phrase it in a slightly different way. I am not sure I understand you.

Senator CAMERON—You raised the issue here that it is onerous for your members to comply with the choice legislation. That legislation was introduced by the previous government. I am interested in what submissions you made to mitigate against that onerous burden. You can take it on notice, if you wish. I would like to know what issues you raised and, if you did, whether you got any response.

Mr Grozier—We certainly made representations about it during the rather prolonged passage of choice legislation. We have subsequently made representations to government about problems with the choice system.

Senator CAMERON—Did you get any response from the previous government that satisfied your concerns?

Mr Grozier—Did we get a perfect response or outcome?

Senator CAMERON—Any response?

Mr Grozier—The answer to that is yes. The passage of choice legislation extended over a period of years and there were quite a significant number of changes to the bill. A number of those changes were in response to the sorts of matters that were being put.

Senator CAMERON—Your members are not saying to you that this is a problem. You are now raising here the issue of competition from, I suppose, your executive level. Your members are not saying to you they want competition in this. That is your evidence here. That is correct, is not it? Your members have not said to you, ‘We must get competition’?

Mr Grozier—What members want is a superannuation system which is—

Senator CAMERON—I want you to stick to the question I am asking. I do not want a rhetorical answer. I want an answer on that specific point about this piece of legislation that you are giving evidence on, not some rhetorical position. Your members have not raised this issue with you, have they?

Mr Grozier—If the question is: have members, as opposed to members who serve on councils and committees—

Senator CAMERON—Yes.

Mr Grozier—raised the issue of whether or not there should be one clearing house facility, or more than one, which has approved status, clearly, the answer is no.

Senator CAMERON—That is good. You have given me the answer; I am happy with that. The issue now is if there is a cost-effective and low-risk option—think about it—it is cost effective for the government, it is no cost to your members and it is low risk, should you not support that proposition?

Mr Grozier—I am not sure what you mean by low risk. I thought part of my submission pointed out that, in the current bill, there would appear to be, even with an approved clearing house, risks of breach of compliance obligations. But the answer is that if I were to ask my members do they want an effective clearing-house system which they can use if they want to, the answer is yes. If I were to ask them do they want a superannuation system which is easier to negotiate and which is efficient, that answer would also be yes.

Senator CAMERON—What the government is putting forward provides that easier to manoeuvre system, does it not?

Mr Grozier—If I understand the bill and the government’s proposal with respect to the bits of the bill we cannot see, such as regulations, then for some employers it will provide access to a free clearing-house system—which perhaps they may not have had before; they may have had different arrangements in place about who pays—it may provide access to discharging of their obligations depending on the web of other obligations they may have for superannuation.

Senator CAMERON—You also submitted that ACCI had written to the government to be on the working party on this Medicare facility when it is set up. Wouldn’t that provide me with the view that ACCI basically want to have a say? If they were opposing it, they would just say, ‘We’re not doing anything’ wouldn’t they? They would say, ‘We don’t want to be on a working party, we don’t want anything to do with this. It’s terrible; it’s socialism gone mad.’

Senator Bushby interjecting—

Senator CAMERON—What is the strength of this position that ACCI are adopting: ‘We want to be in it.’ Can you explain that to me?

Mr Grozier—Putting aside the straw man that the senator was kind enough to raise, I think that with policies which one is not in full agreement with there are, I suppose, two choices facing one. One is to turn one’s back and the other is to try to improve things. The fact that ACCI believes it has a contribution to make on the Medicare working party does not necessarily mean that it believes that this legislation is as good as it could be.

CHAIR—Thank you. Unfortunately, we will have to leave it there. Do you have a quick question, Senator Pratt?

Senator PRATT—Mr Grozier, you have raised the issue of efficiencies and the opportunity to drive those efficiencies out of a free clearing house. The fact that you have either a single clearing house or multiple clearing houses will not necessarily dictate that opportunity, but there may even be benefits to a single large clearing house being able to drive, for example, some uniformity out of superannuation companies in terms of their standards. I wonder whether you are able to comment on that.

Mr Grozier—There are two areas where the system overall would benefit from efficiency. One is the standardisation of processing arrangements—that is, money into funds, the allocation within funds, picking up missed payments, interfund transfers and those sorts of things. The other is the efficiency of the clearing house system itself. Both are necessary and desirable.

Senator PRATT—In respect to that I would expect the former would be largely suited if you have a large provider driving some of those efficiencies?

Mr Grozier—That may or may not be the case. To the extent that there is a large clearing house system in operation it obviously is in a position to press more firmly for standardisation of funds than one which is small and peripheral.

Proceedings suspended from 10.50 am to 11.02 am

PRUSCINO, Mr Michael Robert Anwyl, Director, Council of Small Business Organisations of Australia

RADISICH, Ms Jaye Amber, Chief Executive Officer, Council of Small Business Organisations of Australia

CHAIR—Welcome. Would you like to make an opening statement?

Ms Radisich—Yes. Thank you very much for the invitation to attend today. I am joined today by Michael Pruscino, who is a director of COSBOA and also the Senior Policy and Commercial Adviser at the Australian Newsagents Federation. We should also declare that Michael is a member of the consultative committee working with Medicare on this policy framework.

To open, I think it is important to share with the committee and confirm your understanding of the small-business environment that this policy and legislation serves to affect. In Australia, five million people are employed in the small-business sector in around two million businesses. About 800,000 of them employ people and 84 per cent of all businesses in this country employ fewer than five people. If we look at the purpose and the audience for this legislation and who will be affected and potentially assisted, the vast majority of businesses in this country would potentially have free access to this clearing house service.

In relation to COSBOA, it is our position that we help and encourage small businesses to be compliant with all laws at all times. We think that the aim of this proposal is fundamentally designed to fulfil that objective. Hopefully, the system will provide a safeguard for employees to ensure their super gets paid in a timely, efficient and secure fashion and will help employers to achieve this and be compliant themselves by providing a simple, cheap or free, efficient clearing house.

I want to add that, although we are extremely appreciative of the invitation to be here and we appreciate the Senate's interest in this important matter, it was very difficult for us to rearrange our time and priorities in our small business—even though we are a small advocacy business—to attend and make a submission in the very, very short time frame. I would like that to be noted, please.

I have a range of positives and concerns that I would like to share with the committee. Chair, would you like me to continue?

CHAIR—Yes, please.

Ms Radisich—That is probably the most efficient way to go.

CHAIR—Yes. We are under a bit of a handicap because, obviously, people have not had time to make submissions, so if you would go through them as briefly as possible that would be great.

Ms Radisich—The main positives that we see in the legislation are that the compliance costs for small businesses to adhere to their super obligations will be significantly reduced. So any costs that small businesses might currently be incurring in terms of using another clearing house could be offset. We will not be commenting on any issues relating to whether it is appropriate for government to be competing in this area, because our sole responsibility is to represent small businesses. We often criticise the government for not providing enough services and forethought to the small business community and their high-compliance costs, so we certainly feel that this legislation is a big positive. We think the legislation will improve the efficiency of business-to-government dealings and, as I said earlier, will help improve small business compliance with their super obligations more generally.

In terms of encouraging some of the super funds who do not currently allow electronic payments, we think this could go some way towards improving that system. It does strike me as very odd that, in 2010, some funds do not to accept electronic payments and will only take cheques. Given where we are going with electronic commerce, not only as a nation but as a global economy, particularly with heavy investment in the NBN, the small business online program and other initiatives designed to help small businesses get online and be more efficient, we think that it really does not make sense that some funds will not accept payment in this form. Of course, that should be only an ancillary consideration to the legislation. Those are the biggest positives that we can see in the legislation.

Some of the concerns that we have include being unsure about what the projected take-up rate is or what the targets are. We would like to know the answers to those questions so that we can understand what role we might have in developing an engagement strategy to help get small businesses on board. We do not want to see the government waste money. There is \$16 million, I think, invested in this project. We want small businesses

to benefit and we want taxpayers to benefit, so we need to understand what the strategies are to ensure that the take-up targets are met.

I am not sure what emphasis is being placed on marketing, communications and engagement, but that has to be an absolutely key part of this program. It would be a great shame if Medicare develops what is looking to be a very strong back-end system but it does not get take-up. I think industry association, departments within government and large corporates will tell you that it is extremely difficult to successfully engage with the two million small businesses in this nation and get them to do something above and beyond the day-to-day business that they have. We as an association struggle, and many of our members concur. So, whilst we make it our business to try to make their business easier, even conveying those messages can be difficult. Generally, studies indicate that small business does not receive information well from government, and that it is not the most trusted source of information for them. Whilst I think that is pretty reasonable in the Australian context, the fact is that there are ways other than government channels that could and should be used to ensure that there is an appropriate take-up of this strategy.

I seriously and sincerely emphasise that this program, for all the reasons that I have outlined, will be beneficial, but only if it is adequately supported with marketing and communications plans and, obviously, a budget. The time frame set down is ambitious. I will not comment on whether the time frame can be met, because I simply do not know that. We had a presentation from Medicare at the Council of Small Business quarterly meeting in Canberra last week and we were told that the time frames would be met. I hope they are, but, to my mind, they are ambitious.

Integration is a key issue which I am not sure has received the attention that perhaps it should. We have in the market MYOB and QuickBooks which account for 90 per cent of the whole payroll market. If you add on a couple of other major providers, such as ADP and some of the small ones, you have 95 per cent of the market covered. It is absolutely essential that some consideration is given to integration of the Medicare platform with the existing payroll systems. If the government is serious about being as efficient as possible, reducing compliance costs and making this new legislation, a budgetary injection, as effective as possible then we have to realise that, with the environment that we are working in—which is that, as I said, 90 per cent of small businesses use MYOB and QuickBooks for their payroll already—we do not want them to have to deal with complicated systems that do not integrate with each other. Hopefully that is being considered.

From the briefing that we have had, the process looks fairly streamlined and Medicare seems to be conscious of the fact that as few steps as possible need to be involved in the sign-up, login and payment system—the monthly or quarterly super payment process. That is a good thing. Some discussion was held at our quarterly meeting when Medicare made their presentation about a small business ID number. This is obviously not a major issue, but the question was posed to us as to whether that should be in or out. We thought it would be appropriate for an optional payroll reference number to be listed. Most small business people—and we are talking about those who employ fewer than 20 people—do not have numbers as such; they just have ‘John’, ‘Bill’, ‘Betty’ and whoever. However, there are other systems which use reference numbers and that might be relevant to cross-referencing for that small business. That should be included.

I will pass over to Michael who has a couple of things to add on the definition of small business and the impact of the threshold.

Mr Pruscino—Key issues in the implementation of the platform and key issues identified by the working group were the threshold issues around the definition of small business. The Council of Small Business Organisations of Australia discussed this at length. We understand that 84 per cent of small businesses are micro-businesses, which have five staff or fewer. On balance, we considered that the issues of the thresholds are issues that deal with small businesses at the margins. The definition that was offered by Medicare, which was a definition of fewer than 20 employees on a headcount basis rather than a full-time equivalent basis, was appropriate given the issues and the challenges in implementing such a threshold. We also have reviewed the process documents that Medicare have provided us around how they implement that threshold and the system of reminders they provide small businesses that are approaching the threshold or exceed the threshold and we feel that the system of processes is appropriate. It allows, I think, three reminders before a business is advised to seek alternatives. As a part of that process, my understanding is that officers from Medicare go into the system and look at each business on a case-by-case basis to see whether such reminders are appropriate and whether those businesses exceeding the threshold are doing so for seasonal factors or whether they have genuinely exceeded the threshold and it looks unlikely that they will return below the fewer than 20 employees definition.

Ms Radisich—The last thing on our list to mention today is a requirement for an ongoing budget line item for this program. There is a significant initial injection to establish the platform, but you cannot have such a high-level electronic commerce platform potentially impacting or servicing up to two million small businesses without having it properly maintained and upgraded. Whether that is going to come from Medicare's existing budget or from some separate budget is an issue that I am not aware of the answer to and is something that perhaps the senators might like to consider.

The very last point is that, whilst Medicare does have experience of dealing with all of us as health consumers, dealing with us as individuals is a little bit different to dealing with small businesses. There is a very effective electronic payment mechanism that Medicare has in place, especially now you can claim the rebate at most doctors surgeries, which is excellent. However, communicating such a new and different product offering from Medicare specifically targeted at small businesses is something that they have not done before and I am not sure they do have experience of in terms of having any small business expertise in Medicare. I would simply say that should be acknowledged. It does not detract from their ability to provide this service, but it is something to be considered in terms of identifying the targets, meeting the targets and properly communicating and engaging with the small businesses community.

CHAIR—Thank you, Ms Radisich. Do you have any feeling for how many small businesses use a clearing house at the moment?

Ms Radisich—I have some confidential information from private providers about how many small business clients they have, which I do not think it would be appropriate to share with you. If you would like me to make an estimate based on my knowledge of what I expect the take-up rate to be, I could do that, but it would merely be my opinion.

CHAIR—Some rough indication would be useful.

Ms Radisich—In light of everything I have just said, if Medicare was able to sign up 10,000 small businesses in its first 12 months of operation, I think that would be successful, given how difficult it is to engage and communicate with this segment of the market and that this is such a new offering. However, we have to bear in mind that our ultimate target here is two million small businesses.

CHAIR—Is that what you think is achievable or that is the number of businesses that might use a clearing house and pay for the service or be part of a tethered service at the moment?

Ms Radisich—That 10,000 figure is merely my opinion. I think that would be a reasonable success rate, given what I know about the number of small business customers who are signed up to existing commercial clearing houses and given Medicare's lack of engagement with the small business community. I would expect from a government point of view that there would be exponentially increased engagement targets as the years pass and as the product penetrates the market. But we have to be fair and realistic as well.

Senator BUSHBY—Ten thousand is a fairly low take-up. So you are essentially saying that you think that Medicare will find it reasonably difficult to get a large slice of that two million to come on board quickly and readily.

Ms Radisich—Yes, that is what I am saying.

Senator BUSHBY—Presumably, although you cannot disclose what you know, it is a fairly low level of interest at this point.

Ms Radisich—No, because No. 1, I do not think we can say there is any particular level of interest, because there has not been any promotion.

Senator BUSHBY—But there are clearing houses at the moment.

Ms Radisich—Yes. Sorry, I thought we were talking about Medicare.

Senator BUSHBY—We are. I acknowledge that there has not been any promotion of this proposal yet, but I thought what you were saying is that you were making the assumption looking forward on the basis of people who are currently signed up to existing clearing houses. Is that correct?

Ms Radisich—Yes.

Senator BUSHBY—You were talking about lack of promotion for this. Is there any promotion with small business by private clearing houses?

Ms Radisich—Yes.

Senator BUSHBY—On the basis of that—which I assume is a fairly low take-up—you are looking at a low take-up for Medicare?

Ms Radisich—Yes.

Senator BUSHBY—So what are the problems with small businesses accessing private clearing houses? Why do you think they have not taken up the option?

Ms Radisich—That is not something we have researched.

Senator BUSHBY—I understand the reality is that most clearing houses provide services to the larger businesses, and that makes a lot of sense in a lot of ways, but if you are a small business that is family operated, have only one or two employees and do your own administrative work it may well be a lot simpler to pay a small fee and send off one cheque than it is to deal with three supercompanies. I would have thought there would be some incentive for small businesses even with five or six employees. The more you have, the greater the incentive, to some extent, but even in small businesses where you have to do your own GST and statements, wouldn't reducing the compliance so you can focus on your own business be some incentive?

Ms Radisich—Yes. It is also a decision that a small business person will make based on costs and benefits: how much is it going to cost them to use a clearing house compared to the admin time it would cost them when they are writing out their six or 12 cheques every quarter. Here we are offering a free solution; so, whilst there would be additional take-up because of the fact that it is free we do not have, as far as I am aware, the marketing and communications strategy to support that at this point.

Senator BUSHBY—If it were the case that Medicare had no current take-up targets and did not put in place a marketing and communication strategy, would that be a concern to you?

Ms Radisich—With all due respect, I am not sure they would have a zero take-up target, so I am not sure if I can answer the question.

Senator BUSHBY—I am not saying a zero take-up target. I mean if they had no formed target. I am going to ask them later, but some information suggests to me it is not something they have addressed.

Ms Radisich—It would not be a particular concern today, 3 March. I would expect that if the target is not formed then it would be formed fairly shortly, because implementation and sign-up has not commenced and, from what I understand, registration commences in May. So long as the target has been set by May, that would probably be acceptable.

Senator BUSHBY—You have answered the question about the processes of businesses that are approaching 20 or may fluctuate around 20 employees. You are satisfied on that. You also mentioned that you were not prepared to comment on whether government should be operating the clearing house. That is fine, and I will not ask you that specific question, but from small business's perspective, what you would presumably be looking at is for clearing houses to provide you the best possible option. Obviously, it is free, so it is not going to cost you, but you want one that does not create any additional problems for you—it is just the best possible option that presumably delivers your small business employees the best result at the other end as well.

Ms Radisich—Yes, a free service that is fully integrated with existing payroll packages is something which should be celebrated by the whole community.

Senator BUSHBY—Would it matter to your members whether that was provided by the government or facilitated through the government through other means?

Ms Radisich—The only service currently being touted in the market as being free and meeting these standards is the government one.

Senator BUSHBY—But the government did initially go public and say that they were going to tender it to private contractors.

Ms Radisich—They have done that.

Senator BUSHBY—If they had proceeded along that basis and delivered a clearing house along the lines that delivered the objectives you are after, that would not have been a concern to you?

Ms Radisich—No.

Senator BUSHBY—In your submission to the Productivity Commission you stated that you would have thought that the Australian Taxation Office is the logical choice to deliver this. Has that position changed or are you content with whatever the government decided?

Ms Radisich—It remains our thought that, as a small business association without the intimate knowledge of the capabilities of each and every department, whether it be ATO or Medicare, and as essentially lay people, our first reaction was, ‘Wouldn’t this have been provided by the ATO?’ But, really, it is by the by.

Senator BUSHBY—But it comes back to what you said before: basically you like the idea; the concept is good provided it is delivered well; you do not mind whether it is delivered by the ATO, Medicare or a private clearing house.

Ms Radisich—No.

Senator BUSHBY—The other thing—and Mr Pruscino should be aware of this because he is a member of the superannuation clearing house working group—is that, apparently the minutes of the superannuation clearing house working group of 15 January indicate that Treasury believe the scope of functionality for employers will be reduced by providing the contract to Medicare. The examples of where functionality may be reduced include the fact that the only option to pay will be BPay, so EFTPOS and other payment methods will not be available. Industry standard data formats like swimEC, which has been developed over many years—

Ms Radisich—I am sorry; can you say that again?

Senator BUSHBY—swimEC is an industry standard format for data processing—**Ms Radisich**—I am sorry; I am not aware of that.

