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SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
REFERENCES COMMITTEE

Reference: Small business employment

TUESDAY, 6 AUGUST 2002

CANBERRA

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SENATE
EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
REFERENCES COMMITTEE

Tuesday, 6 August 2002

Members: Senator George Campbell (*Chair*), Senator Tierney (*Deputy Chair*), Senators Barnett, Carr, Crossin and Stott Despoja

Substitute members: Senator Conroy to replace Senator Carr

Participating members: Senators Abetz, Boswell, Buckland, Calvert, Chapman, Cherry, Collins, Coonan, Denman, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Forshaw, Harradine, Harris, Hutchins, Knowles, Lightfoot, Ludwig, Mason, McGauran, Murphy, Nettle, Payne, Sherry and Watson.

Senators in attendance: Senators Barnett, George Campbell, Cherry, Conroy and Crossin

Terms of reference for the inquiry:

To inquire into and report on:

1. The effect of government regulation on employment in small business, specifically including the areas of workplace relations, taxation, superannuation, occupational health and safety, local government, planning and tenancy laws.
2. The special needs and circumstances of small business, and the key factors that have an effect on the capacity of small business to employ more people.
3. The extent to which the complexity and duplication of regulation by Commonwealth, state and territory government inhibits growth or performance in the small business factor.
4. Measures that would enhance the capacity of small business to employ more people.

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Committee met at 9.03 a.m.

CHAIR—I declare open this public hearing of the Senate Employment, Workplace Relations and Education References Committee. On 20 March 2002, the Senate referred to this committee an inquiry into small business employment. The terms of reference focus on two main issues: first, the effects of government regulation on the performance of small business, including the complexity of these regulations and the overlap between Commonwealth, state and local government regulations; and, second, the special needs and circumstances of the sector, particularly in regard to the capacity of small business to employ more people.

Some of these issues were canvassed by this committee in its inquiry into regional unemployment, which was reported late in 1999. The committee acknowledges the vital importance of small business in the Australian enterprise structure and the need to ensure the sector has the capacity to grow and to increase the size of the labour market. Of particular interest to the committee is the challenge of transforming successful small businesses into dynamic medium sized industries capable of driving economic growth and employment. The committee has received submissions from a wide range of small business interests and is conducting public hearings in most states, as well as less formal roundtable discussions with local business people.

Before we commence taking evidence today I wish to state for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to the evidence provided. Parliamentary privilege refers to the special rights and immunities attached to parliamentary members and others, which are necessary for the discharge of parliamentary functions without obstruction or fear of prosecution. Any act by any person which operates to the disadvantage of a witness on account of evidence given before the Senate or any of its committees is treated as a breach of privilege. I welcome all observers to this public hearing.

[9.06 a.m.]

DAVIS, Mr Ian, Deputy Chair, Capital Region Enterprise and Employment Development Association; Member, Canberra Business Council

MILLER, Mr John Robert, Executive Director, Canberra Business Council

SLOAN, Mr Craig John, Vice Chairman, Canberra Business Council

CHAIR—I welcome our first witnesses, who are from the Canberra Business Council. Do you have any comments to make on the capacity in which you appear?

Mr Sloan—I am Chairperson of the Economic Impact, Employment and Special Initiatives Task Force, which was responsible for this submission.

Mr Miller—Until recently I was a small business operator; I spent 18 years in that capacity.

Mr Davis—I run my own small business, National Capital Newsletters. I am also Vice-Chair of CREEDA, which is a community organisation that runs three general-purpose business incubators in Canberra. In the last two years the incubators have won the Australian Minister for Employment and Workplace Relations Incubator of the Year Award and the American based National Business Incubation Association Incubator of the Year Award—we were the first non-US incubators to win that award.

CHAIR—The committee has before it submission No. 36; are there any changes you wish to make to the submission?

Mr Sloan—No.

CHAIR—The committee prefers all evidence to be given in public, although the committee will also consider any requests for all or part of the evidence to be given in camera. However, I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Mr Sloan—Thank you for allowing us to be here today. I will give you a bit of background on who the Canberra Business Council is and a brief summary of our submission. The Canberra Business Council is a not-for-profit business development organisation representing about 300 partner businesses directly—our members—and about 5,000 businesses indirectly through our kindred organisations, who specialise in certain industries. The small and microbusiness sector is by far the most significant category of our membership.

Small business is feeling considerable pressure from the increased burden of data collection, reporting and associated costs. Government must recognise the different abilities of big and small business to adapt to changing regulatory environments. Governments need and want the small business sector to employ; many in the small business sector are reluctant to do so. The

resistance stems from the on-costs of complying with government requirements in relation to self-assessment and data collection in addition to the hands-on nature of a typical small business. Some small home based and microbusinesses with high growth potential want to grow and employ people; however, many are caught in the nervous territory between ‘should employ’ and ‘should not employ’.

To achieve the growth sought, there is an onus on government to create an environment with which small business can cope. This requires sympathetic design of compliance with the needs of small business operators in mind—rather than the convenience of the administrators, as was the case with the GST. Equally, and importantly, if governments want small businesses to employ, they need to be encouraged to acquire the skills that will enable them to employ. While there is a need for some direct assistance to small businesses to educate them about taking on employees, employment compliance must be simplified. Governments should back the development of tools—for instance, online technologies—which will make compliance with employment requirements easier.

By far the best way to encourage increased employment by small business is for governments to support programs to enhance the general business skill levels of small businesses. This means government support through appropriately delivered programs of financial management, marketing and other specific business skills. Government should consider the development of business incubators and other intermediary services to help small and microbusinesses grow. Another initiative could be to provide support for technology based interactive business advisory services that will link small and microbusinesses needing instantaneous answers to bite sized problems with professional advisers. This would need to recognise that small and microbusiness operators often seek these answers outside normal business hours.

In respect of workplace relations, small business seeks speedier and more certain outcomes in dismissal procedures. In taxation and superannuation, despite some improvement and attempts at modification to GST and BAS requirements, the system continues to impose an undue impost on small business. This must be taken into account in designing the administrative arrangements for any move to choice of superannuation fund. A process should be established so that individual businesses are given the opportunity—and are perhaps even paid—to test drive proposed arrangements before they are implemented. In occupational health and safety, small business is concerned about the record keeping, reporting requirements and costs. Government tendering arrangements are of particular importance to small businesses in Canberra. The Canberra Business Council encourages this committee to support the requirement that government tenders over a certain minimum price be assessed on the basis of industry development and small business participation after first being short-listed on the basis of price and, certainly, ability.

Small business operates in a vastly different manner from medium and large enterprises. In a rapidly changing environment, small business operators do not necessarily have the capacity to adapt to that change as quickly as corporations with a multitude of layers able to focus on single issues, particularly in areas of technology and accounting. There is a need for the Commonwealth to accept greater responsibility for small business rather than leaving it as largely a state or territory responsibility, to the disadvantage of the smaller and lower resourced states and territories. The framing of legislation and development of regulations need to give further consideration to its application to the small and microbusiness sector. In a business

environment where business is constantly being asked to adapt, the same must be asked of governments.

CHAIR—In your initial comments, I thought you were saying that we ought to distinguish between the various sectors within the small business community. What categories do you think they fall into?

Mr Sloan—I suppose, like any other general business categories, our view—and certainly Ian can add support to this—is that generally there is a number of professional service organisations that might be able to operate at a small level a lot more easily than someone in the retail industry, where you have large operators who are quite bullish and where the price driven markets can certainly dictate the nature of operating in a small environment. Being a partner in KPMG, I know full well what it is like to look at large and small business. Certainly, there are differences based purely on the industries in which they operate.

CHAIR—Are you saying you would make the distinction by industry or nature of business rather than by the size of the business?

Mr Davis—By industry, there are some distinctions that you can make, particularly in what you could loosely call the knowledge based industries—particularly the IT and accounting industries—where you have a lot of small operators and where people are probably much better placed to adapt to governmental and administrative requirements than, say, tradespeople who have moved into business without that background of business skills. I think you can distinguish by industry in that regard, but there is also a distinction to be made in terms of size of business. The businesses that face the greatest difficulty in dealing with government requirements are the very small businesses. They are businesses at the stage where they are about to employ their first employee. There have been owner-operators until that stage, and it is the owner-operator who is fulfilling all of those requirements. Once they have engaged their first employee, moving from no employees to one employee is a very significant change. Then there is another stage further on, where you start to get more specialised employees who, again, can focus on some of these requirements.

CHAIR—How significant is the home based business sector in Canberra?

Mr Davis—It is very significant. The small business sector in the ACT generally is much more significant than in any other state or territory in terms of the proportion of businesses that are small businesses—that is, that are generally categorised as having fewer than 20 employees. The home based business sector is more significant, I think, than in any other state or territory. There are approximately 14,000 home based businesses in the ACT.

CHAIR—What percentage of the sector would that represent? Do you have any figures?

Mr Miller—It is greater than 50 per cent. I am not sure exactly what the percentage is, though.

Mr Davis—We can certainly get that for you, if you want that.

CHAIR—If you would, take that on notice and provide us with those figures.

Mr Sloan—We will, certainly.

CHAIR—To what extent is the home based business sector impeded by ACT government regulation? We have heard in other states that real problems are created for home based businesses by the nature of regulation by local governments; some have no regulations and some regulate heavily. More importantly, we have heard of the differences between various local governments in the way in which they view home based businesses and of the consequence of different regulations applying in different areas of the one city, for example. To what extent has the ACT government regulated with respect to home based businesses?

Mr Davis—My understanding is that there are impediments as far as local government regulations are concerned. There are issues like parking regulations in residential areas, and things like that, and environmental regulations as they affect tradespeople. Anecdotally, I am aware of some of these sorts of problems. But from what I understand, the main problem is the unpredictability or inconsistency in relation to the implementation of those sorts of requirements. People are often flying by the seat of their pants in the hope that these requirements will not be enforced, and they often are not enforced. There is always a fear, particularly if neighbours complain, not simply that people will have their own living conditions affected but that they will be forced out of business because of that.

CHAIR—Are you aware of the number of bankruptcies of small businesses in the ACT?

Mr Miller—I would not know the exact figure, but obviously there have been some increases in the last few years in that area.

CHAIR—To what extent is there any training undertaking for small business people, before they actually enter the small business community, in terms of managerial type skills, dealing with cash flows, business plans—those types of managerial skills?

Mr Sloan—It is probably like all of them; it is entirely up to the individual business person to seek that out. I suppose you could go through a number of organisations. The Australian Institute of Management hold a number of good courses. The government certainly have provided, through BusinessACT, an establishment where business information can be sought, but it is not actually training the individual up to go into business; it is really providing a framework, if you like, for them to seek that out off their own bat. There is certainly no direct government program that I am aware of.

Mr Davis—I will just clarify that. There was, until really quite recently, a small government backed program—New Futures in Small Business—which was designed to train business starters. That has been phased out only in the space of the last couple of months and the funding has been directed towards what has been called the Knowledge Fund, which provides specific funding for IT developments and things like that. The assessment was made that that particular program was not achieving its objectives. I know in those starter programs there have been pretty mixed results which seem to be closely related to the quality of the courses that are delivered. Of course, the other thing is that those courses are very selective and only reach a small proportion of people going into small business.

CHAIR—It has been suggested to us in a couple of areas that perhaps we ought to look at instituting a licensing type arrangement for small business that would require them to undertake training in these basic business skills before they were allowed to commence operating as a business. What do you say to that proposal?

Mr Miller—I would like to answer that as someone who has been in small business for some time. I think that there are certain good aspects to some of that. With respect to those who have been in business for a period of time, in order to take account of additional requirements that are imposed by government—licensing standards or whatever—they are often not in a position to take account of that extra training. They believe that they have been in business for long enough. That is not to say that there is not always something new that they can learn. However, some of those ideas have been put forward in the industry that I used to be involved in, which was the tourism industry. We were operating a very successful business, and continue to do so, yet there are greater requirements to undertake standards and whatever. I am not too sure that it always achieves the desired result—it might just add another tier of administration to a business which otherwise cannot afford that particular time. Having said that, there is merit to some other aspects of it, for a start-up.

Mr Davis—I think you need to be careful with the terminology in that sort of situation. In talking about licensing, if it implies that there would be some sort of prohibition on people operating a business without a licence, it creates all sorts of dangers and unnecessary conflicts. If you are talking about accreditation, where people's skills have been recognised and that gives them an asset that they can then trade on, whether it is in terms of dealing with their existing clients, selling the business or mobility within industry because they have got this recognition, then I think that is a very valuable thing.

The other thing that needs to be thought about relates to accreditation and better access to the training providers in these sorts of situations. The difficulty that small business often faces is in finding the appropriate course or training that they need to deal with a particular situation. Small business is usually not looking for a really broad range of certification of skills, but for a particular skill that will help them to address a situation here and now. So you are talking primarily about demand for short courses—day courses or courses that go for a couple of days. It is often very difficult for small business to locate those appropriate courses. Maybe accreditation in that area would help.

CHAIR—In your submission you put forward the suggestion that the government should set up an online access system—an advisory service for small business. Is that really a recognition of the inadequacy of current government programs in the small business area?

Mr Davis—This has been a proposal for which my organisation, CREEDA, has been seeking to attract government support for some time. It is a recognition of lack of government support at the moment and also it refers to the sort of thing that I was just talking about—that small business is looking for 'here and now' assistance with a particular issue. CREEDA has developed a proposal in conjunction with CPA Australia that would basically provide a link between small business people and various professional organisations, using the Internet and providing interactive advice. It would focus on providing that advice, if not 24 hours a day, then for a considerable amount of it out of normal business hours—for instance, advice about how to deal with particular accounting problems, how to deal with problems that arises from BAS or

from other sorts of things. Small business people more often than not are trying to address those sorts of problems at the weekend or on evenings outside normal conventional business hours.

Senator CROSSIN—Where there is no online access for small business, where small business do not have access to the Internet, are you suggesting that there should be an after hours telephone-operated service for inquiries?

Mr Davis—The proposal that we have developed is an Internet based service. There is no reason why it could not be done in conjunction with a telephone based service or, for instance, it could be similar to that which is currently under development in the ACT: the digital divide proposal. This proposal will provide Internet access through public libraries and those sorts of public facilities to people who do not have the Internet available at home. I realise you are possibly not referring to individuals who do not have Internet access but to regions and areas where Internet access is inadequate, and that that does not solve that problem; the telephone solution does. All these things are incremental and they can be built into the same system.

Senator CROSSIN—In your submission you say there is a need for the Commonwealth to accept greater responsibility for small business. Do you see that it is the role of the Commonwealth to provide the funding for this sort of online access to get established?

Mr Sloan—It probably would be a combination. I think funding is not always the answer to everything; it could be the framework; it could be coordinating the effort so we have a consistent approach for small business throughout Australia. As you have travelled around Australia and talked through the issue, you have probably all seen that it does vary from state to state and certainly the ACT and the region would be very different from, say, a Sydney or a Melbourne region. The funding from the federal government would be nice, yes; it would be a nice way to kick it off, but I do not think that is where it necessarily has to end.

There has to be a concerted effort, certainly by the federal government, to understand that there is a difference between large and small business, to understand what the needs of small business are and to get a coordinated approach throughout Australia. That does mean dealing with other state and territory governments and it certainly does not allow them to think it is now a federal government issue because, let's face it, at the end of the day the large windfall from small business will sit within the state or territory in which they reside.

Senator CROSSIN—Is that what you mean by the Commonwealth accepting greater responsibility—having a more national coordinated approach?

Mr Sloan—That would certainly be part of it.

Mr Davis—There is always an enormous amount of dispute or friction between the states and territories on the one hand and the Commonwealth on the other as to what areas of small business each is responsible for. I think there would be an enormous benefit if there was some sort of protocol between the governments to identify what general areas of responsibility within the small business sector each had. I know this has been discussed because I have read the communiques from the Commonwealth-state small business ministers' meeting. This was discussed in a very loose way at that meeting but there has been no decision made to identify the areas of responsibility.

CHAIR—What do you think the area is that would be best served?

Mr Davis—I do not think it matters very much how they divide it up as long as they identify how it is divided. I know from our personal experience with our business incubators, for instance, we have had both Commonwealth and state funding for different areas of business incubator activity. In order to get that, we have had to negotiate between the two sides of government as to what they will and what they will not support in relation to individual incubators. The logical and efficient way to do it would be for the state or territory governments to say, ‘We will support the acquisition of property,’ or something like that, ‘for the purpose of business incubators,’ and for the Commonwealth to say, ‘We will provide you with some start-up funding for business incubators’ or ‘We will provide you with operational funding’—not that I think operational funding is a very good idea. It seems illogical to negotiate on an individual incubator basis who funds what.

CHAIR—Mr Davis, you are a person who has been around for a while. You obviously know your way around the system. A lot of small business people we talk to—individual operators—feel that there is an enormous complexity because of the plethora of regulations that they are confronted with. There is state government, local government and federal government, and the operators do not necessarily distinguish between them when it comes to who is putting the rules in place. All they know is that there is a complexity of rules that they have to abide by. In many areas they do not even know where to go to get the advice about the particular problems. Is that not an argument for trying to rationalise, to the extent possible, who has the responsibility for looking after the needs of small business—whether it is a Commonwealth or state responsibility, or a shared responsibility with the local governments, which seem, from the submissions we had in Melbourne and Perth, to have a growing role in this area?

Mr Davis—I think that is very much the case. There does need to be a rationalisation of responsibility. But it goes beyond that. The federal government’s business gateway—I am talking about an IT or Internet based system—ought to be able to overcome that problem. What you say is quite correct—most small business people do not distinguish or recognise the difference between state and federal government. If it were working properly, the federal government’s business gateway ought to be able to channel people, irrespective of which government was providing a service, to the most appropriate services. There is a degree of friction and competition between the federal and state governments, which means that the gateway is not being utilised in the most effective way. That sort of problem is not simply a problem between the federal and the state governments. The same issue of people protecting their own individual empires exists within individual governments. I have argued to the ACT government that they need to rationalise their own provision of business information between about three agencies or portals because people cannot find that information in a ready sort of way. I am sure the same sort of situation applies within other state or territory governments, and even within the one government it is difficult for small business people to find the appropriate information in a single place. The problem is magnified when you have the different levels of government on top of each other.

Mr Miller—Unless it is made clear to business where that information is available they throw their hands in the air and say, ‘We don’t care; we feel as though we are cut out here and we’ll do it on our own in any case.’ Many of them are totally unaware of where the assistance might come from because they are so confused by the system.

Mr Sloan—The frustration comes down to having to go and get professionals and pay them to provide basic information, when that information could be available quite easily. Certainly in our own case with the GST we found that a lot of businesses said, ‘This is all too hard, do all my BASs for me.’ We went the other way and trained them up and said, ‘We don’t want to do that. It should be a simple process. Just understand what your financials are telling you and away you go.’ A bit of frustration creeps into small business when they think all this regulation about obeying the law just keeps accountants and government in business. That is not what we see it as being about.

CHAIR—On that issue, everywhere we have been, virtually without exception, the perception of small business has been that the cash economy is on a growth path and that is in the main being driven by the complexity of the regulation they are confronted with—it is just too difficult. It is easier to pay cash, do barter deals or whatever, and avoid having to do the paperwork, which is usually added on top of what they have to do. Is it a similar experience in Canberra?

Mr Sloan—You certainly hear those stories. You hear businesses say that not all business is done by cash, but there is the frustration of the small business operator out there; if they can do a cash deal, they do the cash deal. It is simply to cut down on time and paperwork. As you know, and as Ian mentioned earlier, a lot of this happens outside of business hours in terms of having to comply with all of the requirements, and they see that as eating into their personal time and their way of life. I think businesses now are looking for shortcuts. To do cash deals where they can every now and again is a real issue and is certainly happening out there.

Mr Davis—It also needs to be borne in mind that a lot of small businesses are pretty marginal operations. There are undoubtedly some smarties in small business who are relatively successful financially and are operating in the cash economy, but often it is the people who are right on the margins, almost in a welfare situation, who are either not capable of dealing with the administrative complexities or who cannot afford the sorts of issues that arise.

Senator CHERRY—Your submission talks about the unfair dismissal legislation. Could the witnesses give any examples of how the unfair dismissal legislation impacts on employment in the Canberra area?

Mr Miller—Ours was a compilation and it is more anecdotal evidence, but there are a number of people who have commented that they are still somewhat mystified and scared off by the prospect of ending up in a court over an unfair dismissal, and they see that this is an inhibitor to their own desire, if you like, to employ. That is not the case with everybody. There are some who are more comfortable and are providing a good work environment, and probably many of the people who are saying some of those things are also providing a very good work environment but, because of the nature of the beast, they have felt loath to undertake further employment.

Mr Sloan—I think a lot of it has to do with not knowing fully the regulations and legislation around it. There are things in the press—for instance, there was a gentleman who worked for Australia Post who lost his job because he was overweight and he won a case—and a lot of stories go around. Businesses do not have time to understand the requirements so their first reaction is, ‘It seems awfully complicated. I do not want to put myself in that position and be that

frustrated. I just won't employ another one or two people and be put in the position where, potentially, I need to get rid of them down the track.' I think there are a lot of uneducated small business operators out there who do not fully understand the issue at hand.

Senator CHERRY—Are there examples of people who have been through the unfair dismissals system, have been burnt and do not want to be put in that position again? Do you have members in that category?

Mr Miller—There have been one or two examples; I could not give you anything more specific at this stage. There have been some people who have mentioned that.

Mr Davis—The uncertain situation that Craig just referred to is another case where, if there were adequate and easily accessible business advice available, a lot of the uncertainty about this sort of situation would be overcome. Small business people need to be told what the appropriate action is in a particular situation, not, 'This is a government requirement and you must comply' in a fairly heavy-handed way.

Senator CHERRY—Your submission also spoke about the importance of government contracting in terms of small business development. Do you have any views on how your proposal for sourcing locally wherever possible fits in with the various requirements of national competition policy?

Mr Sloan—There is a relationship between that particular policy—certainly in Canberra a lot of small business feeds off federal government agencies, as you would all know. When it comes to outsourcing, businesses in Canberra and throughout Australia get excited. With corporate services outsourcing, a lot of businesses came to Canberra looking for those opportunities. Unfortunately, we have not had a lot of those cases go to market and be out there. Going through the process myself, even from KPMG's point of view, it is a hell of an exercise to get in and get some of this work. It is a lot of hard work. We have been in consortiums with a lot of small businesses and a lot of government tenders indicate the requirement of small businesses to be part of any winning consortium or any bid. However, we are also finding that large organisations were breaking up the organisation, creating so-called small businesses, and they were the businesses we have been putting into some of the submissions. Therefore, you were not having true, local or regional small businesses being able to get in. It has a lot to do with the timing. What is required to put in the submission to win work is a lot of hard work. When small business operators have to do that outside hours, as well as everything else we have talked about today, it is a burden for a lot of businesses and it is too hard to try to get into that market. Therefore, it is left to the big businesses in town to pick it up.

Senator CHERRY—One of the issues a lot of community groups raise is insurance requirements in government contracting specifications. Do any of your members raise that issue—excessive insurance cover that government departments need before they will even consider an application?

Mr Miller—There have been one or two. I was talking to someone yesterday in regard to a public liability situation. They were required to double their public liability on the basis that they had to deal with that, and that immediately threw them. They thought it was just not worth it unless they could deal specifically with a department and have that changed.

Senator CHERRY—One of the issues we have been following through, wearing one of my other hats, is superannuation investment in small business: superannuation funds complain about being able to get access to sufficient investments to make it worthwhile putting their many billions into small business obligations. Does your council have any views on how we might better match up the potential investment of superannuation and small business opportunities?

Mr Sloan—I am not too sure. I do not think the council has looked at that particular side. I know a number of small business operators talk about the link between small business and superannuation and how we get around it, but I am not aware of any direct comment that may be of benefit here today. We can certainly take it—it is a good question.

Mr Davis—I would like to say something on that, not entirely on the superannuation situation but it is very closely related. There is a number of reasonably small and medium sized investment opportunities in regional areas, and the ACT is an ideal example, but there are very few financial intermediaries who are able to make those investments, to match up investors and investees. That situation has been exacerbated by what has happened in the banking system. Canberra is quite a good example. We used to have two fairly large and vibrant building societies which eventually were taken over by banks. The local bank was absorbed into an international bank and what was a reasonably large national bank, the Advance Bank, was then absorbed into a larger one, St George Bank, and in the process, a whole lot of investment skills that could have matched. We have some very big and vibrant superannuation funds based in the ACT, some of which are enormously successful. The MTAA fund is an ideal example and I know that it is one of the witnesses before this inquiry. It has invested in some large government buildings and things like that here.

On the whole, in terms of matching up small and medium sized local businesses with this sort of finance, financial intermediaries just do not exist, and there needs to be some sort of endeavour to encourage those financial bodies that do exist locally. They are now basically the credit unions and a few small venture capital funds that are locally based. Help is needed to strengthen those so that they can make that match.

Senator CONROY—I have a bit of a dorothy dixer for Mr Davis. We have had conflicting evidence about the success of the incubators from different witnesses before the committee. Some of them have been very supportive; others have been very dismissive. You mentioned that you were involved in a couple here in Canberra. Can you give us your perspective on the benefits as well as some of the negatives and how they can be improved?

Mr Davis—What you say is right. There has been an extremely mixed experience as far as individual incubators are concerned. If I can cite our example, we have done extremely well. We may not be entirely representative but we have been running business incubators now for 13 or 14 years, so we have had a reasonably long period of time to track the results. Over that time, our tenants have had an 80 per cent success rate—that is, 80 per cent of the tenants who have come into the business incubators have continued to operate for a number of years after moving out.

Senator CONROY—So you do regular surveys to test that, to see who is still in business—that sort of thing?

Mr Davis—We do surveys of whether they are still in business and we track their turnover to the extent that they are willing to provide it. There is a bit of debate about what the general small business success rate is, but the lowest of the range is that only 20 per cent of small business survive to their fifth year, so our 80 per cent figure is really quite a marked contrast to that. As I say, there is a range of successful outcomes between business incubators. We have done a reasonable amount of study of our own and we have also done some studies for ANZABI, the Australia and New Zealand Association of Business Incubators. Two major factors for business incubator success seem to be the size of the business incubator. It is very difficult to get a viable business incubator in small country towns, and that is a problem that needs to be addressed. I am not saying you just give up because of that but it does need to be addressed. The second factor is the management skills of the managers who are operating the small business incubators. One of the programs that CREEDA has been very keen to encourage governments to take an interest in is specifically targets the skills of business incubator managers—in the same way as I was talking about small business operators generally before—to give some of them a level of skill that will enable them to increase the level of success of their tenants.

Senator CONROY—One of the frustrations that other witnesses have indicated is the level of skill, not of the incubator manager but of the actual small business person. They may be great at a trade and at doing their core business, but when they start to expand and take on personnel, a whole different set of skills is involved. As someone who has been involved in these for 13 years, do you have a training component as part of your incubator process? Is it mandatory? Should it be mandatory, in your view? Have you found that to be a major problem?

Mr Davis—Again, it varies enormously from incubator to incubator. We have trialed a number of different approaches and systems in our incubators over the years. For the last few years, we have been operating on a basis that seems to have succeeded more than anything we have tried previously. As part of our service—and this is built into the rental component for the incubator tenants—we provide mentoring or business coaching to all of our tenants.

Part of our incubator manager responsibility is to be involved with the individual tenants, to help them identify their problems. We either coach them directly or put them in contact with people who are able to provide the skills. That is great as far as tenants of incubators are concerned. Obviously, we are only reaching a small proportion of small business, but at least the people are getting those skills. I think that approach has partly contributed to the very high success rate of our tenants.