Senator BUSHBY—Basically sending it so that the data required by the superannuation funds is provided in the right format to ensure that things go through smoothly. Exception processing and returned procedures have not been defined with the superannuation industry. That is where there are problems in the data that is sent and how they validate that data to make sure that it is—

Ms Radisich—I am not sure of the exact terminology, but there have been some issues identified around batching to make sure that, as you say, the nature of the data—

Senator BUSHBY—But Treasury note in these minutes that the exception processing return procedures have not been defined with the superannuation industry and that may cause some problems at the other end when the information gets there.

Ms Radisich—Clearly that has to be resolved.

Senator BUSHBY—Exactly. Validation will not be done until data reaches the fund. So, if there are problems with a private clearing house, if an employer—small business—sends their information to the private clearing house, they can eliminate—I think it is to one-half of a per cent or so of the ones that come through—or reduce problems to about one-half of a per cent; it may even be smaller than that. One-half of a per cent of the transactions they process continue with problems, whereas Ernst and Young have conducted an inquiry that suggests that, without that validation process, five per cent of transactions actually go through without problems, and Treasury have identified that that could be a loss of functionality as well. Are those practical aspects of doing this through the current proposal a concern to COSBOA? I think things like BPay, which may involve higher banking transaction costs—

Ms Radisich—On the first thing you raise in terms of the validation and the data matching, essentially, I think the fact that it was raised at the January meeting is probably a good thing so that the issue has been identified.

Senator BUSHBY—Over the last 10 years, the private clearing houses have spent tens of millions of dollars in developing systems that have enabled that to happen, to ensure that the specific information, the tailored information that superannuation funds need to be able to seamlessly process information that comes through from each individual employee happens as best as possible. You identify yourself that there is only a matter of months here for Medicare to develop from scratch a system which is designed to do this. The reality, I note, looking through the minutes and reading about this, is that there may well be a standard format, a lowest common denominator, effectively, in terms of the information that gets passed through, so some of the bits on the edges might not get there.

Ms Radisich—I do not disagree with what you are saying. Medicare will need to provide the highest quality service and equally high quality as any other provider in the market. Your point that the private providers have made significant investment over many years to ensure a high degree of accuracy in their

transactions is true. So there are a couple of things. How are Medicare going to do that? I do not know. You will need to ask them.

Senator BUSHBY—I will be.

Ms Radisich—But it is on the table. They have to meet that standard and I am sure government will expect that from them. If there is an opportunity for learning to come from the private sector to aid Medicare in this activity then that should be explored. I am sure you will note that I did email you yesterday in relation to other representatives who wanted to make presentations to your committee, because I do not believe in reinventing the wheel. That is not a good use of taxpayers' money. So if there is a way that we can gain experience and learning from any of the private providers in an appropriate dialogue, whatever the government considers that to be, then we should not necessarily dismiss that opportunity.

In terms of BPay versus EFTPOS, again, I am not a technical expert, but I have been advised that the BPay method provides additional security. I do not really know what that means. That is just what I have been advised.

Senator BUSHBY—Yet major users of private clearing houses, such as Westpac and other large non-bank institutions, currently use EFTPOS and do not have any security concerns.

Ms Radisich—The Council of Small Business, as I mentioned earlier, is in fact a small business. I run the executive and financial operations. We do most of our transactions by EFTPOS and very few by BPay. That is just my own experience. Frankly, it does not bother me that much because I have the confidence in the security of Medicare systems. Whether it is BPay, EFTPOS or both is not something that is really of concern to us.

Senator BUSHBY—One point that I should probably make is that, prior to going into the Senate, I was a director of the Tasmanian Small Business Council, which at the time—and may well still be—was a member of COSBOA.

Ms Radisich—Yes, it is.

CHAIR—Senator Pratt, do you have any questions?

Senator PRATT—I was not plugged into the teleconference at the beginning of COSBOA's remarks. I think they have answered most of what I want to know, barring an outline of the current problems faced by small business in managing their superannuation obligations.

CHAIR—Senator Pratt, I think Ms Radisich did outline the difficulties faced by small business in coping with payments.

Senator PRATT—Good. I can review the record. That is fine. I just was not sure whether or not it had been covered.

Senator CAMERON—Ms Radisich, how many members do you have?

Ms Radisich—We have 30 organisations, representing 250,000 small businesses.

Senator CAMERON—So if this legislation is passed, it would be safe to assume that those organisations that are part of your group would be advising those 250,000 small businesses of a free service.

Ms Radisich—We have already commenced promoting the impending free service through our channels and we will certainly be encouraging our members to do that as the PR material becomes available.

Senator CAMERON—There has been much said here this morning about competition and the need for a competitive market in this area. But, as I understand it, some small businesses do pay into clearing houses.

Ms Radisich—Some, yes.

Senator CAMERON—There has been an issue of what is described as being tethered to that organisation. If you pay in, you have to use the payroll and other services. Is that correct?

Ms Radisich—I do not think it is correct.

Senator CAMERON—You do not think so?

Ms Radisich—No.

Senator CAMERON—You are not sure, though, are you?

Ms Radisich—I am just thinking about it, as you asked the question. For example, the accounting software providers tend to have other services which they also provide, whether that be payroll services, super clearing house services et cetera. I do not believe there is any compulsion for users of those accounting software

services to use the add-on services. However, from an efficiency and convenience point of view, it probably is easier and more convenient for many businesses to simply add that extra subscription for their annual fee and buy all of their services from one source. That said, that is not always the case. For example, some of the largest providers of accounting software services have very low take-up rates of their existing clearing house services, which leads me to indicate that small businesses are not tethered to using a clearing house service associated with any particular provider. So they would be free, on the one hand, to access the choice that is available in the market—do their accounts with MYOB and do their super through Westpac or whatever—or equally, on the other hand, use the free government service when it becomes available.

Senator CAMERON—The issue of competition seems to be pursued by both some business organisations and the opposition in this debate. What is your view about your members' position? Would they push for the philosophy of competition over having a scheme implemented through Medicare?

Ms Radisich—No.

Senator CAMERON—So you would prefer the scheme to be implemented and leave the argument about competition—

Ms Radisich—It is not an argument about competition when you are talking about small business owners. If you have between one and 20 employees and, let us say, you are paying \$3 per head per super transaction on a quarterly basis—help me out with the maths—

Mr Pruscino—Two hundred and forty dollars.

Ms Radisich—You can do the maths!

Senator CAMERON—I know this is the economics committee, but give us a break!

Senator BUSHBY—We have people to do the maths for us!

Ms Radisich—It is \$240. Michael got it right, thank goodness. There is a reason why I was not an economist! What is the choice for the small business owner? If you have two clearing houses which are equally well integrated to your payroll system and which provide for e-commerce payment, maybe you need a different login and username, but frankly, given that we all have so many of those, is one more really going to make a difference when, even though we should not, we mostly all have the same passwords? I do not have any pets, just in case any of you are trying to break into my overflowing bank account! So it is \$240 a year, potentially, to use a commercial service to make your quarterly super payments for 20 staff, as opposed to being free using a government provided high-security Medicare service with similarly onerous login and electronic requirements. Your bookkeeper is probably doing it for you anyway—which, by the way, is probably your wife or maybe your 16-year-old. What are you going to choose? The free one.

CHAIR—I have one final question: would you expect that the superannuation funds might publicise this to small businesses?

Ms Radisich—This comes back to the marketing and communications and engagement strategy. All the super funds and all the associations should, in theory, be in a position to promote this service. You know as well as I do that all of that collateral costs money, and the distribution network and the modes of that cost money. Would the super funds go down that path of their own volition? I do not know. We will do what we can to advertise and promote the service to our members and to our members' members, but to rely on us and our members, as not-for-profit associations, would not be wise as a complete communication strategy.

CHAIR—Thank you very much to COSBOA for coming in this morning and helping us out with that.

Ms Radisich—Thanks for having us.

[11.41 am]

HUGHES, Ms Jacqueline Therese, Manager, Government Business Delivery Branch, Medicare Australia

JACKSON, Mr Mark John, General Manager, Business Framework, Medicare Australia

CHAIR—Welcome, Ms Hughes and Mr Jackson. Do you have an opening statement that you would like to make?

Mr Jackson—No, thank you.

CHAIR—We will go straight to questions. I think you have been listening to much of what is being asked and discussed. I think that issue of marketing and communications was raised by COSBOA. Would you care to comment on that?

Mr Jackson—Certainly. Whilst there is no dedicated marketing and communications budget for this activity, we have certainly engaged extensively with industry and with super funds on the matter. There are steps in train to provide education and information to their members and to the community through various publications and through the industry associations themselves. No doubt, government will be making announcements at the time of the implementation as well which will pick up media coverage and the like, but this is not something which is unknown in industry or amongst business, and we would expect that that would achieve very wide coverage.

I think the other observation that COSBOA made a moment ago was that these are things that tend to start slowly, so we would not expect a flood of people using the system in the early stages. We would expect there to be a gradual growth. You reach what I would call a Sisyphus point where you have a tip, and once things start to run you tend to get take-up happening more quickly. But there will be certainly some effort with industry and funds in the first instance to advise members that this facility is available, and I would expect that the government will be making announcements at the time.

CHAIR—I guess another key issue is the time frames, which were described by COSBOA as ambitious. Could you elaborate on that, given that, as Senator Bushby has said, the private organisations have spent some years developing their systems?

Mr Jackson—There are a couple of points I would like to make about that. The first is that we have a dual time frame. We have a May time frame for registration for employers who wish to use the system. Employers can start to register in May. Then we will start making payments—or there will be a capacity to receive and make payments—in July.

Just reflecting on a question that was asked earlier about the ATO, I think the community sees Medicare as an organisation which has a lot of offices around the country where people can go in and receive a payment for their health care. In fact, Medicare Australia processes about half a billion independent, different transactions a year. We will probably do a quarter of a million while I sit here and talk to you. We have a highly developed electronic communication and processing network, and we will be able to use that very effectively to implement this system. We have, for example, established processes for the development of web forms. We have established protocols for communication with the Australian Business Register for the verification of business numbers. We have a capacity for high-level security for communication using PK infrastructure, if we need to get to that.

These things are already in place in Medicare, and we have systems to make the payments et cetera in the organisation already. So, whilst industry providers have no doubt spent money on these systems over the years, Medicare Australia have a suite of products that we will be able to use to create this infrastructure. We will not have to go back to square one and create it from scratch, which I think is going to make a big difference to the time of the implementation and also our ability to ensure that it is a successful operation.

CHAIR—You mentioned earlier that you expect a gradual take-up, but do you have targets for the take-up?

Mr Jackson—We do not have any targets at this point in terms of the number of businesses which are going to use the system. Our target is to develop the system, to get the system up and running by the due dates and to engage with the industry to make sure that the system that is developed meets their needs. One of the things that we are very keen to do in that is to work with software providers to make sure that the software products that small business uses will produce an output that can flow into our system, alleviating the need for rekeying and the possible errors that can occur from that sort of process.

One of the reasons I am a little cautious about take-up is that that in itself will take time. Software vendors do not change their systems overnight. They generally have an annual cycle or a release cycle that they follow. We would anticipate that it will be 12 months, probably, until software vendors have changed products in order to produce the output that will flow into the system.

CHAIR—Do you believe that addresses the integration issue that COSBOA raised?

Mr Jackson—We are certainly very keen to work with software vendors to ensure that an existing business accounting package produces an output which will flow into the system and will not require any reworking by the business owner. Whether all the software vendors that are out there will be able to do that or choose to do that is a matter for them, but certainly we will be working closely with them to develop mutually understood specifications to allow that to happen.

Senator BUSHBY—Thank you to the officers for coming along today. There are a couple of things from the questions you have just answered. You mentioned that you have a large suite of products already available to assist you to move this along quite quickly. How compatible is that suite of products to the data that is required for the superannuation funds, which, from what I understand, offer a range of different products and options with information requirements which may vary? Those who offer life insurance may have different information requirements to be able to fully assess the products that they offer. How compatible is the suite of systems that you currently have in being able to plug straight into that, or will it mean that not all that information can be passed on?

Mr Jackson—The information that we need we will be able to receive. Medicare deals almost exclusively with business now. It is not widely known because people see Medicare as the branch office network around the country, but, out of the 500 million or so transactions a year that Medicare deals with, about 470 million are done directly with business—doctors, aged-care providers, pharmacists and the like. The information that we gather from those various groups of people varies enormously. Sometimes it is a very large amount of information, sometimes smaller, and our systems are relatively easy to adjust to cater for the individual information demands.

Sitting behind that, we have some core standard systems, because once you gather a set of information a calculation may be necessary to make some assessment, then we have standardised accounting and payment systems which can transfer money. So we have a suite of different products there, and I do not anticipate any problem at all in catering for the information demands.

Senator BUSHBY—I might ask some more questions in a bit more detail on that in a minute. The other thing that came out of your comments is that you mentioned that you have no targets for take-up; your target is developing the systems. This is a glib comment, so do not take it seriously and do not feel like you need to answer it, but it reminded me of the *Yes Minister* episode where they had the shiny new hospital with no patients.

Senator CAMERON—I would treat that with the contempt it deserves!

Senator BUSHBY—I will not argue that. I will get in some more questions. The role that you will be taking on under this legislation—did you go to the government and say that you could do this or were you asked by the government to provide an assessment of your ability to deliver it?

Mr Jackson—We were asked to provide an assessment of whether we thought we could do it.

Senator BUSHBY—That is fine. As part of that assessment, did you develop a cost-benefit analysis or a business case?

Mr Jackson—We developed a costing.

Senator BUSHBY—A costing?

Mr Jackson—A costing and therefore what the business service that we would provide would look like.

Senator BUSHBY—Did that include the costs that are associated—from what I understand from looking through the minutes—with the involvement of the Reserve Bank, the ATO, PricewaterhouseCoopers and other external consultants?

Mr Jackson—We did not engage PricewaterhouseCoopers or external consultants in that sense. Certainly we have engaged with the Reserve Bank and with the ATO on various facets of this program.

Senator BUSHBY—Okay, but were the costs—

Mr Jackson—It did not cost us anything.

Senator BUSHBY—You say you did not engage PricewaterhouseCoopers. But they have been engaged though to assist.

Mr Jackson—They may well have been.

Senator BUSHBY—But not by Medicare. That might be a Treasury question.

Mr Jackson—They have been engaged to do an IT extra security assessment.

Senator BUSHBY—Would the costs of a consultant such as that have been included in the costing that you provided to government?

Mr Jackson—Yes, they have.

Senator BUSHBY—Are you outsourcing the payment function or do you intend to outsource the payment function to the Reserve Bank?

Ms Hughes—No. We deal with the Reserve Bank for the clearance of all our funds, so whether it is Medicare, PBS or other programs the RBA is the clearing function that we make our payments through to get them into the appropriate accounts.

Senator BUSHBY—So in a simplified fashion effectively they provide you with your banking services.

Ms Hughes—Yes, that is right.

Senator BUSHBY—Has a risk management statement or a risk audit for Medicare technology been prepared or any other form of control audit?

Ms Hughes—We have a risk management assessment in place, which is an ongoing document that is updated.

Senator BUSHBY—Is that for Medicare generally?

Ms Hughes—For Medicare Australia and for the delivery of the program, so taking into account the consultation we are having with industry on any issues that come out through that.

Senator BUSHBY—And that specifically addresses—

Ms Hughes—the delivery of the service.

Senator BUSHBY—Okay. What reports into or assessments of the suitability and the applicability of Medicare technology to the superannuation sector have actually been prepared? You mentioned that you have got a suite of software and systems that will be capable of delivering this. Has there been any independent analysis or internal analysis looking at how that can deliver the objectives?

Ms Hughes—As part of the solution design we are certainly looking at our systems, the infrastructure that we have, its capability and how that can be utilised to provide the required outcomes.

Senator BUSHBY—So there has been a full assessment of all of that?

Ms Hughes—Yes, as part of the solution design.

Senator BUSHBY—And that was done internally?

Ms Hughes—Internally, yes.

Mr Jackson—I think the issue with business is that we will be looking at interfaces and the information to be exchanged and the protocols and the structures of all that, rather than Medicare's internal systems. It is really the point of interface that industry will be concerned with, not what we do with it once it comes through the door.

Senator BUSHBY—Although that is a relevant issue, which I will get to in a minute. The government released a discussion paper last year which received a number of responses which were never made public. Were those responses made available to you for your consideration in terms of building the system or service that you will be delivering?

Ms Hughes—We have not asked for any of those documents.

Senator BUSHBY—So any concerns, valid or otherwise, that might have been raised in those papers have not been brought to your attention directly anyway.

Ms Hughes—What we have done is set up two working groups so we are working directly with industry and employers so that any issues that they have can be raised and they are part of the design of the solution so that we have a workable solution when we implement it.

Senator BUSHBY—What is the size in terms of people and also dollars of the current resources that are being devoted towards the delivery of this service?

Ms Hughes—The budget was the budget as announced in the election commitment by government, which was \$16.1 million. The size of the team, as we are working through the solution, changes as certain resources are required and as we move into the implementation of the program and commence registering businesses and super funds our workforce will increase at that point in time as well.

Senator BUSHBY—How many people do you have working on it at the moment?

Ms Hughes—Over this financial year, which will take into account our ongoing business area coming into it, we will have the equivalent of 26 FTEs across the 2009-10 financial year.

Senator BUSHBY—And they are fully funded from the additional funds that have been put in?

Ms Hughes—Yes.

Senator BUSHBY—Have any of those people been previously employed doing other services for Medicare Australia?

Mr Jackson—Essentially we have a pool of people who are deployed to various projects and things as they come along from government. Each year we make judgements and assessments about who are needed for what projects and people are deployed accordingly. We do not have a group of people sitting over there that we have taken out of a Medicare office and put onto this or anything like that. They are a group of people who are available to us for projects. We have an estimate of what our project responsibilities and obligations will be each year, and people come out of that group.

Senator BUSHBY—So essentially you are saying that there are the ebbs and flows of different things that you have, but you have been given additional resources here.

Mr Jackson—Yes, we have been.

Senator BUSHBY—So have you increased the overall number of employees as a result?

Mr Jackson—Yes, we have.

Senator BUSHBY—So in that sense you have put additional people on?

Mr Jackson—Yes, into this project.

Senator BUSHBY—But presumably some of those may have replaced people already in Medicare who have come across to this project and others might have been people funded directly.

Mr Jackson—Effectively, yes.

Senator BUSHBY—Clearly, on the basis of that answer you would be saying that there are no other services that Medicare Australia were providing that you have had to divert resources away from, because you have been fully funded to cover that.

Mr Jackson—That is right.

Senator BUSHBY—Coming back to your technology and systems that you are going to use to deliver this service, presumably the money that you have been allocated and that you will be spending to deliver the service is not just on the human resources side of things but also on getting your technology systems up to speed. What proportion of the money that you have been allocated do you think will be spent on systems development as opposed to human resources?

Mr Jackson—Sorry, I have not got that sort of level of breakdown here with us. I will have to get that for you.

Senator BUSHBY—If you would take that no notice that would be appreciated.

Mr Jackson—We will do that.

Senator BUSHBY—You would be aware—I think you were in the room when I was asking questions before about this—of the fact that there are other private clearing houses around that have apparently spent tens of millions of dollars over many years to develop their systems. Was there any thought of contracting or buying any of that technology or of entering some sort of commercial relationship with a private clearing house or houses to access their systems?

Mr Jackson—It was a policy decision by government, as far as I am aware, that Medicare Australia would deliver this program.

Senator BUSHBY—But that is that Medicare Australia could deliver it. But, in the same way that no doubt you are going off and paying for IT experts to actually make the changes required to your systems to deliver it, you could go off and buy a system or contract to lease a system or contract the rights to use technology that is already out there that could have delivered it. Was that looked at internally?

Mr Jackson—We are confident that our systems and capability can deliver this program.

Senator BUSHBY—So there was no assessment of what the alternative of buying something in might cost compared with the cost of what you are doing?

Mr Jackson—We did not go and cost an alternative provider.

Senator BUSHBY—Is there a risk that standardising data field capture—and I think that is a quote from the minutes although I might be wrong on that—for defaulting members will provide super funds with less information than they need to ensure members are insured or appropriately insured or not underinsured?

Ms Hughes—The decision in relation to what data fields would be collected from the employer and therefore sent on to the super fund, as part of the clearing house function, was developed in consultation with the working groups, so in consultation with industry. We started with quite a long list of data elements and worked on that with industry to determine what data fields they required so that we could ensure we were providing information—

Senator BUSHBY—So are you saying that, if individual funds that might be a member of ASFA or IFSA and might be working in a particular field of employment have particular data requirements and those are passed on to Medicare Australia through the representative on your working groups, Medicare Australia will then ensure that that data can be captured and passed on in an appropriate manner?

Ms Hughes—I am saying that, yes, in developing the data elements that we are capturing, we did that in consultation and agreement with IFSA, ASFA and the other representatives on the working group. If there were particular issues—for example, some funds insist that they must have the member number; other funds do not—we put in place the ability for an employer, when they select a particular fund, to become aware of those rules that the fund has provided us. We have taken those sorts of things into account.

Senator BUSHBY—You are taking them into account—

Ms Hughes—Yes, in consultation.

Senator BUSHBY—but as a result are you able to offer the data field matching in all cases that it is required? Is it a negotiation process where you have reached a happy medium or is it an absolute where everybody got everything they wanted?

Ms Hughes—In the capture of the data, it was agreed with the working group that the data fields that were being captured were sufficient to be sent through.

Senator BUSHBY—So it does not necessarily provide all the information that all super funds may otherwise have received or be currently receiving either directly or through other clearing houses?

Mr Jackson—I do not think you can draw a conclusion that they are currently getting all those fields either. That is probably what funds would like—not necessarily a wish list, but obviously some of it—

Senator BUSHBY—That is part of the administrative burden on small business that we are trying to remove, because some of them do have to provide different data fields to different funds. If they can send it all off to a clearing house, then they can remove that burden. Certainly some super funds do insist that at an employer level they provide the full range of data fields that they require and will reject it if they do not get it.

Mr Jackson—We have agreed with them on what we will capture, and they accept that.

Senator BUSHBY—At the moment, if an individual employer sends off their payment to a super fund which has fields that others do not have to have but are required to have, and they leave one off, it might get rejected—there is that sort of degree of requirement. If that same fund through its representative organisation on the working group says to you, ‘We need that field,’ will you make sure that your systems will actually deliver that?

Ms Hughes—Yes, we have worked with them in developing the fields that they say they require to receive data and have agreed on the dataset that would be captured that would suit their needs.

Senator BUSHBY—And that would work to an individual fund level?

Ms Hughes—Yes. The working group worked through that with the individual representatives.

Mr Jackson—Not with every individual fund, Senator, no.

Senator BUSHBY—I know you are not negotiating with every individual fund, but if their representative organisation said, ‘ABC fund needs this information; can we make sure you build the system to give them that?’ would you say yes?

Ms Hughes—The working group worked through what was needed, why it was needed and how it would be used and came up with an agreed dataset. I cannot say that there is not another field that they would like to have but do not necessarily need that we have taken into account.

Senator BUSHBY—There is a negotiation process of some sort and hopefully you will end up with the result that everybody can live with?

Ms Hughes—Yes, that is right.

Senator BUSHBY—Why is it the case that they might not get everything they might like as part of what you are delivering? Is it a logistical problem? It is a cost problem to develop a system that provides them with all the information that they might be receiving directly now?

Ms Hughes—One issue we would look at, from a privacy perspective, is ensuring that data that is collected for the clearing house is actually required for that purpose. They may have data fields that are outside that scope. As the working group, working together, we would look at which data fields were required and which were additional, desired information.

Senator BUSHBY—So the working group makes that assessment and tells the fund ultimately, ‘You might say you need it; we think you don’t’?

Ms Hughes—Yes. The working group representatives, who are there to represent their funds, were part of those negotiations.

Senator BUSHBY—Looking at the list, there are an awful lot of people. Probably 15 groups are represented there. If one group says it needs certain information, it may only be one voice out of the 15.

Mr Jackson—As we alluded to before, there is information that funds might like to have and information they need to have in order to accept the payment and process it. We have agreed with the working group on those items that are needed to receive and process the transaction and have the money paid into the fund on behalf of the member.

Different organisations have different requirements. They would prefer to have that. We did not want to build a system that would cater for 15 different organisations. In a choice-of-fund situation, if a member moves to another fund, does that mean that the employer has to capture a separate lot of information? We are trying to move to a standard set of data capture, which is necessary—

Senator BUSHBY—I understand that. I have been told that the private clearance houses do tailor it so that they can provide all the information, whether that is a need or it is considered that they would just like to have it. So it is possible to do it.

Mr Jackson—Anything can be done. I guess it is a question of whether it is a sensible or prudent thing to do and whether it is useful and helpful. We have agreed with the funds and with industry as to what is necessary and appropriate to collect.

Senator BUSHBY—We will move on. In terms of the method of data transmission, currently the industry standard seems to be—and I do not know a lot about this—swimEC. Why isn’t Medicare adopting the swimEC standards when ASFA, AIST and IFSA fought very hard for those to be adopted in the first place?

Mr Jackson—I might make an observation that might help a little bit. The swimEC standards were developed in the 1990s in consultation right across industry, but they have not proven to be widely used, even 15 or so years on. In fact, when I say they are not widely used it is probably the other way around. They are used to some degree but not a lot. One of the issues that is confronting us is that funds are coming to us and saying, ‘We want you to establish the standard because you will be the provider at that sort of low-level, with essentially large volumes of employers.’

Senator BUSHBY—Which funds have come to you and said that?

Mr Jackson—Industry representative funds—ASFA, ISFA and that sort of thing.

Senator BUSHBY—We have them coming later so I might ask them.

Mr Jackson—They are looking for some assistance in moving that forward. That is a bit of a tricky situation because, obviously, everyone in theory wants a uniform set of standards so that it is quite easy to hook in and use them, but in practice funds are already set up and operating in the way that they are set up and operating, and to move to a different standard and different data capture and approach can require a significant redesign of their back-end systems. That can be costly. They have to schedule that in with whatever other IT work they are doing. Whether they are standards around superannuation or anything else, even if people want a standard and are quite happy with a standard, it can take time to get to that point. Having the government clearing house set up and adopt a standard that industry is comfortable with and which over time can be adopted more broadly is a goal for all of us. We are just cautious of being set up to make that happen. The expectation that, all of a sudden, all funds will turn over and start using the standard is, to say the least, a very optimistic one—not because of lack of interest—

Senator BUSHBY—As you know, there are a lot of costs and ultimately those costs will be borne by the owners of the super funds that the funds are managing. You mentioned that swimEC is not widely adopted. Would most of the funds have IT systems at the moment that would be capable of processing swimEC?

Mr Jackson—You would have to ask the funds, but my understanding is that the answer is no.

Senator BUSHBY—In terms of developing or adopting a standard format, if they do not have it already then a new one is as good as any, in a sense?

Mr Jackson—In a way, that is right.

Senator BUSHBY—Why have you adopted BPAY as the only option?

Mr Jackson—We have not adopted BPAY—

Senator BUSHBY—You haven't? That is good to know, too.

Mr Jackson—We are considering options. Ms Hughes might elaborate a little bit more. We have looked at the alternatives and there are certainly some advantages to BPAY in that it is a familiar system to what industry gets now with their bank statements and other things. It also allows a direct link of the payments to the employer, so reconciliation is available. We have not reached any firm decision on that and we are still talking with industry about that.

Ms Hughes—I do not think there is much more to add there, but there are some great advantages in BPAY that can be offered to business: certainly the ability to print out the statement once they have given us the information so it looks like a standard bill—a level of comfort with that type of thing. As Mr Jackson has mentioned, the use of the reference in BPAY, which is a requirement of BPAY, enables that direct, one-to-one link of the payment coming in and the information that we are holding. If there are issues, that gives us a direct link back to the employer so that we can get back onto them straight away. There are some great benefits.

Senator BUSHBY—I can see that there may well be some benefits. Have you looked into the transactional costs of BPAY compared to the alternatives?

Ms Hughes—That is being looked at at the moment as part of the process, yes.

Senator BUSHBY—Because, as I understand it, it may well be the more expensive option from business's end in terms of transaction costs. There are other options like EFT and even other operators, like Flick, who do it at a cheaper rate. Are you looking into that? Is that something where the door is not necessarily closed?

Ms Hughes—Yes.

Senator BUSHBY—The private sector superannuation clearing houses, as I understand it, generally clear money in less than five days. Is Medicare going to have any obligations regarding the time that it takes to clear the payments it receives and send them on to the funds?

Mr Jackson—I am not aware that there is any fixed time obligation there. Our aim would be to process within 24 hours. As I said earlier, we process a very large number of transactions every day—in the millions—and they are all settled within a day or so, so we do not anticipate that a clearing house payment will make a lot of difference to that overall processing effort.

Senator BUSHBY—In the minutes which I referred to already they say that speed of payment is not a commitment that Medicare Australia can make at this stage. Why would that statement have been made?

Ms Hughes—I would need to refer to the minutes, which I have not brought with me. As Mr Jackson says, our intention once the information is matched is for the money to be distributed to the super funds immediately, so we would be looking at doing that within 24 hours. The only one where we could not commit

to that would be those where there were issues with matching and some requirement for us to do some follow-up work.

Senator BUSHBY—I will get onto the issues of that in a minute if I have time. What is the applicability of the current Medicare Australia KPIs to the small business superannuation clearing house?

Mr Jackson—We have a wide range of KPIs right across everything from telephony to processing times. Some of those, such as our response times to calls from employers asking where things are up to, would be quite applicable. I cannot imagine we would deviate from the normal Medicare ones. We have payment cycles of 14 days for some things as well as other time frames. They would be quite different, and we would need to look at the system and at what appropriate KPIs are.

Senator BUSHBY—I mentioned in passing earlier the Ernst & Young super iceberg report of October 2008. In that they indicated that the standard error rates average around five per cent. Will the management of refunds and the publishing of error rates be some of the SBSCH-specific KPIs?

Mr Jackson—We have not considered that level of detail as yet, but we will certainly be looking at that.

Senator BUSHBY—To go back to the minutes, it seems from them that Michael Davis from the CPA thought the prevalidation was critical when a fund could not match the payment. It seems Medicare will not be applying any validation. Is that correct?

Mr Jackson—Upfront validation? We do not check with the fund at that point to ensure the member details match up when the employer sends us the payment. Is that what you mean?

Senator BUSHBY—That is right. That does not get validated until it is received by the funds?

Mr Jackson—That is right. At this stage we are not planning to do that sort of validation.

Senator BUSHBY—As mentioned, Ernst & Young identified that five per cent average error rates occur where validation is not applied—10 per cent in the worst examples. Ernst & Young also estimates that each error takes about two hours worth of work to fix. What is Medicare's estimate of the levels of transaction? Do you disagree or agree with Ernst & Young's assessment?

Mr Jackson—I might let Ms Hughes think about that for a minute, but one thing I would say is that what we will be looking to do is prepopulate here. I would not argue with Ernst & Young; I am sure they have done some analysis on this. Once we have claims coming through, the next time we will prepopulate the form for the employer so they will not need to rekey or re-input information. Once we get it right it will be right, so I suspect that those error rates will diminish very sharply through the approach that we are going to use. I think that if you have a situation where you have cheques and paper floating around all over the place those sorts of error rates are quite reasonable, but once you get down to an electronic system, which is—have you used E-tax?

Senator BUSHBY—So your view is that you will be able to significantly reduce that five per cent.

Mr Jackson—I would expect so.

Senator BUSHBY—Even if it is an accurate assessment upfront, over time you would use that. Has the cost of dealing with that high error rate upfront and what you would need to do to repopulate, to use your term, and fix it over time been incorporated in your costings?

Ms Hughes—Yes, it has. We have incorporated that and also the reduction in those sorts of error rates with an electronic transaction.

Senator BUSHBY—Do you have a product disclosure statement or similar document, as the Corporations Act requires, for private-sector providers to provide to employers? To what extent will you be working under similar requirements to what a private-sector clearance house would have in terms of its requirements to put out a product disclosure statement, general ASIC requirements and so forth?

Mr Jackson—I cannot give you an answer off the top of my head. We will have to take that on notice and find out for you.

Senator BUSHBY—Clearly the implication there is that private-sector clearing houses have obligations in terms of how they operate which are essentially all designed to protect the people's money that goes through their hands. Will you be required to comply with similar obligations to ensure that those protections are also there and, similarly, to ensure that you are not provided an unfair competitive advantage against those who provide similar services already?

Mr Jackson—I will find out.

Senator BUSHBY—I might leave it at that, in the interests of time.

Senator CAMERON—The budget for this program is \$16.1 million. What is the total budget for Medicare?

Mr Jackson—It is about \$700 million or \$750 million a year.

Senator CAMERON—So this is not a huge program within Medicare, is it?

Mr Jackson—Not in the grand scheme of things. The actual Medicare program itself of course is the main program that we administer, and it consumes a lot of our funding.

Senator CAMERON—What we are looking at in the terms of reference in relation to Medicare is: is Medicare an appropriate agency to operate the clearing house under the legislation? If the government has made that decision, that does not leave much debate in terms of that issue here. But what flow from that are the cost effectiveness of Medicare and the low risk of Medicare. Can you elaborate on how you have looked at the issue of cost effectiveness and risk?

Mr Jackson—We are an organisation that does a very large amount of processing now of all sorts of things: medical claims, pharmaceutical claims, aged-care claims and other things. We have well-established systems that have been in operation and tried and tested over a long period of time; appropriate audit controls and the like; and a skilled workforce who are very comfortable with and used to doing this kind of work. We have no concerns about our capacity to deliver on this program. It is not, as you pointed out yourself, huge in comparison to some of the other things we do. But it is obviously a very important program and we are determined to get it right.

Senator CAMERON—You indicated you had a couple of working groups established with industry. Could you talk us through how that has been going and who you have been discussing these issues with?

Ms Hughes—We have two working groups set up. The main one has representation from both employers and industry. COSBOA is a part of that, as is the National Retail Association. We have a representative from the Institute of Chartered Accountants. The department of innovation, the tax office and Treasury are also represented. In that one we are looking overall at the solution, making sure that we are getting it right for the employer, making it simple, looking at data elements for the super funds that we are capturing—that is, looking at the end-to-end solution.

The second working group is more focused on superannuation funds and their administrators so that we can be working directly with them in relation to their specific requirements. That one is, I suppose, a bit more technically focused and focused on super funds rather than the first one, which is focused on the end-to-end solution and particularly making it efficient for employers.

CHAIR—Thank you to Medicare Australia for coming in today and assisting us. I will now ask Treasury to come to the table.

[12.21 pm]

DALTON, Mr Michael, Personal and Retirement Income Division, The Treasury

PARKER, Mr David John, Executive Director, Revenue Group, The Treasury

WILLCOCK, Mr Michael, General Manager, Personal and Retirement Income Division, The Treasury

CHAIR—Welcome to Treasury officials. Do you have an opening statement that you would like to make?

Mr Parker—Yes. Senators, this is a short, two-page statement. Given the limits of time I do not propose to read the entirety of it into the record but I just want to pick up a couple of key points. The essence of this statement is to go to the policy issue, which I am sure you would be interested in, which is the considerations which bore on the choice made by the government in making its decision to use Medicare as the entity to provide the clearing house services. That is the context of this statement and let me quickly paraphrase it for you.

The beginning of the statement lays out the particular elements of the policy on which we were asked to provide advice on and deliver. That is the first five dot points of the statement. The key one, which became an issue in the delivery of this policy, is effectively the last dot point on that statement relating to the fact that under the policy once an employer has made a payment to the clearing house the objective is that their obligation under the SG law would be discharged at that point. That is somewhat different from the present case where, if an employer is not making contributions directly to the fund and is using an agent, the employer's obligations only become extinguished once the money flows into the fund. That raised a range of implementation issues and that bore on a couple of things such as the timetable to bring this policy to fruition, because it proved to be quite complicated.

That is essentially what the second part of this statement does: it unpicks the issue of why the extinguishment on payment to the clearing house makes this particular policy initiative somewhat novel and different from the arrangements which presently apply, where a business uses an agent to process its payroll and other SG obligations.

So, in effect, what the policy is intended to deliver is that once an employer makes a payment to the clearing house and it is accepted by the clearing house its obligation to make a payment is met at that point. The reason for that is to provide certainty and simplicity for the employer. What that does is to introduce an entirely new type of entity into the superannuation arrangements. It is not an agent for superannuation purposes like current payroll providers, but it is a conduit. So it is somewhat different. It accepts the money it passes through. It became evident that that gives rise to a risk. If something were to go wrong in the clearing house—a fraud or failure, for example—that risk may then attach to the employee, as opposed to the employer. So it was necessary to deal with that risk in the policy development phase.

The next part of the statement essentially tells that story. We came to the view that—it is regrettable in some ways—properly designed policy needs to focus on what happens in the event that things go wrong, as opposed to what happens when everything goes right. That proved to be quite a complex policy issue. That was the reason why it took considerable time to implement this and it is one of the key reasons that the government ultimately chose to do the clearing house within the public sector and through Medicare.

Over the page there is a brief elaboration of the risk. We spent some considerable time developing this policy, developing possible mechanisms to address the risk in the event that the government chose to continue with the policy of extinguishing the SG liability on payment and to do it through the private sector contracting arrangement. That proved to us that it would require quite a complex regulatory regime to handle the risks associated with that, particularly given that there may be substantial amounts of funds flowing through the clearing house, which meant that we would need to build a very robust regulatory arrangement. We are happy to elaborate on those. In the event, rather than doing a build of a substantial regulatory framework to handle that risk, the government chose to do the clearing house within the public sector—that is, to internalise the risk element.

Essentially what I am saying here is that there was a trade-off between two elements of the election commitment—that is, the extinguishment of SG obligation on payment and doing it in the private sector. The government took a decision, when it chose to do this through Medicare, to stick with the extinguishment obligation as the primary element of the policy and to do it in the public sector.

The final points in the opening statement go to the issue of competition, which has been raised. We can elaborate on that matter as you wish. Thank you.