Senator CONROY—Given the subsidy of the rent, which is an important part of the incubator process, should it be mandatory? Do you think some training in various management skills—dismissing and hiring staff, that sort of thing—should be a mandatory component? Some academics have written that the biggest problem for small business is not the running of their business, it is knowing how to handle the administration—the hiring and firing. There is a problem when inappropriate people have been chosen—for instance, the small business manager might say, ‘We’ve got an order. We’ve got to get in someone quickly.’ And they hire just about the first person they can get their hands on if it is a tight labour market, and that person is not necessarily the best person. Is there a role there for mandatory training in those areas or is the mentoring enough to get them through?

Mr Sloan—I think it probably goes back to what Senator Campbell was touching on earlier about whether small business people should get a licence to operate a business before they establish their business. They should go down that path. I would love nothing more than to have people going into small business fully understanding what a business is all about. While it might involve a bit of heartache up front for the individual to undertake that particular training, down the track I can guarantee that the individual will be better off. A lot of the headaches occur after the event. And it is harder to dig yourself out of a hole than to recognise a problem up front.

Senator CONROY—A lot of people in a similar position to you have said to us that the first call they get is from people after the crisis has enveloped them. And it is almost impossible to save them at that point. If they come to you, you can give them the best advice in the world at that point, but the idea is to stop them from getting to that point, to try to get them into the loop earlier and for them to know where to go for help.

Mr Sloan—But whether or not it becomes mandatory—that might be a hard call. You will have the situation, as has been mentioned earlier, where you will have licensed and unlicensed business operators. I would liken it to the quality certification that businesses get now. Businesses who are prepared to get the quality certification and to go through a process can use that as a selling tool. When they deal with government, it becomes a valuable thing. Maybe there is room there for businesses to get some form of certification if they undertake those sorts of courses. At least the customers who deal with the business will know that the business is properly trained and certified.

Mr Davis—Rather than making it mandatory for the small businesses or the tenants, at least so far as the business incubator environment is concerned, the government focus ought to be on equipping the business incubators to be able to provide these skills. At the end of the day, you cannot force people to acquire this training. But at least if the facilities, the support and the backup are available in the business incubators, most businesses that want to succeed would take advantage of these situations.

Mr Miller—I guess it is a generational change in many ways. You have got a lot of businesses. You have got tens of thousands of businesses out there that have never been exposed to those types of concepts. They believe that they have built their businesses on their own experiences. You have got current generations who are coming into business, who understand the need for that training. So I guess you have got an introduction process that would go through. Over a long period, you will get businesses accepting the need, before they start a business, to be ready to do business. You have tens of thousands of small business people out there who have been involved in small business for 20 and 30 years, who have never been exposed to this.

Mr Sloan—It is probably summarised by saying that business just needs know: where do I go? Perhaps it could be a one-stop shop or a one-stop site to get the basic information on the day-to-day issues of small business, without having to go to accountants or lawyers or whatever. If they knew exactly where to go, if it wasn't incubated, if there was a website, if there was an office somewhere they could ring up and at least get 95 per cent of their day-to-day questions addressed immediately, that would solve a lot of the problems of small business.

Senator CONROY—In talking with the microbusiness association—five employees and under—particularly home based business and people who run their own businesses as well as represent organisations that coordinate them, they felt a serious impediment in trying to attract them to your incubator style processes is the fact that they did not want to leave home. There was a lifestyle issue. Some of the incubators were in a position where they could not attract enough people to make them viable. That was one of the reasons they fell over—they found reluctance from people to actually take that step. It wasn't hiring three or four people; it is hiring the first person, because hiring the first person usually means you have to move out of your home. So there was a large proportion of businesses that were quite content not to grow, quite content just to continue to work from their own home. Have you experienced that yourselves in trying to attract people into the incubator process? Do you just wait for people to come and knock on your door or do you approach people and say, 'Look, we have this great facility. It provides all this backup and assistance and training and mentoring', and they say, 'No; we are quite happy where we are'?

Mr Davis—It is an issue. What you say is right. For some people, a home based business is a lifestyle issue. They do want to operate from home and the issue of growing the business is secondary. We have done a couple of studies here in the ACT and also on the Sunshine Coast in Queensland to identify home based businesses with growth potential. As a consequence of that study, it was possible to identify about 20 per cent of home based businesses that did want to grow and that were happy to move out of home. Having identified that group, you can then work down and see what sorts of skills and facilities they require. In terms of targeting any programs it gives you a much greater basis for success in relation to those home based businesses that really do want to grow.

In relation to those that do not want to grow, through our business incubators—and I know this is the case with some others, but not a lot of others—we provide virtual incubation facilities, which means that people who are not actually located in our incubator can, in a compartmentalised sort of way, access different services. It may just be a phone answering service—which can be quite important for a sole operator operating from home—or it may be the mentoring service. It may be access to our meeting rooms and conference rooms and things like that. They can purchase, on an ongoing basis, access to these facilities that are normally available to our tenants. We haven't developed it as far as we would like to have developed it, but we have developed it in conjunction with the home based business association here in the ACT.

ACTING CHAIR—My question relates to the comment you made, Mr Sloan, regarding the one-stop shop and its benefits for small business and microbusiness. Can you provide any comment or feedback on the business entry point arrangements that you are familiar with, and how beneficial that is for small and microbusiness? How could it be improved?

Mr Sloan—In respect of the ACT government, certainly for our own businesses it is fairly easy to get into business, as you well know. You just basically say, 'I'm now selling widgets,' and you are off and running. As I said before, it is probably a matter of what skills and what knowledge the person has of what a business is and what being in business is all about.

ACTING CHAIR—Do you think that small and microbusinesses know about the business entry point service offered by the various state governments around the country, and do they use it?

Mr Miller—I believe they do. Some choose to use it and some choose not to. I cannot explain the reason why some choose not to.

Senator BARNETT—Do you think it is a valuable service?

Mr Miller—It has some merit.

Mr Davis—On that, we were making the point before that there is a multiplicity of these entry points. There is the federal government entry point and the state government entry points. At the state government level, most state governments have several entry points. This dispersal of access to services and the lack of links and the lack of interactivity between them does create enormous confusion for small businesses which, as Senator George Campbell said, do not make a clear distinction between federal and state governments in relation to services and things like that. They assume they have gone to an entry point and that gives them the full range of services. They are unaware that there are all sorts of other information available to them, but not through that particular portal. The situation needs to be rationalised.

Senator BARNETT—Thank you. In light of the time, I will limit my questions to that.

CHAIR—Thank you.

[10.02 a.m.]

BOSHIER, Mr John, Chief Executive, Institution of Engineers, Australia

COOKE, Mr Edwin Denis, Contract Engineer, Institution of Engineers, Australia

PALMER, Mr Malcolm, Research Officer, Institution of Engineers, Australia

CHAIR—Welcome. The committee has before it submission No. 16. Are there any changes you wish to make?

Mr Boshier—No.

CHAIR—The committee prefers all evidence be given in public, although the committee would consider any request for all or part of the evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. Do you wish to make an opening statement?

Mr Boshier—Yes. We welcome the opportunity to speak with you and we thank you very much. We welcome this inquiry into small business employment. In our profession, engineers have seen a huge change in the way our people are employed. Five years ago, roughly 70 per cent of engineers were employees of government; now, five years later, 70 per cent are employees of private enterprise, many of which are small businesses. As you know, small businesses contribute significantly to economic growth in Australia. According to the ABS, as of June 2001 Australia had over 1.1 million small businesses, 66 per cent being single operator businesses.

We are here to talk to you today about the personal services income legislation, which has impacted very significantly on engineering and IT contractors who are part of the small business community. Our Institution of Engineers has 69,000 members. We are the second biggest professional organisation in Australia. Around 9,000 of our members are contractors who are affected by the legislation. Engineers and IT specialists have often become contractors because of the changing nature of employment, as I mentioned at the start. So government and industry employers who once used engineers are now more likely to use contractors for a specific task. The reason for this is the privatisation programs and so on that have occurred in Victoria, New South Wales and states like those.

Engineering contractors gain their income from offering their individual personal skill and effort based on their qualifications and experience. The nature of a small engineering contracting business means that these engineers, more often than not, are unable to pass the four tests set out in the legislation. The employment test causes problems for engineers because they do not often employ someone to assist them in over 20 per cent of the principal work, as specified in the test. Sole practitioners or small operators are highly specialised. My colleague Denis Cooke will be able to speak to you with considerable personal knowledge. If they do employ another person, it is usually to help with the administrative work of the business.

In terms of the business premises test, many engineers in this category that we are talking about—the small business and sole trader category—spend much of their working time in the design office of a client or on site at a major construction, mining or IT site. They do not require separate, mostly unattended offices—indeed, they cannot afford them.

The unrelated clients test proves to be difficult because many engineers are engaged on one project for long periods of time. You might ask, ‘How can that come about?’ The reason is that many major engineering projects such as a bridge, a mine, a computer site or telecommunications facility require time to design and construct. Clients like to bring in the engineer and stick them into the team and have them work on site. We have lots of examples of this and I have met many people like this. There are long design and long construction times for major infrastructure projects.

Finally, the results test causes problems because of the definitions of tools of trade and rectification. It is not clear whether the tools of trade that engineers commonly use, such as drawing implements or computer design packages, are applicable to this section of the test. In terms of the rectification definition, engineering contractors usually involve the application of an engineering principle to a design or a production activity for the provision of advice. There is generally no contractual requirement for an engineer to physically rectify a problem which is associated with their work. So, we have formed the view that this legislation poses a significant market imperfection to the application of professional services. I posit to you that there is a deadweight loss in the tax system because of this. As Denis will tell you, many engineers either restructure the contract to get rid of this kind of activity or they will just not take on the work at all. We believe that Australia is the worse for this and that there is a deadweight loss as a result. The difficulties which our 9,000 members are facing from the legislation impact on their employment opportunities and affect the industries that rely on these kinds of engineers and contractors.

In conclusion, the institution lobbied the government and opposition parties before the legislation was passed. What we are seeking now that it has been passed is a legislative change to the unrelated clients test and the results test. The evidence we have given to you in our submission dated May 2002 includes at the end of that submission, under ‘Recommendations’, the changes that we are seeking. The changes we are seeking to the unrelated clients test are on page 3 and they involve averaging the work over a three- to five-year period. I will not go into the detail; it is there for you. We want provisions on how an engineering or IT contractor could meet the results test to be incorporated into the legislation by way of amendment. There are four provisions in there as our recommendations to you.

CHAIR—Thank you, Mr Boshier. Mr Cooke, do you want to add to that?

Mr Cooke—My addition to what John has said would be more towards the effect that this legislation has or will have on small businesses. I will elaborate for a couple of minutes on what that would be. Some years ago my business undertook a lot of work for a large government utility. That business involved supplying the expertise that I personally have. It also involved providing expertise in developing new businesses for that organisation. Under this particular legislation, it would be doubtful for those two years that I was involved in that particular activity if it would pass the plethora of tests and rules and regulations within the APSI legislation. Very simply, if confronted with the same request again, we would probably have to

say, 'No, we can't do it.' The irony would be that should a similar request be made to, say, someone like me who happened to be employed by one of the larger engineering firms, they could do it. So from that point of view this legislation is quite discriminatory on small business and what they can and cannot do in terms of providing professional services. I think that as a result Australia is going to be far worse off.

CHAIR—Thank you, Mr Cooke. Mr Palmer, do you want to add anything?

Mr Palmer—Not at this stage.

CHAIR—We had a submission in relation to this matter from APESMA when they appeared before us in Melbourne, so we are not unaware of the issue. One of the issues that they raised was the fact that many engineers are being forced to incorporate in order to meet the requirements of the personal services legislation. Is there a similar experience with your membership?

Mr Boshier—I do not have numbers on that. I might have to take that request on the advice.

CHAIR—Would you be able to get those numbers? Would that be a hard task or an easy task?

Mr Boshier—We might have to do a survey.

Mr Palmer—We may have to gain additional information on that. Can you restate the question, please?

CHAIR—The issue they raised was that many of their members who were operating as engineers were now being forced by labour hire companies and by the companies they were working for to actually incorporate, to form themselves into companies, in order to overcome the personal services legislation. They did not say that this necessarily was an appropriate way to deal with the issue. I was wondering to what extent similar experience has been felt by members of your organisation.

Mr Palmer—I only have anecdotal evidence at this stage. Some sole practitioners were suggesting that they may have to join forces, but in order to gain detailed information we would, as John Boshier suggested, probably have to conduct a survey of the membership to find out how many members had gone through that process.

CHAIR—Would that be a lengthy exercise?

Mr Palmer—It could be a lengthy exercise. We conduct surveys on a range of issues within the policy unit, so it would take time. We would have to, if you like, encourage our membership significantly to contribute to that. So we would put forward a survey to the membership. We would ask members who are sole contractors to further contribute and to say, 'Are you now working together with other sole practitioners in order to meet the requirements?'

CHAIR—It would be useful to have the information but I do not necessarily want to put you to any complex requirement in order to achieve the outcome.

Mr Cooke—If I can add a comment to that, my understanding of the APSI legislation is that whether an individual was incorporated or not makes no difference in terms of the application of that legislation. A corporate identity provides no protection, if that is what an individual was looking for, from the requirements to comply with that, so it makes no difference.

CHAIR—That may well be the case, but the APESMA representative said that many of their members were being forced to incorporate. Whether that gets them over the hurdle or not is another matter.

Mr Cooke—I do not think it would, and in fact they would probably have to form some arrangement, maybe a business of half a dozen. I really do not know.

CHAIR—I think the other point he was making is that they have to substantially restructure their contracts also.

Mr Boshier—I think that is the point that maybe is behind what you are saying, Senator. I interpret your question as being not that you should turn yourself into a company—as Denis says, that really has no difference—but that you should incorporate by clustering together a group of similar people, getting some staff and buying an office. If that is what they meant by incorporation, then I do not know the answer to that.

CHAIR—I think they also meant that they were having to renegotiate their contracts and restructure their contracts with whomever they were contracting their work to in order to put themselves outside the legislation and that they saw that as an unnecessary expense.

Senator BARNETT—Thank you for your comments about incorporation. I agree that there is no difference if you are a sole proprietor or incorporated—the legislation obviously applies to both in those four tests as to what is important. The arguments in your submission are reasonably persuasive and the three examples you have provided are good examples. Being new on the scene in the Senate from February this year, though I have a small business background, I was wondering what response you have had to date from the ATO, the Treasurer's office and from other officers when you asked the question and put your arguments forward. Can you expand on that?

Mr Boshier—Yes. There was some alteration to the legislation, which the Treasurer announced once the arguments had been in the public arena. You will remember that Mr Costello did announce some changes; however, those changes did not help at all in regard to what we are on about. They provided a little simplification to the legislation overall but in the area of small business they really did not assist the situation. At that stage, we got the impression that both the government and the ATO had said, 'We have met you part way, that is the end of it and we are moving on.' To us we have not achieved a satisfactory outcome at all. There is no doubt that the ATO and the government did listen, but when we talked to the ATO they said, 'That is a governmental thing; that is in the legislation; it is not our business.' Then of course we spent some time talking to ministers but we have not received the outcomes that we were seeking.

Senator BARNETT—So you are looking at actual legislative change rather than clarification from the ATO, because your recommendation on page 3 of your submission talks about clarification of the legislation. Have you discussed that with the ATO and what have they said, or are you seeking amendments to the legislation?

Mr Palmer—We had in-depth discussions with the ATO last year. We conducted a teleconference with the Assistant Commissioner for Small Business and a specialist in taxation from the tax department about this and we went through our problems. Denis and I were in attendance for this teleconference and we went through the changes that we wanted made and some of the problems we had with the legislation. It was made clear to us at that point that it was going to be very difficult; they could not provide us with all the answers in terms of the changes that we were facing. Initially, we were looking for a clarification and this was part of the process through the teleconference and through our other lobbying efforts, which John has mentioned. In effect, we are asking for a clarification but the clarification has to occur through legislative change because from our discussions with the ATO and with the tax department, it has come to the point that we need legislative change in order to gain that clarification for our members.

Mr Cooke—I was part of that teleconference with the tax department last September and there are a number of issues that, to our minds, are still unresolved as a result of that conference. First of all, a professional providing professional advice—say, an expert witness in a court—would not pass the results test and would not pass this legislation. The definition of what actually is a result is a difficult issue. One might think that it is easy. From the ATO's perspective, it would seem that, if I were a manufacturer producing glasses, for instance, that is an object and that would easily be seen as a result. When we come to the provision of professional services, we might be led to believe that yes, a result could well be a group of documents or something like that. From the ATO's perspective, that particular outcome or the result had to be noted within the contract for engagement of that particular consultant. That becomes quite difficult because often that may not be specified or not necessarily specified in such detail that could then satisfy somebody looking in future. So what is a result?

We were then faced with the rectification issue, which is another one of the tests, which says that the contractor has to be liable for the cost of rectification or rectification. Often in professional services, nothing is mentioned about rectification. It is implied. Small businesses value their reputation. If they sully it, their business generally deteriorates and the rectification is not documented. Invariably, there is nothing like liquidated damages or damages within any contract for the provision of professional services. To demonstrate how someone can rectify a particular task to comply with the legislation is a difficult matter. These are the issues we have addressed this morning.

Senator BARNETT—In your recommendation, you talk about the ruling from the tax office to fix that problem. This is what you have set down for engineering and IT contractors along the following lines. What about other professionals and other contractors who are affected by this legislation? Do you have similar recommendations for them or is this for only engineering and IT contractors? You have definitional problems and you cannot just have one rule for one group and another rule for others. What is your advice?

Mr Palmer—We did encounter other groups that had similar problems to us. Last year, as part of our actions in dealing with the legislation, we formed a temporary alliance with other representative bodies who were facing similar problems with this legislation. They included APESMA, the Association of Professional Engineers, Scientists and Managers Australia, which you have mentioned before, the Australian Computer Society and the Institute for Management Consultants. They expressed to us that they had had similar problems with the legislation and that their membership were asking a range of questions to do with the tests, including some that were similar to ours. The result of the alliance was a press release, as a joint statement, which was released in October last year expressing our concern about the legislation.

Mr Boshier—I think that our issues are much more common than we are saying here. We are only speaking for engineers because we can speak for them, but there is a huge rise in the number of small trading businesses offering professional services and, as we become more of a knowledge type of society, I believe this kind of problem is going to become much more widespread. It is not just a lifestyle choice; it is what major employers and contractors are wanting, a work force that they can almost switch on and switch off. You bring in a contractor, they work and then away they go and the contractor has to find jobs somewhere else. This is a trend in our society. I would maintain that this is fairly widespread. We are talking about specific engineering issues here today, of course.

Senator BARNETT—I accept that. You also, I presume, acknowledge the intent of the legislation to ensure that tax avoidance does not happen. While acknowledging that, you would need to find a system that is fair to all.

Mr Boshier—We totally accept that. That is why what we are saying in our submission is trying to be realistic and practical. It is quite specific and focused. It is not moaning about the fact that this legislation is in existence. It is just saying that it has introduced a significant market imperfection.

Senator BARNETT—So you would argue that your recommendations do not open up the floodgates for rotting of the system and for tax avoidance?

Mr Cooke—My understanding is that this legislation came about as a result of the Ralph inquiry and that it was to tackle the issue of individuals working as contractors in an employee-like situation. I guess that is not new, in one sense. My understanding is that there have been numerous cases over the years of people who have been called to account for that sort of practice. We are not talking about people who operate that way. Speaking for myself, at no time have I operated in someone else's premises as an employee responsible in a master-servant relationship. We are talking here about individuals who have their own business—I have a home based business. Under this legislation, if that were one of the tests, ironically I might say that someone in a home based business is based at home. I suppose, in one sense, they could go to someone else's office and work there but with a home based business. As I work from there, and I could demonstrate that, that would not be allowable as a means of demonstrating my bona fides. We are talking about people who provide services to the market as required, as needed. As a small business, I go where the work happens to be.

Senator BARNETT—Do those self-employed professionals make allowances for superannuation, relevant leave provisions and other—

Mr Cooke—Yes.

Senator BARNETT—So that is all part of the system?

Mr Cooke—It should be. I cannot speak for everyone. I can speak only for my own business—yes.

Senator CROSSIN—Have you raised this issue with the tax office?

Mr Boshier—Yes, we have.

Senator CROSSIN—Have you had a response? What has the response been?

Mr Palmer—As I mentioned earlier, we have had several responses. We have mentioned the teleconference that we conducted with the tax office, and last September we lobbied the tax commissioner directly at a small business coalition meeting with regard to the issue. We have also had individual members talk to the tax office about their prospects with regard to this legislation. On all those occasions, we were told that no further changes would be made. We have also had correspondence with—

Senator CROSSIN—Were you given any reasons for that?

Mr Palmer—We were given the reasons that the legislation would cater for the full contractors, that, as mentioned before, it was one size fits all, that it would cater for the contractors as it stood and that the changes that were made in the ruling presented last year by the Treasurer would stand.

Senator CROSSIN—When you say ‘caters for the contractors’ do they mean perhaps small businesses that operate as subcontractors in an industry, rather than a single person in business? Obviously, you do not agree with the tax office when they say that the legislation already caters for contractors. What are they defining as contractors? What is it in their answer with which you further disagree?

Mr Boshier—I do not think that that distinction you have just mentioned—that is, a sole trader or a contractor—is recognised, as I understand it, by the ATO specifically. All we are saying is that the tests are so rigid as to create a significant market imperfection and therefore are a loss, if you like, to the economy. All we are arguing is that we would not try to draw the distinction between a sole trader and a contractor in the sense that you were outlining, and I do not think the ATO is attempting to draw that distinction either, if I understand your question correctly. We are more on about the fact that we want to liberalise the environment for small business. We think that by and large small business is a very important part of Australia, which should be encouraged. As time goes on, those businesses may well merge together and aggregate but that should not happen for tax reasons.

Senator CROSSIN—We have heard from a number of people who submit that they believe that the government does not distinguish enough between small or medium sized businesses and that the government does not cater for the small business area. Is this one example you would point to?

Mr Boshier—Yes, it is. I think large businesses, by and large, do not have to pass these tests; the tests do not apply to them. So large businesses immediately have an advantage over a small business in that regard. A lot of people, particularly in the area that my colleague Denis Cooke is working in, do not have the need to form a large business. He trades his intellectual capital; there is no need for him to form a bigger business. So he has his own company—like a small professional in other professions. We think—and I think Denis said this in his submission—that this is actually discriminating against small businesses. You might like to elaborate again on that, Denis, but that is what I understand you to have said.

Mr Cooke—Yes, I do concur, John. The point I made earlier in the example I gave, very simply, is that if I was approached again by this particular organisation for the provision of my services through my company for an extended period, I would almost certainly say, ‘No’—depending precisely on the specifics—but a person similar to myself in, say, a large engineering firm could accept the consultancy.

Senator CHERRY—That was, in terms of the submission you made earlier, your only comment relating to our terms of reference. I am quite interested in exploring that point, which you have already done with Senator Crossin. My only interest in your submission is whether it does in fact result in large engineering firms getting contracts which would otherwise go to smaller engineering firms. In regard to your earlier point when you said that the personal services income legislation was about picking up people who work as employees, coming from a public sector background I am well aware of the concern that people disappear on Friday as an employee and turn up on Monday as a consultant in the same job. That argument applies equally to your industry. I am wondering whether you can provide some examples—I know to some extent you covered this in your answer to Senator Crossin, but I want to repeat the point—as to how this legislation discriminates against small business. Whilst you have made the assertion, I am not yet convinced by your argument.

Mr Cooke—This legislation imposes conditions on a business over a financial year. A small business will have to be very mindful of satisfying the results test or being classified as a personal services entity. There is always the risk of being classified as a personal services entity with a significant change in what are allowable business deductions and so on. To remain a business, the small consultant will have to be mindful of the impact that the next job could have on their business, say, over the next 12 months. As I said earlier in regard to the particular project that I was involved with some years ago, if I was faced with those same circumstances today I would almost certainly have to decline the consultancy.

What was the nature of that particular consulting arrangement? There was a retainer for a couple of days per month to provide professional business services. That would now fail the APSI test because it was a time based retainer. That is one activity that the ATO has said would fail their test. If those services went beyond those two days per month then there was a time based fee for that particular part of the exercise.

The other part of the exercise was the provision of professional advice for certain specific projects, again under the umbrella of that organisation. Could it be structured to pass the ATO tests? Perhaps. I would have to look at it, and then it would have to be renegotiated along the lines of what APESMA has been saying about some of their people. But, in the totality of that particular project, if I consider it in light of the APSI legislation, was I ever at any one time

working in that particular client's offices for extended periods or even in a master-servant relationship? No. I worked, in the main, out of my own office with occasional visits to them. There was a lot of communication via the Internet. Again, I would doubt that it would pass the test. That was a major activity and it was quite profitable for my business at the time, and it just would not happen. The same services might well have been able to be provided by another firm; I do not know. They came to me for the specific expertise that I had in a certain professional area.

CHAIR—Thank you, gentlemen.

Proceedings suspended from 10.36 a.m. to 10.49 a.m.

HARRIS, Miss Denita, Policy Manager and Industrial Relations Advocate, National Farmers Federation

McCLUSKEY, Mrs Su, General Manager, Policy, National Farmers Federation

CHAIR—The committee has before it submission No. 63. Do you wish to make any changes to the submission?

Mrs McCluskey—No.

CHAIR—The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Mrs McCluskey—The NFF has a keen interest in small business employment, with 98 per cent of 200,000 farming businesses defined as small business. Agriculture is also one of the largest employers in Australia. For the maintenance and growth of employment in small business, it is critical that there is an increase in productivity. This can be through direct means, such as an increase in income or a decrease in costs, or by indirect factors, such as the influence of third party effects. Those third party impacts are the focus of our submission. The complexities of employing staff are a disincentive to employers. That came through quite clearly in a survey that the NFF conducted of farmers, where three key difficulties were identified: the remoteness of the farming businesses, labour and skill shortages in regional and rural areas and government regulations.

The first key issue that we have identified in our submission is workplace relations. We were disappointed with the rejection of the exemption for small businesses with less than 20 employees from the unfair dismissal laws because, for the majority of our workplace, that really is quite a concern for us. We believe it is imperative that parliament endorse reforms to provide procedural fairness for small business in the area of unfair dismissals and, therefore, we support the reforms contained within the current proposed workplace relations legislation introduced by the government, including the simplification of the agreement making process.

The second key issue for us is taxation, with compliance issues being a large burden on small business—more so than on any other business sector. There has been a big focus on GST but, in fact, there have been numerous other tax changes that have impacted heavily on small business. Unfortunately, their advisers are finding it difficult enough to keep up with it, and they may well be unaware of some of these changes and the impact they may have on them.

The third key issue we have identified in our submission is superannuation. The actual costs and administrative requirements of superannuation are a heavy burden on small business. We acknowledge the importance of superannuation for the ageing population, but we do not believe that it should be the responsibility of the employer. We therefore believe it is critical that employers are not faced with any further increases in superannuation contributions. In the farming industry, where we have many of our workers engaged in seasonal work for short

periods, it becomes critical that these issues are addressed, and we were disappointed that the ALP and the Democrats did not support a change to the eligibility threshold which would have minimised the costs incurred with the change to quarterly payments.

CHAIR—In your submission, you refer to a suggestion for a zone rebate system to draw employment into regional areas. What sort of information has informed this proposal?