CHAIR—Thank you, Mr Parker. I would like to dwell a bit on that risk part of your opening statement. Was the discussion that you had about managing the risk an inhouse discussion? Did you get external advice about that or advice from other government departments? How was it arrived at?

Mr Parker—It was a long process and we had extensive discussions on that matter with a number of government agencies. For the details of that I will pass to my colleagues to tell you more of that story.

Mr Willcock—In my involvement in this process there were certainly discussions with a number of other agencies. The main agencies relevant to this particular issue were the Australian Taxation Office and the Australian Securities and Investment Commission, ASIC. The reason for that of course is that what we are talking about here is indeed the turning off of the SG obligation at the point of an employer making payments to the clearing house, and those SG obligations are ones that the ATO has the prime carriage for ensuring compliance with and undertaking some sort of enforcement action, if you like, if there is a failure by an employer to comply with those obligations. The reason for ASIC's involvement was, as Mr Parker indicated, to think about a way to help manage problems that might arise at the clearing house level. If the clearing house service was provided by private operators, we were indeed thinking about the way to use the existing Australian financial service licence regime that ASIC administers and applies and to use that AFSL licensing regime as a way to provide some sort of regulatory oversight and reassurance, and a mechanism for providing redress in the event that there was a problem. We talked to ASIC, of course, about the AFSL licensing arrangements—what those current arrangements involved and what possible modifications or additions to the AFSL licensing arrangements could be considered to try to meet the issue. They are the main two interlocutors that we had.

CHAIR—We had the representative from the Australian Chamber of Commerce and Industry suggest that private operators could be regulated by ASIC, but in your consultations with ASIC it was agreed that that would not be the optimum outcome?

Mr Willcock—I suppose our conversations in the first instance, given the fact that we identified that there was a bit of a transfer of risk to the clearing house level, were directed at considering just what sorts of regulatory arrangements might fit the case. So we were able to discuss with ASIC the tools in the regulatory toolbox they already have which could be used or adapted for this purpose. We talked about things like: how an AFSL licence directed at the clearing house operators could draw on things like setting minimum capital requirements to ensure that you do indeed have a well-capitalised operator rather than a fly-by-night operator; ensuring that any clearing house operator had compensation arrangements to deal with problems should they arrive, for example, professional indemnity insurance arrangements et cetera; and ensuring that they have dispute resolution and other arrangements. Those sorts of arrangements are relatively common or standard features of the existing AFSL licensing arrangement.

The issue, I suppose, became whether or not one would need to tweak those, for example, by enhancing or increasing the capital requirements. We considered with ASIC the extent to which professional indemnity insurance arrangements would be an adequate response in the event of there being a loss and the extent to which indeed there would be any capacity or whether there might be some limits in the Australian market to be even able to get professional indemnity insurance to cover these sorts of activities that the clearing house would engage in.

Mr Parker—I can add additional layer to that point. If you think of the legality of the issue, the clearing house would have a contract with the employer and the person who would be exposed to a loss in the event that something went wrong in the clearing house would be the employee. So the actual legality of the arrangement as to the rights of the employee to seek redress was also something that needed to be sorted out, and it became quite complex.

CHAIR—So if there was a problem it would be up to the employee to find a remedy if a clearing house did go broke or there was some fraud?

Mr Willcock—Yes. Again, to contrast that with current arrangements, the SG obligations reside with the employer until relevant funds reach a super fund. If there is a problem, if the money does not reach the super fund, the employee is not in the position where they are obliged to take direct action themselves. They can contact the ATO and the ATO can then take action effectively on an employee's behalf. It deals with the problem of a whole lot of small individuals, employees, having to organise collective action or take action

independently by, under current arrangements, allowing the ATO to step in and act more or less on their behalf and seek a remedy.

But, by turning off that SG obligation at the point of the clearing house, the ATO is effectively removed from the picture. The clearing house, for example, does not have a tax obligation that the ATO can seek to enforce, so the ATO is removed. The employer can say, 'We're out of the picture because our SG obligation has been discharged. It's no skin off our nose.' Then it would be a case of the employee who personally is not a party to the contract between the employer and the clearing house, and indeed will presumably have difficulties of resources and all the rest of it, being obliged to find remedies for their own potential loss of superannuation entitlements because of a shortfall in their own super account. And of course you would have a number of employees potentially affected across a number of different firms. This is part of the concentration of risk, where a number of different employers can use a clearing house and therefore the superannuation entitlements of employees across a number of different firms might potentially be put at risk. It creates a real issue about how those individual employees will organise themselves to seek redress in that situation. So, at bottom, we would therefore say that there is the potential diminishment of protection available to employee superannuation entitlements as a result of this change.

CHAIR—Yes, clearly that is very critical. To delve a bit more into this extinguishment issue, there is a very obvious advantage from the small business, the employer's, point of view in having the SG obligations extinguished once the payment reaches the clearing house. We have had some evidence that private clearing houses will take up to five days to pass on that SG payment to the fund. We have heard from Medicare that they expect that that would be reduced to within 24 hours in most cases. Will that then provide an advantage to the employee by having the funds in the superannuation fund earlier?

Mr Willcock—I would certainly expect so. It is the time value of money issue. The sooner that the money hits an individual super fund the sooner it can start earning money on the money and the sooner that the individual employee's super account balance is enhanced and therefore earning money. So the quicker the money hits the fund the better it is for the individual employee's balance.

CHAIR—Speaking of money, there was some suggestion, I believe, by the Australian Chamber of Commerce and Industry that there may be an issue with whether it is an industry obligation or whether the payments are forwarded at particular periods under a state award or a trust deed arrangement. Is there any circumstance in which money reaching that clearing house would not be immediately accepted as reaching the clearing house and then being forwarded directly to the fund? If there is any validity in that?

Mr Willcock—I have an understanding of where that concern comes from, but I think it is misconceived. The clearing house proposal is one which would deal with all superannuation flows from an employer to super funds on behalf of the employee. It would not necessarily just be limited to so-called SG or superannuation guarantee funds. It could involve other superannuation flows too. The significant thing though is that, in relation to superannuation guarantee and choice of fund legislation, there are particular obligations which are imposed by Commonwealth law. One of the points of the provisions in the TLAB 1 legislation that is before the committee is to statutorily change some of those obligations by reason of the existence of the clearing house. Consequent on the government's election commitment that this proposal is seeking to implement, it will be important to turn off the SG obligation that says the employer is liable for the SG until the money reaches the super fund by saying that no, we are bringing forward, if you like, the time at which that obligation may be extinguished. That is an element of the bill. Of course the Commonwealth parliament has scope to change legislative provisions of Commonwealth legislation. As to whether or not it will have scope to change, for example, legislative provisions in state legislation or under private legal arrangements, different considerations might apply. There might be constitutional power to do so or not to do so. That was not an element of the election commitment to go so far as to shift what might otherwise be in private trust deeds or under state industrial awards or other things. It was simply to do with the nature of the Commonwealth requirements as they currently stand.

Mr Parker—As a matter of practicality to the extent that the utilisation of the clearing house speeds up the process, you would expect the problems to the extent that they exist—and we are not intimately familiar with them—or arise in respect to other legislation would be similarly diminished rather than enhanced.

Senator BUSHBY—You mentioned in your opening statement that this was part of the election promise as put forward by the then opposition to turn off the obligation on the employer once the funds were received by the clearing house. Similarly one of the obligations—and I have a copy of their election platform here—that they had promised was that the clearing house facility would be contracted to the private sector. Clearly they

have changed, for the reasons that you have outlined, their position on that and they have elected to with Medicare. Similarly they could have elected to change the discharge or turning off of the obligation at that point and adjusted that somehow. A choice of some sort has been made by the government in terms of how it delivers an election promise which was based on an undeliverable. When they made that promise they were obviously not fully aware of some of the matters that you have put before us today, and they have had to make a choice between competing—

Senator CAMERON—There might be less political commentary and ask a question.

Senator BUSHBY—They have obviously had to make a choice, haven't they? They did have an alternative. There was a path that the government could have gone down to deliver the promise in the best way that it could.

Mr Parker—Evidently.

Senator BUSHBY—The chair asked about what advice you have had. Have you had any legal advice? I may have missed it if you mentioned this as I may have been reading my notes at the time and did not hear the full answer. Did you get legal advice on the risk situation?

Mr Dalton—What aspect of it?

Senator BUSHBY—In terms of the risk, which is the fundamental reason.

Mr Willcock—It did not appear to us to be a complicated issue, Senator. It was simply the fact that, as I say, the relevant legislation currently provides for the extinguishment of the SG obligation at the stage of the funds reaching the super fund.

Mr Parker—When you say 'legal advice'—

Senator BUSHBY—Advice regarding potential liability of the government if they privately contracted it out.

Mr Parker—Let me firstly add to the answer that has been given and then I will answer your additional question. As has been said, the consultations took place with the ATO and ASIC, and I believe there were also some discussions in the early stage with APRA. So we were talking to the people who themselves are responsible for the implementation of the legal regimes. No doubt there were many lawyers involved in it, but we did not get formal legal advice from the AGS on these matters. We felt that was unnecessary.

As to your specific question on whether we sought legal advice about any potential legal liability that might attach to the government in the event of a default, fraud or other failure in a clearing house, I will ask my colleagues to answer that specific question. Obviously, from a policy perspective it is not simply a legal question. In the event that there were a problem in a clearing house which might have proved to be a big problem—as I said in my opening statement, as policy advisers we need to worry about when things go wrong as opposed to hoping that they will go right—it would not have been simply a legal issue; it would have been a broader issue than that.

Senator BUSHBY—So, in terms of the specific question?

Mr Willcock—Just to amplify, we did not specifically seek legal advice on the issue that Mr Parker referred to—that is, what legal liability might arise as far as the Commonwealth was concerned in that circumstance.

Senator BUSHBY—Okay.

Mr Parker—Had we proceeded to contract this to the private sector and filled in all of the detail that would have been necessary in the regulatory regime, that would have been a pertinent question. But we did not get to that point.

Senator BUSHBY—Okay, that is fine. I want to talk about the risk to the employees. As I understand it, the concern here really is that it changes the risk. If it had gone to a private clearing house or houses, the risk would have shifted from the employer to the employee in the event of a default or fraud et cetera. What analysis has Treasury conducted on the risk to the employee in the situation where—if Ernst and Young are to be believed in their report *The Super Iceberg*, in October 2008—five per cent of the transactions could contain errors and the employer's obligations are discharged by the time they give it to the clearing house? At that point they have met their obligations and are not subject to the SGC, yet they may have provided incorrect information. Currently, if you are sending it directly to the fund and it includes information that is not correct,

they will send it back to you. As it currently stands, there is no validation at that point yet their obligation is discharged.

Mr Parker—I will ask my colleagues to talk in more detail on that specific question. There is a mechanism in the law that the discharge of the SG obligation occurs when the clearing house accepts the payment.

Senator BUSHBY—But we have heard evidence today that the clearing house does not validate.

Mr Parker—I sat in on the—

Senator BUSHBY—Validation does not occur until the information goes through to the super fund, which is well after the obligation of the employer has ceased.

Mr Parker—I am not quite certain about that.

Mr Dalton—Just to elaborate on Mr Parker's point, my understanding is that, under the legislation, the clearing house is required to accept contributions from employers for the superannuation guarantee obligation to be discharged. I was not here for the full Medicare evidence but my understanding also is that Medicare Australia will be undertaking some checks upfront in terms of ensuring that the data provided by the employer and the contribution amount are consistent. If the two are inconsistent, my understanding is that Medicare effectively will not accept the payment.

Senator BUSHBY—I do understand that the legislation gives them the power to refuse, but what I really want to know is on what basis they will exercise that. My reading of it indicates that it is probably only going to be used when it is a business that is not a registered small business and employs more than the threshold.

Mr Dalton—Again, I think this is an issue that is more for Medicare. My understanding was that it would also potentially be used if the data that the employer provides to Medicare and the payment do not match.

Senator BUSHBY—That may well be the case, and I did not ask that specific question of Medicare. I did ask Medicare about validation and they indicated that they would expect there to be a reasonable percentage of problems initially, but that their systems would work through that and lower that degree. They acknowledge there would be a significant percentage if problems, maybe up to five per cent—they did not give a number but they did not challenge the Ernst and Young estimate of five per cent. They said it would get smaller because of the systems they would apply. Nonetheless, a percentage will be submitted with errors, which may not be that specific error that you refer to, that are not picked up until they go through to the fund. At that point, what redress is there, given that the employer's obligation has been discharged?

Mr Parker—Since this is down in the very fine detail of the operation of the scheme, it may be best for us to take that question on notice and endeavour to provide you with an answer before the end of the week. We will raise the matter with Medicare.

Senator BUSHBY—When did Treasury first form a view about the problems of risk that you elucidated today?

Mr Willcock—I could not provide a particular date to you. Just to step back a little, consequent on the election of the current government and the consideration of the implementation of the election commitment that related to this, there was a consultation process that included a discussion paper that was circulated and that put out some threshold design issues, including issues to do with multiple or single providers et cetera. Following the closure of that consultation process, it was a matter of us considering the submissions and the more detailed issues that then arose about how we translated the commitment into a workable model. It was in the course of ongoing consultations with the ATO and other agencies such as ASIC and even APRA at some stage as we dug down into the issue that we became more aware of the nature of the risk. As I said previously in relation to the concentration of risks, the notion of there being one or only a few clearing house operators gathering in the obligations and discharging the obligations of what is currently a widely dispersed set of SG obligations across hundreds of thousands of employers was relatively straightforward and easy to recognise. It was more to do with the fact that there was then a shift of the risk to the employees because of the way the current mechanisms that the ATO can operate to enforce compliance with the SG law that it became apparent.

Senator BUSHBY—As you mentioned, the initial election promise was to do it through a private contractor. You mentioned that the awareness of the risk and the need to do it differently developed over a period of time through consultations. How far down the track did you get in terms of developing the system with a view to putting it out to tender?

Mr Willcock—I do not think there is a straight answer to that.

Senator BUSHBY—Were tender documents produced?

Mr Willcock—No.

Senator BUSHBY—There were no draft tender documents?

Mr Willcock—We were in the business, as Mr Parker said, of considering what could go wrong and therefore what mechanisms could be put in place to address risks if things went wrong. That led us to the path where we thought about what arrangements there might be in the case of private provision of this service and that included mechanisms such as an enhanced AFS licence regime or—and there was clearly a choice—one could address those risks by having a public provider.

Senator BUSHBY—I understand that, but you are saying, for the record, that there were not any draft tender documents produced?

Mr Willcock—We could probably get into a categorisation issue. There were thoughts about the sorts of things that would be required for any framework that involved private sector provision and that, for example, included consideration like what an AFS licencing regime might involve but it never got to the stage of the preparation of a document called ‘Draft tender documentations’.

Senator BUSHBY—So any suggestion that a draft tender document was sitting in the last minister’s office waiting to be signed off would be incorrect.

Mr Willcock—Is completely incorrect and misconceived.

Mr Parker—In the ordinary course of events, the draft tender document would be prepared relatively late in a policy process like this.

Senator BUSHBY—That is fine. I had some suggestion in my notes that that might have been different but I take what you say as being the case. How high do you assess the risk would have been if you had gone with the private contractor? Was there an assessment or attempt to quantify the risk or is it just that it existed?

Mr Willcock—There was no quantification of the risk. It existed.

Mr Parker—There was consideration of the magnitude. Risk is a matter of magnitude and likelihood.

Senator BUSHBY—Exactly. I understand that. You multiply the two by each other.

Mr Parker—Indeed.

Senator BUSHBY—Risks currently exist in the superannuation industry, do they not? It is not foolproof—including regimes put in place by government. For instance, a super fund could default or be subject to fraud, which could have a significant impact on the same people you are trying to protect by the decision that has been made by government in this instance. Is that correct?

Mr Willcock—That is correct and that is why we have the prudential regulatory arrangements which apply.

Senator BUSHBY—That is right, so you deal with that by regulating superannuation funds.

Mr Willcock—Yes.

Senator BUSHBY—Which is the alternative the government had here of allowing the private contractors and regulating it.

Mr Willcock—Through regulatory arrangements, yes.

Senator BUSHBY—But as Mr Parker says, you made an assessment of the magnitude and the risk. Similarly, there are market risks for superannuation. There are risks involved and employees ultimately may or may not wear the consequences of those risks.

Mr Willcock—Yes.

Senator BUSHBY—So nothing is ever foolproof.

Mr Willcock—Yes, I agree.

Senator CAMERON—This is another fear campaign, is it? It is superannuation now.

Senator BUSHBY—You are the king of the fear campaign through Work Choices.

CHAIR—I am sure we have a number of questions.

Senator BUSHBY—I have many questions. On the five days processing time that the chair raised, I do not think there was any evidence that it takes five days for private clearing houses to process them but they have a requirement—I do not think it is a legislative requirement; I think it is an internal or contractual one of some

sort—that they process within five days, whereas we heard evidence today that Medicare has no requirement to process within any period although they estimate that most can be done within 24 hours. But if it goes beyond five days, similarly the comments you made would apply in reverse, given that they have no obligation to process within any particular period.

Mr Willcock—The legislation certainly contains no obligation. I think we are still in a process. As Medicare Australia indicated, they are still engaged in a process of consultation with both the groups representative of the relevant employer sector and the super funds. Once that detailed design work reflecting those consultations is complete, we would anticipate that there would be an MOU or some other agreement between Treasury and Medicare documenting the nature of the expectations.

Senator BUSHBY—With some KPIs?

Mr Willcock—Indeed. So among other things we would be expecting to reflect some sort of standard.

Senator BUSHBY—That is good to hear. Did Treasury receive any alternative proposals for running the superannuation clearing house? Was anything put to you from any private—

Mr Parker—There was a consultation process, of course.

Senator BUSHBY—Yes, obviously, but as part of that consultation process or in any other circumstance, did any private clearing house put any proposals to you which gave you an indication of what it might cost for them to deliver the service?

Mr Willcock—I am not if anything as specific as that happened. I would expect that a number of entities would have indicated a willingness to participate in this proposal. I am not sure that it got to the stage of a specific proposal.

Senator BUSHBY—Putting aside the issue of risk for a moment—which, I acknowledge, is the main reason the government has made this decision—the government basically had not ability to assess the costings that were provided by Medicare in terms of how much it would cost for them to provide it against what a private sector alternative might have been.

Mr Willcock—There was not a costed private sector alternative to contrast with.

Senator BUSHBY—Exactly. That is right, yes.

Mr Parker—And we could add to the point that had the government chosen to go the private sector route, the costs of that would have been the private sector bid, plus the internal regulatory costs of the government.

Senator BUSHBY—Nonetheless, you had no ability to assess or to do a direct contrast between what they might be because you have no indication from private sector clearing houses what they could have done.

Mr Willcock—No.

Mr Parker—Nevertheless, given the magnitude of the risk that we saw here, we thought that the regulatory—

Senator BUSHBY—I understand the comment you made—that is the government's position as to why it has changed.

Mr Parker—And that would have had a cost within government, is the additional point to flag there, which may have been substantial.

Senator BUSHBY—Is Treasury able to provide a fully costed budget for the Medicare clearing house project?

Mr Parker—I think that is something you should ask Medicare for.

Senator BUSHBY—They were not able to provide specific breakdowns when they were here. Has Treasury considered at all whether providing the clearing house contract to Medicare creates any conflict? Have you looked at the issue of the Trade Practices Act or competition policy in terms of how that might apply? Have you talked to the NCC or the ACCC about either of those matters?

Mr Willcock—We have not talked about these issues with the ACCC, no. I suppose our approach was to consider the implementation of this election commitment by the government in the public sector as the government offering a government service for free to a targeted sector of the community. Governments do provide services for free to different sectors of the community in different areas.

Senator BUSHBY—They absolutely do. We have no issues with that and the competition policy process looking at a lot of the activities of government in sectors of the economy which had the potential and in some

cases still does to distort those particular sectors. I am sure Treasury would acknowledge that when government gets involved in sectors of the economy that it does distort. Often it is decided that the benefits justify the distortion of whatever market it might be. I wonder what consideration has been made of the compliance with competition policy and trade practices issues in this case and, I guess as an extension, the ability for it to distort the existing market that is already operating.

Mr Willcock—We have had informal advice from the Australian Government Solicitor that the proposed public sector clearing house model which the bill represents is not inconsistent with the Trade Practices Act.

Senator BUSHBY—Was that specifically sought?

Mr Willcock—Yes.

Senator BUSHBY—Why was it informal?

Mr Willcock—Because we spoke to a person from the AGS who is an outposted officer, who is in the Treasury building, so it was a conversation. Moving beyond the Trade Practices Act per se into the wider issue about the impact of this particular model on the market, that was certainly an issue we considered. We would not deny the fact that we would expect that there could be some impact on the provision of clearing house services to this particular sector of the market—that is, small employers—by reason of this service being (1) offered free and (2) it has the additional advantage of turning off that SG obligation.

Senator BUSHBY—Which is clearly a competitive advantage.

Mr Willcock—But I note also that part of the design of this particular arrangement is, for example, that it would only be eligible to employers with fewer than 20 employees. It would not therefore be possible for people, if you like, to be drawn into the free service and then continue to access the free service once they get more than 20 employees. Even if indeed they were then willing to pay for the service, it would not be possible for Medicare to continue to service their needs. So there is a targeting, if you like, of this government assistance directly to that particular part of the community and once they leave, that is it.

Mr Parker—Can I add an additional observation there. When governments choose to intervene into markets to provide free services, irrespective of how it is done it is a distortion of the market against some Hobbesian benchmark, that is without the government. To particularise that to this circumstance, had the government chosen to tender to the private sector then that would have delivered a competitive advantage to whoever won that tender in a broader market, say, for payroll services. So it is not a black-and-white question.

Senator BUSHBY—It is important as part of the process that we are going through today to look at those issues. The minutes from the superannuation working group suggest that Treasury as at 15 January believed that the scope of functionality for employers would be reduced by providing the contract to Medicare and noted a number of points where that was relevant, including BPay being the only payment method, which I have referred to today may not be the case. They are not exploring others. Industry standard data formats, SWIN EC not being used, exception processing and return procedures not being defined, and validation not been done until the data reaches the fund. Those are examples of issues which Treasury apparently in the minutes said would lower the functionality for employers. Is there something you can speak to today?

Mr Parker—Yes, it is. Let me take a first pass at it and if necessary I will pass it to my colleagues. This matter was also raised by Senator Eggleston in some questions on notice that were put to the Senate estimates hearings. We were quite surprised when we read that question, and we prepared an answer to the question and the others that we will put to the committee. My understanding is that they are to be lodged during the course of this week so this committee can have the benefit of the answers to those questions. In so far as that particular question is concerned, it suggests that Treasury said these various things at this meeting. I have read the minutes. I do not know if you actually have access to the minutes themselves, Senator, but no such thing was said or recorded in the minutes. So I am not sure on what basis base the question has been put. Perhaps you have been misled; I do not know. But we start the answer to the question by saying that the premise of the question appears to us to be misfounded.

Senator CAMERON—It was not Godwin again, was it?

Senator BUSHBY—I will accept that answer.

Senator CAMERON—Mr Parker, I am interested in this issue of the market and competition. Given that basically the market for superannuation was created by government, by government legislation, is it appropriate from a Treasury analysis that government should continue to take an active role in the regulation of superannuation?

Mr Parker—Clearly the government, or successive governments, have done so and there is an extensive regulatory structure which applies to superannuation funds and the obligation of the various parties therein.

Senator CAMERON—Let us clear up this point that has started to come forward about risk in superannuation. Have Treasury got any concerns about the health of the superannuation industry in Australia? I am not talking about the market-based approach, I am talking about the regulatory approach in terms of our superannuation funds.

Mr Parker—I am probably not the best person within Treasury to answer the question. As you know, we have the different groups, and it is not Revenue Group that has the primary responsibility for that dimension. Superannuation lies in the Markets Group, so I apologise and plead ignorance. As far as I am aware, there are not the sorts of big macro concerns which you have mentioned.

Senator CAMERON—Has Treasury had a look at this sector of the market—employers with 20 employees and under? Are you aware of any push by the market to create a system for those employees over the last few years? Has there been a market developing of any substance?

Mr Parker—That is, for clearing-house type or agency type arrangements?

Senator CAMERON—Yes.

Mr Parker—There are some private providers of agency type arrangements, as has already been mentioned. My understanding is it is not a big market. The penetration, particularly into the market segment where employers have 20 employees or less, is relatively small.

Senator CAMERON—Could that then be described as a market failure?

Mr Parker—That is actually a deep question. How long have you got!

Senator CAMERON—You can take it on notice! I am interested in this argument about competition in the market, yet there is no market operating across the spectrum.

Mr Parker—A private market will charge a fee for this kind of service. These markets grow and mature over time. This is not a well-developed market. No doubt one of the issues which has meant that there is not substantial existing penetration into this market is the willingness of employers to pay the cost of the service.

Senator CAMERON—Are you aware of the capital base of some of the clearing houses that are in operation?

Mr Willcock—Not to any great detail.

Senator CAMERON—I tried to have look myself but found it pretty difficult. It might be a question for others later. This goes back to the issue of capital requirements. Can you explain what you felt were the issues on capital requirements?

Mr Willcock—I was referring to the capital requirement element of the ASIC Australian financial service licence regime. That regime has been in existence now for about eight years, since the beginning of the decade. That is a licensing regime that applies to anyone who wants to deal in a financial product. The nature of the requirement can differ depending on the nature of the activity that the licensees are engaging in, the nature of the products that they are engaging in and the nature of the market et cetera that they are serving. The essence of it is to ensure that the relevant entity with the licence is not an entity of straw, that it has some degree of substance. Effectively it is a way of ensuring that the entity has skin in the game and, therefore, that they actually have some real commitment to the activity that they are engaging in.

In the case of the clearing house there is an argument about the extent to which those capital requirements might need to reflect the amount of funds flowing through the clearing house and therefore potentially at risk. As you would be aware, an element of prudential regulation, especially when it comes to banks or deposit-taking institutions, is indeed heavily focused on capital requirements to ensure the soundness and stability of that institution to meet the promises that it implicitly makes when it deals with and takes money from the public.

Mr Parker—That particularly arises because of the turning off of the SG obligation. To be somewhat colloquial here, that means that we are in an ‘oils ain’t oils’ situation—that is, clearing houses ain’t clearing houses, and turning off the obligation here raised particular issues.

Senator CAMERON—There is another issue—not just the turning off of the obligation but the transfer of the funds to the individual’s superannuation account. That is quite important from my perspective. Medicare have indicated they will look at 24 hours but, if we have a delay of up to five days, has Treasury done any

estimates of how much windfall profit would be there for a clearing house if they actually kept the money sitting for five days, depending on the size of this market that has developed? Couldn't it be quite huge?

Mr Parker—It would be a relatively simple arithmetic exercise to take the funds that are held by the house multiplied by the cash interest rate. That would be a return to the clearing house. If it were to be done in the private sector, there would obviously be a cost of the capital side of things as well, so there would be swings and roundabouts there. But the larger the flow and the longer the funds are held by the entity, the larger the gain from that holding.

Mr Willcock—We did do some 'back of the envelope' thinking. I cannot recall off the top of my head what it was—that is, what assumptions there were, as in how long the money might be there, what amount of money might be involved, what the prevailing interest rates at the time might be, but we could take that on notice and provide it to you.

Senator CAMERON—I would like you to do that, thanks.

Mr Willcock—I have to say it was not a significant amount of money that would necessarily be earned as a result of that—or relatively not significant.

Senator BUSHBY—Was that calculated to be in the context of Medicare or in the context of a private operator?

Mr Willcock—Just at the time when we were looking at developing—

Senator BUSHBY—So very early on.

Mr Willcock—Yes, quite early on. As I say, it was so early on that I cannot even remember, but I just happened to remember in the back of my mind that it was not a big number. We are talking about hundreds of thousands, not hundreds of millions.

CHAIR—Thank you then to Treasury for coming in today and taking us through that.

Proceedings suspended from 1.17 pm to 2.02 pm

CAMPBELL, Mr Ian Lindsay, Chairman, SuperChoice Services Pty Ltd

FIELDING, Mr Mike, General Manager, SuperChoice Services Pty Ltd

KORCHINSKI, Mr Stuart, Director, SuperChoice Services Pty Ltd

CHAIR—Welcome. Would you like to make an opening statement?

Mr Campbell—Thank you for the opportunity to come today and put our views. I am the Chairman of the CPS Group, which owns SuperChoice and a number of other businesses. One of those CPS systems has provided a large outsource system to the federal immigration department for 12 years now. It handles the processing of every passenger movement in and out of Australia and is two to three times the volume of the clearing house that we are talking about. It is extremely secure data—it includes information on terrorists, security threats and so on. So we come from a background where we have done things like this and have been subject to intense scrutiny by the federal government.

Let me introduce my colleagues. Stuart Korchinski comes from the superannuation industry, having been the CEO of two of the very large super administration funds: CitiStreet and AAS. Michael Fielding is our general manager. He was the head of St George Bank's superannuation area and is our head of operations. I will hand over to Stuart to give the introduction to our submission.

Mr Korchinski—Through continual reinvestment in our clearing house systems over the last 12 years, SuperChoice has grown to become the leading superannuation clearing house in Australia, processing this year around 20 million contributions on behalf of 50,000 employers, 40,000 of whom are employers with fewer than 20 employees. They account for two million-odd employees. Overall, we project about \$7.2 billion will be cleared through our service. We estimate that that is around 20 per cent of the entire clearing market.

Our mission is to offer technology infrastructure—similar to what Mr Campbell was talking about—to the superannuation industry to facilitate e-commerce in order to deliver what we think is over \$1 billion worth of administration cost savings and enhanced customer service. This has led us, over the last year-and-a-half, to collaborate with the industry to establish an industry solution for clearing and, more recently, to try to provide a costed proposal to government and Medicare to utilise SuperChoice Services in order to deliver to the government clearing house.

As you know, the objective of the legislation is to make it easier for SMEs to administer super, because, with the advent of choice, administration has become progressively more complex. This is due to employers now having to send contributions to a variety of super funds, who typically have different systems and different ways of conducting their business. Super funds have responded by providing employers with free clearing houses. Take-up by the employers is progressively happening. It is slow, however, for many reasons, including other more pressing priorities of business.

The legislation is premised on a key assumption, which is that the increasing red tape being experienced by SMEs can be addressed by introducing another free clearing house. This presumably assumes—in order to justify the expense of replicating the private sector offering—that the Medicare offering will be so much better than the private sector offering that employers will take it up in droves. In the document I have provided to you, and drawing upon our 12 years of experience, I show that we believe that the unintended consequences of this approach include an uncertainty about whether the best provider for this initiative has been appointed; a significant underestimation of the costs to build and operate an effective clearing house, particularly in the time frame that Medicare has been given; likely poor employer experiences as a result of rushing into operation of a functionally based service offering, which will lead to growing employer complaints and an increase in red tape for employers; the potential for super fund members to be uninsured or underinsured; relatively low benefits for super funds, which will be off-set by the cost to access the clearing house; an inequitable landscape, where 85,000 employers who employ 7.7 million employees are not offered the same level of benefits that SME employers will access through Medicare; and ultimately a missed opportunity to support the industry to advance its e-commerce aspirations.

The upshot of all these points is that we believe that the benefits expected to be delivered by this initiative are highly unlikely to be achieved and the cost to do so is significantly understated, which must, in our view, draw into question the relevance of proceeding as currently planned. This is supported by recent comments from Damian Hill, Chief Executive Officer of REST Superannuation, the largest super fund, by member account, in the country. He said, "I think it is a bit of a 'field of dreams' type scenario and, to some extent, the government is taking an 'if we build it they will come' approach, and the question is whether there is a

compelling reason for them to come. The Medicare clearing house will have to be sold to employers, because I don't think it is something they are crying out for." That is certainly consistent with our research.

In addition to this concern, we believe that the introduction of Medicare is anticompetitive as it will progressively distort the commercial underpinnings of the clearing house market and offer a competitor an unfair advantage that, in our view, is certainly not in the spirit of the Trade Practices Act. In terms of Medicare we do not believe that they are the right agency to deliver this service, due to the underlying risks which they will need to manage, which we believe will be problematic given their focus on health and a lack of relevant superannuation expertise and experience.

Finally, we believe that the risks of private sector failure or fraud are not well understood by Treasury, in part because existing clearing house providers such as us, Westpac and ADP are reputable, well capitalised and have extensive professional indemnity cover. They segregate duties by outsourcing payment distribution to banks, which is a key fraud control. They house employer funds in bank-controlled custody accounts and have not suffered any loss to date that we are aware of.

In closing, we recommend that, if the government still wishes to proceed with the initiative, the legislation is amended to appoint the government clearing house provider by tender or, alternatively, level the playing field by enabling private sector providers to become approved and reimburse them for offering the service to SMEs to offset the funding benefit Medicare enjoys. Thank you.

CHAIR—Thank you. The paper you gave us says that you have, I think, approximately 40,000 small to medium enterprise clients. Do you define that as fewer than 20 employees—is that the same definition?

Mr Korchinski—That is correct.

CHAIR—You note on page 4 that an overwhelming majority of employees are already offered a free service by their default superannuation fund. Some of those superannuation funds would use your service as a clearing house. Is that included in the 40,000?

Mr Korchinski—Yes.

CHAIR—So it is a tethered connection?

Mr Korchinski—That is correct. The majority of our service offerings are sourced by employers through super funds.

CHAIR—Right. So that kind of connection will still continue even with Medicare taking over?

Mr Korchinski—Yes.

CHAIR—Can I clarify: you have 'confidential' on this paper that you gave us. I am just not sure how confidential you want to keep that. Are we able to refer to it now?

Mr Korchinski—Yes, certainly.

CHAIR—Are we able to refer to any figures or comments?

Mr Korchinski—Yes.

CHAIR—To explore this aspect: you have one market, some of which is occupied by a free service for default super. Medicare is building something where one of the principal purposes is that many employees have choice, and it is becoming an issue of red tape for small businesses. It seems to me you have two different arguments. You talk about the build-it-and-they-will-come type argument, saying that the market is not really there, yet you are also saying that Medicare will take your market. It seems to me to be inconsistent to say that there is no market and then to say that you are building a market.

Mr Korchinski—It is uncertain, obviously, how they will ultimately proceed. The key points that we are making are that the costs that will be incurred to offer a capable service are understated within the context of what has been publicised. There are a variety of views out there about how the system will actually work.

CHAIR—The evidence we have had from COSBOA, the Council of Small Business Organisations of Australia, and others is that small business will look forward to this initiative. According to Treasury, the issue is that the risk factor, which you also refer to, was one of the paramount reasons they went to a government provider, and this was caused by the extinguishment of the superannuation guarantee as soon as it reached the clearing house. That created a legal situation which might push back the risk more to employees, rather than having the risk extinguish when it reaches the superannuation fund. Can you comment on that aspect of the risk with regard to your idea that a private provider could stand in?

Mr Korchinski—Sure. For the reasons that I explained earlier, we just do not believe that Treasury has formed the right view on the risk of fraud or failure giving rise to an employee potentially losing funds. Weighing the costs associated with offering a service through Medicare seems to us to exceed that risk significantly.

CHAIR—Treasury did say they consulted with ASIC, who were uncertain that their current regulatory regime would cover the situation. I do not think that anyone would argue that having ASIC regulating an organisation in any way ensures that it will not fail, so what Treasury are saying is that the risks are not covered by ASIC in this case.

Mr Korchinski—In the paper we talk about the existing clearing house providers. Clearly, if you were to hypothesise that there was a tender, risk would be one of the key criteria. I think Westpac would—as would all the others on that list—dispute that there was a risk of their incurring a failure.

CHAIR—Yes, I suppose the point is that nobody would admit that they might be a risk.

Senator BUSHBY—Thank you for coming today and for your submission, which I have just had a quick glance through. To come back to your opening statement before I ask any other questions, you mentioned that super funds are currently providing free clearing houses. How does that work? I read something that might have been from one of the industry funds. It talked about a requirement that you needed to have 50 per cent of your employees using that. Is it a reward for loyalty or something like that?

Mr Korchinski—It is how the industry has evolved over the last 20 years.

Senator BUSHBY—In terms of the clearing houses?

Mr Korchinski—Right. Historically, super funds will provide a front-end, default-only contribution system. With the introduction of choice, that front-end system has morphed into both a default contribution distributor and a clearing house for a choice of funds.

Senator BUSHBY—So if you did have more than 50 per cent going to one fund that fund might say to you, ‘You send it all to us and we’ll shoot them off to the other guys.’

Mr Korchinski—Right. It is by no means the only approach that super funds provide. Payroll companies, for instance, have increasingly entered that market. There is a sort of intuitive logic that a payroll company should distribute that information since that is the source of the SG contribution calculation in most businesses. The competitive landscape of the superannuation industry has led the industry to look after their employers as best they can.

Senator BUSHBY—As you mentioned earlier, if that happens they will keep the contributions that relate to their own members. That will go into their own fund. Often they will use a clearing house like yourself.

Mr Korchinski—Correct.

Senator BUSHBY—So the will shoot the rest over to you and leave you to deal with distributing it to the places it is supposed to go.

Mr Fielding—Correct. A similar type of approach in a payroll context might be if a payroll company charges some sort of annual licensing fee for services and the clearing house is bound up in that as well.

Senator BUSHBY—You mentioned that most of your small business employers come through that route, or is it all of them?

Mr Fielding—Correct.

Mr Korchinski—Virtually all.

Senator BUSHBY—You also said that it would not impact directly on that—that the tethered relationship would continue—but, over time, do you see that it could impact?

Mr Korchinski—Yes, absolutely. We are very concerned that that offer, as it is currently pitched, will see our existing clients shift.