Mrs McCluskey—The NFF released a discussion paper in May last year which canvassed issues of regional development and of possible ways of encouraging regional development. We have been very concerned about the move away from regional areas, and a concern for us is to try to stem that. One of the ways we looked at was to revamp the existing tax zone rebate scheme, which has been out-of-date. It was introduced in the 1940s and, while it was considered to be a compensation for living in rural and remote areas, it did nothing to provide a stimulus. What we were interested in doing was putting forward a proposal that would actually stimulate businesses to remain in rural and regional Australia or to relocate to those areas. That would provide growth for those areas and encourage an increase in services, such as health and education, for those areas. We are looking at revamping our paper and putting it out again this year. We were very encouraged by the government's launch of the regional advisory panel—we are part of the reference group—that is going to be looking at proposals for stimulus for regional development.

CHAIR—Are you aware of the submission from ACCI? In submission No. 76, they report that a 2001 survey of regional businesses found that:

More than one in three respondents to the survey said that government subsidies, tax relief and zone rebates were of no concern in the decision to locate.

What do you say to that?

Mrs McCluskey—That is quite correct, which is why we were concerned about the zone rebate—that the amount and the areas it is given to play no part in providing that stimulus. We were keen to revamp that scheme using it as a base but looking at how we could provide a stimulus to businesses and to people to be able to relocate or remain in one of those regional areas and to gain employment. We agree with ACCI that the existing zone rebate scheme is not currently providing any incentive for people to remain in those areas.

CHAIR—So you are not necessarily saying, 'This is the way to go'? But you are saying that you want to look at the issue of incentives that may be encouraging businesses to locate in regional areas?

Mrs McCluskey—It would be fair to say that the existing zone rebate scheme could be replaced by a better scheme because the existing scheme does not really provide for the objectives it was initially set up to provide for.

Senator CROSSIN—I am interested in the tax zone rebate. It has not been increased, particularly in zone A, for nearly 20 years. My understanding is that it was initially instigated to look at skill shortages and attract individuals rather than be a business incentive. Can you give

me a run-down on where you believe the link between looking at a zone rebate might assist in business areas.

Mrs McCluskey—It would be fair to say that not only has the amount not increased, but also the boundaries which define what falls into zone A and zone B and special zones A and B have not been re-examined. You now have what can be considered large regional centres that fall within some of those special zone rebate areas, simply because of the way the population mass has changed, and the zone rebate has not been changed to reflect that.

In starting with the existing tax zone rebate scheme as a basis, we would need to redefine those boundaries. We have suggested in our discussion paper that one method of doing so would be to use the ARIA scheme which looks at access to services to define what really should be a rural, remote or regional area, and then look at a payment, accordingly. What we would like to do as a stimulus for business is to tie it not only to individual taxpayers but also to businesses—so it does not matter if you are a company, a trust, a partnership or an individual, there should be the incentive there to allow you to relocate. Some states have used it to some extent, such as in Victoria where it did work very well. They used it to encourage businesses to locate out of the Melbourne metropolitan area to areas such as Ballarat. That is another model we are going to examine in the relaunch of our paper.

Senator CROSSIN—Was your initial paper given to the government?

Mrs McCluskey—Yes, it was.

Senator CROSSIN—And what sort of response was there?

Mrs McCluskey—We did get very good feedback last year. We had a number of meetings with all sides of government to discuss our paper and got excellent feedback on it. We now want to look at further work, and we also need to compare it with other proposals that are out there. There is one by local government in relation to enterprise zones. We have a concern about that proposal because we believe it is about picking losers. It should not be a matter of picking an area that needs more employment and throwing money at it. It should really be to have a strategic and long-term measure for how we can make sure that regional Australia can attract employment and businesses.

Senator CROSSIN—Are you able to make your original paper on the zone rebates available to this committee?

Mrs McCluskey—We certainly can. I will have it sent through.

CHAIR—To what extent does the National Farmers Federation represent businesses other than farmers?

Mrs McCluskey—Our membership is based on farmers themselves. In a lot of issues that we have been dealing with, particularly in the tax and industrial relations areas, we have identified closely with small businesses because the majority of our members and farmers are small businesses, so the issues have become broader than just farming. Issues such as the tax zone

paper canvassed the concerns of rural and regional Australia and not just the concerns of farmers.

CHAIR—But you are not appearing here to represent the interests of, say, newsagents or retail shops in regional Australia? You are specifically here representing farmers?

Mrs McCluskey—That is correct. We specifically represent farmers.

CHAIR—To what extent do the multiple layers of government regulation impact upon farmers and to what extent is that an impediment to farmers operating effective businesses? I am talking about state, local and federal government. Do you have any views about whether or not those regulations should be or can be rationalised? What level of government should have prime responsibility for the delivery of small business programs?

Mrs McCluskey—I think it would be fair to say that to a large extent in certain areas those laws could be rationalised. The impact of local, state and federal government regulation on business is very onerous. They have to grapple with a whole range of different legislation and regulation that affects them. They find it very hard to work out who they need to go to to be able to get advice or guidance in relation to its effects. Classically, certain laws have a state impact. One of those is certainly in relation to workers compensation and other insurance, where state taxes apply. Then you have federal taxes. Our members are quite concerned about that interaction and how it can be rationalised.

Miss Harris—A good example of the industrial relations area is understanding which industrial relations system you are supposed to be under. Sometimes that is made clear if you are a member of an organisation. However, there are a great deal of examples with both state and federal legislation where there might be a state pastoral award as well as a federal pastoral award. There should be clarity in terms of defining where you fit under them. With respect to how some organisations have utilised that to the advantage and disadvantage of various different businesses, it is quite complex. Industrial relations is just one area we are involved in where we are finding that there are levels of complexity, but I guess it is across the board.

CHAIR—Just on that issue, Miss Harris, we had a submission from CPA Australia in Melbourne. They said quite clearly to us that the issue of hiring and firing was not the major issue for small business—it was the lack of understanding of how the rules apply. It was not the inability to hire or fire. It was the incapacity of small businesses to understand the complexities of the legislation that applied to them—and not only in that area, but in a range of areas.

In the evidence we have had before this committee so far there seems to be a set of circumstances where the vast majority of small businesses have no formal training at all in managerial skills. They may be very good at farming or plumbing or whatever, but in running a business they have a total lack of understanding of the basic skills of managing a business. Would that be a similar experience for farmers? Is there any formal training that farmers undertake? Do you provide any courses for your membership in terms of understanding some of these basic managerial issues?

Miss Harris—Obviously in our submission we did focus to some degree on the education and training issue for employers in terms of how to employ people productively. We are

involved at both a state and national level in terms of providing, I guess, informal training to our members in terms of hiring and firing—the whole gamut of employment issues that they are affected by. That has been supplemented by a range of areas that we are looking at in regard to farm business programs. For example, I have a meeting this afternoon about a program where we are looking at recruitment and induction guidelines for employers, particularly for farming communities. We are finding that they do not have easy access to recruitment services, both private and government run—mainly private these days—and therefore they are finding it very difficult to go through the basic recruitment and orientation process of employing people. We are hoping these guidelines will provide them with incentives because if you recruit the right person and train them correctly, then usually you will not have the problem of firing them at the end of the day. So we might resolve some of the unfair dismissal problems in getting the right person for the right job in the first place.

From our survey we found that a majority of our members attended formal training for events associated with farming such as occupational health and safety issues, machinery and so forth; they were not focusing on formal management training. Obviously some are going to farm management courses available at some of the universities and colleges, but at this stage my understanding is that in those management courses there is very limited formal training in employment of staff. Hiring and firing, I guess, is a by-product of the bigger problem, and the bigger problem is that there is just so much out there that they have to be aware of. A lot of the time they are not aware of it and, therefore, they get themselves into a real jam. Industrial relations, the employment of people, is indicative of where that problem arises for small business, as is tax, which I think we have covered as well.

CHAIR—It has been suggested to us—I am not so sure how it would work in your particular area, given that many farms are handed down from generation to generation—that perhaps we ought to look at some sort of licensing arrangement where people, before starting up a small business, have to undertake or be able to demonstrate they have undertaken some basic training in the area. What is your response to that?

Miss Harris—I do not think the NFF would support a prescriptive requirement for licensing. But I do think, in terms of both employer organisations and government, that we have to encourage people to undertake training prior to looking at a business. You will find that a lot of accountants these days advise people, prior to purchasing a business, to look into it well, and not only the numbers side of it but the general running of the business: do they have the skills to do that? From previous experience, both with the NFF and from working with the Hotels Association, we have found that a lot of the work done prior to purchasing a small business and going to training and so forth certainly assists. But I do not think we need to go to the extent of actually prescribing a licence prior to purchase. That would be too prescriptive.

CHAIR—I now remember that you worked for the AHA at one stage. In Melbourne we had a submission from a representative of the AHA that was quite interesting. That representative argued—along with some others, I might add—that, if we were of a mind to put something like this in place, it would be better delivered through the organisations that represent small business than through a government agency or some other agency. This was argued primarily on the basis that such representative organisations best understood the requirements in buying a pub or running a hotel successfully because of having had practical experience in buying and running them. It was submitted that they would be a better source of advice at that level for anyone

contemplating getting into that business than, say, someone out of a government department or someone who may have the technical expertise but not the practical expertise. What would your response be to that?

Miss Harris—It is crucial that any training you have be practical. It is very simplistic, it is very easy and it is very accessible. Obviously getting advice from employer organisations as opposed to government organisations would be more attractive to people going into businesses. In areas such as accountancy or hotels, or whatever the case may be, to a certain degree they are already regulated. As part of the handing over or taking of a new hotel licence, there could also be the requirement that they undertake certain courses, like the responsible service of alcohol and those relating to general business.

Farming is a little different. It is very much a stand-alone enterprise. Prior to establishing that business, no licences are required. Therefore, it would be somewhat difficult to attach requirements prior to taking up businesses. Also, as you say, a lot of these farms are passed on from generation to generation. But as employer organisations, with the assistance of government, we do need to provide as much accessible training as possible. The problem with the farming community is that it is great to have these in regional centres and the metropolitan areas but, when you are 200 or 300 kilometres from town, it is very hard to access easy training. Certainly, at the moment, we are doing a lot of work on workers compensation and one issue of concern to farmers is having general access to support services—and, in terms of training, this would be no different. So we need to make it very accessible. The recruitment and orientation guidelines we are developing at the moment are in a simplistic book and it will also be on an interactive CD-ROM. They can simply put that into their computer and go through it, without there being the need to have one-on-one training.

Mrs McCluskey—Perhaps I could just add something in answer to that question. An excellent example of business organisations delivering a program that was a government initiative was the GST program. The GST Start-up Office provided the funding, and the organisation and the delivery mechanism were through business organisations and associations. That was an excellent program. The NFF, through the state organisations, ran that around the country. That really is why we can say that farmers, by and large, have a good grasp of the GST—better than any of the other tax changes. It is also why we have put in our submission that we believe an education and awareness strategy should be part of any change in government regulation. We accept that the type of program that was run for the GST will not apply to all other changes. But government working hand in hand with business organisations for delivery will certainly get the messages across in a language that the businesses understand and probably relate to better than if the messages were to come directly from government.

CHAIR—In discussions we have had elsewhere, and certainly in the roundtables, a lot of small business people said that their perception at least was that there was strong growth in the cash economy, the black economy was growing strongly, and that that was being driven by the complexity of regulations and with the paperwork, for compliance purposes, piling up on small businesses. In Perth, one small business person said to us, ‘We’re being forced to be dishonest’—just by the weight of compliance that is being thrust upon them. To what extent is that paralleled within the farming community? Is there a growth in the cash economy? Is there a growth in barter between farmers, in the exchange of goods for goods?

Mrs McCluskey—Without having done figures on this, of course, we would not anticipate necessarily that there would be growth in that area. Of far greater concern to us than comments in relation to compliance with laws and regulations that people are aware of is the lack of compliance with regulation that small businesses are unaware of. Being unaware of it, they unwittingly go about their business with no idea that there is a whole raft of regulations or that there have been changes that impact on them. That is our greater area of concern. That is why we put so much effort into trying to communicate with and inform our members and farmers across the country, through any means we can, about changes to the law and where they can go for further information. Under any investigation, under any audit, we are quite concerned that this non-compliance, due to lack of awareness, is probably the greater issue.

CHAIR—How do you keep up with the plethora of regulation that occurs at federal, state and local government level?

Mrs McCluskey—It is very difficult, and yet that is what we get paid to do. People in business spend their time trying to earn their money, making a living and focusing on the bottom line. It is very easy to see how they would not go and surf various web sites just to see whether a change has been made to the law that may impact upon them. That is a lot of the feedback we get from government departments: ‘It was on the web site.’ We say, with all due respect, small businesses do not go looking for that; they need to have their attention drawn to it. So it is very hard.

CHAIR—So there needs to be a proactive approach from government.

Mrs McCluskey—Exactly. We as an organisation are more than happy to work with government, and we have done so. We work with the Office of Small Business and various government departments in order to get messages out. There is only so much we can do in terms of how we are resourced. But we have always been willing to make sure that we can communicate, to farmers, any changes.

Senator CHERRY—I come back to your tax rebates proposal. I read your paper and I read the other paper on enterprise zones, and I thought yours created an awful lot of free riders in terms of people who are getting an increased rebate for a business that is already established in the zone or the region. Why should the government put more money into increasing tax rebates for people who are already in the regions as opposed to targeting the assistance to the creation of new enterprises? Will you be dealing with that issue in your subsequent paper?

Mrs McCluskey—That is certainly an issue we will be looking at in our relaunch. The discussion paper was really to canvass those sorts of ideas and to look at the feedback we would get back. One of the major parts of the feedback we did get was why everyone should be able to get the zone rebate. We are certainly open to examining the sorts of threshold tests—

Senator CHERRY—I thought it was a waste of money to do that.

Mrs McCluskey—One of the classics we got was why business should be able to get this if they are actually located in one of the capital cities and they think that they could relocate a head office to a regional centre. You would certainly need to have checks and balances in place to make sure that who you were targeting was where the money was going. What we are

looking at now is what the objective should be and what our target should be in terms of providing an incentive. That is something we will look at. The concern we had with the enterprise zone was that it was actually setting up a panel to determine who should be the area or businesses to be targeted rather than allow an equitable basis across the country for people to be able to perhaps meet certain criteria to allow for an incentive.

Senator CHERRY—It is a discussion for another day, I suppose, in terms of the detail, but I look forward to that discussion. The other aspect of your submission which leapt out at me was your bit on non-commercial losses. I must confess I have never been entirely sympathetic with the NFF's views on this. I just look at my own situation where, if my partner made a loss out of her consultancy business, she cannot claim that loss against my income. I cannot for the life of me see why, if a person living on a farm is working as a teacher, that income should virtually be able to be reduced to zero merely because of a loss made out of the farming business. I am wondering how you can justify arguing to us that that concession should now be expanded.

Mrs McCluskey—The arguments in relation to the non-commercial losses provisions are mostly around the fact that the legislation is fundamentally flawed. That has been our concern about it. We fully support the policy intention of the legislation. Unfortunately, the legislation has not delivered on that policy intention, and the tax office—and I do sympathise with them—have a lot of difficulty in trying to administer this particular piece of legislation. The difficulties arise around the fact that the intention was to ensure that those that were not really businesses but hobbies were completely cut out of the net. Figures from the tax office have indicated that there have been a whole lot of businesses that no longer have returned any business items in this last tax year, so it has fixed that issue.

The problems we have really are in relation to, say, applying for the commissioner's discretion where we have a number of what we would consider to be viable farms that are being knocked back for the discretion. I had a classic case last week which was steer backgrounding, where the tax office said, 'We're only going to allow a six-month lead time.' Yet what is happening with the legislation is that you have a \$500,000 property test that allows people who live on the fringe of cities to go and revalue their 20 acres and they meet a test which means that they can claim asset losses against their high salary. There are problems with the legislation that concern us. We have no issue about the fact that it was intended to make sure that non-commercial activities should not be entitled to claim any concessions under the tax act. What we are concerned about is that we have viable businesses that are being stymied in terms of their growth because of this while at the same time there are loopholes to allow other businesses to get in which are not really businesses.

Senator CHERRY—You also make the point that the legislation specifically excludes passive investments, which does seem discriminatory.

Mrs McCluskey—That is correct. If you have a rental property or a share portfolio, that is not caught by the non-commercial loss provisions, which means you can claim losses on that, you can negatively gear that property and you are still able to offset that loss against your noninvestment income.

ACTING CHAIR (Senator Barnett)—Thank you for your comprehensive submission from the NFF. I want to touch on a few of the points that have been raised. I will go first to the IR is-

sue. It has come up as an issue around the country in the different hearings that we have had from small business and microbusiness, and this issue of the fear to terminate is a real, live issue from small business. I seek clarification from your perspective as to whether or not the termination issue for small business, whether it is real or perceived, is an impediment to growth. Secondly, I notice in your submission that you do support the government's workplace relations legislation or amendment legislation, and I seek your confirmation in that regard.

Miss Harris—We would certainly continue our support of the workplace relations bills currently before parliament on many of these areas. Obviously, we will be putting submissions to various parties as they start going through the process. In terms of the unfair dismissals, yes, there is a real fear. Businesses do not employ people initially, because of that fear. The fear relates predominantly to compliance; again, we come back to the complexity of compliance in terms of employing people right from the start. Do you employ them properly? There are superannuation issues, workers compensation issues and so forth.

It is interesting when you come to unfair dismissals. We are currently looking at some case studies and, in many respects, people are saying that when they want to dismiss someone they will not do it, because they are too scared of dismissing them incorrectly. They may seek assistance from the employer organisations—our state affiliates—decide that it is all too hard and, again, not dismiss them. Also, you hear stories, for example, saying, 'This person has done the wrong thing, we really do not want to go through the complexities of dismissing them correctly and so we will make the position retrenched.' They make the position redundant, pay all the redundancy out and do not employ anyone as an alternative in that position. So there are difficulties.

It can be resolved, to some extent, with regard to the issue I touched upon earlier—recruitment, induction and orientation. If you get those processes right, you may well minimise the need to dismiss somebody in the first place. Nevertheless, the procedural requirements for dismissing someone are quite complex. It is difficult legislation to read—it is difficult enough for IR practitioners, let alone small businesses. When you then put that in the context of the other commitments they have for their business, it is very difficult.

ACTING CHAIR—I move to the issue regarding home based businesses. I will just clarify that. I assume that the majority of your members are home based businesses; if so, do you know what proportion of your membership are home based businesses?

Mrs McCluskey—We would say that probably the vast majority would be considered to be home based businesses. Even where we have multiple properties owned by farmers, they still tend to have the business centred on where they live.

ACTING CHAIR—We have had a whole host of submissions to date from various small businesses, including home based businesses, which represent over 60 per cent of all small businesses. I want to drill down with regard to the concerns and problems for home based businesses. We have touched on it already; that is, the consultation and communication process. You talked about the department saying, 'It's on the webpage; just surf the Web and you will find out about the change in the law.' With my small business background, I am very sympathetic, because I know that small businesses simply do not go surfing the Web to find out what changes in the law have occurred in recent times.

The government has a responsibility to legislate, regulate and protect the public interest, and a responsibility to educate and inform small business about the law and changes in the law. Do you have views with regard to models, best practice or ways and means by which we can do that better and help small businesses deal with the compliance burden of the regulations? In your submission you have talked about *Giving small business a voice: developing strategies for informing small business about regulation 2000*—the document guidelines prepared by the Office of Small Business. You also talked about the merits of a better education system and you have touched upon the business entry point. I know that I have covered a fair bit there, but can you respond to the questions I have raised?

Mrs McCluskey—I guess the key area would be formalising the relationship between government and the delivery mechanism, be it through business organisations and associations or where that voice can be heard. Certainly the document *Giving small business a voice* was a very good starting point. The unfortunate thing is that it has not been carried through with departments. Certainly the feedback we have had is that very few departments actually refer to that in relation to their regulations. The work was done initially by the Office of Small Business, I think. That work is very good, but it is unfortunate if we do not have some sort of responsibility placed on those departments to follow that. The same issue has arisen in relation to the regulation impact statements and identifying the impact on small business. That is not necessarily being carried through. Until we actually get that, we end up having a whole lot of good initiatives that start but do not get carried forward. I think there certainly have been some very good starting points. As I have said, we have had some very good individual relationships with different departments on different issues where we have been able to deliver a good outcome, but there should be a more strategic approach across government to make sure that that can be delivered for all businesses and small businesses.

ACTING CHAIR—On the specific example of *Giving small business a voice*, the guidelines prepared by the Office of Small Business, how can we carry it through? Is it a matter of going back and reselling it to all government departments, or have you got any special recommendations on how we can make that happen?

Mrs McCluskey—I think the difficulty is that if you have a ‘you must do this’ approach, then you have got to have the equivalent of a regulator to make sure that people do it. In terms of the reporting, it would be helpful if departments could actually report back on how they have delivered against those guidelines.

ACTING CHAIR—So perhaps there should be some sort of annual reporting process to show whether they have met the recommendations or the benchmarks that have been set.

Mrs McCluskey—That certainly would be a publicly available measure.

ACTING CHAIR—Regarding the regulation impact statement that you referred to, that has been referred to by ACCI in its submission as well, and they say that it has not been applied rigorously enough in terms of the public interest and in protecting and looking after the interests of small business. Do you have a view on that?

Mrs McCluskey—We certainly support that. It is very important for those regulatory impact statements to identify the impact—in particular on small business. With many of the changes

that come through, if they look at the impact in general across the whole spectrum of businesses, there can be a positive impact on, say, big business and yet a negative impact on small business, and that has not been coming through. It is really important that the impact on small business be clearly identified. Even if the measure is to continue, at least it allows small business groups and representatives of those groups to take action and assist small businesses with whatever they might need to be able to meet those regulations or to look at what other measures may be necessary to assist them.

Senator BARNETT—We have had presentations and submissions from area consultative committees, business enterprise centres, the Small Business Development Corporation in Western Australia, and other groups like that who represent their area and small businesses. Do you have a view as to the merits of such organisations or entities? An issue that is regularly raised with our committee relates to small business having a voice. Do you think it is best presented through industry associations, or perhaps through those BECs and ACCs et cetera, or through all of the above? Or do you have a better model that we can look at?

Mrs McCluskey—I think that each of those has their place; certainly the BECs have done a great job, as have the small business consultative offices around the country. The issue is that there needs to be a central collection point to which we can direct small businesses if they have a specific need, and that just does not seem to be where it is gathered. There does not seem to be, on the Office of Small Business web site or on any other web site, a place where we can say, ‘If you have a need to learn about business skills in this area, you can go to this contact point that is the closest to you.’ There does not seem to be even an area coordinator who pulls together all of that. There are so many people dealing with so many different issues; we are not aware of them all, so it is very hard for us to let our membership know where they can go for more assistance.

CHAIR—We had a submission before us in Albany, Western Australia from a person there who, I think, operated as a small business officer. She certainly delivered the tax office program that they had on the GST at that time. She suggested that we should establish what she called ‘G-shops’ but that we ought to look at setting up a series of government shops so there would be one-stop points where small business people could go for information about programs, program delivery and where they could lodge their BAS statements rather than having to post them et cetera. Is that the sort of concept you are talking about?

Mrs McCluskey—That would be an excellent idea, as long as we could bring together all issues that affect small business that cut across local, state and federal government issues. We have had BECs, which have been great for people to go to, but, invariably, if they want to deal with another issue, they may be directed somewhere else and that becomes difficult for small business. If they are in a town, particularly if it is in rural and regional Australia, they do not have the time to go to six or seven different places to seek the information they need.

Senator BARNETT—Following on from that—and this is part of my line of questioning—is the business entry point, which is a bit like a G-shop approach. Are you saying that that is not working properly or just that it is inadequate and does not cover the full gamut?

Mrs McCluskey—There is a lot of work to be done to the BEP to make it more user-friendly and to have more information on that in plain English that small businesses can relate to. There

is no point in having technical terms, acronyms or information that a department may relate to; it has to be in small business language. There is work that can be done on that. Also, we have to acknowledge that there needs to be some equivalent that we can send to businesses that do not have access to the Internet, which we find is the case for a lot of our membership, or that are just not comfortable—

Senator BARNETT—Do you have any statistics on what proportion of your members or farmers is on the Net and what proportion is not?

Mrs McCluskey—We do not have statistics on it. The numbers who work through the Net are growing. Our biggest problem is bandwidth in relation to access in rural and remote areas and, unfortunately, until that issue is addressed, we are not able to say that farmers can completely communicate in a technological way.

Senator BARNETT—I am a farm boy; I was born and bred on a farm so I know that they are out on the farm all day and their spouse might be in and out as well. They come in at night and they want to access information and communicate on the Net. Are you saying that that is an inadequate service delivery at the moment for your members?

Mrs McCluskey—Yes, it is. Even if they do have Internet access, it is extremely restricted in terms of time, which means that they can be logged out. They can usually have about 12 or 15 minutes, so if they want to download a document, quite often, by the time they have found where it is, they are logged out and they have to start the process again.

Senator CROSSIN—I have had some representation, not a lot, from people on pastoral properties in the Northern Territory. I am assuming that many of those people are members of yours. The representation I get is that it takes them 15 minutes to download a page on the Internet, unlike, say, people who live on the eastern seaboard where it is much faster. Just for your knowledge, I had representations from someone who lives about 150 kilometres south of Katherine and their Internet speed at the moment hovers around 9,000 or 13,000 bps. It takes forever for them to download a page. So you are right: they may have Internet access but the adequacy of it is not so good.

In relation to your comments about the business activity statement, I am wondering whether you have had similar representations about not only the complexity of the statement—and I think there might be people from the Taxation Office here behind us, so it might be a good question to ask them—but also the lack of realisation of the actual problems with mail deliveries in these areas. Let me give you one example. I have someone on a cattle station in the middle of the Northern Territory who gets their BAS statement from Victoria and there is about a 16- or 17-day turnaround time expected. That might sound like a lot of time if you live in major cities, but this is a place that gets only one mail plane a week. So, they get their BAS statement in on mail plane No. 1 and they have to get it out the very next week because, if they do not get it out by the third week, a mail plane that collects mail 100 kilometres west of Borroloola might take well over the time the BAS statement is due. That has happened a number of times and they have not been fined.

There seems to be this lack of realisation that, if a BAS statement is due on 31 July and it is going to remote areas of this country, to send it out on 10 July, or whatever, is not a reasonable

time frame—if you understand what I am saying. Do you have similar representations of that nature from some of your members about the Australia Post time frames and the expectation of the ATO for people to comply with that?

Mrs McCluskey—We have had some representations from people in Far North Queensland and in parts of the Northern Territory. By and large, we have not had concerns from our membership in the rest of the state, particularly with the simplified BAS. We certainly had a lot of issues before the BAS was simplified. Because they now have either the shortened BAS option or the instalment option, there have been far less concerns raised to us.

On a case-by-case basis, we have spoken to the tax office about this and there has been an opportunity for individual taxpayers to contact the tax office when they have had that difficulty. We also have a similar difficulty in the wet when planes cannot land. Once again, we have asked these individual taxpayers either to contact the tax office directly or to apply through us for an extension. So far, they have been granted this when there have been those special circumstances. Separately, we have not seen it as being enough of an issue for us to seek an extension of time as a matter of course for our membership because it has involved isolated cases in relation to parts of the country.

Senator CROSSIN—These people have not worried about an extension of time; they have just spent many hours at night trying to comply, to reach the Thursday or Friday mail plane. It is more a case of the ATO actually posting the documentation much earlier than they do rather than continually applying for an extension of time. Would that assist?