Senator BUSHBY—That would be because individual employers might hear about the Medicare thing and think, ‘That’s good,’ and may make either an informed or an uninformed decision to shift to Medicare because they hear it is free without realising that some may—

Mr Fielding—To obtain the discharge that they can get through Medicare but not anywhere else.

Mr Korchinski—Even worse would be our super fund clients saying, ‘Actually, your service can’t do this and, therefore, we’re going to promote the Medicare offer,’ which we would find very difficult to accept.

Senator BUSHBY—How long does it currently take you to process the bulk of payments that come to you?

Mr Korchinski—Generally within 24 hours of receipt, we distribute them.

Senator BUSHBY—What percentage do you think would be processed within that time line?

Mr Fielding—We operate a range of payment models, not just BPAY. We do BPAY, but we offer a range of other models as well. When money is direct debited you basically get almost 100 per cent certainty. The only time you do not get certainty is when someone dishonours—they say they have money in their account but they do not—which is exceedingly rare, one in 10,000. When you talk about EFTPOS, EFT, we find error rates for our system are getting down to about one-sixth of one per cent on the Choice of side of our business. On the default side of our business, where we process well upwards of 16 million transactions, we deal with about 20 issues a month. I do not know what the percentage would be.

Mr Korchinski—In over 97 per cent of cases, the money goes out the next day.

Senator BUSHBY—You are highlighting to me the error rates. Am I correct in assuming that you are saying that the only time that they are not processed very quickly, within 24 hours, is when there are errors?

Mr Fielding—A fundamental error. It would be like they promised through our system that they would send \$1 but they only sent 50c through the BPAY system. Medicare would have the same challenges on the BPAY system because it cannot guarantee it. When someone moves back to their bank system—their Westpac banking solution or their ANZ banking solution—the financial controller might send you half as much or twice as much or a cent more or a cent less. BPAY is more given to those kinds of errors, whereas direct debit inherently contains none of those errors. The error is effectively whether someone has or does not have the money in their account.

Senator BUSHBY—The five-day thing, which I read somewhere, is obviously not a regulated requirement. Is that a target—

Mr Fielding—That is correct.

Senator BUSHBY—within which you try and fix those problems?

Mr Fielding—That is exactly right. There is the principle of the five days. I think Annette alluded to it earlier. ASIC does not set any boundaries on any providers with regard to that, but it is a good practice, in a situation where an employer underpays or overpays, for us to be able to resolve that issue quickly. That is what the five-day type boundaries are there for, typically. We are not the only entity in the market that adopts that practice. Westpac, ADP, MYOB and Quicken do it—they all do it. It is the difference between when money matches data, which is more like 99.97 per cent of the time, versus when it does not.

Senator BUSHBY—That clears that up in my mind at least. In your submission you highlight a number of matters. You have spoken to some briefly and you have not spoken to others. I am interested in items 2 and 3, where you say that the costs of building and the costs of operating are underestimated. Would you care to expand on that for the benefit of the committee?

Mr Korchinski—Drawing upon our experience over the last 12 years and having invested, over that time, in excess of \$50 million and having that amount matched and exceeded by our clients, we would say that to offer an effective clearing house and operate it for the existing budget is, in our view, very unlikely in that the budget is inadequate both at a build level and to operate.

Mr Campbell—You would think it could be a realistic budget if it were the incremental cost for an existing supplier to provide it, but building it from the ground up has to be more like our total expenditure since we started.

Senator BUSHBY—Medicare tell us, though, that they already have lots of systems that they have access to which they can tailor or modify to be able to do this in the time frame that they have promised.

Mr Korchinski—It has taken us 12 years to develop something that meets the needs of the market, and so we have difficulty reconciling that position. We can only assume that the compromises that they are having to make are material and that will flow directly through to poor experience.

Senator BUSHBY—When you talk about compromises, what do you mean by that?

Mr Korchinski—The reason, in part, that it is so expensive to build an effective clearing house is that you have to take into account the different business rules and acceptance criteria of the market. So it is not

homogeneous, and therefore a homogeneous, generic compromise approach is unlikely to be effective. In fact, it will not be effective; we know that. That is why—

Senator BUSHBY—In what you are saying, are you talking about data fields, data matching and information?

Mr Korchinski—Correct.

Senator BUSHBY—Mr Fielding was in the room earlier when Medicare were here and I asked them about what they were doing with that. They say they have a working group which has been discussing the needs of all the participants. I am fairly confident that I can say that they did not undertake that they would meet all requested information requirements but that they negotiated and worked their way through to an outcome that they think everybody is generally happy with. Does that mean, though, that they—

Mr Korchinski—Within the context of a set period of time to deliver a solution, everyone compromises and just accepts that.

Senator BUSHBY—Did you want to say something, Mr Fielding?

Mr Fielding—Yes. On that, to pick up the point of ‘homogeneous’ and to use a light example of that point, we acknowledge that Medicare has working groups, but they are not binding contractual arrangements or a regulatory imposition on a fund to accept the data that Medicare sets. It is almost like a handshake agreement. But what if a fund requires 15 pieces of data, like a salary to determine how much insurance is required, or whether someone was at work to determine whether they should cover that person for half a million, because they might have had cancer and not turned up at work on the first day, or whether they are white collar or blue collar and what the shape of that might be—‘Are they a pilot? Do they go down a mine? Do they do something else?’? These are critical data points. When an entity such as an AMP requires 15 fields that it sets out on its application, we have to meet that religiously by contract. If we fail to do that, that member—that employee—is not insured. We get an automatic electronic contractual fling-back, in real time, that says, ‘No go.’

Senator BUSHBY—And that comes through the IT system that you have developed that interfaces with the—

Mr Fielding—Correct. The employer is looking at it online at that time.

Mr Korchinski—That is our definition of ‘validation’: up-front validation.

Mr Campbell—The big-ticket items in building a system like this are that there are 2,000 or 3,000 funds out there, all of which require somewhat different data and validation rules to see if data that is entered is acceptable to them. That has to be built into the system somehow, so there are 2,000 or 3,000 lots of validation rules, or you have to download accounts that you can validate against to see that the information is correct. That is one big-ticket item. The second big-ticket item is that, to gain the savings that everyone wants, you have to enable straight-through processing so that as far as practical the data that is captured goes straight into the systems at the receiving end, and they are all different.

Senator BUSHBY—That is what straight-through processing is—the information that is provided to the clearing house passes straight through without having to be double handled electronically or manually.

Mr Campbell—Yes, and when it gets to the recipient they do not have to edit it. It goes straight into their systems as if they had keyed it in. They are the really big-ticket items. They are the things that in our view it would be very unlikely that Medicare would be able to do—and if they do not the system is very severely compromised.

Senator BUSHBY—Is SwimEC something you have developed?

Mr Korchinski—We participated in its development. We were on the original SwimEC committee, and our system does comply with SwimEC standards.

Senator BUSHBY—Your system complies with SwimEC, but is SwimEC—I am just trying to get my head around it—a vehicle or a standard that actually enables that straight-through processing? Is it part of that?

Mr Korchinski—Its objective was to facilitate that, and ideally all of the super funds would have altered their back-end systems and architecture to accept information in that standard.

Senator BUSHBY—And have they?

Mr Korchinski—Some have; most have not.

Senator BUSHBY—Medicare, I think it was, said that they would be looking to develop a new industry standard, that SwimEC had not been taken up strongly, which your evidence probably backs to some extent, and that they would be looking to develop a new industry standard. Do you think that that is realistic? I do not think that they were saying that they were going to do that by 1 July. That was not their evidence. But over time could they do that?

Mr Korchinski—I think that it would be just another SwimEC. The big problem is prioritisation for the super funds and altering very old systems. The business case does not stack up, and that is why in part we spend so much money to connect electronically and efficiently to all the different players within the marketplace.

Senator BUSHBY—And that is what you can do at the moment?

Mr Korchinski—Yes.

Mr Campbell—Translate.

Senator BUSHBY—So you receive the information from whoever—presumably one of the funds that is using you as a clearing house in the first place. That comes in, you press a button, it goes automatically to the people who need it and it is automatically entered into their systems.

Mr Korchinski—Correct.

Senator BUSHBY—And you do not have a great degree of confidence that Medicare will be able to develop a system that replicates that?

Mr Korchinski—No.

Mr Campbell—It would take the same amount of money and the same amount of time. The chances are that that will be missing out of the Medicare offering, and the question then is how effective it would be for the users.

Senator BUSHBY—Is the system that you have something that Medicare could actually make use of in commercial terms?

Mr Korchinski—Yes. We made that proposal to them.

Senator BUSHBY—What are the consequences, particularly for employees—because ultimately the whole system is designed to benefit them—but also for employers as the people who pay the monies, if Medicare does not have a system that is capable of doing that?

Mr Korchinski—There are various aspects of our system. Let me talk about validation first. In our solution, the information is validated before it can be sent to the extent that if it is wrong employers talk to employees, sort it out and submit accurate data. That means that the data and the money match and that we now get an error rate of maybe one-third of one per cent.

Senator BUSHBY—Let me get that straight. You receive the information, presumably from industry funds that are using you as a clearing house. That information sometimes comes to you with errors.

Mr Korchinski—We get it from the employer.

Senator BUSHBY—Do you get it directly?

Mr Korchinski—Directly from the employer.

Mr Fielding—The employer is using an online website system, which might be branded—

Senator BUSHBY—But the original link was created through the funds? I want to get that straight. Then, once the link is created, they directly liaise with you?

Mr Korchinski—Correct.

Senator BUSHBY—So the employer sends you the information, you at that point validate it and pick up if there are any errors and then you send it back to the employer, who still has an obligation at that point?

Mr Campbell—It is an online process.

Mr Fielding—It is all happening in real-time on the screen.

Senator BUSHBY—But they will get an electronic advice of some sort—

Mr Korchinski—A message that this part is not valid for whatever reason.

Senator BUSHBY—That happens quickly. They send off the information and, bang, it comes back, like filling out a form and because you have missed—

Mr Campbell—You try to pay Qantas, for example—Qantas is only a fund that is available to its own employees, not to the other million employees—up comes a warning: you cannot pay to Qantas.

Senator BUSHBY—It is like whenever you are filling out an electronic form you might leave a required field blank and, immediately, it comes back and says that you have to fill in that bit—you have done something wrong.

Mr Korchinski—It was built into the system, based on business rules that we have ascertained from all the super funds in the market.

Mr Fielding—Contractually.

Senator BUSHBY—That is part of what has taken you many years to build up?

Mr Korchinski—Correct.

Senator BUSHBY—At that point the lawyer has to fix it to comply with their obligations, otherwise it will not be accepted?

Mr Korchinski—Correct.

Senator BUSHBY—And then it gets sent on from there to the eventual funds that get the money and that is where you get the very low problem rate because most of them have been dealt with earlier?

Mr Korchinski—Yes. That is why it flows through smoothly within 24 hours.

Senator BUSHBY—Do you agree with the five per cent error rate that Ernst and Young proposed in their report?

Mr Korchinski—We think it is a range. We are at the bottom end. Some funds are 10 per cent plus. As choice becomes more ubiquitous, the number of choice transactions has increased and the number of incorrect transactions will increase.

Senator BUSHBY—I will leave it there.

Mr Campbell—Could I offer one comment. Under the Medicare proposal if there is an error—presuming it is not validated properly at the Medicare end, it goes through to the clearing house and then the responsibility becomes Medicare's. They have said to the employer, 'Once you remit the funds, it is our responsibility.' Then unscrambling it is horrible. If you do not unscramble it at the point of sale and one in 10 of your things are wrong it becomes a very big job for Medicare. It is huge.

Senator BUSHBY—I asked Medicare about that this morning and they acknowledged upfront that there would be some issues, but they think they can fix it over time and reduce that percentage of errors.

Senator CAMERON—Mr Campbell, if you cut to the chase, basically the recommendations amount to: 'If we don't get part of the action then the bills should not proceed.'

Mr Campbell—That is not what we are saying. Perhaps we have not said it—

Senator CAMERON—Explain it then.

Mr Campbell—We believe in this initiative and we think it should go ahead. The industry needs it and the hardest part of the market to service is the little guys. We are arguing about how best to do it, and we do support it.

Senator CAMERON—So if you do not get a cut of the action you are not saying that the bill should not proceed. Is that your changed position on it?

Mr Korchinski—No, we are not changing our position. We are saying that the bill should not proceed unless those alternatives are addressed.

Senator CAMERON—And those alternatives include where you are getting part of the action?

Mr Campbell—If we win a tender we get part of the action. If we lose the tender we are satisfied it has been done properly and we go away with no part of the action.

Senator CAMERON—That is not what I read here in terms of your recommendations. What you are basically saying is that, if all of your recommendations are not adopted, the measures should not proceed. Your recommendations would give you a part of the action. That is where it is at.

Mr Korchinski—In recommendation 1 it says, ‘Invite those parties,’ not just us. We acknowledge that there is a process that we think it should go through to get the best solution.

Senator CAMERON—You said that you have worked for 12 years to meet the needs of the market, but you have not worked for 12 years on this issue to meet the needs of the market.

Mr Korchinski—On?

Senator CAMERON—On super choice.

Mr Korchinski—Super choice business 12 years ago was primarily about default, because choice was not in existence.

Senator CAMERON—Super choice did not come in until 1 July 2005.

Mr Korchinski—Choice did not, correct. But the Medicare solution is default and choice, so we are drawing on our experience across both default and choice.

Mr Fielding—I can take that answer. We did actually have clients who were operating choice through the system as far back as 1998. So the answer is that actually it was operating. It was provided in the market for suppliers, who were using it for choice purposes as far back as 1998, because it did not need the legislation for an employer to decide that they might offer choice. Indeed, in Western Australia, choice was prevalent long before it finally got passed at a federal level in 2005. So the system was built with choice in mind from its beginnings. There is no question that, in the last five years, the system has been invested in very heavily for choice purposes.

Senator CAMERON—You have used the term ‘free clearing houses’ consistently in your evidence. There is no such thing as a ‘free clearing house’, is there?

Mr Fielding—I agree with you. Regardless of who ends up being the supplier—I think the word ‘free’ is something that has been used by the minister. I do not agree with it.

Senator CAMERON—I am asking you—

Mr Fielding—It is subsidised.

Senator CAMERON—in terms of your use, not what the minister says. I am talking about how you have used it.

Mr Fielding—But we are not promoting ‘free’.

Mr Korchinski—Our clients offer a free-to-employer clearing house service.

Senator CAMERON—To the employer.

Mr Korchinski—Yes.

Senator CAMERON—It is not free to the employees, though, is it?

Mr Korchinski—In our document I say that it is cross-subsidised.

Senator CAMERON—Yes. Why are you not accurate about that? There is no ‘free’; someone is paying for it.

Mr Korchinski—I do not know how much more accurate I can be.

Senator CAMERON—But you have used in your evidence here the term free clearing house, and you did not qualify it once.

Mr Korchinski—But I did in the document.

Senator CAMERON—But you are giving evidence here. You are giving the impression that there is a ‘free clearing house’. Most people will not read this. They might read the evidence. I just want to make it clear that you agree that your services are not free and that someone is paying for them. If it is an industry fund, it is usually the members of the industry fund.

Mr Campbell—Whoever provides this service, someone is paying for it.

Senator CAMERON—That is right.

Mr Campbell—The question is whether the economies in savings are enough to more than offset the cost. In our case, the AMP, Mercer or whoever it might be pays us per transaction. They save a fair bit more than that by straight-through processing. The end result is that there is a net saving to the superannuation member. That is the issue here: whether a Medicare solution will achieve that, and we think it will not.

Senator CAMERON—On the issue of Medicare, they gave evidence this morning that they have about 470 million dealings with small business. Would you have any reason to question that?

Mr Korchinski—Do you mean dealings on superannuation?

Senator CAMERON—Dealings on Medicare related issues, so they have experience in dealing with small business.

Mr Korchinski—I have no basis to comment on that—

Senator BUSHBY—I imagine that it may be dockets for small businesses.

Mr Korchinski—but I assume it is not superannuation related.

Senator CAMERON—The ACCI and the New South Wales business chamber this morning welcomed the decision to take this legislation forward, and the small business association said it was fundamentally designed to help small business. They took the view that, rather than run this argument about whether it should be the market based approach or whether Medicare should handle it, we should just get on with it and Medicare should do it. That is the voice of small business. Why should we give more weight to your voice on that than we would to the voice of small business?

Mr Korchinski—The first point I would make is about the risk and the cost of delivering that service.

Senator BUSHBY—I might take a point of order on that. I think that was a slight misrepresentation. They did say that they were happy for it to be Medicare, but they also said they would be happy if it were delivered by anybody else, whether private sector or other government.

Senator CAMERON—But the point I am making is that they did agree that, if it were a choice between market forces and not having this, they wanted us to proceed.

Senator BUSHBY—Absolutely. I am not aware of anybody who actually does not want it.

Senator CAMERON—That is the point. I do not want to enter into a debate with you. I did not interrupt you.

Senator BUSHBY—I do not believe I misrepresented.

CHAIR—I think we are in the middle of an answer here.

Mr Fielding—I might take that, because I was actually here for Dick Grozier's talk. I think Dick made a couple of points, which we agree with. No-one is against optional and free. However, Dick also said, 'I think we've missed the opportunity for a whole-of-system review for a better system.' What he was saying there is that there is Westpac out there, there is MYOB out there, there is ADP out there, there is SuperChoice out there and there is Cuscal out there—big companies. Let's review the whole system. Are we saying here we want 10,000 employers, as projected, in Medicare to have a discharge, living under one set of obligations, and perhaps 900,000 businesses living under another? I think that was the thrust of what Dick was saying—that we are missing an opportunity to fix the whole system.

Senator CAMERON—The council of small business—

Mr Campbell—Can I—

CHAIR—We are actually at the end of this time.

Senator CAMERON—I just have a couple of questions, if we have time.

CHAIR—If you could put them on notice, because we have—

Senator CAMERON—I will just put this on notice: have you had any discussions with any coalition members on this? Have you had any discussions today in terms of the evidence that has been given?

Mr Fielding—Today?

Senator CAMERON—Yes.

Mr Fielding—No.

Senator CAMERON—Have you had any discussions previously to this with any coalition members?

Mr Fielding—I think we have discussed widely with members of all parties. We are very concerned about the legislation. We wrote on the exposure draft back on 23 December, and since that time we have engaged widely across a wide range of communities, all parties—every party: Independent, Greens, coalition—and we have represented back to the minister's office as well.

Senator CAMERON—Can you tell me why you failed to penetrate the market in terms of the under-20 employers?

Mr Korchinski—Arguably, we have succeeded in that 80 per cent of our employers are in that sector.

CHAIR—We really must end it there. Thank you for coming in this afternoon.

[2.49 pm]

BRAGG, Mr Andrew James, Policy Manager, Investment and Financial Services Association

O'SHAUGHNESSY, Mr John Anthony, Deputy Chief Executive Officer, Investment and Financial Services Association

CHAIR—Welcome. Mr O'Shaughnessy, would you like to make an opening statement?