Mrs McCluskey—If it was not done too early, it probably would assist. I am not aware of the time frames of the tax office in relation to their generation of the BAS. One of the concerns that I would be aware of would be where a BAS was sent too early, particularly if they are monthly. You certainly cannot send it too early. Where you have a quarterly BAS statement, you do not want a situation where it comes too early before the end of a quarter. And if it has been put aside, the taxpayer then has to go looking for it. Those are the concerns on the other side in terms of time frames. We could perhaps look at whether it could be brought back earlier, but we would be concerned about it being brought back too early.

CHAIR—Thank you, Mrs McCluskey and Miss Harris.

[11.39 a.m.]

MANN, Mr Neil, Deputy Commissioner—Small Business, Australian Taxation Office

CHAIR—On behalf of the committee, I thank you for appearing here today at short notice to allow the committee to canvass some general issues with you, as a preliminary to a more detailed hearing at a later date. In today's hearing, the committee would like to seek your views and advice on a range of matters that have been raised with the committee in the course of its hearings to date. More detailed questioning on a broader range of issues will be reserved for a later date.

The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of the evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. Mr Mann, do you wish to make an opening statement?

Mr Mann—I might clarify my responsibilities within the Australian Taxation Office. They are in relation to income taxes, the pay as you go system and FBT, in particular, as they apply to small business. I work closely with my colleagues in the GST program and in the superannuation program, to make sure that we have a coordinated approach to small business. I am here on behalf of the ATO to assist you in your preliminary hearings. If I do not have the answers here, I will be more than happy to provide further information at a later date.

CHAIR—Thank you. As has been conveyed to you, this is a very preliminary discussion, but we have been hearing a range of comments about the difficulties small businesses are facing and I thought it was worth while to at least have a discussion to get your perception on the perception, so to speak, so that as we progress down the track, we can discuss in more detail with small business some of the issues that have been raised. We had, for example, a couple of academics from Monash University and from the University of New South Wales who gave evidence to us in Melbourne and currently are undertaking a study of the tax system—the GST specifically. They suggested that, as a result of their studies, very few small businesses knew of or would actually benefit from the simplified tax system, which has tended to partly compensate the small business sector for the additional compliance burden of the GST. Do you have any comments in relation to that finding or do you have any information about the take-up rate of the simplified tax system and to what extent it is being promoted among the small business sector?

Mr Mann—Yes. When we have approached communicating with the small business sector about the simplified tax system, we have had to take into account that changing the basis of preparing your tax returns is predominantly undertaken on the advice of a tax adviser. Over 95 per cent of our small business income tax payers would be using a tax agent to prepare their return. In fact, even the remainder would probably seek advice from an accountant before preparing their own return.

Senator BARNETT—Which return are you talking about?

Mr Mann—The income tax return, to which the simplified tax system applies. That is a different proportion than people seeking assistance in relation to the activity statement. It is very predominantly based around a relationship with your accountant, which traditionally is an end of year discussion for many taxpayers. Our approach has been to offer seminars and information particularly to tax practitioners, including one on one visits to those tax practitioners, predominantly where we believe they are likely to have eligible STS taxpayers as part of their practice. The key strategy has been to make sure that those agents are ready and prepared to discuss the simplified tax system with eligible clients when they have that discussion around the completion of the last tax return and how they might set themselves up for the next tax return.

In addition, we have built into our advisory visit program, which you would know has been rolled out to explain the goods and services tax and the pay as you go system, information about the simplified tax system. In the last 12 months, there have been around 45,000 visits to businesses. There were around 3,000 visits to tax agents who we believe are active in this particular area of the market. We have been putting out through hard copy and certainly via the Web a range of flyers, fact sheets and guides. There is a consolidated guide that has been available for some time. More recently this year, as we have come up to the end of the financial year, we have been advertising in newspapers and on radio to create awareness among taxpayers to prompt them to ask their tax agent when they visit them about the simplified tax system. You might ask: why now and not a year or so ago? The simplified tax system applied from June 2001. So the way you opt in is by lodging this year's tax return, to discuss with your accountant—we have some calculators that help the tax agent around some of the sums—whether or not you would be better off under the simplified tax system.

You are probably aware that there are a number of considerations you might wish to take into account—your level of debtors and creditors, and your asset holdings and trading stock position. We are saying that you want to make informed decisions about those. We have given the information to your accountants. We expect people are making those decisions now as they are sitting down, around this time, with their accountants, lodging their returns. So, in terms of when we would know how many people have actually moved into this system, for the first year we would be looking for the completion of the lodgment program through the agent program, which would not be until around the end of May next year. So it would be some time now next year that I would be able to give you a report on the first year take-up.

CHAIR—They said to us that there would be very few small businesses that would benefit from a simplified tax system. I do not want to put you on the spot and ask you to answer that now—in part your comments have answered it—but can you look at the transcript record of the comments? The secretary can get you the reference for that in the *Hansard*. When we come back, you may want to discuss that particular claim of theirs.

The second issue—and in some respects this is a credit to the Australian Taxation Office—is that there were some fairly complimentary comments made about the people from the tax office who have been going around helping and advising small businesses about the BAS and the lodgment and so forth. They said that was useful. They were able to get them out on the farms at eight o'clock at night and at all sorts of strange hours and they were very cooperative. We have heard the claim that they have turned from being the saviours in the circumstances to the prosecutors because they are now going around checking on people's failure to comply with the

requirements of the act. Has there been a shift in the role of those individuals? Has that been a conscious shift that has been applied by the tax office?

Mr Mann—Yes, there is a conscious shift. We have undertaken 440,000 visits that were entirely about helping people understand and put in place appropriate record keeping arrangements and assisting them make calculations, where appropriate, across the range of pay as you go and GST obligations. We are now into the third year of the operation of the new tax system. Over the last two years we have maintained a focus where we believe there are indications of serious evasion. We are now starting to look at where there might be incorrect lodgments, either deliberate or non-deliberate, that are significant and important enough for us, for the community's interest, to start verifying the level of accuracy.

We have taken, and will continue to take, a very reasonable position around penalties and remit those where people have made genuine mistakes. Our verification program has a number of elements. One, we believe that we need to assess just what the level of compliance is. We are undertaking some fairly broad ranging coverage—around 10 per cent of the small business market—and we would expect to be able to get a feel for where the hot spots might be: where there is a need for education, or where we might need to put in place more enforcement or audit action. That element of understanding what is happening in the market place is very important.

Secondly, we are continuing to find a number of areas where people are making mistakes, but it is just corrective education that is required. The approach there is to let tax agents and taxpayers know, through the media. Where we find people making common mistakes we use a corrective education program. We are mounting a more vigorous program this year to look at where we believe there is some tension and potential deliberate non-compliance. At the moment we are not in a position to say how bad the deliberate non-compliance is compared with the innocent errors. The important thing for us is to signal that we will be increasing our focus around the correctness of activity statements and we will be seeing some 2,000 field staff over the course of this year progressively move more and more. Perhaps 80 per cent of those people will focus on the verification activity. I want to stress, however, that one of the decisions that a field officer might make is that it is a genuine mistake and no penalty is required, and help is still provided to ensure people get it right next time.

CHAIR—I understand that, Mr Mann. In the roundtables we have had in a number of areas, there was a very strong attitude expressed—and it may be the perception of the individuals there—that there was strong growth occurring in the black or cash economy as well as in barter between businesses, and that essentially it was being driven because of the complexity of compliance. A businessperson at one of the roundtables said to us, 'We are being forced to be dishonest or go out of business. They are the choices we are confronting.' That may be a perception or a lack of understanding—there can be a variety of reasons for that—but the issue of compliance in this area is not new to this inquiry; it has been around for some time. To what extent is the tax office still trying to address those issues? To what extent are you still looking to simplify the process, making it easier, particularly for those businesses at the bottom end of the rung who have difficulty in opening and closing their doors every day without the added complexity of doing all the things that government expects them to do?

Mr Mann—There is no doubt that there are anecdotal stories coming forward but, if we stand back and look at the broader picture, we have seen small business respond to the new tax

system in a very positive way. In fact, if you look at the GST registrations of 2.1 million, we have something like 700,000 businesses that had no legal obligation but have chosen to register and come into the GST system.

CHAIR—There is a fear factor.

Mr Mann—I think there are a number of reasons, and part of it is so that they can deal with other businesses in offering input tax credits and those sorts of things, so I think there has been a draw-in factor. If I look at the business to business part of the community, we are certainly seeing signs that there is an improvement in the standard of record and invoice keeping. I think some commentators would even say they have noticed a tightening up in some of the episodes around the cash economy in business to business activities. A lot of the feedback we are getting from industry points more to trying to compete with what they perceive to be backyard operators or people who are very small-scale—having a turnover of less than \$50,000—who might be moonlighting or advertising their services to the community at large. This is one area where, while the value to the economy probably is not anywhere near what commentators suggest, it is a very visible part of the cash economy. We are working with industry groups to look at how we might respond to where they feel they are being undercut by those sorts of operations. That is my response about the cash economy.

Around compliance costs, obviously we have been taking very close notice of the reaction to the activity statements, the options the government has provided for streamlined reporting or instalment payments rather than calculating necessary instalments, and our own efforts to simplify the form filling process itself. While no doubt there are still some people that find it a struggle, when I talk to small business operators and look at the research we and others like Dunn and Bradstreet have, we think most small businesspeople are coming to terms with the compliance aspect, albeit it might be taking more time than they would like and it might be taking them away from things they would rather be doing in their business. By and large, we are not finding that to be a huge issue of concern. That said, there are a lot of people in this new system who are in regular contact with the tax office for the first time, and we believe we need to do more to reduce the time and cost for people to fulfil those obligations. To do that, we think that the response to the changes around pay as you go and GST look like they have found a settling mark, where people are either prepared to stay with the old system or move into the new options.

Our job now is to make those options, whatever they are, as simple as we can for people. One of the biggest challenges we have, and this picks up some of the issues that rural and regional taxpayers have, is how to make the electronic interface better so that we can get rid of some of the issues around delay and compressing the window of preparation time. Also, if we can get into more electronic interaction, there will be less pain and time involved in record keeping. Electronic interaction right from the point of sale through to the preparation of accounts and the finalisation of your form—either done by your accountant or perhaps QAed by your accountant—really does seem to be the path for us to relieve the time and costs for small business. Of course, the biggest barrier is how to generate the take-up. The activity statement process is still largely paper based for many taxpayers. I think for monthlies about 16 per cent come in electronically and for quarterlies only about 10 per cent. One of our goals is to eat into those paper based returns.

At the moment, we are embarking on a research program working with small business groups, tax agents and software developers to try and understand what some of the barriers to electronic take-up might be and how we as a tax office can solve some of them because they may relate to security standards, for example, in terms of transmission of taxpayer information over the Internet. With the development of our new online registration process for the ABR, we are close to tackling some of these issues that might allow us to roll out business-friendly electronic interface to more and more transactions.

Some of the complaints we have received include the simple things like not being able to get through on the telephone. We have been trying to handle something like 20,000 to 25,000 phone calls each working day. When we come up to a quarterly peak around the 28th of the month when we could have one and a half million or so taxpayers worried about meeting their obligations, we find it very difficult to meet that peak. With additional resourcing, we are putting more people into the phone service. We believe we need to do more than that. One of our strategies is to allow people to have access through automated means to some of the information that they are seeking from us. For example, they might simply be asking things like, 'What is the position on my account?' This year and last year, we were able to give tax agents access to their pay as you go instalment account. We were able to cope with the security issues involved and you could see a noticeable drop off in inquiries.

If we could start rolling out those sorts of strategies, not just to tax agents but more broadly to the community, we believe that there would be a much greater incentive to take up the electronic option and be able to self-manage interactions with us. We would also be able to improve some of the services that we could be providing when you do need to speak to an officer over the phone and those sorts of strategies. This year we are piloting a number of projects. We do not want to lift expectations too high because we need to solve some of these issues concerning take-up and security and to fix our own systems to accommodate them. This includes things like using software to generate the activity statement and allowing you to lodge and pay online, for example. We think that would be starting to make it an attractive enough proposition for more businesses to perhaps invest in some of the security certifications and to get themselves e-ready.

CHAIR—That capacity for individual taxpayers to pay online is not available at the moment—that was the evidence that we were given.

Mr Mann—Yes. You cannot lodge and pay online.

CHAIR—That was raised as a problem. The other question raised during discussions between Senator Crossin and the National Farmers Federation concerned the timing of lodgments—I think it was raised in Albany. They are required to have their BAS statement in Albany by the 28th of the month and they said it can take anything up to nine days to get it across. I suppose the argument that they were putting was that people in regional areas are being penalised as opposed to people in metropolitan areas where there are better postal services et cetera. Why can't a system be devised that somehow or other identifies the date of lodgment rather than the date of receipt by the tax office? Is that something that you have looked at or explored?

Mr Mann—I can understand people's concerns—that they feel they have a shorter period of time to get ready but a greater likelihood that they might miss the deadline. On the preparation time, we have to be conscious that it is a frequent and regular cycle, so we try to give people a maximum window between the cycle, between each month. Around the quarterlies, as the previous witness discussed, there is a danger in issuing these forms too early.

CHAIR—There is too big a gap.

Mr Mann—Also, to the extent that we can work with people to get them online, again, that takes this issue completely away. However, the point to make about the lodgment period is that most of the time and effort is spent in getting your records ready; the quick part is filling in the form. When we are talking about the lodgment period, we are certainly encouraging people to make sure they have lodged and paid by the due date. The reality is that many people are under some pressure to get all their affairs in order. Provided they have it to the post office by that date, we have no complaints about when it gets to us or when the payment is lodged. Where people are remote from a post office, they might still have some concerns. We could handle almost individually the numbers of people that that would cater for. We are more than open to entering into arrangements to pay. We would be happy to look more at this area if it turned out to be an ongoing concern. Probably because we are not penalising people in that situation, we have not had feedback that it is causing a lot of heartache generally speaking. We certainly would be giving extensions of time for people who are generally finding it difficult, whether it is due to being remote from mail services or due to floods, or whatever the case might be that is giving them difficulty.

CHAIR—To be fair to you, I think Ms McCluskey said that it was not of such a serious character that it warranted them taking the issue up with you, at this point anyway.

Mr Mann—The other point to note is that, in applying penalties, we are not going to penalise people who make a one-off delay; we are really talking about—

CHAIR—Habitual offenders.

Mr Mann—where people have a history of more than once—twice or more—not being able to either lodge them on time or contact us and say, 'I need help.' That is really all we are asking people to do.

Senator BARNETT—The ATO, as you correctly said, acknowledge that there are 1.2 million small businesses in Australia now, and that has increased rather dramatically since 1996. Do you have a document or an outline summary of what the ATO does and of the services that you provide for small, micro or home based businesses?

Mr Mann—I would be happy to make a document available to the committee. I cannot think off the top of my head what form it might be in at the moment, but certainly we provide a range of services from new business start-ups right through to existing businesses.

Senator BARNETT—The reason I ask is that the presentation this morning has been very interesting and you have offered a lot of good information. Some of it is new to me and I am sure that for some small businesses it would be extremely interesting. I can assure you that the

vast majority of small businesses out there would not have a clue about a lot of the good services you offer. That is my lead-in to a question about the education process: how do we advise, inform and educate small business about the friendly, helpful information and the good services you offer? I throw it back to you: is there something that you can pick up? Do you have a document available or do you simply say, 'Go to our web site, surf around and see what you can find'?

Mr Mann—We certainly have on the web site segmentation about business or not-for-profit and there is a consolidated menu of services and information. The point you raise is important to us in that, as I have said, we have just undertaken some more customer research on awareness. In fact, we went to find out what was wrong with our services and where we needed to improve. The point you make, Senator, is that many people are still not aware of many of the services that we can provide through things like our networks with business enterprise centres, for example. The fact that we offer visits is still not known by all businesses.

Having said that, we have visited 440,000 small businesses over the last year, so even on that reckoning, it involves one-third, and probably if you included sole traders, you come close to two million taxpayers that were involved. So we are making quite big inroads. As part of that, we are able to offer referral services and the like.

In addition, we are working very closely with industry bodies. We have found that many taxpayers seek a trusted third party or intermediary. It might be a tax adviser or their industry association. We find that a very important outreach program of ours is to make sure that we have got good working relationships not only with the professional associations but with the industry associations that directly service their members.

Because small business people generally only want to know about something that is to apply to or affect them immediately, we do not attempt to provide every small business with a comprehensive suite of information. In fact, we have received feedback that too much information is as bad as not enough. So the approach we are taking is much more around a just-in-time approach which we try to design with the tax profession and industry groups in which we say, 'What do you think your clients and members would need to know and at what time of the year? What would be the best way for us to make it available to them?' I accept your point: I think there is a need for us to better market the services that we do offer for those that want to self-help, but we also think a good strategy is to work with their trusted intermediaries to design when is the right time and through what medium we should be providing that information.

Senator BARNETT—Is it possible to get a summary of the services that you provide for small business?

Mr Mann—Yes, I would be happy to provide that to the committee.

Senator BARNETT—Thank you, and just drilling down on these 440,000 small business visits in the last 12 months—

Mr Mann—Can I correct that. That is since the beginning of the new tax system, so that is since June 2000.

Senator BARNETT—Is that since June 2000? That is what I was going to ask—year on year. Are they specifically small businesses?

Mr Mann—Yes.

Senator BARNETT—Does that include the sole proprietors?

Mr Mann—Yes. What we have done now is to particularly focus, with respect to last year and into the future, the advisory visits service around new businesses or businesses that are registering for the first time, or make them available to any small business that might wish to contact us and request a visit.

Senator BARNETT—Would your expectation for the next 12 months be half that number of visits?

Mr Mann—We are scaling back that activity as a main plank. We are probably talking about the 40,000 to 50,000 visit mark as a routine advisory service, but it is very much in the hands of our taxpayers. That seems to be meeting the current demand. If marketing made it higher in demand, we would have to look at how we would respond to that.

Senator BARNETT—You mentioned in your presentation earlier with respect to the simplified tax systems that you have had 45,000 visits to business and 3,000 visits to tax agents. Is that over that same period?

Mr Mann—That is over the last 12 months.

Senator BARNETT—Because it has only come in since June last year?

Mr Mann—That is right.

Senator BARNETT—You are thinking that the 40,000 is obviously a big drop from 440,000 over two years?

Mr Mann—I would need to check, but if you were to take a rough indication, it is around 200,000 a year for the first two years. You have to remember that this occurred when people were after hands-on help to set up their record keeping systems. The demand has diminished and what we are seeing now is a new business group coming through with small numbers of people who have particular concerns that they wish to discuss. So we think that 40,000 to 50,000 mark is meeting the demand at this stage.

Senator BARNETT—Quite a few small businesses have appeared before us and they have said to us, ‘We can’t keep up to date with the changes.’ These were general comments regarding the GST or whatever the changes are. How is small business expected to keep up with the changes?

Mr Mann—Again, I have to come back to recognising that small businesses are very much relying on a trusted third party a lot of the time—their tax agent, in particular. That is not to say

that we will not continue to put a lot of effort into providing a free, basic service for people who wish to help themselves. The key way we do that is by making sure that our web site has up-to-date information and that it allows us to put up new information quickly and take down out-of-date information quickly. You do not have the problem of hard copy information in the community that becomes out-of-date or irrelevant. In many ways, the more we can get small business online and working with us that way, the more confident they can be that they are relying on current information. However, we have got feedback that it is not necessarily that easy to find what you are looking for on our web site and, of course, some people do not have access. For those that do, we also provide a service that you can subscribe to, where we can email to you updates of what is new. Again, the issue for small business is that it is likely that they would find that that is too much information for their particular needs—

Senator BARNETT—Is that a free service or does it cost?

Mr Mann—That is a free service.

Senator BARNETT—So, if I am a small business—a farmer—I can call you and say, ‘I want to be kept up-to-date on all changes relevant to my farming practice.’ Is that right?

Mr Mann—You could subscribe over the Internet, and we would send you an ATO update. It would have hyperlinks to new information.

Senator BARNETT—What sort of take-up rate do you have for that service?

Mr Mann—I would have to take that on notice.

Senator BARNETT—Do you have different categories of business that link in to that service? Can you drill down and tell us that, say, tax agents use it regularly—monthly or however often? Can you drill down to tell us which professions and businesses are and are not taking up that service and how often it is taken up? Is that possible?

Mr Mann—I will certainly inquire to see what level of detail we can provide.

Senator BARNETT—Thank you very much. With this education process, you obviously go through the tax agents. You mentioned the 3,000 tax agents for the STS. What about generally? Because 95 per cent of small businesses use their tax agent or accountant, is that how you try to educate the small business? Is that the prime focus for your education system?

Mr Mann—What we find is that there are complementary strategies around basic obligations. In terms of basic record keeping, lodgment, payment and awareness of new obligations, we believe we must deal directly with the taxpayer. They are very much the things that are in their hands that they need to be motivated to deal with. When it comes down to determining correct liability, whether it is for GST or income tax, that is where you find the agent plays a greater role in explaining, for example, the treatment of capital acquisitions or whatever the case might be. What we have found is that, with the goods and services tax, many small business people feel comfortable in handling those determination of liability questions on their own or perhaps with backup over the phone from an accountant or bookkeeper.

For income tax, we are finding that people still very much prefer, even if they have a go themselves, to have an accountant QA their returns rather than lodge them on their own behalf. It is that issue of trying to talk about some of the more technical aspects of new measures and what calculations you would need to make. We work a lot with the tax professions on understanding that, and they work with their clients to put in place what ongoing record keeping they might need to do to be able to support that calculation to be made. It is very much a partnership, in our view, of us working with the tax industry to make sure that we are both working to enable taxpayers.

CHAIR—On that issue, evidence was given to us—and I think it was in writing—from several of the people who made submissions. Essentially, their argument was that the way the new tax system was constructed was forcing them into the hands of the accountancy businesses. In fact, I think one person facetiously said, ‘When you talk about growth of jobs in small businesses, it has been in the accountancy area.’ I can recall one person giving evidence that, when they passed their degree at university, they thought there would be very little work for them but they have been working flat out ever since the government introduced the new tax system. To what extent are you aware of that phenomenon? Are you able to gauge the growth in the number of agents and tax accountants since the GST has been introduced?

Mr Mann—The number of registered tax agents has not moved that much at all. I think that one of their concerns is that they have a lot more basic compliance work to do. So, no, we have not seen a huge growth in the numbers of registered tax agents. However, those who are registered are employing more staff to handle some of the compliance work, and we have seen the emergence of bookkeepers. Some of the more innovative registered tax agents are finding reliable bookkeepers and they might suggest to their clients that they use a bookkeeper to do the rudimentary accounts and then the tax agent makes sure that it has been prepared correctly and goes through check lists. Other tax agents prefer to do all the work themselves. Many have set up their clients to use particular software—some innovative products that can in fact take banking data from your transactions and generate the financial records that you need to take to your accountant. So we have seen a number of responses: the emergence of bookkeepers—and we have certainly seen a growth in the number of those—the development of new electronic software products that assist taxpayers to keep their own records and many tax agents themselves taking on more staff or working longer hours to assist taxpayers with basic record keeping. If you look at the numbers, though, 95 per cent of small businesses used to have a registered tax agent; the proportion stayed the same.

Senator BARNETT—Over what period?

Mr Mann—Over the last four or five years that I have been looking at it. But what has changed is what is happening on the business premises—that is, accountants and some business people have told me that the quality of records being kept by their clients has significantly improved. That is not surprising to me because one of the biggest areas for education that we have had in small business over the last decade has in fact been trying to ensure that there is adequate record keeping to support tax calculations. I guess many accountants would have the view that a well-run business would, by its nature, keep financial statements in order to understand where the business is travelling. Certainly for businesses with small turnovers—sole traders, self-employed people—many of them have not done that routinely in the past. So we

have seen many take the opportunity with the new tax system to update some of their accounting software and start for the first time to keep those sorts of records.

CHAIR—There is no doubt that some of them have the positive view that this has forced them to keep records and they now better understand the business. Facetiously, they said, ‘We now understand we’re going broke, whereas in the past we did not.’ But there was a constant theme coming through from small business that they are being forced to spend more time in the back office than they have been spending on running the business. In fact, one small business—I think it was a café in Perth—said that they do not get any time now to get out in the café and talk to the customers or their staff. Virtually, all their time is spent in the back office doing paperwork associated with their tax requirements or other government requirements. That is incalculable, I suppose, in terms of the overall—how do you put a figure on that?

Mr Mann—There is an opportunity cost from any additional compliance burden. The system does try to distinguish between a compliance burden on small, medium and large taxpayers, and there are deliberate attempts to try to minimise that burden for smaller taxpayers. To the extent that they can be accommodated, we are certainly very supportive of trying to tailor to the minimum the requirements on smaller business taxpayers.

The comments I have had from small business proprietors seem to be that in the total environment in which they are working when you add tax obligations to their other regulatory requirements that is when they are starting to sit back and say what the total is looking like. For me, it is a bit early to work out the extent to which tax specific issues on their own are of greater significance or where they sit in the broad scheme of regulatory requirements.

CHAIR—To what extent is there consultation and liaison between the tax office and other government departments, the Office of Small Business and state government departments that look after the interests of small business? Is there any sort of regular contact in that area? Do you sit down as a collective government group and talk about some of these issues and look at ways and means of reducing or lifting the burden on small businesses?

Mr Mann—Yes, we have two key small business advisory groups, and the Office of Small Business is represented as a member on both of those. Every six to eight weeks we meet with a group of small business operators, and they provide us with very close to the ground intelligence and feedback around what is working and what is not. Perhaps even more importantly for us, they help us design, test and make improvements to the range of information, education and compliance products that we have. The Office of Small Business attends each of those meetings to get a feel for opportunities to link into broader government programs and initiatives.

Certainly the electronic commerce initiative is one on which we are working very closely, and have done over the years, with the Office of Small Business, as well as on the business entry point, to see how we can work together on that. The commissioner also has a body that meets twice a year as more of a consultative group which has representatives from particular associations rather than operators themselves. The Office of Small Business again is represented on that forum. Out of those meetings and out of my attendance as an observer at small business forums that are convened from time to time, we have been able to establish working relationships around particular projects. The business entry point would be the classic example.

We are now looking more broadly at how we can keep in step, if you like, with broader moves at the government level. We very much rely on the Office of Small Business to help direct us in terms of where we should be headed in that regard.

CHAIR—Do you know to what extent those discussions with them have translated into actual programs? I suppose that is something I should ask them this afternoon.

Mr Mann—I do not have a formal report of that nature. We are finding that it is a vehicle for us to find out programs that we could leverage off for our purposes. Generally we are finding that our representatives from industry groups are very much a part of the network that OSB coordinates, so in many ways the active representatives of small business are active at the whole of government level. Either they or people they know are active with us. So the relationship management strategy that we are using is very much one around trying to utilise the networks that small business people find useful. Rather than generate programs, very much we try and feed into existing networks and programs, whether they are funded at the state government or federal government level. We have about 50 people at work around the country tapping into those local and federal networks. That is how we see where we can channel our information really to the grassroots of business where there are generally free services available helping new starts. Whenever there is a significant change, we find that those community outposts, if you like, are very much places that can assist us. OSB certainly plays a big role for us in making sure that we are aware of who is who around the country and how we might feed in.

Senator BARNETT—The Australian Chamber of Commerce and Industry are appearing before us this afternoon. They say this in their submission:

The frequency and complexity of changes to the tax laws and rules consistently ranks as the No. 1 constraint by Australian small business proprietors, according to ACCI surveys.

Whether it is the top or two or three, it is obviously either at the top or towards the top.