Mr O'Shaughnessy—I would.

CHAIR—Please go ahead.

Mr O'Shaughnessy—First of all, we appreciate the opportunity to discuss this matter before the committee. We are delighted to be here. We welcome the government's initiative to deliver its election promise by legislating a free clearing house service for small businesses, and by 'free' we mean subsidised by the government. This is a key area where the superannuation payment obligations have been a major problem for a number of small businesses, particularly with regard to their payroll responsibility.

A primary aim of IFSA has been the advancement and acceleration of efficiency and integrity in superannuation, brought about by the increasing use of technology, including through electronic commerce. We believe that improved efficiency and lower costs in superannuation will best be achieved by a combination of the adoption of electronic commerce across all sectors and the adoption of industry standard messaging, which will result in improved data quality and help to substantially reduce the number of lost superannuation accounts.

In regards to Medicare we believe that the manner in which Medicare have been formulating their approach will advance the development and uptake of much-needed improvements in electronic payments in the industry. The Medicare working group meetings which IFSA have sat on have been positive and constructive and have demonstrated that Medicare have, first of all, proven to be responsive to industry needs in building system requirements to facilitate contributions, acceptance and processing. They have been aware of industry's proprietary interests and they have proposed a model which is consistent with IFSA's long-term policy objectives in superannuation with regards to efficiency and technology. That means embracing electronic commerce and creating a path for long-term adoption of uniform data standards.

Just to let you know, the key matters proposed in our submissions to the Cooper inquiry include the better use of tax file numbers for account aggregation and also moving towards an electronic funds transfer system as soon as practical.

Medicare has a tight time frame for implementing the government's commitments. The clearing-house service must be operational by July this year. However, Medicare may not, in our view, be a long-term solution as a holistic clearing system for superannuation. The core point is that the most efficient payment clearing system, we believe, will probably not be the hub but a point-to-point system.

In our recommendations we have identified areas of concern that are outside the scope of the Medicare working groups and therefore have not been adequately addressed within the bill. So we draw the committee's attention to the following concerns. The first is equity in competition. IFSA are concerned about equity in competition. If the item 3 amendment is passed as drafted, we would be concerned about the erosion of a level playing field in the provision of clearing-house services. IFSA have long maintained that competition is key to an efficient and cost-effective superannuation system and that competition must be in an environment that is equitable. To address this matter of equity, IFSA recommends that all references to 'the approved clearing house' be changed to 'an approved clearing house'. Further, IFSA recommend that the definition of 'an approved clearing house', which will be finalised in the forthcoming regulations, be expanded to include a range of licensed clearing houses.

Just going on from that point, under licensing, it is also ideal for these services to be regulated, as they would be accepting superannuation contributions, effectively, instead of the trustees. Therefore, IFSA recommends that an approved clearing house should only be able to be established by the holder of an Australian financial services licence, an AFSL, that includes the provision of superannuation products and

services and is therefore an RSE, a registrable superannuation entity. This requirement provides both consumer protection and potential regulation of these services.

IFSA believe that, with our suggested amendments, the government's clearing-house service will deliver on its objectives.

CHAIR—Thank you, Mr O'Shaughnessy. You were talking about a proposal for a licensing system. Are you suggesting that anybody who has an AFS licence would qualify? So anyone could be licensed who—

Mr O'Shaughnessy—Obviously, there are prudential interests and there are consumer protection interests, and if they operate under an AFSL we believe that it should be open to anyone.

CHAIR—So there would not be a tender process at all; it would just be a registration process?

Mr O'Shaughnessy—There may be a tender process, but what we are saying is that underlying certainty would be delivered through an AFS licence.

CHAIR—So you do not accept Treasury's view of the risk that that might pose in terms of not just the company falling over or there being some mismanagement or fraud but the onus to seek remedy then being on the employee?

Mr O'Shaughnessy—Chair, if there were licensing arrangements that dealt with both prudential issues, which is the question you are asking, and consumer protection issues, we believe that that would add certainty to those arrangements.

CHAIR—Given that, according to Treasury anyway, ASIC feel that they do not have the current regulatory regime which would cover that, you would need additional legislation for ASIC and for consumer regulations. So you are saying we should wait until that legislation is in place.

Mr O'Shaughnessy—What we would say is that if it is for any to compete then those issues of prudential interest and consumer protection interest should be addressed in those terms.

CHAIR—So that would mean further legislation.

Mr O'Shaughnessy—I do not know whether it needs further legislation.

CHAIR—That was the advice from Treasury. So you are saying that there may or may not be a tender or registration system. You are saying that you are agnostic as to whether anyone who has an AFSL can register. If it went out to tender, would you envisage one operator or several? How would you see that?

Mr O'Shaughnessy—What we envisage is the clearing houses that are currently in play. From our viewpoint, most of them are quite efficient and have been doing a good job. They would be able to compete on equal terms with the Medicare option, which we also believe in.

CHAIR—So are you saying there should be one provider or many?

Mr O'Shaughnessy—Many.

CHAIR—A number of people in the industry are calling for better regulation of the industry in terms of the data standards you were talking about, lost superannuation and regulation along those lines. Given that, do you think that it might be more difficult if you have a number of players in the field? Does this legislation represent an opportunity, where you have one provider in that area of less than 20 employees, to actually start to get some better regulation in the industry in terms of payment, data collection and facilitation? Do you concede it might be easier if there is just one provider, rather than letting it be open to everyone?

Mr O'Shaughnessy—I believe that there are already efficient providers. Some of them do deal with the smaller end of the market very well.

CHAIR—I am not talking about efficiency. I am talking about further regulation of the sector. We have heard from the Australian Chamber of Commerce and Industry and others previously that the industry is looking for further streamlining to ensure that lost accounts do not happen so much, that people do not set up multiple accounts and all these kinds of things. It might be easier if we start to develop a more streamlined system, and that would be facilitated in this instance, where government is setting up the system, by only having one provider.

Mr O'Shaughnessy—I think the intention at the moment is not just to have one provider but to still enable the clearing houses to operate. Our recommendation is certainly that Medicare does operate but that it operates in a competitive market. We do not necessarily see a singular clearing house as being a solution as far as total efficiency goes. In fact we believe that efficiency is probably going to be delivered by a competitive

marketplace. Obviously the Medicare offer is free to those who participate. It is a cost to government but it is free to those who participate. We are really saying that there are already very good clearing houses. Medicare will certainly fill a gap.

CHAIR—But if you were to register any provider there would be no need for Medicare to come in, would there?

Mr O'Shaughnessy—Because it is free-to-business approach, it certainly gives plenty of incentive.

CHAIR—Sorry, we are talking at cross-purposes. You are saying that Medicare should provide the free-to-employer service but that other clearing houses should be able to operate as well.

Mr O'Shaughnessy—That is right. It should not limit competition.

CHAIR—So is that any different to what the government is proposing?

Senator BUSHBY—Yes.

Mr O'Shaughnessy—It is.

Senator CAMERON—Senator Bushby, do you want to put your hand up his back or are you going to let the witness answer the questions?

CHAIR—Let us sort this out. So you believe that the other clearing houses will be prevented from operating in the less than 20 employee sector.

Mr O'Shaughnessy—Our concern is that there is not a level playing field. In other words, there is a degree of tilt, I suppose, towards Medicare in the playing field. We are saying that it is good that Medicare is coming in to fill a role that is an issue in the marketplace, but it should not limit others from competing equally with Medicare.

CHAIR—So you are saying that the government should subsidise everyone?

Mr O'Shaughnessy—No.

Mr Bragg—I might add to that. I think the difference is that, under the current regulation, an SG liability is extinguished once the contribution hits the trustee but, under this proposed bill, that would be extinguished once it hits Medicare. Therefore other clearing houses currently operating are at a disadvantage in that sense. Once contributions go to Medicare, the liability is extinguished but, if you pay it to another clearing house, it is not extinguished. It is only until that other clearing house forwards that contribution on to the ultimate recipient, which is the trustee of the super fund.

CHAIR—So you are saying that the government should do that extinguishment to any company, including Medicare?

Mr Bragg—If they are appropriately licensed and regulated.

CHAIR—I go back to my previous question: why would you have Medicare under those circumstances?

Mr Bragg—Medicare is free.

Senator BUSHBY—As I understand it from previous evidence that we have had today—and I would appreciate your views on this—there are two aspects of this proposal that will remove the level playing field, so to speak. One of them is the fact that, as Mr Bragg has just pointed out, an approved clearing house will have the competitive advantage of being able to say, 'Once you have given us your payments then that is it; your employer's obligation ceases.' The other is that the government will be subsidising that same approved clearing house so that it can provide its service free. Correct me if I am wrong, but what you are saying is that you are comfortable with the free side of it but you think that the competitive advantage provided regarding the extinguishment of liability is not a reasonable thing to introduce and therefore there should be an ability for other providers who are providing their service for a fee to be also qualified in appropriate circumstances as approved clearing houses. Is that correct?

Mr O'Shaughnessy—The answer is yes.

Senator BUSHBY—So the tender process would still continue if the government so decided, but that would be purely for the purposes of deciding who the free provider would be.

Mr O'Shaughnessy—Yes.

Senator BUSHBY—From your perspective or the perspective of your members—you represent, I think, the majority of the super funds under management in the country—what benefits do clearing houses in general provide to funds as opposed to employers and employees? Are there benefits from clearing houses?

Mr O'Shaughnessy—Definitely. Many of our members use clearing houses, and the benefit that they have is really data integrity, so that there is less reg work done, there is less lost payment. The clearing houses—both in-house and external clearing houses—provide a smoothing process in these arrangements.

Senator BUSHBY—So the main benefit is the integrity of the data?

Mr O'Shaughnessy—That is right.

Senator BUSHBY—How is that actually managed? How do the clearing houses deliver a high degree of integrity in the data? What is it about them that they can do that?

Mr O'Shaughnessy—If you use a clearing house, as an employer, you have got to present data in a certain format, and that is obviously passed through the system in a consistent format. It provides discipline.

Senator BUSHBY—The evidence we have received from private clearing houses at this point—I do not know whether all of them do it—is that they validate as much of the data as they can using electronic processes before it is passed on to you.

Mr O'Shaughnessy—That is right.

Senator BUSHBY—Is that an important aspect of the benefit that you are talking about?

Mr O'Shaughnessy—Very much so.

Senator BUSHBY—As I understand it from the evidence we received from Medicare this morning, they will not be introducing a validation procedure to the same extent. Would that be a concern?

Mr O'Shaughnessy—I am not sure whether that is the case.

Mr Bragg—My understanding would be that they will be doing that.

Senator BUSHBY—This morning, they—and Treasury as well—indicated that they probably would not be. There would be some, and I think an example—and you might help me, Chair, or John, if you can remember—was if an amount of money came in that was different to what had been said to be coming in. But there was a very limited scope for validating it before it was passed on, if at all.

Mr Bragg—I think the nature of clearing houses in this area is always going to be that you are going to have exceptions where the data does not match the payment. I think the systems that Medicare are building are quite sophisticated and would match up quite well with services that our members would offer, insofar as clearing house data validation goes.

Senator BUSHBY—Medicare, when I asked them about the validation and the potential for errors coming in initially, did not say that they would not be passing those on. They acknowledged that whatever is the number of errors that come through now would be going to them, just like everybody else, in terms of the information that is sent to them, and that they would not be validating it but they would be putting in place systems that would reduce the incidence of those errors progressively over time as they improve the interaction between themselves and employers. But the fact remains that they did not deny that the errors would be passed through and that it would be then upon your members to identify those errors and pass that back to them.

Mr O'Shaughnessy—Having not heard the evidence this morning, I can only—

Senator BUSHBY—I may be misinterpreting it, but, if that is the case, would that be a concern?

Mr O'Shaughnessy—But that is a concern with the system at the moment, even the clearing house. For a new user, the clearing house takes some time to be able to get the discipline into the data collection and pass through. As I said, one of the recommendations that we have made to the Cooper inquiry is that we actually get a point to point, which means that you do not have, if you like, a triple—

Senator BUSHBY—Double handling.

Mr O'Shaughnessy—exercise. We believe, though, that that is probably not going to be possible for many years. It will take some time before we get a mandated electronic funds transfer system into superannuation. This Medicare initiative we think is a good initiative, but it is not a perfect initiative. It will still have to cope—and I think I have got the point you are making—with the inefficiencies of the market that we have at the moment, but it will provide further discipline in that process.

Senator BUSHBY—We had evidence from the previous witness about what they do. I used the example that if you are online and you are filling out a form and leave a field blank that needs to have something in it then the form will not allow you to proceed to the next page. According to the previous witness, interaction with their employer clients has a similar sort of thing. If they get the information wrong, which is designed to be the information that the end-user fund needs, then it will not be able to go through and they have to fix it on the spot. From your discussions—I know Mr Bragg is on the superannuation clearing house working group—do you believe that Medicare will be able to deliver, or have they indicated that they will deliver, a similar level of validation upfront?

Mr Bragg—We have not seen, for instance, screenshots or that level of detail yet.

Mr O’Shaughnessy—I would hope that they do, by the way. Again, I did not hear the evidence this morning, but you would expect that that same level of discipline in fact almost has to be in the Medicare system for it to be effective.

Senator BUSHBY—Hopefully, the fact of holding this hearing today and the questions that were asked of Medicare this morning will ensure that they do, if this proceeds, but certainly the evidence they gave this morning indicated to me that their level of validation at that point will not be the same as what currently occurs.

Mr O’Shaughnessy—That would be a shame.

Senator BUSHBY—I also asked Treasury what would happen in respect of employers whose obligation is distinguished by sending it to the clearing house but who have actually passed on errors which are not picked up until later and what obligation is on them to fix it—but be that as it may. I think that that is probably all I need to ask you. Thank you.

Senator CAMERON—Mr O’Shaughnessy, I will try and cut to the chase. You have put forward amendments that you say the government should consider. Those amendments basically say you cannot have Medicare as your only clearing house. If the government is not prepared to go down that path, should the market and competition be more important than providing assistance to small businesses in relation to the issues they face paying their superannuation?

Mr O’Shaughnessy—That is a very good question. I would hope that it is appreciated that what we are putting forward is both rather than either or. That is why we are emphasising that we are supporting the model put forward but it should not prevent competition. And you have got to appreciate that a lot of the competition now is quite efficient, so it should not prevent competition from being in position. So what we are putting forward is both rather than either or.

Senator CAMERON—I know what you are putting forward, but what I am putting to you is that there is a possibility that the government may not accept your recommendations. I am asking you, if the government does not support your recommendations, should the benefits of what the government is proposing not flow through to small business? Should we just walk away from it?

Mr O’Shaughnessy—It is a hypothetical question.

Senator CAMERON—It is a real question.

Mr O’Shaughnessy—It is a very possible outcome. I think it would be disappointing if what I think is a very good initiative is not delivered as well as enabling the currently very efficient clearing houses to continue.

Senator CAMERON—The government is saying it will deliver on its election promise. It says, ‘We will deliver.’ But you are saying it should be delivered in a certain way. If the government says, ‘No, we are not prepared to deliver in that certain way,’ should the government walk away from that commitment?

Mr O’Shaughnessy—My hope would be that it would not get to that point. We believe that the government can truly fulfil its election promise and do it in a way that does not, in effect, have the industry step backwards. So we are very supportive of the government’s election promise and we are very supportive of what has been put on the table. What we are offering is a chance to enhance what is on the table. I would not want to be seen to be not supporting what the government is doing. What we are suggesting is a way of actually enhancing the election promise.

Senator CAMERON—Let me put it a different way. Is it absolutely fundamental that the government adopt your recommendations before it passes this legislation?

Mr O'Shaughnessy—If the government wants to deliver good and effective legislation, we believe it is fundamental.

Senator CAMERON—You are saying that if we are going to deliver effective and good legislation, this then becomes a theoretical argument to some extent on the basis of whether it should be a market approach or whether the government should subsidise the payment to the companies on this issue. Why would it be so fundamental?

Mr O'Shaughnessy—Again I would not present it as being either or. I think the government is likely to deliver effective legislation. What this will do will actually enhance the outcomes.

Senator CAMERON—So the legislation is effective; it will deliver for small business.

Mr O'Shaughnessy—It is effective but not as effective as it could be. It is not necessarily private enterprise versus government. The legislation is filling a challenge in the marketplace. What we are recommending is something that would enhance that position.

Senator CAMERON—So if we had Medicare operating a free service in the marketplace and we have other companies say they could provide a better service at a cost, why wouldn't that be the market continuing to operate? Nobody is forced to commit to this scheme.

Mr O'Shaughnessy—What we are recommending, though, is a level playing field here. When you say 'at a cost' and 'free', both those expressions probably need to be qualified. Often superannuation funds are provided to them with a free service. It is subsidised by the superannuation manager.

Senator CAMERON—No, that is not true. They are subsidised not by the superannuation manager but by the members of the fund.

Mr O'Shaughnessy—My understanding is that a lot of these clearing houses are there as a provision of service for the superannuation funds and effectively they are subsidised by the shareholders of those companies so that they can have an efficient system in place. I heard the previous witness that there is obviously enhanced efficiency, so sometimes that is paid for out of improved efficiency in the system.

Senator CAMERON—I am still trying to come to grips with your view. If government does not adopt your recommendations and legislates and this goes through, you are saying it is still a welcome change from the way we have been?

Mr O'Shaughnessy—The proposal on the table is welcome but I do not think the government's intention is to limit competition. I think it would be a backward step to put this in place and have competition, which has already effective, by the way, being limited.

Senator CAMERON—I want to come to this issue of competition being effective. I just get the feeling that there is all of this interest because the government has put \$16.1 million on the table to do something about what I see as a market failure. The market has not delivered an across-the-board effective resolution to the problem that small business has, has it?

Mr O'Shaughnessy—I would more term it as a system failure as opposed to a market failure. I would probably more correctly term it as a system challenge. I think that there is room for improvement and the government has recognised that and put forward a good proposal, but it certainly can be enhanced.

Senator CAMERON—Why is it not a market failure when the market is not operating effectively?

Mr O'Shaughnessy—If you take payroll systems 20 years ago, it took a long time to fulfil a payroll system, particularly when people wanted to be paid into two or three different bank accounts. It was a clunky system. What we need to do is move from not across the board but a clunky system, and we recognise that most of those who actually experience that clunkiness are small business. We just need to move forward. I think the legislation is good but it can be further enhanced.

Senator CAMERON—So companies like Superchoice say they have operated for 15 years, they are efficient, they are effective, but they are not delivering in that area of 20 and under. Their market penetration is small. There are still problems for employers in that area. How is that not a market failure if these 'efficient' companies cannot deliver and government has to intervene?

Mr O'Shaughnessy—I think I heard the previous witness say that they do many under 20 employees funds. I know that a number of the clearing houses owned by our member companies deliver very good, efficient services for under 20 members. So I think it would be wrong to get the impression that under 20 member firms are not well serviced. Is there an opportunity to get this broadly across all under 20 member

funds? Most certainly, and therefore the legislation is a good initiative. What we are recommending is a way it can be enhanced without limiting competition in this space.