Mr Mann—Could you clarify the constraint for me? In what regard?

Senator BARNETT—This is the inquiry into small business and employment. It is certainly a constraint to small business employment and small business growth and development. It is not a great commendation. Have you reflected on that in past months or years? Are there systems in place today to address those concerns? It is a generic comment and it is a generic question. You would obviously like it to be towards the bottom, would you not?

Mr Mann—I am not in a position to comment on the statement, but we recognise that there are certainly opportunity costs around tax compliance. Our approach is to try and tailor those to minimise the costs, particularly on small business. Where issues are raised with us, we work very hard to try and find solutions. If you look at the simplified accounting method for mixed businesses for GST, we are very open to accommodating small business in terms of finding ways they can deal with tax regulation. The important thing for us is to keep those channels of consultation and communication open. We cannot fix a problem unless we know about it.

Senator BARNETT—You are meeting with these small business groups and it is good that there is a consultation arrangement in place but, if that kept being at the top of the list for small

business, you have a problem and we have all got a problem as a community and as a government. So you need to have a system in place to address that problem, whether it is in their minds, whether it is a real concern or whether it is a perception for small business. We want to try and help small business and small business growth. That is why we are sitting here. And that type of result is not a good one for the ATO.

Mr Mann—To make a comment and get back to the point of your question, we have certainly been very active in trying to understand and quantify some of the compliance costs for small business. We do have research that is a bit dated now. We are in the midst of trying to get a better benchmark, pre the new tax system, that we can use as a research benchmark for us to really look at what the impact might have been.

Our view is that we have been through two very unusual years and it would not be much use for us to base any future strategies on the last two years of experience, because that time has passed. We will be looking to come back and to try to re-evaluate where we have got to, once the new tax system has settled down. We believe that should generate for us the sort of guidance on whether there has been a significant shift and, if so, where the main pressure points are.

Senator BARNETT—And your consultation methods will help you presumably provide some of those answers.

Mr Mann—Yes.

Senator BARNETT—You mentioned SAM, simplified accounting methods, for retail grocers. Are you happy with the progress that has been made there and do you think your client customers there are happy and satisfied?

Mr Mann—I will consult my GST colleagues but, from the information that I have, we believe that they have been well received. We find many retailers have good point of sale equipment, but this provides those who do not with a workable alternative.

Senator BARNETT—A lot of those are actually small businesses or small to medium sized businesses which would come into your bailiwick, and they are an important part of the Australian community.

Mr Mann—I have not heard of any particular concerns other than that people appreciated that that was a workable approach.

Senator BARNETT—You mentioned in your earlier presentation that there were 2,000 field staff. Is that still the case and are those numbers going up or down? What is the situation there?

Mr Mann—I was referring to 2,000 field staff that are focusing on the small business market. They have been predominantly focused on GST but they also look at basic compliance around the pay as you go system and lodgments more generally. In addition to those in the small business segment, this year we would have another 700 field staff and you would find, typically, that they would deal with more complex referrals or focus on particular issues of risk that we might have to address. Of that total number, there are probably around 600.

Senator BARNETT—What is the total number?

Mr Mann—There are 2,700 field staff looking at the small business segment. Probably around 600 to 700 of those would be focused for this year on industries that we think are particularly high risk—basically based on whether income is being adequately returned both for GST and for income tax purposes and whether withholding systems are being complied with or not. That would provide a coverage of just under 10 per cent of the small business population.

Senator BARNETT—We heard a submission this morning from the Institution of Engineers. I am not sure if you were in the room at the time.

Mr Mann—No, I did not hear their comments.

Senator BARNETT—In their submission, which is a publicly available document, they are seeking clarification of the personal services income legislation and expressing their concerns and disappointment with regard to the legislation and its implementation. They indicated that they have had several meetings with the ATO and that they were hoping to receive further clarification from the ATO with regard to the four tests for the personal services income. I was wondering if you had an involvement in that and whether you have a response today to their concerns.

Mr Mann—I do not have a response today, but I am more than happy to provide one. Certainly my staff have worked very closely on a number of occasions with the institution, as part of a broader strategy around this particular measure where we have a working group of tax practitioners and a range of industry groups meeting with us to clarify how the measure should operate. We have been very open. We really would like from those bodies clear examples of typical working arrangements so that we can provide the clarification. We have been issuing industry-specific fact sheets for a range of industries, and we are more than happy to continue to provide clarification for the institution. I will look at their comments today and we can provide a response to the committee.

Senator BARNETT—Thank you.

CHAIR—We should also draw your attention to comments from APESMA—the Association of Professional Engineers, Scientists and Managers Australia. They made a submission in Melbourne along similar lines, so it would be worth looking at both submissions if you are going to address that issue. Thank you for coming along today at short notice, Mr Mann. It has been extremely helpful. We will start to flesh out some of the issues you have raised with some of the small business people when we talk to them at other hearings.

Proceedings suspended from 12.33 p.m. to 1.45 p.m.

GEDDES, Mr Murray John, Member, Council of Small Business Organisations of Australia; Honorary Development Officer, Home Based Business Association (Australian Capital Region) Inc.

MIDDLETON, Mr Peter William, Member, Council of Small Business Organisations of Australia

CHAIR—I welcome representatives from the Council of Small Business Organisations of Australia. Do you have any comments to make on the capacity in which you appear?

Mr Middleton—I am here today representing the executive director and the chair of COSBOA, both of whom were unable to attend.

Mr Geddes—I am a small loan operator in consultancy fields.

CHAIR—The committee has before it submission No. 56; are there any changes you wish to make to the submission?

Mr Middleton—There are no changes, but I would like to expand on a few points, given the opportunity.

CHAIR—The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of the evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

Mr Middleton—On behalf of COSBOA, I would like to thank the committee for giving us the opportunity to attend today. I am a civil engineer; I manage a construction company. We have 60 employees and have had that level of employment for about five years. The company has been trading since 1958; it will be 45 years old next year, and we have managed to survive many booms and busts. I am standing in today for Ella Keenan, who is COSBOA's Chair. She is unable to travel from Swan Hill today, because of family illness.

I have lots of knowledge about the construction industry. Whilst our business is a medium sized business, I deal on a daily basis with people who are down to the level of employing only one other person or operating with just themselves. I do not have much knowledge of the retail industry or of restaurants. I have been associated with COSBOA for a number of years and it seems to me that it is very difficult for any one person to speak on behalf of all small businesses. However, there seem to be some common issues that cut across a range of businesses, and it is those general issues that I want to concentrate on today.

Your committee has been set up to look at the factors affecting employment in small business. I was pleased to see that there is general acceptance that small business is a very important part of Australia's economy. In summary, I suppose the greatest factor affecting employment in small business is the desire of people to take risks. People who set up small businesses are, by definition, risk takers. In general, they start, they become a little bit more successful and then

they need to employ people. Their ability to employ those people depends upon a range of factors, some of which are beyond their control. I think that, in common, most small business people are people who are prepared to have a go. They have some difficulties, and it behoves government to think about giving them some support.

I will summarise the fundamental areas of concern and leave it at that. I will not list them in any particular order. The level of paperwork that small businesses have to handle is enormously difficult. Just to remind everybody, the fundamental thing is that, if you have a group of just three, four or five people, their ability to cope with change, absenteeism and a range of other things clearly is not nearly as great as that of a large company that employs many people. This is not fully recognised in the administrative requirements that we place upon small businesses.

The greatest current example would be the introduction of the GST a number of years ago. In simple terms, most small businesses used to go and see their accountant once or twice a year, now they effectively have to see their accountant a minimum of four times and maybe more. The subtlety within that though is that it is not as simple as filling out your BAS statements. The question of personal services income and a whole range of decisions that are required to be made mean that most small businesses have to see their accountant on a regular basis to understand how to treat the accounting of their business.

Statutory requirements such as the growing importance and dominance of occupational health and safety legislation and things like the equal opportunity legislation are difficult matters for individuals to deal with. Large organisations can employ experts in those areas at a minimal cost in relation to their turnover. Small businesses have enormous difficulty coming to grips with those issues quickly and making sure that the risk of doing business is reduced. I know it is a curly one and it has been actively debated in the community for a while but the question of the unfair dismissal legislation has had a big impact on small business. Once again, if you only have a couple of employees and one of them really does not fit in, moving that person on is a major problem. An individual can become a significant liability to a small business, whereas a large business can probably carry a few people who are not quite up to speed. This is a significant barrier and one of those risks I was talking about that people weigh up when they decide whether to take people on or not.

A big issue that seems to cross small business borders is the question of unfair competition or the dominance of majors. It is certainly a significant issue in the construction industry and some of the small retailers are always complaining about the dominance of the majors who own shopping centres—one could talk about these issues for quite a while. The subtlety that has also been going on in the last decade is the constant change that is being thrust upon small business. This is indeed a significant problem, it is a cause for people to be constantly worrying about where they are going in the future and it therefore increases the risk of doing business. Those general principles I know are a factor in the construction industry. I know from my dealings with a variety of people in COSBOA that they are also factors in other industries as well.

CHAIR—Thank you, Mr Middleton. Do you want to add anything, Mr Geddes?

Mr Geddes—The paper I have given you, and I thank you for accepting it, was an information paper and I am glad you have received it. The emergence and the increased recognition of home based microenterprises as an integral part of the economy is not just a

matter of occupational choice but it is clearly driven by a whole set of structural factors. These include the downsizing of public and private enterprises; adjusting time management, supply and distribution networks through small business networks; the increased importance of intellectual property and skill components of management for businesses, and small businesses in particular; and the feed-in of IT capacities and mobility, whether it is the mobile telephone for the local plumber or more extensive IT support.

The notes I have given you emphasise that we believe it is important to support the self-help initiatives of the microbusiness end, which with respect to most industry associations is not well represented in most industry associations, perhaps except in the construction sector where there are a lot of small construction builders units operating from dwellings with a mobile phone in the truck.

How does that voice get increased? I have noticed in your hearings in Albany, Perth and Melbourne that it is a concern. We suggest that it is partly by support for the actual direct voice of those micro enterprises. They are not going to easily get into the large-scale, blue-suited organisations as we might say, but we can return to that in a moment. As to training—and I know the committee has expressed interest in this—we have been experimenting with how you can enmesh ongoing training in those businesses that are already operating. We know that people will go to TAFE and other courses in advance of starting up a business, but we think there need to be ways of enmeshing that training much better in a more accessible way to ongoing businesses as well. I note that, for example, in the tax treatment of expenses for training, you do not really get recognition for your opportunity cost. If you are the only one driving the business and you have to go off for a day's training, you can claim the fees but what do you do about those massive opportunity costs? If you take your hands off the steering wheel, your production, sales and quality control go down. That is a fundamental structural feature which, just as with the GST, is a fundamental compliance cost factor for small business, as the COSBOA submission noted.

I invite you to look at the British Cabinet Office business impact statement procedures for research and impact assessment, which it might be worthwhile examining, particularly for how they differentiate the small and micro end, or not, as the case may be. I note with regret the absence of a national government small business research program. That is deceased, which occurred a number of years ago, for a variety of reasons.

Looking at regional data, our estimates are that about one in every four to five dwellings in an average region has a business operating in it. That is not an outworker; that is a business with an enterprise boundary and entity. In some rural areas, as the NFF noted earlier today, probably about one in every four dwellings has a business operating out of it. The majority of them are full time—they are not hobbies. They have a durability of, on average, four to five years duration. As we were saying before, the Productivity Commission's report on business failures helps put that question into a more open context, noting that 80 per cent of businesses disappear by sale or by merger, not by bankruptcy, which is a small proportion. That is not to say people do not bear a lot of diminished equity in a business to keep some small businesses running.

CHAIR—Thank you for that, Mr Geddes.

Senator BARNETT—Thank you for your submission. I would like to congratulate COSBOA on the work that you do for small businesses as an advocacy organisation, and particularly your chair, Ella Keenan, who has presented to other parliamentary committees, for the vigorous role she plays. Is the figure of one in four to five homes with a business operating in it from the ABS or is it from your own research?

Mr Geddes—It is derived from the ABS, and I am working with them to get a more regular breakdown at a statistical division level within their limits. They are good because they do doorknocks and base that on their labour force survey.

Senator BARNETT—But where is that information from? Is it ABS information?

Mr Geddes—It is from the ABS but with extensions of it to relate it to numbers of dwellings. We have done some direct surveys but that is the best one from a doorknock base. It is different from a registration base or an Australian business number or whatever.

Senator BARNETT—Thank you. It is an interesting statistic and an important one because it highlights the role of home based businesses, something that you are very familiar and involved with. Are there any other recommendations you would make to the committee for home based businesses? They are, on the whole, sole proprietors and in some cases they might be microbusinesses. We have had representations highlighting the problems with local planning laws and access to information on changes to the tax system and that sort of thing. What do you see are the top two or three priority areas where we can help home based businesses?

Mr Geddes—As I started off by saying, I think it is important to support their self-help initiatives so you can enmesh the supply of information, skill lifting and indeed the encouragement of training and, not only that, cooperative ventures as core priorities. On cooperative ventures, I noticed in your Western Australian hearings, on the question of group shared insurance cover, for example, that one of the features of enterprise structure in Australia over the last decade has been the disappearance of cooperative structures. We think there are some opportunities for that, supported by online support that is better matched to the micro characteristics. Certainly they are some of our top priorities, but the others, as articulated by COSBOA, are part of the environment that affects your behaviour. For example—and I am sure this came up in your discussions of the GST—the effect of GST is on opportunity cost as part of compliance, as well as the incidence. Indeed, the COSBOA submission gives you an example from the retail grocery sector of some figures on that. That sets an environment that affects those micro operators. As the journal of the British Institute of Economic Affairs, titled *Economic Affairs*, noted the year before last when it looked at the most extensive review of regulation and taxation impact by enterprise scale, it is also psychological cost. You freeze up when you are worried about it, and that represents a real drop in productivity and management capacity.

Senator BARNETT—Thanks for that. To drill down in regard to, particularly, the problems of microbusiness, as a member of the Micro Business Consultative Group in 1996-97, one of the issues then—and I think it is still an issue now, from the submissions we have received—is that they feel as though government does not listen to them. They feel as though they do not have a voice. Obviously, as COSBOA, you represent their voice, to some degree, and their concerns. How can that voice best be represented, in your view? Is it through COSBOA, the

business enterprise centres, the area consultative committees or all of the above? Are there any best practice models that you would like to comment on?

Mr Geddes—I think it is all of the above but, in addition, I would like to make a couple of points. Those who are hard pressed in delivering services like small business incubators, which is a very popular proposal around the country—and, indeed, one of the limited number of initiatives in this field in the recent federal budget—are very important, but they deal with a very small minority. Less than one per cent of microbusinesses go within cooe of a business incubator and the costs of service delivery of that, whereas there is a variety of contacts by small business. For example, you ask microbusiness and home business where they get their management information from, and it is from other businesses or accountants. Eighty per cent say it is from accountants. When you follow that up with the question, ‘Where would you like to get that information from?’, it drops to 20 per cent, because they mostly get tax compliance advice and not real management support in that field. I think we need to digest that and encourage those gatekeepers and services as well as the small business centres and the advocacy groups and, in addition, direct voice.

Senator BARNETT—Mr Middleton, you made reference in your opening remarks to the need for small business to source information and advice from their accountants three to four times a year and how that has now been increased as a result of GST and other taxation changes. We had the Australian Taxation Office present to us prior to lunch today, and they indicated the numerous initiatives that they had in place to assist small business to deal with the tax changes. I am not sure if you heard any of that advice, but would you make any comment in regard to the ATO, their assistance and usefulness to small business and the initiatives that they have?

Mr Middleton—I did not hear that comment. What I can say is that prior to the introduction of the GST there was an amazingly coordinated and very genuine effort by the ATO to ease in the introduction of the GST. Everybody felt fairly comfortable about it until it actually happened; then, when people were confronted with the forms and had to actually fill them out—rather than just looking at them and glazing over—that was when everyone realised it was complicated, and that was when everyone thought that it looked as though the ATO was trying to gather more information than was originally intended. The ATO’s helplines have been very good, but the whole thing is reasonably complicated. If you talk to any accounting group you will get the information from the coalface. The average small business has to use the services of professional accounting people far more than they ever used to, by a factor of two or three.

Senator BARNETT—Can you clarify that? ‘By a factor of two or three’—do you mean the need to have an accountant? Is that what you are saying?

Mr Middleton—Yes. It is a fact that you could have operated a small business before the GST with one or two trips to your accountant per annum. Now many people are unable to do their BAS return without assistance and, as I said earlier, there are other questions about how you treat particular situations that keep cropping up that are not obvious. In the good old days, if you had a query you could just put it aside and get it sorted out at the end of the year. Now it has to be accounted for each quarter. The accounting profession has not been trying to make life difficult. In fact, they were caught out, I think. They have not necessarily been happy with having to cope with all the extra work. The general point is that these problems exist. They are

not a problem for the major corporations, because they have in-house professionals. They are a significant problem for a small group that has only three or four people, because the key man should be out there getting work, ensuring he has got continuity of work for employment. This links back into employment. The only way he can be guaranteed of employing people is by guaranteeing a flow of work. The best way that a key man in a small business can guarantee a flow of work is by not being diverted by unnecessary administrative things. The small business community has been made a tax collector and the burden falls more heavily on them. This is why COSBOA is suggesting that they get to keep some percentage of the GST—I think they have mentioned 2½; I have just forgotten—to recognise that difference.

Senator BARNETT—I appreciate that. Presumably the burden, and the compliance burden particularly, in the early stages of the introduction of the GST would have been perhaps more significant than it is now. Would that be a fair comment?

Mr Middleton—I am not sure whether the figures are available to show it, but the common talk is that, for most of the costs of setting up for GST and a reasonable amount of the ongoing situation, some businesses have not been able to pass it on. Woolworths and Coles have been able to pass it on, because they are just competing with each other. So, if Woolies let it be known that they are going to pass on the whole of the GST, Coles and Franklins do. But the little corner shop cannot necessarily do that because the guy down the road decides to shave it and pass only a little bit on. There is much more competition at the lower level, so they are forced to chase each other. I think a lot of the costs of introduction, and maybe some of the ongoing costs, have really just come off people's ultimate result in their business.

Senator BARNETT—I am just wondering if you can see light at the end of the tunnel. That is what I am focusing on.

Mr Middleton—I believe there will be an ongoing greater cost for small business in managing the GST. I think that is a fact of life. That will be ongoing. Clearly, the startup costs are gone. The GST has really bedded down in small business. Everybody understands how it works but a lot of people still have to go and see their accountant to get it sorted out each quarter. Perhaps as programs such as MYOB become more sophisticated—they, incidentally, are having trouble keeping up with the changes that ATO are making with their standard forms, because every time ATO changes a form all of the software houses have to rush around and change their software—

Senator BARNETT—Can I cut in there. We heard from the ATO this morning and we were talking about the changes that they make. I was asking how they advise small businesses, microbusinesses and home based businesses about the changes. They said that it is primarily through an education system through to the tax agents—and other ways, but primarily that way.

Mr Middleton—Hence small businesses have to keep going to their tax agents.

Senator BARNETT—Do you have recommendations on how they should advise small and microbusinesses of the tax changes?

Mr Middleton—Without any shadow of a doubt, small businesses' best source of information on tax matters is their local chartered or registered accountant; that is the quickest way to disseminate the information.

Senator BARNETT—I asked about the light at the end of the tunnel because I was in business for 13 years prior to my entry into the Senate in February. I have a vision of a brave new world where it is simple for small and microbusinesses to complete their returns and there is less regulation than we have now. Do you have a similar vision?

Mr Middleton—I think we all had that vision. Everybody was very hopeful that the introduction of the GST would make the taxation system simpler. In fact, it has not turned out that way. That is quite irrelevant to your view on whether a consumption tax is a good idea; that is a different story. Taxation matters have become more difficult and complex for small business. I do not believe large business has too much of a problem with it.

Senator BARNETT—I have to be a bit tight on time. I have two other questions. The first is on industrial relations. In your submission you mentioned unfair dismissal laws and their impact on small business employment growth. I seek your response to that or your confirmation of it. Secondly, you mentioned Woolworths and Coles being the major retail grocers in Australia. Have you put in a submission on the basis of the Trade Practices Act? Is competition an issue for you in terms of small business employment growth?

Mr Middleton—There is quite a long story to that, but I will take the first question first. In relation to industrial relations, I do not know many people who like putting people off; it is an awful thing to have to do. When you employ someone, most people I know genuinely wish to give that person a job and some security in that job. So they will only put someone on if they think they have a chance to give them some security. If you have a problem employee in a business with a small number of employees—maybe the person just does not like the boss; there is a whole range of subtleties as to why a person might not be a good employee; it is not just a question of them being dishonest or utterly hopeless—they may end up being a liability for the business. It is now very difficult to move somebody on.

It happens more easily in the construction industry because one of the acceptable reasons for dismissing someone is that your amount of work has dropped off. If your amount of work drops off, you have to retrench some people. But a small business, which might have a regular need for just three or four employees, never has that as a reason. Putting somebody off is awful. You have to let them walk out of the situation with their sense of pride intact. So it is a difficult thing to handle. The fact that your decision may be called into question by unfair dismissal law is a major disincentive to employment. What is worse, you potentially lose massive amounts of management time in having to go and debate the issue.

Senator BARNETT—Thank you. The second question related to competition.

Mr Middleton—It related to competition and domination by majors. I will give you a perhaps more pertinent example from the construction industry. The federal government effectively pays for massive amounts of public infrastructure work in Australia. The minute you give a very large project to a large contractor, you are investing in their monopoly. The practice of big national contractors not paying smaller contractors on time is absolutely rife, and it is

nothing more than short-term theft. Through your agencies, you pay the large contractors on a 30-day basis. Could someone please explain why small business people are not paid by those groups for anywhere up to 90 or 120 days. This is one example, in a particular area, of the domination by majors.

I am aware that small business people in retail feel as though the large owners of shopping centres also exert influence. I am not really up to speed on how that is done, although a friend of mine—who took on a delicatessen—showed me the lease conditions he had to sign, and it was nothing more than a modern form of slavery. I would hazard a guess that, if one looked at the lease conditions that a large retailer in the same shopping group signed, there would be a fundamental mismatch. Once again, it is an enormous area. In talking about the principles that affect small business, these overarching issues do cross quite a few of the various industries.

CHAIR—Thank you. What are the constraints that the home based business sector feels apply to them in the ACT?

Mr Geddes—They do not have, I suggest, multiple regulation as their dominant characteristic—that is not the major concern. As you know, we have territorial and local government combined so you do not have the three tiers. It has also been the practice over several years to deregulate. Because of that, there are only about 200 home based businesses registered with the Department of Planning and Land Management out of the 12,000 that exist. That is a far smaller feature. The dominant features relate to how to martial your own capacity building. They are the ones that I have referred to. Sometimes I wonder whether small business counsellors ought not be saying a lot harder to somebody in the early stages of their start-up, if they have such contact—and few do—‘Are you sure you want to go down that path by yourself? Don’t you want to club in with somebody else and share your intellectual property or whatever?’ There are more strategic management development questions than simply multiple regulation questions, I suggest.

The rest relate to those broader environmental questions. Home businesses and microbusinesses have helped diversify this regional economy, given the downsizing of government and other private institutions, particularly in the business to business field, the household services field, as well as the continued significance of the construction services field. They are really about challenges to capacity building in an effective way. That may not necessarily be best dealt with by a registration process for your management but by ways of engaging those managers in a meaningful way. We have been experimenting with little synergy groups where people contract together to share experience with a trained leader, for example, for a limited period of time. That is all you really have in many circumstances. The question of support for joint venturing—joint tendering, for example—and of collaboration is fundamental. It is the only way to grapple with the imbalance of scale that is there and, indeed, to compete in fields of the sort that Peter referred to before, that is, against the majors—large Sydney suppliers for example.

CHAIR—There are many good examples around the country of clusters and networks that work very effectively. Is that not the case for the home based business sector?

Mr Geddes—We started the Home Based Business Association as a self-help group some four years ago because that was not the reality. There are some small clusters in the professional

services field—groups of architects, for example, real estate agents or whatever—who are sharing resources and doing some of the joint venturing work that I referred to. It varies. It is growing. You need to find places to do that trading. One of the informal functions of any business type gathering is, of course, to do trade as well as to learn and have a bit of a rest out of the house before you go troppo. There is still a long way to go on that. There are imbalances, including through government arrangements. I note, for example, that where the government is a customer there does not seem to have been a review of public liability or professional indemnity demands by Commonwealth agencies, despite the concern about insurance. That is a standard \$10 million demand irrespective of whether you are bidding for a \$10,000 or \$20,000 contract and any assessment of risk that has been done. So there are a number of those institutional changes that are important to opening it up and making it a bit more level for such an operation, and certainly for lifting the image and profile so they are not simply seen as backyarders or pre-retirement people or whatever. An important part has been to lift the visibility, to lift the atmosphere of trade and demand.

CHAIR—You talked about the meshing of training. What exactly did you mean by that?

Mr Geddes—Some people will do a TAFE course before they launch out, but not many. Most people, as Peter was describing, will take a risk and develop it themselves. So the challenge is: how can we slot such ongoing training support into the ongoing management, remembering how slim a margin it is? It is the opportunity cost of pursuing that; hence short courses, weekend support, web based support and so on seem to be some of the core ways of going. If you are thinking of encouraging people with regulation on management training—most people do not have it, of course, at the beginning—my suggestion would be to tackle those structural questions first rather than look to a compulsion to register or do a course before launching out. There are obvious accountability questions if you are unfamiliar with safety and health questions and basic corporate governance questions, of course, and they ought to be brought to book as an incentive. I would begin in that direction.

CHAIR—It is an area where there is a gaping hole. What has come out of this inquiry so far is that there are very few in the small business community who have actually undertaken managerial skills training. In fact, we heard from quite a few of them that they have trained trainers and they have set up training organisations and so forth but they have not taken any courses to help themselves run the business. It is something that we are trying to grapple with—how you actually provide a practical way of assisting them in that area—because that can be the difference between them surviving as a successful business and failing.

Mr Geddes—Different mentoring systems are growing in different parts, and that is worthwhile encouraging.

Mr Middleton—I think the most successful way is to accept that people need to get in and have a go first and then try to pick them up as early as possible in their business life. It is like kids at school who are not academically minded. They do not understand at all why they need to learn this stuff and it is a constant complaint. Many small business people starting off would have the same attitude. If he is a plumber, he just wants to get out there, get going and put his first invoice in—get it all happening. I think that the time to target them is after they have had a bit of experience running a small business, before they get too big, and then come in with the information. It would be more meaningful to them at that point, when they have had a bit of

experience. A lot of people grow up looking back on their school years thinking that they wasted their time there because, with the experience of life, they realise how much more they could have learnt.

CHAIR—The other side of it is when you go into a shop and you get short-changed; you realise the benefits of learning mathematics.

Mr Geddes—Mentioning schools, virtually from primary school now the Americans have a variety of entrepreneurial education streams.

CHAIR—Is there an argument for including basic business training within the school curriculum?

Mr Geddes—I certainly think so.

Mr Middleton—Very much.

Mr Geddes—Absolutely.

CHAIR—It is a bit like learning to ride a bike: once you have learnt to do it, you never forget it.

Mr Middleton—I think a lot of productive time is wasted in the school system in this day and age. When you look at it objectively, a lot of it is really just childminding because the kids are not interested. You would be better off getting them involved in something like that. You do not need every state to spend zillions of dollars organising courses. It could be done centrally, and there would be no better group to do it than some sort of federal government agency that can see all the problems that small businesses have—and I mean the tax department and whoever else. Already an enormous amount of work is being done investigating small business and knowing what makes it tick and, as we were discussing before, there is a lot of paperwork available for people already. It is just that they do not know it is there or they do not have time to access it.

CHAIR—I noted, in your reference to the Productivity Commission study, that the number of failures in small business was not that great. What has concerned us as part of this inquiry is not necessarily the number of failures but the number of small business people who have lost substantial equity in their business.

Mr Middleton—I think that is a good point to make. The tragedy is that it is often the honest people who will go to the wall, who will spend their last dollar to clear their debts. They may have got into that position through outside influences. Sadly, as we have now commonly seen in the paper, there are quite clearly a group of people who set about planning not to pay their debts at all levels in the business structure. The honest businessmen of Australia would very much hope that the federal government is able to do something about those sorts of dishonest practices.

CHAIR—We have had it put to us that it is wrong for us to treat the small business sector as a small business sector. We really need to segregate it further into microbusiness, home based

business, small business. We even need to look at different industry sectors—personal services, retail, and so forth—because they really do operate differently and they all have different issues. We are not doing justice to the sector if we treat them all essentially as the same, because they are not. What is your response to that?

Mr Middleton—There is some logic to that. With the rapid change of technology and the ability of people to establish businesses basically on their own, we need to look at splitting up the definition of small business between micro and small and, in fact, to decide on what small business is. That would be a direct consequence anyway if COSBOA's suggestion of doing something about a kickback on the GST was to be considered. You would have to start considering at what level you brought that in and tapered it off. If you tried to do the split up to a greater degree, you would end up with trying to achieve too much. I would suggest keeping it to defining the problem in terms of general principle and working on those as a first step.

With all the talk and study that has been done about small business, I do not believe the fundamental problems of small business have been addressed. Despite the best efforts of productivity commissions and all of this paperwork that is available, it has not really got through. There is great intent there, but it is not really working. I would solve those problems first on a general scale and then start deciding how far back down the track you bring it. It may well be appropriate to do some splitting up.

CHAIR—If you were in charge for a day, what three priority issues would you give attention to?

Mr Middleton—If I came along to give evidence for a second time, I would handle it differently as well, I must admit. I have a little anecdote. Two years ago, Jamie Packer was interviewed on television; he was asked about the important things in running their business. I nearly fell off my chair at home when he stated that one of the most important things for them was managing the regulatory environment. I saw it on national television. I thought, 'Gee, his father never would have said that.' We all know big business has the ear of government, massively—both sides of politics, or four sides, whichever it is. Small business knows this. As a small business person, I was horrified that it was actually stated in public.

My job for the day would be to increase the influence of small business in the government decision making process, so that decisions that are made do not accidentally disadvantage the small business sector because that is currently happening. It is not happening with intent. It is just happening as a by-product of the government, of necessity, focussing on the big players because they appear to be in control of the big numbers. I would certainly do something for small business to make them feel as though they have not been forgotten. I would give them a kickback on GST. I would massage this fringe benefits thing so that people could have tax-deductible lunches. It is a small thing, but all of big business have their own corporate dining rooms. Once again, it is just an observable difference of the fairness of the thing.

CHAIR—They are supposed to pay fringe benefits on those lunches in the corporate dining rooms.

Mr Middleton—I do not know that they are. I think they employ chefs as direct employees and it all goes into the books. There is a perception that small business gets the rough end of the

pineapple. I would do something to address that. I would certainly use the Commonwealth's buying power to ensure that big business do not use their monopoly position using government money to basically carry on short-term theft, such as this business of 90- and 120-day payments when they are getting their money from the government on a 30-day basis.

CHAIR—Thank you very much, gentlemen.

[2.32 p.m.]

ANDERSON, Mr Peter, Director, Workplace Policy, Australian Chamber of Commerce and Industry

CURTIS, Ms Karen, Director, Industry Policy, Australian Chamber of Commerce and Industry

CHAIR—Welcome. The committee has before it submission No. 37. Are there any changes you wish to make to it?

Ms Curtis—No.

CHAIR—The committee prefers all evidence to be given in public but the committee will also consider any request for all or part of evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. Do you wish to make an opening statement?

Ms Curtis—We thank the committee for the opportunity to appear today. Because we have lodged a 90-page submission, I am sure you will have lots of questions for us, so we will keep our comments in opening very brief. Our submission basically is in two parts. It really addresses workplace relations, including occupational health and safety issues, and then a myriad of issues that affect the competitiveness of small business: issues like innovation, cost recovery, privacy, regulatory burden and taxation. I will address those issues and Mr Anderson will address the workplace relations and OH&S issues.

I would like to say a little bit about the Australian Chamber of Commerce and Industry and why we are particularly interested in small business. It is often suggested that ACCI represents big business, but through our membership base, with over 30 industry associations and chambers of commerce and industry, as well as national industry associations, we represent about 350,000 businesses. Of those, we estimate that about 280,000 are small businesses, which is a significant proportion of the small businesses in Australia, given that a lot of small businesses choose not to get involved with industry associations, specifically the home based people and microbusinesses. With our membership base we are in all states and territories, in all sectors. Through the consultative mechanisms of our committees, we have brought together a whole range of issues that seem to affect small business. This is supplemented by our survey work, which is quite extensive and goes back over a period of time. I will leave it at that, and I look forward to answering your questions on the broader issues that I mentioned before.

Mr Anderson—I could add a couple of remarks in the workplace relations and occupational health and safety context. The opportunity for workplace relations issues and their interaction with small business that comes from the terms of reference of this committee is very welcome. There has been generally a lack of specific scrutiny of the interests of small business in the workplace relations debate. In our evidence today and in our discussion we can perhaps explore some of the reasons why that might be so.

The last real opportunity to raise the interaction between the workplace relations policy issues and small business was in the Bell committee in 1996 or 1997. Prior to that there was some very limited consideration of those issues in the Hancock committee report in the mid-1980s. So the opportunity this committee presents to look at some of those questions is very timely, which is one of the reasons why we devoted 40 or 50 per cent of our submission to the workplace relations issues as they arise in a small business context.

Senator BARNETT—Firstly, can I pass on congratulations to ACCI for the submission. It would have to be the most comprehensive and lengthy submission we have had to this inquiry. It is also professionally prepared and a very helpful background resource for me and, I know, other members of the committee. Thank you very much indeed for that and congratulations.

Can I focus on a number of issues. On the workplace relations and industrial relations issues: we have heard from ACCI in regard to the workplace relations legislation. Just to put it on the record, would you confirm your views and your support? Secondly, I would like to explore your views, in regard to the larger role for small business, on how the Australian arbitral system determines award standards. I would like you to zoom in on that a little bit and see if we can work out how that can actually happen. Thirdly, you recommend a full exemption from federal and state unfair dismissal legislation. We have heard from a whole range of small businesses as to that being an impediment to employment growth. I would like to explore that a little bit further with you.

Mr Anderson—We certainly support the workplace relations legislation, the Workplace Relations Act, particularly the changes that it brought in in the mid-1990s. In fact there were changes made even before that, in 1993, which started to provide some more avenues for a less regulated system. From the interests of employers generally, but particularly in the context of small business, that was a desirable trend. The important point to bear in mind when we look at the workplace relations legislation is that it cannot be seen as a set piece of reform which ought not be examined and improved upon. There is obviously now experience which can be drawn from, over the period of five or six years since the act has been in operation, to see where deficiencies exist, where unintended consequences have arisen and, in some areas, where further change ought to be made just on merit. From small business interests, our submission raises a number of those areas where there should be some further changes to workplace relations legislation, both to reduce the regulatory burden that the current system imposes on small business and to rectify some of the problems that have emerged in the operation of the act. Our submission touches on some of those areas, particularly in relation to agreement making and in relation to the nature of the award system.

Anyone looking at the workplace relations system in Australia—certainly this is how small business see it—would still see it as a very complex system. The act is complex and the reform of 1996 which introduced new regulatory choices did so within a regulatory framework, which is still complicated. So when we are talking to small businesses about the workplace relation changes, it is unrealistic to be able to simply explain the operation of the system because there are still many limbs to it.

Senator BARNETT—On that point, if Senator Andrew Murray were here, he would ask a question which he has asked a few times during this hearing, and I think it is a good question so

I will ask it. We have the state based IR systems and the federal system. Do you think it would be better if we had the one system or would you recommend a simplification of all of them?

Mr Anderson—Our submission refers to the multiplicity of systems as imposing regulatory burdens and regulatory costs. There is no question about that but to answer the question specifically with yes or no is not appropriate. The view that small business and employers generally have about a unitary system is that you would have to balance up the benefits that a unitary system would create by lessening the regulatory content of the multiple systems with the ultimate regulatory content that the one system would have. So we would not say that a one system ipso facto is a better system because the content of one system could ultimately be contrary to the interests of small business, for example. Ultimately, you must have regard to what the regulatory content is, but as a general principle at least the harmonisation of the multiple systems would be an advantage for small business operators.

Whilst the industrial relations debate often gets bogged down in the politics of industrial relations, a lot of things are still happening where there is cooperation between state and federal governments. One of those areas is where there is an attempt to harmonise the laws, state and federal, relating to the time and wage record keeping requirements. That might seem to be a small thing but it is an example of a practical measure that should be encouraged to be taken by both state and federal governments to achieve one common set of standards in business for the keeping of time and wage records. To answer your question simply: if there were acceptable terms, a harmonised system would be in the interests of small business.

CHAIR—Would it be fair to say that, setting aside the Victorian experience where they have handed over their industrial relations to the federal system, the vast majority of small businesses, in the way we are defining them, in the other states would essentially be caught by the state systems to a very large extent?

Mr Anderson—That is probably right to a large extent. Obviously, Victoria is a big exception to that because of the single system. Historically, the state industrial relations systems have tended to operate more in the service industries than in the manufacturing industries. The state systems have therefore had much more impact on small business. That has progressively changed, particularly over the last 10 to 15 years and, as more agreement making choices have been introduced in the federal act, there have been some opportunities for at least incorporated small businesses to move into the federal system. You are correct in the broad proposition you put forward. Do you want me to answer the second and third questions you asked, Senator Barnett?

Senator BARNETT—Yes, please.

Mr Anderson—Award standards and the interaction with awards is an area where there is a real impact on small business because a lot of small businesses operate, particularly in the state systems, simply by reference to the award structures. Although there have been some measures to simplify awards, they have been only limited in their beneficial outcomes and some state systems have not gone down an award simplification process at all. The interaction with award structures continues to be a problem for small business, often because awards are created as a result of applications for variation by trade unions to industrial tribunals and trade union applications tend to see employers as a homogenous group and do not tend to distinguish

between the circumstances of employers in the outcomes that they seek by way of award regulation.

The third question you asked was in relation to unfair dismissals. As you would be aware from the evidence and the submissions that we put forward to the committee in its inquiry in the unfair dismissal bills earlier this year, we support the exemption from the unfair dismissal laws for small business. We do so as one of a suite of measures which need to be made to improve the operation of federal unfair dismissal laws. We have to bear in mind that there are changes that need to be made to unfair dismissal laws that should apply generally, not just in the small business area. There need to be some specific matters attended to in a small business context, but also some other general changes. We have advanced a series of measures in our previous submissions on that score.

Senator BARNETT—The Certified Practising Accountants, CPA, in Melbourne in their submission put forward a very interesting proposal in regard to industrial regulations, to help small business. I am not sure if you have had a chance to have a look at it. They said, ‘Why don’t we do a cost-benefit analysis of this award compared to this award or this type of industrial arrangement compared to this one on small business?’ They talked about the impact of overtime rates, double time on Sunday and time and a half on Saturday. An employer might say: ‘I have a small business. I have some options. I have four people. What is the impact for me? I want to be able to work it out.’ They said, ‘Look, we should be able to work something through in terms of having a model on the web or available to small business that they can access, to make it easy for them to determine whether they should be putting on half a dozen casuals or two permanent part-timers.’ It came up in the context of the casualisation of the work force. Do you have any views on that or have you thought through that sort of recommendation?

Mr Anderson—I did skim through the *Hansard* of the CPA’s position. It goes to one of the real issues that does arise and that we raise in our submission, and that is the information flow to small business about the operation of the industrial system. In the industrial area—and I think all of us fall into this mistake—we tend to assume that small business has a segment of the day where they turn their mind to employment or workplace relations issues. It does not happen like that in the actual operation of businesses. We cannot assume that what we know or what larger, well-resourced employers know about the industrial relations system filters its way down into the minds and attention of the proprietors of small businesses. That means that we need to work hard as organisations and as regulators on mechanisms to filter information down to small business proprietors.

One of the many reasons why small businesses may just continue to operate under awards and not go out and make agreements and actively involve themselves in the industrial system may be that they are not aware of some of the opportunities that may exist for more flexible work arrangements. Often you can learn from what other businesses have done. We have seen, and we have supported, initiatives that have been taken by the Commonwealth government, by some state governments and by authorities such as the Employment Advocate to publish examples of agreement making where you can see, for example: here is a way penalty rates may have been treated for the purposes of a particular business. As a core issue, there are fundamental differences in the way in which businesses operate. Decisions to put on casual or part-time staff are going to be made at individual business level and primarily will be driven by commercial needs. But if there is a sense of understanding, as in, ‘Well, I never thought about

that. Maybe you can employ a part-time employee in this particular way and maybe that does mean that I don't have to rely so heavily on other staff members and the like,' an understanding of what can be done with rosters, with penalty time or overtime, which you can learn from what other employers are doing, that is a good thing. Trying to get that information down to small business is desirable.

Senator BARNETT—On a different topic, the regulation impact statement is something I have been a big fan of over many years. You have recommended a review, and a more rigorous review, of that RIS by the government agencies. I have noticed in your executive summary, 'Regulators should attempt to ...' and you give various dot points in your recommendations. I assume that you are wanting them to give greater consideration to the interests of small and microbusiness, in particular, when they are reviewing the regulation impact statement; is that correct?

Ms Curtis—The regulatory impact statement is a wonderful tool if used appropriately, but the fact that the Office of Regulation Review said it was comparable to the previous year, to last year's results, is a bit of an indictment upon the policy making process. The Office of Regulation Review have never knocked one regulatory impact statement back, I understand. The regulatory impact statement is supposed to determine if regulation is the best way to achieve the policy outcome that is desirable. But we understand that the regulatory impact statement always says regulations are the most desirable mechanism, because the regulatory impact statement is written after regulation has been decided as the most appropriate mechanism. There are quite a number of examples: the gene technology bill to establish the Office of Gene Technology Regulator was actually introduced and passed with the statement, 'We'll do a regulatory impact statement later,' and the government did commission KPMG to do a study. When we want to encourage innovative small businesses, that is a real problem—that the cost to them has not been determined before the regulation becomes law.

Senator BARNETT—My understanding was that those RISs are, hypothetically, meant to be done prior to the regulation being introduced.

Ms Curtis—They are supposed to be—and, if there is a cabinet decision required, with the cabinet papers.

Senator BARNETT—Are you saying that is not happening?

Ms Curtis—It is not happening in all cases. We believe that with the impact upon small business with regulation it is so important. We welcomed the fact that the government introduced the regulatory impact statement arising out of the Bell review. It was a wonderful initiative. But the agencies and departments sometimes are remiss in the way they go forward.

Senator BARNETT—We had a submission in Melbourne, I think it was, from a small business operator or advocate who said it should not only be done when it is introduced but it should be done regularly, as in every year, or at least updated at a regular time. Times change and small business practices change. Do you have a view on that?

Ms Curtis—Regulations should always be reviewed, as to whether they are still the appropriate mechanism to achieve the policy outcome. Coupled with that is recognising that there is impact upon business and particularly small business.

Senator BARNETT—The ATO presented today and we heard about their small business initiatives. I am not sure if you have had contact or have regular contact with the ATO. Can you give us your response in regard to how small business friendly they are in terms of their information flow and their education regime? We hear pretty regularly out there, as far as the witnesses and the small business community generally are concerned, that it is more of an enforcer. They are scared of the ATO. It is not a friendly place to be. From your membership and your comments, how successful is the ATO in their education campaign? How small business friendly are they? I notice on page 5 of your submission that the frequency and complexity of changes to the tax laws and rules consistently ranks as the number one constraint by Australian businesses. What is your response?

Ms Curtis—We believe that the ATO has done a fine job in the last few years in trying to change its approach in dealing with business, particularly small business. It does have a difficult job in trying to disseminate information. Due to the fact that tax is something that is not the favourite topic of most people, let alone businesses, it is always going to be difficult because there is some resentment by some that they have to pay taxes. That has to overlay any criticism of the tax office. We think they have really improved their consultative mechanisms. They have small business officers out there in the field trying to be cooperative and help identify problems rather than act as enforcer.

CHAIR—Mr Anderson, coming back to the IR issue: when we were in Western Australia we spent a bit of time discussing this issue of the dual systems. A lot of people would like a unitary system or prefer the two systems. At the end of the day, the answer we got from some people was they would like a unitary system but they wanted two systems. They want the insurance of being able to move back and forward when it suits them. That is the imponderable that is always there.

You hit the nail on the head earlier when you said about the politicising of industrial relations issues. The real problem, I think, that people were articulating in the Western Australian hearings was this concern that every time there was a change of government there was a change of IR system. You had laws introduced by the Liberal government in Western Australia. You now have a Labor government which has introduced new laws in the IR area. You had the federal government seeking to introduce laws. There was this continual legislative barrage going on in the IR area. The message that was coming through loud and clear was: ‘When do we get a bit of predictability?’ They would be much happier if there was a bit of predictability in the system—warts and all—if at least there was some certainty about what was there and what they had to operate with, rather than this uncertainty of change all the time. There has been reform fatigue in the IR area in the past decade or so. Is there an argument for governments stepping back a bit from the area of regulation of industrial relations and letting the parties get on with it, with the umpire playing a legitimate role in the middle, and perhaps restoring some of those services that used to be there in the system through the inspectorate and so forth where small businesses could get access to the industrial registry for advice on awards and what have you—and a similar type of arrangement at the state level?

Mr Anderson—I do not think it is quite a case of government having to step back from seeking regulatory change. The difficulty we have is that even some of the most sensible of regulatory changes, relatively benign proposals, tend to become portrayed as being of great significance. Firm, fixed positions are taken and the issue is made a matter of great principle. We have seen in the last few years some proposals which raise great issues of principle, but also some proposals which do not raise great issues of principle but which have not been successful because very fixed positions have been taken.

CHAIR—You made the point, I think, in the last discussion over unfair dismissal or fair dismissal laws, that there were a number of amendments put up that would have made the system easier, yet the government's approach was, 'You take all or you take nothing.' There is an inability at that level, in the current environment, for whatever reason, even to make changes around the fringes in some of these areas, because it has become almost a battle cry for people to take diametrically opposed positions.

Mr Anderson—We are not completely disheartened, despite the inability to get unfair dismissal changes through. Obviously the issue of an exemption for small business is one of serious principle and of division in the political arena. As I said earlier this year, there are respectable arguments on both sides of that question, and we come down on one side of the debate. But it is very important that the other perhaps less interventionist measures in the unfair dismissal debate be looked at, each on its own merit. A number of proposals have been put up that ought to be examined, including those we have put up. At the end of the day, ultimately the business community will look to outcomes from its regulators to ensure that there is what we all have as a common objective, and that is to have a system that not only works fairly but also promotes the creation of new jobs.

CHAIR—But you would know that in this area it is not easy to get unanimity on the nature of reform. For good or bad, I spent three years, 1984 to 1987, across the table from Brian Noakes, writing the new act arising out of Hancock. I think, if he had realised how difficult it was going to be, Hancock might never have written the report. It took a long time and there was difficulty in translating Hancock's recommendations into a legislative package—although we did get there with some, I think, significant reforms at that time. But this is not easy. It is hard and arduous work.

Mr Anderson—It is certainly not easy. In the Australian context, it is unrealistic to think a new government coming in, of no matter what political persuasion, will not have an industrial agenda that it will seek to implement. Whilst there is an obvious preference for stability and predicability at one level, as you say, the reality is that governments will always seek to change industrial rules. Our primary focus will be to look at the nature of the changes that are being proposed. I think businesses are prepared to wear changes to industrial regulation if, ultimately, they can see beneficial outcomes arising from them. Change for change's sake is obviously the worst type of change because it involves no net benefit together with regulatory intervention.

You mentioned the specific issue of the state and federal systems in Western Australia. Obviously changes have been made to the Western Australian state system. The nature of those changes has been opposed largely by the business community, and the fact of change has also been a point of complaint. But the critical thing in this area is to try and get the change right. I do not subscribe to the view that the government should just hold back. One of the ironies and

conundrums that we all face as participants in this debate is that, if we are trying to achieve a better system, we must try to change our system—because it was a very regulated system. It is difficult to reach consensus. But if you look at the last 10 years, even though major issues of conflict have arisen between the major parties in Australia, there was unanimity in 1993 and 1996.

CHAIR—On general direction.

Mr Anderson—There was a core thread of unanimity that was reflected in the amendments made in 1993 and those made in 1996. Also, there was a sense that the nation would move forward with certain principles being embodied in its industrial system. Governments of two different persuasions accepted those propositions and sought to implement them in different ways. But there was some sense of common ground found, and we need to keep searching for that.

CHAIR—I think that is a reasonable point to make. I just wonder whether in recent times governments have not sought to be too proscriptive about the nature of the changes they want to implement rather than being much more directional, in a sense, in allowing the commission or the system the flexibility to work those through with the players at the industry or enterprise level.

Mr Anderson—I think you have to look at each proposal on its merits to evaluate whether it is too proscriptive or not. For example, in its proposal relating to secret ballots, the government has indicated that this time around it is a less proscriptive proposal in terms of regulating all the things it seeks to set in legislation, such as the way in which a ballot ought to be performed in the workplace prior to the taking of protected action. There is also another level where we clearly need to regulate in order to improve the system, and that is where there is a need to rectify problems that have arisen. Our system is so heavily tied up in legislation that, once such legislation is interpreted in a way that was not intended or does not reflect the statutory intent, we need to be prepared to rectify and remedy our legislation. If we do not do that and just have a political gridlock preventing that then we are not implementing what was proposed, and so we will not get the benefits of the outcomes that were proposed. To simply say in the workplace relations area that we should not be introducing further regulation I think goes too far because there is obviously a need to do so. But it is the outcomes sought by that regulation that are critical. Obviously, as we say in our submission, whatever regulation is imposed needs to be as straightforward and nonproscriptive as possible so that the workplace parties can, in large, have the flexibility to make the changes that are important to them.

CHAIR—Ms Curtis, a couple of issues are raised under your banner. On the issue of skills training, I find the survey of 276 New South Wales small businesses interesting. I do not find the outcomes unpredictable because a pretty common theme running through this inquiry so far has been lack of skilled labour. One problem I see is that small businesses require skilled labour, obviously have a high demand for it and yet are notoriously bad trainers. Historically, their commitment to training has always been very poor. How do we rectify that part of the equation? The Dusseldorf Foundation has just put out a report done, I think, by people out of ACERT. Essentially it argues for the re-introduction of a training levy or a similar type approach in order to lift training levels. ACERT has also done a report, which I have seen, for the Victorian Manufacturing Council. It argues, I think with some validity, that industry—this is not just

small business but industry generally—has become so lean and mean these days that any fat which did exist to undertake training is no longer in many of the businesses. As a consequence, training has not been undertaken and there is a decline in the number of people who are in training across the whole of our industry. How do we rectify that dilemma in terms of a training regime?

Ms Curtis—That is a very difficult question to answer. It is a cultural issue; it relates to our innovation culture, our entrepreneurial culture. It also relates to the recognition that your own management skills and the skills of your employees go to the very heart of the success of your business. Over time we would hope that businesses recognise how important education and training are. They need to be embodied in the government's policies in terms of vocational education and training and higher education. A need exists to bring together all of those policies with its general policy on innovation. I do not have a simple answer for you. We would not support a training levy; but we recognise that this is an ongoing issue for business to address, together with governments at the state and federal level and, more generally, with the community.

CHAIR—It seems to me that one dilemma we face in this area is that, in terms of the training regime, many businesses, small businesses included, are training to some degree but a lot of the training has become very company or enterprise specific. They are picking up some of the modules that may be relevant to their industry or enterprise but they are not picking up the rest. There has been a substantial decline in generic training, particularly of skilled tradespeople and, as a consequence, we are building into the system—either deliberately or accidentally—a lack of labour market flexibility and capacity for people to move. So, when people do move from one firm to another, they virtually have to retrain for the specifics of the firm they go to. Are you aware of this? Is it something that is discussed generally within the business community?

Ms Curtis—Yes. Because we recognise that education and training is a need that must be addressed by the business community, ACCI accords it a high priority. Also, as a leading industry association, we have to help lead on public policy issues. It is understandable that individual businesses will concentrate on their own core strengths and skills and want people who work for them to be trained in those areas. But, more broadly, the industry needs to understand that greater skills that are transferable are needed, and there are core competencies. We support that approach and work with the government on it through the national skills initiative. In that area, we recognise there is a greater role for business in trying to develop more skills within the work force.

CHAIR—In your submission, you also raise the subject of research and development. What research and development issues do you see as being relevant to this inquiry?

Ms Curtis—Generally, we believe there should be greater business expenditure on research and development. We actually prefer to call it business 'investment' on research and development. We see it as an investment rather than a cost. In the past, small businesses have not been encouraged much by existing government initiatives. For instance, with the 125 per cent R&D tax incentive, you had to be making a profit for it to be of any advantage to you. Now, arising out of Backing Australia's Ability last year, SMEs can access the R&D tax concession from 1 July this year; and we look forward to that making a difference.

Businesses have to understand that their long-term competitiveness depends upon their ability to be innovative. That is vitally important. Many small businesses are leading-edge innovative companies and do not need anybody to tell them they need to be innovative. But some smaller businesses that have been around for a long time in the more traditional areas of the economy also need to be innovative in their approaches. Trying to change that enterprise culture is something that we, working with the government, are trying to do. We see it as being really important that businesses understand they need to be innovative.

CHAIR—Is there an argument for looking at a policy change in this area, say, to adopt something similar to what occurs in some European countries? In Denmark, for example, there is an engineering institute which is a government organisation. It trains engineers, carries out basic research and does incremental research and development for companies on a fee-for-service basis. It provides a research and development establishment which is available to all small business in a particular area. Collectively, it provides resources, including training, that individual small businesses could not provide but which they can access on a fee-for-service basis. Is there an argument for something like that to be looked at in this country, given the preponderance of small businesses we have around the place? Then, rather than relying on individual businesses making the decision about whether or not to have an R&D capacity, you drive that capacity for research and development to occur out of providing the infrastructure, so to speak.

Ms Curtis—That concept was considered in the innovation summit process and leading up to the Backing Australia's Ability announcement last year. I understand that the Miles committee, which looked at some of the recommendations that arose out of the innovation summit, saw that concept as being more supply driven than demand driven. It saw that better use would be made of public funds and, in the long run, it would be better for the economy for it to be driven by demand from businesses. So the existing Cooperative Research Centre Program does try and encourage small businesses to get involved.

CHAIR—Do you think that is a better model?

Ms Curtis—I think the CRC is probably a better model. Remarkably, the CRC program is judged by the OECD to be one of the most successful innovation programs around the world because it has got together research institutes and government bodies doing research and larger and smaller businesses doing research on specific topics. Because it is funded for a seven-year period, there is enough time to be able to see some benefits from the research.