Senator CAMERON—To summarise what you put to me so far, you would like changes, but what the government is proposing is a good step forward.

Mr O'Shaughnessy—It can be much improved.

Senator CAMERON—But it would still be a benefit even if it was not improved.

Mr O'Shaughnessy—Obviously we would like to see it enhanced.

Senator CAMERON—I am asking you if it would still be a benefit to small business as the government is proposing it.

Mr O'Shaughnessy—I think it would be a benefit to those small businesses that do not have the efficiency that other small businesses have.

CHAIR—Thank you to IFSA for coming in this afternoon. Thank you, Mr O'Shaughnessy and Mr Bragg.

Proceedings suspended from 3.19 pm to 3.35 pm

BLACKMORE, Mr Shawn, Head of Operations, AustralianSuper

VAN DAATSELAAR, Mr Hans, Manager, Strategy and Policy, Superpartners

Evidence was taken via teleconference—

CHAIR—Thank you very much for joining us. Would you like to make an opening statement?

Mr Blackmore—I will make a brief opening statement. We have not made a submission on this topic but rather open ourselves up as subject matter experts from the superannuation fund and administration perspective. AustralianSuper manages approximately \$30 billion on behalf of 1.5 million members, with 125,000 registered employers. We are an industry super fund whose sole purpose is to maximise the retirement outcome of our members. We are a not-for-profit organisation. On the topic of contributions, which is where this is leading, choice of fund has been a problem and is becoming more of a problem for us. Our main objective is to develop the most efficient solution possible. AustralianSuper source our administration to our administrator, Superpartners. On the bill in question, AustralianSuper is fully supportive of the bill to introduce an optional clearing house. Since the implementation of choice, we have seen a major rise in the dynamics of our employers joining our fund and the cost that this is having. I will pass to Mr Van Daatselaar to make a quick comment.

Mr Van Daatselaar—Good afternoon. Superpartners is the largest superannuation administrator, administering in excess of six million member accounts on behalf of about 700,000 registered employers. We have about \$78 billion in funds under administration. We receive about \$12 billion in contributions a year, representing over 20 million individual contribution amounts for members. We certainly have seen a significant change in trend in terms of the number of members per employer for which we receive contributions. It has gone down from about one employer to nine members to about one employer to two members.

CHAIR—Thank you very much. Is this a problem for you in terms of handling the data or is it a problem for the employers who pay in and therefore you are reflecting on that? I am not quite sure where the problem lies for either of you. Would you elaborate on that.

Mr Van Daatselaar—It is a problem, I suppose, for both employers, who will have to remit contributions to multiple superannuation funds, and superannuation funds themselves. We look after more employers now and we receive fewer members per transaction—because it is more diluted. Data quality is a separate issue. That issue existed before choice and it will continue to exist unless the superannuation guarantee act is amended.

CHAIR—I see. For those small employers who might have a small number of employees but several funds involved it means that a clearing house will provide a more or less seamless transfer of funds. I presume the superannuation guarantee extinguishment will be useful to you as well.

Mr Van Daatselaar—Just for the record, we do not operate a clearing house. We support our clients' superannuation funds in the administration of their member records, including operating call centres. In terms of the superannuation guarantee obligation being extinguished upon receipt by Medicare, that really makes a difference to the employer but not to the superannuation fund. The only interest for the superannuation fund is

to ensure that the moneys, the contributions, that belong to the member is hitting their account as efficiently and quickly as possible.

CHAIR—A couple of our submitters today expressed some problem with the provider of the clearing house for under 20 employees being Medicare and that it is not being opened up to other private sector clearing houses. Do you have any comment on that aspect of it?

Mr Blackmore—Initially, we were quite surprised when Medicare was announced as the provider. We were of the view that there would be two opinions. Either it would be opened up to a tender or it would be the ATO. However, that said, after having worked with Medicare and other industry associations, I think it has put our mind at ease that they will potentially do the job and will do a good job at that. There is some discussion out there that potentially this will create an uneven playing field and that, effectively, it is taking part of these people's business and legislating it away from them. Again, we are not a clearing house, but our comment on that would be that, if the private practices out there were able to offer a solution in this space and it were profitable for them, we would not be discussing this at the moment because that solution would already be up and running.

In relation to the argument that this is potentially taking business away from them, it would be very interesting to see the number of employers that they have with less than 20 employees that they currently service at the moment. From AustralianSuper's perspective, we actually do not have any employers for whom we pay for their clearing house service and who have less than 20 members or 20 employees. At the moment, the clearing house service for employers is generally for the medium to large employers or employers with payroll systems. Up until now in this discussion, there was never really a clear solution for the small SMEs or employers with less than 20 employees.

CHAIR—Thank you. I will hand over now to Senator Bushby to ask some questions.

Senator BUSHBY—Thank you, gentlemen, for being on the phone to assist us this afternoon. You mentioned in passing that you do not have any clearing house clients with less than 20 employees. That suggests that you do actually use clearing houses with some of your members or some of your employers.

Mr Blackmore—Correct. Again, we have a preferred model. We do not offer a clearing house but we have a preferred clearing house supplier. If an employer rings us and wishes to discuss or ask for a clearing house, we provide the details of that clearing house to the employer. We are also open with our employers being able to select their own clearing house. Up until about 12 months ago, that was not a major problem. The request for clearing houses and clearing house services was not a major request. However, with the implementation of choice, there has been a bit of a snowball effect. At the start, it was very small but it has gradually grown where we are now seeing up to 20 requests a week from employers for clearing house services. There are now also a lot of questions from those employers specifically about what is the government's solution and will Medicare sort that part out? We have employers who have less than 20 members; however, because of the choice problem, they are currently sending in paper and writing out the number of cheques and making a number of paper contributions as to how many super funders they have.

Senator BUSHBY—Okay. Presumably your employer members that are using the clearing house services pay a fee for that?

Mr Blackmore—There are a couple of different models. AustralianSuper's policy on this is that if an employer is a default employer with AustralianSuper, registered with AustralianSuper, we will subsidise or pay for that transaction fee for the choice members only. If they are not registered with us, the employer will pay for that. There are a couple of other different models out there. In some instances, if an employer has a payroll service and that payroll service is a clearing house provider, the provision of the clearing house can be free of charge.

Senator BUSHBY—Do you provide that for your registered employers as a marketing tool or to add benefit for being a member, or is it because there are actually some cost savings that you are offsetting—or is it a bit of both?

Mr Blackmore—It is one of two reasons. It is a marketing tool. Generally, the registered employers are our larger employers that have a majority of members who are AustralianSuper members, so it is an extra incentive for them to stay with AustralianSuper and to make their life easier. It can also be a cost benefit if the clearing house then provides the data electronically. But generally it is about making the employer's life easier.

Senator BUSHBY—I can understand that completely. It is a competitive process and you have to do what you can to attract employers and their funds to you. I am interested in your comment that there may be some

cost savings if the data comes to you in a suitable format. We heard some evidence earlier today about straight-through processing, something that makes it very easy for you to accept information and to do your job.

Mr Blackmore—I might pass that one over to Hans for an administration perspective.

Mr Van Daatselaar—In terms of cost, some of the clearing houses are asking funds for compensation to receive data and money electronically. These are clearing houses that provide services for employers. They are not engaged by the fund or the administrator in this case, so the service that they provide is to the employer. If the fund does not pay, then the clearing house provider will submit the information manually, so you get a cheque and you get paperwork. That is quite an inefficient way of doing it. The reason for doing that is that some of the providers make money on the float. If they hold onto the money—say, for an average of five days—the service provider makes money on the float.

Senator BUSHBY—But you actually engage other clearing houses directly? Is that correct?

Mr Van Daatselaar—We are on the receiving end. As administrators we do not engage a clearing house provider.

Senator BUSHBY—‘Engage’ is probably the wrong word. Do you have any relationships with the clearing house providers on behalf of your employers, when they request it?

Mr Van Daatselaar—On behalf of the funds, the relationship is that we receive the contributions but we are not actually making any financial compensation for that service.

Senator BUSHBY—I was asking because we heard some evidence earlier that some clearing houses have relationships with superannuation funds under which they are put in contact with the employers as part of the service that they provide to those employers.

Mr Blackmore—Just to go back to your first point about the cost savings, it is a very efficient process to have something sent through electronically. Whether or not it can then be what is known as straight-through processing relies on the underlying registry system. But if you think of it at the higher level, if I need a resource sitting there, reading a piece of paper, typing something and duplicating information into a system versus receiving something electronically that can be uploaded automatically, I am going to take receiving something electronically every single time. I see from one of the notes on the Medicare model that it will have mandatory electronic processing and minimum data standards, which will have a massive impact on the industry and lead to a more efficient process.

Senator BUSHBY—I was going to go next to the data standards that Medicare will be implementing. We heard evidence from Medicare that they are negotiating with various industry representatives in terms of what data requirements and data matching will be needed. Obviously it is optional to some extent, but it appears that they will be not necessarily providing everything that every super fund would like or what the working group as a whole considers is needed. Do you consider that you, as a particular fund, have any information requirements that a general data standard—that basically chops off the edges and focuses on the main stuff—will deliver?

Mr Blackmore—We support what are known as the SwimEC standards, which are the standards the industry has been floating around for a few years now. From a pure ‘what data fields would I need?’ point of view, we support the five fields of: first name, surname, tax file number, address and date of birth. Based on that information we can set a member up, we can be pretty sure that we can be in contact with that member and we can identify a member who comes to the fund, whether through the contact centre or other means. Currently there are not, in the industry, minimum data standards. Currently we can set up a member with an initial and a surname. That has led to some problems around lost members and other issues. So we are very supportive of a recommendation to have minimum data standards. We hope that will engage the industry to further expand that across other mechanisms, such as all clearing houses and all contributions. There are funds, of course, that have different standards in place. One of the problems at the moment is that different funds have different standards. In a perfect world I would love to get the membership number, mobile phone and email address, but I do not actually need all of them. I need five pieces of information from the start to set up a member’s account and to then allow the member to transact on that.

Senator BUSHBY—You mentioned that you support SwimEC. Would you like Medicare to adopt that?

Mr Blackmore—I will pass that over to Hans, who is a SwimEC expert.

Senator BUSHBY—Presumably that would be an advantage to AustralianSuper if that was the case.

Mr Van Daatselaar—Firstly, I would like to disclose that I am on the superannuation industry working group that Medicare have set up to consult with the industry in relation to the clearing house service that they are commencing on 1 July. Secondly, we absolutely support data standards in the industry. We have had SwimEC for about 10 years. Unfortunately it has not been really adopted by the industry. Superpartners is in support of SwimEC. In fact we have our employer portal set up using SwimEC standards, and that is working extremely well at low cost. That is directly from employers to superannuation funds, but it does not allow for any choice members, only for members that we administer on behalf of our clients. In terms of data standards, the quality of data does not just improve with data standards. It comes down, again, to the fact that the superannuation guarantee act only requires employers to submit dollars, and at that time they have extinguished their obligation under the SG act. It does not actually refer to either correct or accurate data, which is a major issue in the industry. A clearing house is merely a mailbox transferring data or money from one source to another, so it could be argued that it is actually an inefficiency in the system.

Senator BUSHBY—You mentioned that the error rates in the industry are a significant issue. I have a copy of an Ernst and Young report that indicates that five per cent on average of transactions actually contain some error. We heard evidence from Medicare earlier today that most, if not all, validation through their clearing house will actually occur at the fund level. Presumably that is what occurs at the moment when you deal directly with employers. Is that your understanding?

Mr Van Daatselaar—I have only been to one industry consultation meeting, but that is my understanding. So there is no upfront validation at the employer end. It will be done at fund end.

Senator BUSHBY—So presumably, with the way this is designed to work, where employers' obligations are discharged once they have sent their money to Medicare, you will need to liaise with Medicare to try to fix any errors that have actually come up.

Mr Van Daatselaar—I am not familiar with their operating model as yet. We posed some questions to Medicare about exception management, for instance, but, again, I have been at only one meeting, so that is a question you might have to refer to Medicare later.

Senator BUSHBY—Okay. It might have been Mr Van Daatselaar who mentioned that if private providers were able to provide a solution then the private industry would be up and running and providing it now. There are obviously private clearing houses that are meeting a market demand at a certain level but, in terms of what the government is trying to deliver on here, I think a subsidy of \$16.1 million over three years might actually provide a far greater incentive for private providers to meet that part of the market. Surely you would acknowledge that a subsidy would assist private operators to come into the market.

Mr Van Daatselaar—It is Hans Van Daatselaar. I was not the one who made the comment—it was Shawn Blackmore—but I am happy to answer that. Basically, to date, the evidence is that the current private providers of clearing house services are targeting the medium and larger size end of the market as well as payrolls. So they go straight to payroll providers who look after multiple employers. So, in the small end space—and, again, we were looking at about 85 per cent or so of employers in Australia having fewer than 20 employees—based on our statistics it is actually much lower. Again, we have not seen any real activity in that space, and we think that, with the introduction of Medicare as the clearing house provider, that is the perfect opportunity to set some standards in the industry and to lead the industry towards introducing a common standard that can be used between clearing house providers, between administrators and funds and, in this case, in Medicare.

Senator BUSHBY—I do not argue with anything that you have said there. The point I am interested in is whether the delivery of such a clearing house, which also delivers the industry standard benefits that you refer to and the other benefits you mention, needed to be provided through a government organisation such as Medicare or others that have been apparently looked at, like the ATO, and even Australia Post, or whether they could have been provided through the tender process in accordance with the original promise made by the then opposition in 2007.

Mr Blackmore—Again, this is based on my understanding of the market and some of the players in the market. I do not think that this could have been taken up necessarily by what we would see as multiple private clearing house providers because, again, the higher end is much more attractive in terms of volumes and margins than the lower end. One thing that actually has not been raised here is the fact that there is a significant issue around superannuation guarantee compliance, particularly in the smallish companies, and we have seen a number of reports from various organisations about that. The advantage here, as well, is that money is secure from the moment it actually hits Medicare. So you do not have any small providers which, whilst they might be AFSL licensed, are not actually regulated or licensed by APRA.

Senator BUSHBY—They could be.

Mr Blackmore—So there are no capital requirements, there are no supervisory requirements there. So, if one of those providers falls over, that would have a significant impact on the superannuation industry and confidence in the industry as a whole.

Senator BUSHBY—I acknowledge that, and I acknowledge that currently AFS licence holders are not prudentially regulated. Presumably, if the government had decided to go down that course of action, they could have looked at ways of improving the regulation of clearing houses, which could have involved some form of prudential oversight by APRA.

Mr Blackmore—I probably agree. If the government were to offer subsidies to existing clearing house providers to focus a service on this segment of the market, they probably could have done it, but it would have to have been in conjunction with legislation introduced as we have seen Medicare looking at—mandatory electronic data, mandatory data standards, licensing, a guarantee on floats, and service standards on how long a clearing house can hold onto the money and send it to the funds. If your question is, ‘Could private clearing houses provide this service with the subsidy going to them?’ the answer is: yes, they could have, but it would not have been as effective as the model that we are looking at now, unless it were in conjunction with a whole list of additional criteria.

Senator BUSHBY—I imagine that the government, if it had gone down that path, would have looked at that, but that is up to the government to comment on. In terms of your comments about the regulations that apply to Medicare, I may be wrong but my recollection of the evidence we have received today is that a lot of that is not actually regulated and will be just done by practice rather than regulation.

Mr Van Daatselaar—I have seen the bill and there are no operating standards or anything else necessarily included in that.

Senator BUSHBY—And the regulation powers only relate to the power to appoint approved clearing houses and they do not appear to extend any further than that.

Mr Van Daatselaar—Again, that would be a matter for the government, I suppose, to comment on. We certainly would like to see a best practice approach in terms of introducing operating standards—the ones that Mr Blackmore referred to before.

Senator BUSHBY—Which sound like very good operating standards. Thank you very much.

Senator CAMERON—I just want to indicate that I was on the board of STA, which was one of the predecessors of AustralianSuper, and on the board of AustralianSuper. That is just for the public record. You said that there was no real activity in this space when you were talking about those companies with fewer than 20 employees. That is at odds with what SuperChoice has put here today. They have given the impression that they are very active in that area and that they are significant players there. Could you comment on that.

Mr Blackmore—I would not know what list of employers or companies SuperChoice is administrating. I can only comment from the AustralianSuper perspective and the employers that we deal with and receive requests from.

Senator CAMERON—AustralianSuper is one of the biggest not-for-profit funds in the country?

Mr Blackmore—Correct.

Senator CAMERON—SuperChoice have also put forward what I would describe as a set of recommendations that say, ‘Let the market work. Let SuperChoice be involved in the market. And, if you’re not prepared to do that, the legislation should not proceed.’ Would that be positive for the industry?

Mr Van Daatselaar—Coming back to the earlier comment, we cannot make comments about SuperChoice specifically as a company—as to whether or not they are already operating in this segment of fewer than 20 employees, which is what the Medicare solution is being targeted at.

Again when I saw the bill coming through, and it talked about approved clearing houses I was delighted because I thought that was a great opportunity to get the level playing field happening on all licensed clearing house providers so that we get proper operating standards applying to all of those providers. Ultimately, we are supporting our funds in delivering the best outcome for members and you do that by efficiently transferring money and data in the quickest possible way so that money can earn interest in the member’s account. To date we see certain practices amongst the current providers that actually encourage inefficiencies by again either

charging the funds extra for things that are after all only a mailbox or holding on and providing manual information and making it less efficient.

Senator CAMERON—You may want to take this on notice but could you give us some more details in terms of the charges that are being made in this area of the industry that you do not believe are justified?

Mr Van Daatselaar—We will take that on notice, thank you.

Senator CAMERON—You also indicated that Medicare would do a good job. Is that on the basis of the discussions you have had with Medicare on that committee?

Mr Van Daatselaar—I am not sure whether we said that Medicare was going to do a good job. We do not know yet because they have not started the clearing house. I have been to one meeting and I was very pleased that Medicare is consulting with the industry and that includes all segments of the industry to ensure that the solution for employers also is ultimately in the best interest of funds and members. We fully support that.

Senator CAMERON—If the issue is a question of the market and competition or getting the legislation through, what is the most important in your mind?

Mr Blackmore—Could you rephrase the question?

Senator CAMERON—I apologise. The proposition that has been put to the committee is that the legislation should not proceed if there is not competition, for instance SuperChoice having the opportunity to bid for this work. What is more important: looking after your members through the government's legislation or having this competition in the superannuation industry?

Mr Van Daatselaar—It is quite obvious that the interest of our client members comes first from our perspective, but I do not think it is a matter of one being more important than the other. Based on current practice there seems to be very little competition potentially anyway for that small end of the market. Maybe it is just that Medicare is the solution because in that particular segment of the market there really is no real value proposition from a private operator perspective.

Senator CAMERON—Okay.

CHAIR—Thank you for joining us by teleconference this afternoon. That concludes that segment. Thank you everyone.

Committee adjourned at 4.09 pm