CHAIR—Isn't there a bit of a failure in that area with incremental R&D? It does not tend to focus on that. In my experience, a lot of small businesses actually want that incremental R&D. That is what makes a difference in their keeping their product ahead of their competition's product.

Ms Curtis—Without doubt, incremental R&D is vitally important to small businesses. The big bang stuff is interesting and it has great effect when it happens. But by far the most continual effect comes from the incremental innovation that happens, and so I agree with you there. There is a problem with the Danish model for small businesses in Australia: I do not know that we would have the critical mass necessary in some of those areas across the nation

for it to work. For example, where would you set it up? There would be all those problems that we have in a state-federal system here in Australia.

Mr Anderson—In relation to training that is done on a generic basis, I do not think we should be too disheartened. The whole development of industry training councils in the late 1980s and early 1990s was a very positive initiative. Also, we have even upskilled service industry labour forces to a certain degree. Our members do a lot of training of a generic nature through their organisations. But, at the end of the day, training will go only so far in meaning something to individual businesses. We see a lot in the occupational health and safety area, for example, where we can generically train in relation to OH&S obligations. But the critical thing that will improve the OH&S in that workplace, in a training sense, is for someone to come and have a look at that workplace: for a training resource to move from the generic to the specific, with someone saying, ‘Well, look, problems will arise from the design of this equipment’ or ‘the nature of this carpeting on the stairwell’ and the like. So we do need to take generic training in some areas down into specific areas otherwise we will not get the benefit.

CHAIR—I understand. I did not mean to give the impression that it was not occurring, but there certainly has been a decline. I know some companies that have just set up a company in Western Sydney—it is a group type activity with the local TAFE—for the purpose of training toolmakers, because there is a substantial shortage of toolmakers. They are not setting this company up because they have suddenly seen a business opportunity; they are setting it up because it is the only way in which they can get a supply of skilled labour to keep their individual operations functioning. I think gaps are appearing in the system and they need to be rectified.

Proceedings suspended from 3.19 p.m. to 3.36 p.m.

BRONGER, Mr John William, National President, Pharmacy Guild of Australia

DEMIRIAN, Mr Vasken Theodore, Director, Economic Analysis and IT, Pharmacy Guild of Australia

GREENWOOD, Mr Stephen Gardner, Executive Director, Pharmacy Guild of Australia

PHILLIPS, Ms Wendy Margaret, Director, Strategic Policy, Pharmacy Guild of Australia

CHAIR—Welcome. The committee has before it submission No. 61. Are there any changes you wish to make to the submission?

Mr Greenwood—No.

CHAIR—The committee prefers all evidence to be given in public, although the committee will also consider any request for all or part of evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. Do you wish to make a brief opening statement?

Mr Greenwood—Yes, we do. Thank you for the opportunity to make the submission to the inquiry into small business employment. As stated in our submission, the Pharmacy Guild of Australia is a national employers organisation registered under the federal Workplace Relations Act. It was established in 1928, bringing together several small retail pharmacy organisations then operating in the various states. Its members are the pharmacist proprietors of some 4,500 community pharmacies throughout Australia. The guild represents the interests of its members and seeks to maintain community pharmacies as the most appropriate primary providers of health care to the community through optimum therapeutic use of drugs, drug management and related services. Community pharmacies are, with few exceptions, small businesses, and the cost associated with complying with endless government regulations is certainly a major factor in the ability of pharmacies to employ additional staff. These regulations range from workplace relations and taxation through to superannuation, occupational health and safety, and local government, planning and tenancy laws.

The cost of complying with unnecessary government regulations is an issue that has been addressed in great detail in the comprehensive submission prepared by the ACCI for this inquiry. The guild, as a member of ACCI, supports the arguments put forward by ACCI in its submission on this issue. I should, however, make the point here that we do not support the ACCI's position regarding the current review of the Trade Practices Act. The guild has put a separate submission in to that review. The guild believes that the act should be strengthened to assist small businesses to operate effectively where there is market dominance or market power being used unfairly.

The focus of the guild's submission today is specifically the effect of the GST and in particular the treatment of GST-free products on the ability of pharmacies to employ more staff. This issue is not new. Indeed, it was brought to the attention of a Senate inquiry over three years ago. It is simply this: 85 per cent of products distributed through pharmacies are GST free to

consumers. However, these products only become GST free at the point of retail sale rather than being tax free all the way through the supply chain. This means that the pharmacy has to pay the GST on these goods and then claim the tax back as an input credit, which in many cases is a quite substantial sum, from the Taxation Office. My president, Mr Bronger, will be able to give specific instances of this in regard to his own businesses.

By definition, therefore, unlike other small businesses, pharmacies are always in a negative cash flow situation. This in turn creates a need to lodge monthly business activity statements in order to retrieve the money paid out as soon as possible. At any given time, the Australian Taxation Office owes pharmacies about \$40 million—a revolving credit of some \$40 million, you might say, and at pharmacists' expense, to say nothing of the administrative burden of the GST. My members cannot take advantage of the reduced administrative workload offered by quarterly returns available to all other small businesses—and this is in a reverse situation of needing to remit the tax to the ATO. An independent study confirmed our concerns about the significant administrative cost imposed on pharmacies. An average of 20 hours per week is devoted to GST compliance in pharmacy.

Treasury's insistence on the purity of the GST model is no longer tenable, in our view. The current model is as inefficient as it is without purpose. It must therefore be revised in regard to pharmacy. Moreover, the purity argument vanished, from our point of view, when fresh food was deemed by Treasury to be GST free right through the supply chain. We believe we can no longer ignore this issue, particularly when the system is causing extra work for both pharmacy and the Australian Taxation Office. In a perverse way, the GST itself has created employment opportunities in pharmacy to deal with the inherent regulatory burden of the GST—and this is not what the GST was all about. Indeed, in its current form the GST is diverting resources away from more productive functions such as looking after the health of the community. Those are functions that should be resourced up to provide better care to the community.

To conclude, the guild believes that this unnecessary GST burden continues to have a negative impact on pharmacy business and on the ability of pharmacies to employ additional staff. The guild can see no downside for the government in changing the arrangements for the handling of GST-free products in pharmacy so that community pharmacy is not damaged in this way. In fact, there would be some advantage to government as a result of the savings in administrative costs to the Australian Taxation Office if pharmacies were able to lodge the BAS on a quarterly rather than a monthly basis. The guild urges the committee to consider the concerns raised in this submission and to include in its recommendations a proposal to change this model to reform this unfair anomaly in regard to pharmacy. That concludes the guild's statement. My colleagues and I will be happy to respond to any questions members of the committee may have.

Senator CROSSIN—Mr Greenwood, what sort of products are you talking about, on which GST is payable by pharmacies and then they have to get that reimbursed? Are they mainly medicines and pharmaceuticals?

Mr Greenwood—Yes, 85 per cent of all medicines are GST free in pharmacy to consumers, but the pharmacists have to pay the GST on those medications and then claim the GST back from the tax office. That means they are always in a negative cash flow situation and they are always owed money by the tax office.

Senator CROSSIN—Are these prescribed medicines that are dispensed or a mixture of products that are also available off the shelf?

Mr Greenwood—They are mainly prescribed medicines.

Ms Phillips—But also over the counter; it is all scheduled medicines.

Senator CROSSIN—I am assuming you have made representation to the government about this. What reasons have been given for not treating this in the same way that food is treated?

Mr Greenwood—I think the main reason that the Treasury gave us was that they did not wish to affect in any way the purity of the model, especially in the lead-up to the last election. They wanted to ensure that the model was kept consistent. But, in our view, there were no good reasons as to why this anomaly has continued. Indeed, we were given to understand that they would very carefully consider trying to change this after the election.

Senator CROSSIN—Is there any indication that that change is now being considered?

Mr Greenwood—Not at the moment, although we have talked to a number of ministers who are very sympathetic to the situation that pharmacies are in. They do understand that pharmacies are being treated differently from almost any other small business. In fact, our national president, Mr Bronger, was on the committee that simplified the arrangements in regard to the GST and the BAS statements, but the way that those arrangements were worked out meant that pharmacists could still not benefit from those changes.

Senator CROSSIN—You talked about a \$40 million payment being owed to pharmacies across the country at any one time because of this anomaly?

Mr Greenwood—That is right. There is a revolving credit line of that amount that is out there and some of the delays that pharmacists have experienced in regard to receiving their refunds have caused significant problems. I think Mr Bronger has had that experience in his own business. Is that right, John?

Mr Bronger—Absolutely, yes.

Senator CROSSIN—What sort of delays are we talking about here? A couple of months?

Mr Bronger—Three months or longer. I think the difficulty arises that you pay the GST that accumulates through the supply chain and that is dead to you. In claiming it back, especially in the early days, the ATO virtually made an inquiry of almost every pharmacist as to the claim because it was a refund situation. Even though we made inquiry after inquiry and asked them to release the money faster, they did not do so because it was not what they expected even though we had spent a lot of time prior to the implementation of the GST telling them what the problems were going to be.

Senator CROSSIN—Did the Taxation Office not understand its own legislation?

Mr Bronger—Most of the refunds for pharmacists were at such thresholds that it immediately threw us out of the computers. So we went into a hand checking procedure.

Mr Demirian—In fairness, towards the beginning of the implementation, while senior management was all too aware of the net refund position it had not trickled down to the operational staff. So in effect what the computers did was use an exception reporting system to throw out all the refund positions.

Senator CROSSIN—Has that system settled down now?

Mr Demirian—It is still continuing to some extent.

Mr Greenwood—To some extent it has gradually improved and it would have wanted to because over 50 per cent of our members were subject to tax audits. That was causing tremendous concern within the sector. I guess the problem was of sufficient magnitude to warrant the intervention of the senior tax officers, including the commissioner, and that did occur. There are isolated examples of this still occurring.

Ms Phillips—I think the other problem in the early days was that small businesses generally were being advised by their accountants that to reduce the administrative burden they should be lodging quarterly, so quite a few pharmacists started off thinking that they would lodge quarterly BASs and found that they were in this ghastly situation of being owed thousands of dollars. That was also a problem to change around because they were getting conflicting advice on whether they could move back from a quarterly to a monthly. Those kinds of things have been straightened out but there are still some problems here and there with the money being refunded in a timely way. The other question you had was in terms of why pharmacy was given this particular model. I think it was because from the beginning these products were going to be GST free. There was never any question of GST being paid on all of the scheduled items and medicines and so on. In the case of fresh food, that came much later on. That originally was not going to be GST free. Because it was considered on its own, for some reason the model was made different there. But we had made representations before the GST was ever implemented that the system would be so much superior if it was GST free into the pharmacy and paid earlier in the supply chain.

Mr Greenwood—We certainly advised the government over two years ago that this problem would arise and it would be a significant problem. We have regrettably been proven correct.

Senator CROSSIN—So it is not a matter of creating a new system in order to accommodate this. It would simply mean you would extend what is happening with the food items to pharmaceuticals. Is that it.

Ms Phillips—Fresh foods are GST free ex-farm. In our case, they could be GST free ex-manufacturer or GST free ex-wholesaler. Those two sectors are big business; they have no problem at all handling the GST.

Senator CROSSIN—In pharmacy, how do you then factor in growth mechanisms or productivity in the industry when you have this burden?

Mr Bronger—It has been very difficult over the last little while because it diverts the pharmacist and a lot of his senior staff away from focusing on the core business. I suppose that goes to the essence of our submission. Also, the sum of money we are talking about refers to six per cent to seven per cent of turnover. In lots of cases six per cent to seven per cent of turnover is the bottom line of the business. So, if that is delayed at all, the long-term efficiency of the business is jeopardised. That is the real crux. You have hit it right on the head.

Senator CROSSIN—If this problem is rectified, where could areas of expansion be in your sector?

Mr Greenwood—The main areas that we are focusing on are the range of new professional services for the community, especially in the area of disease-state management and counselling. Things like asthma management, diabetes management, sports care and baby care are major areas, but there are a range of new professional services, such as medication reviews, that are starting to come into pharmacy. We would see those as the main areas for expansion. It is much more difficult to embrace all of these areas if a proportion of your costs is being eaten up by unnecessary regulatory burdens.

Mr Bronger—I suppose the fact is that pharmacies—since they are in the community and have sites in shopping centres or high streets—are really set up to play a big role as the community ages. The recent Access Economics report on ageing indicated that the pharmacy is one of the identities within the community—and certainly one of the small business groups—that is ideally suited to handle the ageing population maintaining a good lifestyle in their own homes. My colleague Stephen referred to our involvement in areas to help maintain that sort of stability within the ageing community. We believe that that is where our area lies, as well as in the traditional areas with young mothers and children et cetera.

Senator CROSSIN—I want to ask you about the changes to the Trade Practices Act. Could you outline for us, on the record, what your objections are about that? My understanding is that it is about moving pharmacy operations into supermarkets; is that related to it in some way?

Ms Phillips—Do you mean in terms of our statement that we disagreed with the ACCI position?

Senator CROSSIN—Yes.

Ms Phillips—We believe that the Trade Practices Act has started to assist small business more efficiently since the changes were made in the mid-nineties. I think the act was changed in 1998. Section 51AC introduced unconscionability. Our members are mostly affected in retail tenancy situations; like any other small business in a shopping centre, they really have no power at all if they are faced with unreasonable demands by shopping centre owners. Section 51AC is still a very difficult section to operate to help small businesses. To us that is an obvious area where the act should be strengthened. But we also believe that section 46 should be strengthened by an effects test and that the power of the ACCC to give cease and desist orders should have application. Where you have market dominance, we see it as impeding competition if you do not allow this section of the act to be used effectively. It seems to us, from the cases brought so far, that it has been very difficult to bring a successful action under section 46 as it stands.

Senator BARNETT—Mr Greenwood, you mentioned in your submission that you support the ACCI submission—

Mr Greenwood—Yes, I do.

Senator BARNETT—apart from the competition provisions that Ms Phillips has just outlined for us.

Mr Greenwood—Yes, that is correct.

Senator BARNETT—Thank you for that. The ACCI made a number of recommendations regarding the industrial relations system which they say is complex and perhaps inflexible and could become more flexible. They have indicated support for a number of the government bills before the Senate. I am interested in the Pharmacy Guild's position in relation to the industrial relations system, and those bills in particular, and whether you believe the current system is an impediment to small business growth. I assume most of your members are small business operators. The ACCI has specifically focused in its submission on the regulatory impact statement and the need to toughen that up and make it more rigorous. I am seeking your views and a response to that as well.

Mr Greenwood—We certainly support the position of the ACCI with regard to unfair dismissal. We do find that that is an impediment. I would not wish to quantify what the impediment relates to in terms of the number of jobs, as some have tried to in the past. It certainly is an impediment. We think that the system could be made much more flexible. In terms of the industrial relations system in general, pharmacy is not an area that is widely unionised. Our relations with the unions have always been very good. To that extent, the award system has probably served our sector well. A number of pharmacists have embraced the AWA arrangements which has enabled them to introduce far more flexible arrangements into their pharmacies and they have found that to be worthwhile. There is not a great saving, especially in terms of the training requirements, to go down that path, but AWAs create a much greater degree of flexibility than had been there in the past. Most of our members have not gone down that path although increasingly more are.

Senator BARNETT—On the second part of that question, has the Pharmacy Guild had a chance to look at the regulatory impact statement views of the ACCI and do you support a more rigorous implementation of the regulatory impact statement?

Ms Phillips—Yes, at meetings that we have attended with the ACCI this has been something that we have always supported. It is the old story that somebody sitting at a desk introducing a new form or thinking about some regulatory requirement does not look at how that might translate into lost productivity in the workplace. I think it is a necessary discipline that those impact statements be done and the costs put down and worked out to make sure that the change is necessary and it is going to have beneficial outcomes.

Senator BARNETT—In recent weeks Mr Warwick Wilkinson released his report on the review of pharmacy in Australia and it has been commended heartily by the Prime Minister. Do you have a response on that on behalf of the Pharmacy Guild? Could you comment on its impact on small business and small business employment?

Mr Greenwood—We have been very supportive of the main recommendations of the Wilkinson report because the report did confirm that the ownership of pharmacies by pharmacists was in the public interest and that pharmacy had met the competition policy test after an exhaustive inquiry. In terms of the impact of that report, there are a number of recommendations which will need to be addressed by the state governments. We would hope that they would take a uniform approach to addressing those recommendations. Pharmacy legislation in Australia is state legislation. It is up to the states to actually give effect to those recommendations. Is there anything you would like to add to that, John?

Mr Bronger—It certainly appears from its recent release that there is broad based support amongst the states. We should, I hope, end up with a fairly regular implementation of legislation across Australia, which we look forward to with a great deal of pleasure because it has changed, sometimes not subtly, between jurisdiction.

Ms Phillips—We were so very pleased that, in this joint government response that was published on Friday, every single government in Australia supported the pharmacists' ownership of pharmacies. The Prime Minister has shown an ongoing commitment to small business in giving support to pharmacy ownership.

Mr Greenwood—This is a sector that is not only viable but growing and the sorts of services that are being provided to the public are increasing with the move into these professional areas. We employ over 40,000 people in pharmacy; 25,000 of whom are pharmacy assistants, so we are one of the largest employers in the country of young people, especially young Australian women. To that end, I think it is vital that we maintain this sector because we are represented in metropolitan and rural communities right throughout this country. The network of pharmacy is probably second to none in regard to the networks that exist in this country. The only other ones that I can think of are the post office and the service station.

In terms of health care and the sorts of services that we deliver, we do offer an opportunity for much greater employment and I think the Wilkinson report, by and large, supports that conclusion: that this network is in the public interest; that the restrictions that were and are present in terms of regulatory arrangements are worthwhile, in the public interest and deliver a service that is one of the best in the world.

Mr Bronger—What we have focused on too with this network is that, as an industry association, we train pharmacy assistants. We carry out introductory training through to qualifications where they may work as dispensary assistants or even front-of-shop managers with the accreditation that is needed. We put a lot of emphasis on training. We have also moved into industry based quality assurance, which was accepted on the same basis as the health areas in some of the states—the ISO 9000 qualification—and we are using that to continually upgrade the quality levels of the network that Stephen referred to.

Senator BARNETT—I want to allow time for my colleague Senator Cherry to ask some questions, so I will finish with one question regarding competition. What is your view on the impact of competition on small business employment? You have mentioned your submission to the Trade Practices Act review, in particular section 46 concerning the misuse of market power and your views that it should include an effects test and allow the ACCC cease and desist or-

ders. Do you agree that competition in that regard does have an impact on small business employment?

Mr Greenwood—We believe that the ACCC needs these powers to assist it to maintain competition and to maintain the health of small business in this country.

Senator BARNETT—Without the competition will employment go up or down? If the major chains come into your area and there is less competition, will employment go up or down?

Mr Greenwood—We believe it will clearly go down—there is no doubt about that.

Senator BARNETT—Thank you. Is there anything else you want to add to that on the competition angle?

Mr Bronger—Once again, I refer to issues concerning ageing. When you are handling people in an ageing community, the handling of a person who is increasing in age is a far different matter from handling a fit and able person in their 30s. Often we see small businesses like ours that are focusing on these areas looking at ways of delivering the services specifically to this group of people.

Ms Phillips—I would like to add something to what Stephen mentioned earlier concerning where we see our sector growing, which is in the area of providing more enhanced professional services. Obviously this is going to be very labour-intensive with more one-on-one consultations and services to people in the community—for example, services like methadone programs. A supermarket coming in and taking over a pharmacy would not be at all interested in providing that sort of service, but those services exist already and we would like to see them expanded in a lot of other areas and, of course, that will require more personnel.

Mr Greenwood—The facts are that, in Australia with this monopsony situation that pharmacy enjoys, we are able to provide a lot of services that are not necessarily economically viable. Methadone is one example but there are many others in the counselling area; needle exchange is another. To that extent, a lot of these services are actually cross-subsidised in pharmacy.

Senator BARNETT—And in the public interest.

Mr Greenwood—And in the public interest, absolutely.

Senator CHERRY—Coming back to the GST-free issue, I am trying to think logically through the timing issues of that. Would it not be the case that you would have been behind on the first payment period but roughly in balance in subsequent pay periods because the first payment would be late, arriving in the next pay period and therefore it would be roughly where you need to be? Essentially, the cashflow effect would have been almost one-off.

Mr Demirian—That is not entirely true because that cash flow would be ongoing. In fact, with regard to the \$40 million that we referred to earlier, it is precisely that. It is an ongoing, revolving credit, if you like, on an annual basis. But from month to month you still have to

manage that cash flow, and there is a cost to it. The cost of that amount of money being withheld, even for a fraction of a time, has a cost to community pharmacies, small business. As John said earlier, it accounts for about six to seven per cent of your turnover.

Senator CHERRY—I think you know the point I am trying to make—that in the first instalment period it would have been disastrous but in all subsequent instalment periods it would be a rolling over of that same amount, slightly increased each time with the sales but essentially rolling on—

Mr Demirian—But you are always a month behind.

Mr Greenwood—It is underpinned by that revolving line of credit that you would not otherwise have had to find. It is not just the money, though—and I want to make this absolutely clear—it is the administrative time that is taken for pharmacists to have to fill out the BAS forms monthly. We would love to be able to move to a quarterly arrangement like all the other small businesses but monthly returns are a real administrative burden.

Mr Bronger—Or other businesses where they have three-monthly returns on an averaging basis with the final quarter a catchup. I think most pharmacists would not think in terms of the way you position it, Senator, but rather that they are continually carrying an interest-free loan on behalf of the Commonwealth.

Mr Demirian—Your argument is a valid one, but that is only because it is a monthly high-frequency turnaround. What we are saying is that, because of that need to get a refund of those moneys from the tax office, an additional burden is placed on the pharmacy to do it more frequently than other small businesses. That is the bit that we are objecting to.

Mr Bronger—Say you are a business that pays more than quarterly—

Senator CHERRY—I have got the point. I have another question which you may not be able to answer. It is slightly tangential; it is from an employment point of view. It is about the future of the pharmaceutical benefits scheme. I know the guild has been very supportive of the scheme, but there is talk in various trade negotiations that the pharmaceutical benefits scheme could come under threat from a potential free trade agreement with the US or from the General Agreement on Trade in Services. I am wondering whether the guild would be happy to cede the pharmaceutical benefits scheme on a trade bargaining table.

Mr Greenwood—Absolutely not. We made representations to the government in that regard, and we have outlined the fact that Australians enjoy prices for their medications in this country which are extremely favourable compared with other countries in the world. We think that any free trade arrangement which went to a situation where Australians would have to pay for drugs at the prices they pay in America would be an absolute disaster.

Mr Bronger—Equity of access is another reason. The public does not have access to other schemes that have done away with this, and it is one of the real benefits that somehow is missed in a purely financial argument.

Senator CHERRY—Thank you for your evidence today.

Mr Bronger—Thank you for the opportunity to appear.

[4.12 p.m.]

DOUGLAS, Mr Ken, Group Manager, Department of Employment and Workplace Relations

ROWLING, Mr John, Assistant Secretary, Safety and Compensation Policy, Department of Employment and Workplace Relations

SADAUAKAS, Ms Sue, Assistant Secretary, Framework Policy Branch, Workplace Relations Policy and Legal Administration Unit, Department of Employment and Workplace Relations

SMYTHE, Mr James, Chief Counsel, Department of Employment and Workplace Relations

BRUGGER, Mr Antony William, Acting General Manager, Office of Small Business, Department of Industry, Tourism and Resources

GRIFFIN, Mr Paul Anthony, General Manager, Business Entry Point Branch, Department of Industry, Tourism and Resources

CHAIR—I welcome representatives from the Office of Small Business, the Department of Industry, Tourism and Resources, and representatives from the Department of Employment and Workplace Relations. The committee has before it submissions Nos 71 and 54. Are there any changes you wish to make to them?

Mr Smythe—I would like to make one minor correction to submission No. 54. The material that the department provided to the committee included an extract from the department's submission to the Senate Employment, Workplace Relations and Education Legislation Committee's inquiry into the workplace relations amendment bills. At paragraph 43 of that extract, it states:

... the department regularly conducts free seminars for employers about the operation of the termination of employment provisions of the WR Act.

As I mentioned to the earlier committee, that statement is not entirely correct: the department conducts some free seminars, but normally a fee is charged. That is the only correction I wish to make to the submission.

CHAIR—Thank you, Mr Smythe. The committee prefers all evidence to be given in public although the committee will also consider any request for all or part of evidence to be given in camera. I point out that such evidence may subsequently be made public by order of the Senate. Do you wish to make an opening statement?

Mr Smythe—I would like to make a brief opening statement. The committee is considering the effect of government regulation on employment in small business, specifically including the

areas of workplace relations, taxation, superannuation and occupational health and safety. The committee is also considering the extent to which the complexity and duplication of regulation by the Commonwealth, state and territory governments inhibits growth or performance in the small business sector.

The department's submission summarises some key amendments to the Workplace Relations Act 1996 that have already been introduced, or are proposed, to address some of those issues. For example, amendments to the dismissal laws made in August 2001 introduced changes that now require the Australian Industrial Relations Commission to take account of the different sizes of businesses when assessing whether their dismissal procedures were reasonable. There are also tighter rules now about extensions of time for lodging late applications, and the commission can dismiss a claim earlier if the dismissed employee fails to attend hearings. Earlier changes to the act made in 1996 provided greater choice and flexibility in agreement making and introduced important safeguards for freedom of association.

The department's submission provides information on initiatives that are designed to assist small businesses in dealing with the complexity of occupational health and safety laws. The submission also provides information on two workplace relations amendment bills—the Workplace Relations Amendment (Fair Dismissal) Bill 2002 and the Workplace Relations Amendment (Fair Termination) Bill 2002. The fair dismissal bill, if I can call it that, would exempt small businesses—that is, those with fewer than 20 employees—from the unfair dismissal provisions. However, the unlawful termination provisions of the Workplace Relations Act that prohibit termination on the basis of gender, race, relation et cetera would still apply.

The [Workplace Relations Amendment \(Fair Termination\) Bill 2002](#) would provide for the exclusion of short-term casuals from the operation of the termination of employment provisions and repeal the existing regulations on this subject. This bill would also introduce a permanent indexed filing fee for lodgment of unfair dismissal claims. The filing fee is intended to discourage frivolous and vexatious claims, while ensuring that genuine claims can be dealt with effectively. This bill is presently before the Senate. The [Workplace Relations Amendment \(Fair Dismissal\) Bill 2002](#) was passed by the Senate with amendments that were unacceptable to the government.

Mr Brugger—The Department of Industry, Tourism and Resources does not wish to make an opening statement, but we would like to provide material to the committee that updates one of the charts that was included in our submission on the Yellow Pages survey. One has come out since our submission was lodged, and we would like to update the material for the committee's information.

CHAIR—Do you wish to table that document?

Mr Brugger—Yes.

Senator CHERRY—I have a couple of questions. The first one is about unfair dismissals, surprisingly. In the CPA survey on the unfair dismissal provisions for small business employees on page 16 of the department's submission, the researchers commented that:

... these perceptions are as much a barrier to employment as the operation of the law.

What measures has the department or the minister engaged in to address the perceptions out there? I was very disappointed last year, when we did pass changes to the [Workplace Relations Amendment \(Termination of Employment\) Bill 2001](#), that the minister put out a press release the following day saying that these were a good, positive change, and a week later was still saying that the laws were awful and needed to be changed again. I am wondering what the department is doing to address the perceptions problem with unfair dismissals law.

Mr Smythe—Following passage of that legislation, there was a mail-out to a very large number of people—my colleagues may be able to give you the exact number, but there were something like 500,000 mail-outs—explaining the effect of the changes that were made to the unfair dismissal laws last year. The department has engaged in ongoing seminars on the operation of unfair dismissal laws. In addition, the Industrial Relations Commission has an information package in relation to unfair dismissal laws which, I understand, has been updated to include the changes that were made last year.

Senator CHERRY—Has the department done any testing or analysis on how effective those materials are in getting the message out about the current state of unfair dismissal laws? It is just extraordinary that there can be a finding like that from a research program and that the department does not go into almost panic mode to ensure that the proper view of the law is actually out there.

Mr Smythe—I am sorry; your question was—

Senator CHERRY—Sorry. My question had a very long rider, totally relevant to the question.

Mr Smythe—has there been any analysis of the effectiveness of the department's education program into unfair dismissals? Not that I am aware of.

Senator CHERRY—Right. My other question was more to the Office of Small Business. We had some evidence this morning about enterprise zones and tax rebates from the National Farmers Federation and also from ACCI. Have you done any research on the potential impact of tax rebates on attracting business to regional areas? What research have you done on how we improve business prospects in regional Australia?

Mr Brugger—I am not aware of any work by the Office of Small Business on rebates in regional areas. I am aware that another part of the department has at least considered the issue, because it has been raised in other forums before, but I am not aware of the details. I can take that question on notice.

Senator CHERRY—On page 16 of your submission, you highlight that business employment has continued to grow right through this period. What is your analysis on that? Is the government broadly satisfied with how the growth in small business employment is progressing, or would your view be that employment growth is predominantly in larger firms as opposed to smaller firms?

Mr Brugger—The government is always looking for opportunities to encourage employment growth and to firm development—that goes without saying. There is growth in both small business and large firms, as the graphs show. I have not looked at the two head to head.

Senator CHERRY—It does seem to suggest that most employment growth has been in small businesses.

Mr Brugger—Yes.

Senator CHERRY—Even though the proportion of total jobs in the economy in small business seems to be slowly rising, how does that fit against the perception—again put out through statements—that there is this crisis in small business employment?

Mr Brugger—While you might have growth in small business—the growth that could be forgone by concerns over unfair dismissal, for example—the growth is not to the level that the government would expect if the concerns over unfair dismissal were addressed. I think that is a reasonable summary.

Senator CHERRY—On page 18 of your submission you talk about the New Enterprise Incentive Scheme—one of my favourite schemes that the government has introduced. You talk about its success rate—83 per cent—in terms of employment placement and so forth. Do you believe that scheme should be expanded?

Mr Brugger—I would like to take that question on notice. I do not know enough about that particular scheme.

Mr Douglas—Senator, as you know, the New Enterprise Incentive Scheme is a program administered by the Department of Employment and Workplace Relations under the Job Network banner.

Senator CHERRY—A very successful program.

Mr Douglas—It is a successful program. The government has made its position fairly clear, that the numbers have been published as part of the purchasing process for the current contract period of Job Network. The government will make any announcements with regard to future places for that program in the context of its final request for tender for the third contract period which is to be issued later this year.

Senator CHERRY—I was looking at some of the research that the department has commissioned on NEIS. I forget the name of the centre that did it. Was it Charles Sturt University?

Mr Douglas—From memory, it was one of the centres from a Western Australia university.

Senator CHERRY—That is right—Edith Cowan University. That research certainly indicated that there appeared to be some considerable unmet demand for places in that scheme. I think the research by the NEIS providers association suggests that they could certainly place as

many as two, and possibly three, times as many participants. Given the success rates of the scheme, has the government itself done any research on whether the employment market could in fact effectively absorb more places being created in that scheme without there being impacts on other small businesses?

Mr Douglas—As I said, the decision on the number of places purchased by government is a matter for the government, rather than me, to comment on. As you know, the program has been in operation for a number of years. Experience shows that, if you increase the number of places, you decrease the outcomes and if you increase the number of places you also increase complaints from small business that government are funding competition against existing businesses. The evaluation evidence that we have seen thus far is that what exists at the moment is a program that is reasonably close to balanced. But that is a judgment call and a decision for government.

CHAIR—Mr Smythe, it may not surprise you to know that, in the inquiry so far, unfair dismissals has not been a major feature being claimed by small business as an impediment to growth. There have been a range of issues raised—for example, the fact that a lot of small businesses do not want to grow; they actually want to stay small. A lot of them are lifestyle choices. One of the most significant features as to why they are not employing more labour is the lack of skilled labour—being able to get access to skilled labour. Your department seems to put an awful lot of focus on the legislation. I thought, as an aside to Mr Brugger, you said that there would be more jobs created. That certainly has not been the evidence out of this inquiry to date—that is, that there would be more jobs created if the fair dismissal legislation were embraced by the parliament.

Mr Smythe—I am sorry, Senator, what are you asking?

CHAIR—Do you still hold the view that there will be 50,300 jobs created if that unfair dismissal law went through the parliament?

Mr Smythe—I think I mentioned in previous circumstances that the department does not put a number on the jobs that might be created. However, the department has drawn attention to a plethora of attitudinal evidence. While small business may not regard the unfair dismissal laws as the highest impediment to taking on new employees, nevertheless they regard it in some respects as an impediment. So the department believes that, were that impediment removed, there would be employment growth.

CHAIR—Certainly some did, but not a substantial body of the evidence before this committee so far. It might be worth your while reading the transcript of the evidence. Mr Brugger, an article appeared in the *Financial Review* on 29 May under the by-line of Mr Ian Stewart and Mr Peter Riley. The headline is ‘SMEs may disappear in mound of red tape’. The article says:

Today, small and medium-sized enterprises are still struggling with complex tax law, primarily devised for major corporates.

It continues:

On the brink of electoral victory in 1996, John Howard promised SME operators he would slash 'the amount of regulation and red tape enveloping small business by 50 per cent during the first three years of government'.

Six years and a new tax system down the track, Australia's SMEs are still well and truly overwhelmed by red tape.

It goes on to say:

It's not just the sheer volume of regulatory and legislative compliance that is the issue, but its complex nature and a wide range of 'unintended consequences'. Business income tax, superannuation, GST, industrial relations, occupational health and safety and equal opportunity are all accompanied by complex compliance regimes, which are pushing many SMEs over the edge.

We heard in evidence to the committee from individuals who presented submissions and in the roundtable discussions about the difficulty small businesses were facing in dealing with the compliance requirements of government. Some even went as far as suggesting to us that they were being forced to act dishonestly or get out of business because of some of the pressures being applied to them as a result of that. Can you outline to the committee what actions the Office of Small Business have taken to meet that commitment of the Prime Minister in 1996 to reduce red tape by 50 per cent?

Mr Brugger—The government's objective is to reduce the overall regulatory burden on small business. When the commitment was made in 1996 and then taken up by the Bell task force following the election, it concluded that the 50 per cent policy objective for a substantial reduction should not be seen as some sort of arithmetic goal as such. A number of initiatives such as changes to the ABS data collection have seen substantial reductions in the paperwork burden.

More importantly, there has been an increasing systemic change in how policy and regulation is made to better account for the needs and considerations of small business. One of the most recent was last September when the government announced that proposals to go to cabinet need to be assessed for their impact on small business by the Office of Small Business and a statement has to be made to cabinet in the documentation so cabinet is fully aware, when making decisions, of the potential impact on small business. I am pleased to say that is being implemented and, on an operational level, we are seeing an increasing amount of material coming through.

So you are getting an improvement in how regulations are made, far greater consideration of how small businesses can comply, potential synergies between regulatory proposals, and a move toward an improved regulatory environment for small business. There are also initiatives such as the regulatory performance indicators, which is a series of indicators that each portfolio has to prepare on their regulation programs. These are collected by the Office of Small Business so that an assessment can be made on how portfolios are complying with the government's commitment to reduce the paperwork load on small business. There are a number of other initiatives of that ilk, and I could provide more comprehensive information—I would prefer to do it in writing—if it would assist the deliberations of the committee.

CHAIR—Could you do that, but could you also identify the specific programs and what the specific outcomes have been—how those programs have reduced the amount of red tape that small business is confronted with.

Mr Brugger—For that level of detail, I would have to take the question on notice.

CHAIR—I am happy for you to do that, and I am happy for you to reply in writing, but I make the point that, in all of the hearings so far, the opposite has been the response from small business. Perception and reality are two different things, but their perception is that it is getting worse, not better. So we would be interested to know what specific programs have been implemented and how they have impacted on reducing the red tape that small business is confronted with.

Senator CROSSIN—Following up from that, even today we have had substantial submissions from at least two witnesses who say that the Commonwealth needs to accept greater responsibility for small business. Obviously they do not believe that very much is being done. Why would they have that view? Would you concur with the view that there is a need for the Commonwealth to have greater responsibility rather than leaving it largely to the states and territories?

Mr Brugger—The initiatives that I outlined very briefly have not gone as far as the Office of Small Business would like in reducing the regulatory burden. There are areas where a single jurisdiction will produce benefits to small business; there are other areas where it may not. I hesitate to speak in generalities, because in doing so sometimes the important regional differences between regulatory regimes can be ignored.

Senator CROSSIN—It is not so much the amount of red tape or the intense regulation that small business are on about. There is a perception across a number of witnesses that the Commonwealth is not taking a great responsibility in addressing the needs of small business but that it is largely left to the states and territories. They want from the Commonwealth either one-stop shops, information services, somewhere where they can access online information about a whole range of issues that affect small business. They see that as the role of the Commonwealth, and they do not think that the Commonwealth is taking a large enough responsibility in providing that. What is your response to that?

Mr Griffin—I am general manager of the Business Entry Point, which is an initiative that came out of the Bell Report. We provide a one-stop shop for access to a broad range of government information. I think it is necessary to point out that the perception of jurisdictions is fine for legal and constitutional purposes, but from a business point of view there is often a very poor line drawn between jurisdictional boundaries. Businesses deal with government at state, local, territory and federal level, and it is often difficult to draw distinctions in those dealings.

The business entry point is a whole of government approach to that inasmuch as we work with our colleagues at the state and territory level and at the local government level to try and deliver information with regard to the business cycles they are in across the broad spectrum of jurisdictions. It manifests itself in a number of different ways—through the business licence information systems and through a number of programs that we have to try and provide information to business focused on the requirements they need to meet compliance burdens.

A number of ongoing initiatives have involved all our state and local government colleagues in differing those types of services. The business entry point, for example, has an initiative that we call syndication in which we put together a package of information that pertains to small

business carrying out a particular business process that delivers to that business in the most effective way we can—frequently through intermediaries—into the business cycle at the point they need it. That initiative has been under way now for, in real terms, about six months—the ability to deliver that information. We have a growing number of intermediaries who are becoming very active in that area and pulling information from the business entry point. The model we work on is similar to the FedEx-type model. We have an understanding of how we can deliver government information into a number of business sectors and market sectors at the right point in time.

Our role, as we see it, is to work with our state, territory and local government counterparts to put that information into context. For example, in regard to employing a person, putting an employee on in a business, there are a number of regulatory requirements in going through that process. We bundle that information in context and put it into the business at that level. So in regard to employing a person in a hairdressing business there can be different regulations to employing a person in a coffee lounge or in the manufacturing sector. We try to put that information in that context and give it to the business where they need it so they can comply. It is along the lines of the argument that it is not so much involved in reducing red tape as putting that compliance requirement into the context that the business can understand and deal with.

Senator CROSSIN—How do businesses in rural and remote Australia access your business entry point?

Mr Griffin—There are a number of ways they can access it. They can certainly access it on-line—although we do recognise the fact that in a lot of the regional and remote areas that is not a hugely practical proposition—they can do it via a telephone through the business hotline service and they can do it through their state and territory offices. A lot of the information that we have goes out through the state and territory offices. They are the source of a large amount of it. We syndicate out the Commonwealth information into those offices.

Senator CROSSIN—Does that also include any changes to the tax acts?

Mr Griffin—Yes, changes to taxation law can be made available and are made available through the business entry point. The business entry point has a good, close working relationship with the Australian Tax Office. We try to put that information out through our channels when it becomes available and when those changes are made.

Senator CROSSIN—The point was made this morning, though, that sometimes some of the language you use is more bureaucratic, departmental language, as opposed to language that small business understands. Is that a point you have heard before?

Mr Griffin—In the last 12 months, Senator, we have been very sensitive to that. We spend a reasonable amount of resource putting a lot of the information we put out to focus groups and to small businesses to try and get away from that bureaucratic approach to a more practical approach. We anticipate releasing a new version of our site in October that has some extensive work done in that area to make the information and the language involved in that information more relevant to business, certainly.

Mr Brugger—You mentioned access to regional Australia. We have the Small Business Assistance Officers network, which forms a bridge between that bureaucratic approach and a more accessible interface on a personal basis. With the National Office for the Information Economy, we are also undertaking a review of government hotlines in general to try and streamline the number to make that point of access easier. We know the difficulties faced by many small businesses when they are confronted by 30 hotlines—they do not know which one to ring, quite understandably. So that is currently under review and recommendations will come out of that to improve the service, particularly to regional Australia. Finally, there is a Commonwealth Regional Information Service which the Deputy Prime Minister launched on 1 August. I have one set of information on it and could get more if the committee would like that.

Mr Griffin—In the last few months, we have focussed on delivering the syndication service for local government authorities. They are an excellent means of delivering information into regional and local government areas. There are still issues with very remote areas which we are trying to address and we try to be as innovative as we can in addressing those.

Senator CROSSIN—A lot of local government authorities in rural and regional Australia do not cover all of the countryside, you do realise that?

Mr Griffin—Indeed, there are some unincorporated areas of this country. There are also community councils and various other agencies under the local government acts that we have yet to fully engage. As I said, we try to be as innovative as we possibly can in engaging those particular areas. We have a program for the next 12 months or so to get out and engage with those local government authorities. As you are aware, there is a large number of them. It is virtually impossible to go around and engage with each one of them. However, we try to work through local government associations in the regional groupings of local government entities.

Senator CROSSIN—A number of witnesses have brought up their concern with the area of occupational health and safety and I have read the letter we received from NOHSC. What is the Commonwealth doing to try to assist small business to come to terms with different regimes that might exist at the state, territory and federal levels?

Mr Rowling—Activities in relation to small business are being pursued mainly through the National Occupational Health and Safety Commission. It has had a national strategy for reducing workplace injury agreed to through the state Workplace Relations Ministerial Council. It has also been pursuing its own strategy for small business for some time. Basically, the work proceeds on a cooperative basis through the states under the aegis of the National Occupational Health and Safety Commission.

Senator CROSSIN—A number of witnesses have put to us that it is a compliance they know and accept and want to work with, but on top of everything else they do, they see themselves as also having to be the people in the workplace that regulate occupational health and safety. Is there a handbook or are there guidelines for small business on health and safety issues or, again, is it a state and territory problem which the Commonwealth has a bit of a hands off approach to?

Mr Rowling—There are a couple of points to be made in relation to the assistance being provided to small business. It is very clear, and it has been for some time, that occupational health and safety regulation, and its impact on small business, has been a consistent concern of

small business. The Commonwealth has been encouraging both the state and national occupational health and safety commissions to focus on the development of codes of practice that will assist small business to cope.

The other initiative put in place to meet small business needs is a program within NOHSC which tries, through the National Occupational Health and Safety Commission web site, to provide assistance and guidance of a very simple form, on a jurisdiction by jurisdiction basis, on what a small business needs to do to meet its obligations under the various occupational health and safety regimes. While the regimes are largely consistent there are some significant differences at particular points which small business needs to be aware of.

Senator CROSSIN—So you are saying that, at this stage, they would need to access the NOHSC web site for that assistance?

Mr Rowling—They can also access that information through the Department of Employment and Workplace Relations web site. I am just trying to identify—

Senator CROSSIN—We have had a number of witnesses who have said to us that they are so busy running their small businesses that they do not have time to look or find or search all these web sites. Is there any other means by which they can access this information?

Mr Rowling—Every state jurisdiction has within its occupational health and safety regulator a small business strategy aimed at assisting small business cope with and deal with their duties of care and responsibilities in occupational health and safety matters. At a Commonwealth level, the Commonwealth has facilitated activity through the Unravelling the Threads program which is designed to basically assist employers very quickly get on top of what they do to meet their OH&S responsibilities. These are basically two page outlines of what a small business should do.

Senator CROSSIN—This morning the National Farmers Federation said that the special zone rebate should actually be examined. It has not been looked at or increased for 10 or 15 years. They were saying that it is time to re-examine the whole issue of the zone rebate. The incentive was originally designed to apply to small business employers as well as individuals. Are you aware of any such representation by the NFF?

Mr Brugger—In response to an earlier question on the zone rebate, I pointed out that zone rebates have come up in a number of fora that I know the Department of Industry, Tourism and Resources has appeared before at various times. I know that some work has been undertaken. I agreed to take that on notice to see what has come up before and report back to the committee.

Senator CROSSIN—So you are not aware of the NFF making direct representations to this department; they might have made representations to the Prime Minister or the tax office but not to this department?

Mr Brugger—I am not aware of them making representations to the Office of Small Business. I am aware of another part of the department that has done some work but I do not know about that; I will take that up with them.

CHAIR—The ACCI and a number of others have argued that the regulation impact statement needs to be more robust and effective, has any assessment been made of its effectiveness at this stage or is there a plan to undertake an analysis of its effectiveness?

Mr Brugger—I understand that there is likely to be a review of the effectiveness of the regulation impact statements. Regulation impact statement compliance is also reported on annually by the Office of Regulation Review in their annual report by portfolio, so portfolios which do not perform well are identified. From the perspective of the Office of Small Business, yes, we would appreciate more robustness in the regulation impact statement process.

CHAIR—When do you understand this analysis will be undertaken, and who would undertake that?

Mr Brugger—I do not know of the detail of that. It was a comment a member of the office heard in a meeting and I am not aware of the details, but I understand that analysis is going to be undertaken.

CHAIR—Could you take that on notice and, if there is any information you can provide the committee, provide us with it?

Mr Brugger—Yes, I can.

CHAIR—Thank you. It has also been suggested to us that there is a need for a master plan or strategic plan for small business in order to promote its development. Is that something that you have given consideration to? Have you made any attempt to evaluate the range of programs the Commonwealth now provides for small business? Is there any evaluation being done on those programs?

Mr Brugger—Programs are constantly being evaluated as to their effectiveness and their ability to hit their target audience. Recently with particular regard to small business the R&D tax concession was amended in relation to the taxation offset because of a particular cash flow issue involving small business. That is an example of where a program has evolved to meet a particular need. As to the value of a small business plan, a number of submissions before this inquiry and evidence before this inquiry have indicated concern that 1.2 million small businesses is such a broad area that it may not be practical to think of them as a group. That is, at least in my mind, likely to count against the effectiveness of a plan in general. But small business needs are considered as part of a broader industry policy.

CHAIR—But isn't there some logic in looking at the range of assistance packages that government provides and putting those into some sort of coherent program?

Mr Brugger—Programs tend to be developed to meet particular needs. They focus on research and development—

CHAIR—Can I make this point to you: small business have said to us, 'Look, governments develop programs and they come along and say, "That is the program; you fit the program." Nobody ever comes along and says to us, "What can we do to fit your business needs?"' So they are saying there is no flexibility in the programs to be able to amend, vary or adjust them to

meet the actual needs of the individual businesses, so there is no coherence in what is being put forward.

Mr Brugger—I think part of this gets to how you cut the pie. I will explain what I mean there. The point I was making before is that programs are designed to achieve particular outcomes and behaviour or address structural adjustment issues rather than focusing on a particular business sector, by and large. So it is not a small business assistance measure; it is, say, a research and development initiative, it focuses on a particular issue. We monitor those programs and also try to explore the synergies and the complementarity of the programs to try and avoid overlaps and also make sure that they do maximise the benefit. While flexibility may be desirable, as I am sure you are aware, public accountability is such that we also need to clearly state why a program is implemented and we need to be able to be held accountable because it is public money.

CHAIR—I understand that, but I think it should not be beyond the minds of the Public Service to develop a set of programs that are both flexible and publicly accountable. But it is a difficulty when, as happened recently, we raised with this particular small business person programs that were available through AusIndustry, they said, ‘Don’t let them anywhere near my property.’ That was the reaction. I have to say to you that maybe there are good reasons for that, maybe there are not so good reasons for that, but I am concerned that, if we are trying to develop programs that are about assistance for business, the small businesses react in that way to visits from AusIndustry officers or agents.

Mr Brugger—Some small businesses may do that but other small businesses quite welcome them.

CHAIR—Sure, I understand that.

Mr Brugger—It is not a question that is easily answered because there are conflicting tensions between accountability and flexibility. I am sure that people who assess applications for programs are also at times frustrated by the limitations of the programs in respect of the applications that they receive, but there are very good reasons why those limitations are frequently in place.

CHAIR—I did raise this issue with AusIndustry at Senate estimates in February and I was told that they were building more flexibility into their programs—the trouble is no-one has seen any flexibility yet emerge. I thought that now you are in the department, and given your focus on small business, you might have more influence in encouraging them to do something in that area than I have had.

Mr Brugger—We are developing a very close working relationship with AusIndustry because we are often the first point of call when program guidelines disqualify applicants.

CHAIR—I am pleased to know that. One of the other issues that has been raised with us consistently through these hearings and which seems to be a major problem with the small business community is the lack of managerial skills of small business. In other words, they are very good at producing widgets or whatever, but in terms of the basic skills of running a business—whether it is business planning or cash flow analysis et cetera—they basically have

no skills or very limited skills. Firstly, is your department aware of this; secondly, what programs are you looking at to address this particular issues?

Mr Brugger—We are aware of the issue. I have also been reading some of the transcripts of the evidence before this committee. That discussion at times has looked at things like small business licensing which may create problems if you try to reduce red tape on small business—it is a balance. As evidence before this inquiry has indicated, time is the most valuable resource for small business. Providing the material in such a way that they can draw upon it when they have the time is something that is increasingly being taken on board by government departments, and we are playing a role in encouraging departments to do that. A consequence of the announcement in September of proposals to be looked at by the Office of Small Business, is that we can advise at an earlier stage that they need to have this sort of material available.

On top of that, we also have the Small Business Enterprise Culture Program which looks at delivering projects that develop and enhance the skills of small business. It also looks at mentoring which is a soft way of getting that education across; it tells you what you need to know by people who have done it, so it is more effectively targeted. We believe this is quite an effective way to address some of these needs but more has to be done, in particular working with industry organisations to help deliver them.

CHAIR—Have you done any analysis of the types of programs that are available in the OECD, Europe or in the United States in terms of training regimes for small business?

Mr Brugger—I am not personally aware but the Small Business Enterprise Culture Program is due for review this financial year and I would be surprised if that was not included in terms of the effectiveness of that program in comparison with other models, particularly overseas.

CHAIR—Do you have an analysis or has anyone done an analysis of the number of government access points around the country for the delivery of government programs, whether it is a small business assistance officer, Austrade's 14 regional centres or some other government operation? The reason I ask is that we had a proposal put to us which seems to have some merit and I think is an extension of the business entry point but in a different form—a more user friendly form I suppose. The proposal was for the establishment of 'G shops' which are essentially one-stop shops where people can call in, get advice about what government programs are around, talk to whoever is there about the problems they are experiencing with their business, find out whether there are any programs that can assist them to deal with those, where they can lodge their BAS statements et cetera.

Mr Brugger—I might get Mr Griffin to answer. I will just say that part of the review of hot-lines I mentioned before is in direct recognition of the large number of telephone support services, for a start. There is current work looking at identifying these, looking at how they can be—I won't say rationalised because that is brings the wrong connotations—better martialled so that they are a better access point for small business. On that niche there is work being undertaken. Paul would know more about other initiatives.

Mr Griffin—We have been involved in looking very closely at this area for some time. Our brief is to deliver government services online, so to a large extent we focus on the online environment, notwithstanding the frustrations that Senator Crossin alluded to with access to

online services. There have been a number of approaches over the years to how that is done—how you can engage business with government to get a whole range of information. In Tasmania, for example, there is the Service Tasmania type approach with the shopfront counter in regional areas. That particularly suits Tasmania because of its demographics and geographics. A lot of the jurisdictions have shown that you can successfully carry out that type of role. There are others—the ACT and various other states through the kiosks and various other initiatives that are put in place by other state, local government and territory agencies as well as Commonwealth, the employment place, through the kiosks and so forth. There have been many attempts, some successful, some not so successful and some totally unsuccessful, to try to engage business at that level.

It also becomes apparent that, in many ways, in engaging business it gets back to your original problem: that businesses need advice and information with regard to their business process. Some of the work we are doing now is looking at precisely how a small business is going to move on into the not too distant future. There are online aspects of that; there are business advice aspects of that. We are developing some models, and they look very promising, around both private enterprise and government—a need, if you like, for a new range of intermediary services that can be delivered by both private enterprise and government to a small business sector. As you say, the new tax system has clearly pointed out that one of the most efficient ways of dealing with the taxation environment is to have your books online. To many small businesses that is a huge challenge. However, there are intermediary services that are growing up that are very cost effective in allowing a small business to get their books online. As we have all found out, to small business time is the major element that they are interested in. There are a number of intermediary services that we are familiar with that seem to be making a very interesting impact in the marketplace by providing a low cost means of a business getting its business processes online and being able to reap the benefits of getting the types of financial reports, the type of cash flow reports, that they need to move on. It seems that these models are revolving around consortia—a whole lot of small businesses coming together to provide a range of services.

One of the answers to the question is that, as government, we need to engage with those intermediaries and provide the information we have at government level to them. Those intermediaries need to engage business with a whole range of services—managing their financial aspects, providing online services, providing payroll services, providing secretarial, back-office type services and those sorts of things—in a structure that meets small business cost requirements and business practices. We can inject government information into that fairly easily and we know how to do that quite well. We can grow the ability of small businesses to engage in a whole range of services that they have not been able to get, and do it in a way that is cost effective and meets their business imperatives. There is some very interesting work going on, not only with ourselves but also with a range of other government agencies and private enterprise players, to try to bring that to a level of maturity where small business can access those types of services. It was likely to be successful: a growing, intermediary industry that will provide those services on a growing basis in the future.

CHAIR—Presumably you are not looking at a ‘one size fits all’ type operation.

Mr Griffin—In many ways, there is not any such thing. It is a matter of delivering what the business needs when it is required in the business cycle at the time it is required. In the early

days of the business entry points we put up a site that provided access to enormous amounts of government information. We put sophisticated searches up, and we sat back and waited for businesses to spontaneously come and get it. They did not come.

CHAIR—It would not happen; that is right.

Mr Griffin—So, to a large extent, our focus now is to deliver information to the market sector that requires it. It differs across market sectors. We need to engage private enterprise—particularly intermediaries—and peak bodies. The NFF, for instance, is a prime example of how we can push information out to them and then they can push it out to their members far more effectively than almost any other government agency. We need to leverage off the kinds of business relationships that already exist by pushing government information out to them at the time they require it.

I have a couple of quick examples in relation to the business entry points. When the Ansett collapse occurred, we fairly quickly put together a package of government information—as we could—at local, state, territory and federal level, and pushed it out through as many intermediary channels as we could: the tourist bodies, the tourist associations, the banks and anyone who dealt with those particular businesses, so that we could get that information to them. When the businesses came to those advisory services, they could pick up the government information that may have been pertinent to them. We also tried to put it in context so that it was not just government information. ‘This information will be useful to you if you are a small business who has been trading with Ansett’—something like that. We tried to put it in context and push it out to the marketplace at just the right point in time. It is challenging, but we think we are making some fairly substantial inroads into that process.

CHAIR—Thank you, Mr Griffin.

Committee adjourned at 5.07 p.m.