



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ECONOMICS REFERENCES COMMITTEE

Third-party certification of food

THURSDAY, 24 SEPTEMBER 2015

SYDNEY

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SENATE

ECONOMICS REFERENCES COMMITTEE

Thursday, 24 September 2015

Members in attendance: Senators Bernardi, Dastyari, Lambie.

Terms of Reference for the Inquiry:

To inquire into and report on:

- a. the extent of food certification schemes and certifiers in Australia including, but not limited to, schemes related to organic, kosher, halal and genetically-modified food and general food safety certification schemes;
- b. current labelling requirements of food certification schemes;
- c. the need for labelling on products produced by companies that pay certification fees;
- d. whether current schemes provide enough information for Australian consumers to make informed purchasing decisions;
- e. details regarding certification fees paid by food producers and/or manufacturers, and the potential for these to impact on prices for consumers;
- f. the importance of food certification schemes in relation to export market access and returns to producers;
- g. the extent and adequacy of information available to the public about certifiers including, but not limited to, certification processes, fees and financial records; and any related matters.

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CHADWICK, Dr Richard, General Manager, Adjudication Branch, Australian Competition and Consumer Commission

GREGSON, Mr Scott, Executive General Manager, Consumer Enforcement, Australian Competition and Consumer Commission

Committee met at 08:58

CHAIR (Senator Dastyari): I declare open this hearing of the Senate Economics References Committee inquiry into third-party certification of food. The Senate referred this inquiry to the committee on 13 May 2015 for report by 30 November 2015. The committee has received over 1,400 submissions, which have been made available on the committee's website. The closing date for submissions was 31 July 2015.

These are public proceedings, although the committee may determine or agree to a request that evidence be heard in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such an action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken, and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may also be made at any other time.

I now welcome representatives from the Australian Competition and Consumer Commission. I remind witnesses that the Senate has resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

Thank you so much for appearing before us today. I think I should note that this is Mr Gregson's second time appearing before the Senate Economics References Committee this week. He was in Canberra on Tuesday for our hearings on credit cards. It is very good to have you again, Mr Gregson.

Mr Gregson: A pleasure.

CHAIR: We are making a habit of this! I have some questions, and I know other senators have questions for you as well. Before we get to them, I want to invite you to make a brief opening statement or remarks.

Mr Gregson: Thank you. Just by way of explanation: it is the Adjudication Branch that deals with certification trademarks, which we may discuss today. We have a short opening statement, but I am happy to keep it short and take questions thereafter.

From a consumer protection perspective, among other things, the Australian Consumer Law prohibits conduct such as misleading and deceptive conduct and specific misrepresentations. Relevant to these matters, they may be as to the standard, value, quality or grade, or sponsorship of a good or service, or approval or affiliation of a good or service. Representations made as to third-party certification of food may be considered under these provisions, and certainly a claim of certification that is false or misleading would be something that the ACCC would be able to pursue. Generally speaking, neither the Competition and Consumer Act nor the Australian Consumer Law requires parties to obtain third-party certification, and they do not mandate the representations that should be made. Rather, it is generally the choice of a business to obtain such certification.

We do have a limited role in relation to certification trademarks. A CTM indicates to consumers that a product or service meets a particular standard. For example, a CTM might indicate that a product is of a particular quality or manufactured in a particular way or location or process. Some of the high-profile CTMs that you would be familiar with are the Heart Foundation Tick and the Australian Woolmark. While CTMs are lodged and processed by IP Australia, ACCC's approval is required before CTMs can be registered under the Trade Marks Act. Our role is to look at two things: first of all, to look at the process and the rules by which a product or service is to be judged and, second, to examine the rules to ensure that they are not likely to raise concerns under either the competition or the consumer protection provisions of our legislation.

There is no requirement to obtain a CTM for schemes operating such recognition. It is open to bodies to seek protection of their intellectual property through other mechanisms or not to seek any protection at all. Again, that is the choice of the schemes in operation. Importantly, CTM schemes should have a mechanism and expertise to

determine compliance with the certification requirements and allegations of failure to meet those standards. They are two of the key issues that we look at when we approve CTMs.

We would be pleased to assist you with any questions you might have on those matters or others.

CHAIR: Mr Gregson, where is the line between your responsibility and ASIC's responsibility when it comes to false or misleading advertising?

Mr Gregson: ASIC has responsibility for matters that involve financial services. It is unlikely that the matters that will come up today involve financial services. If there is an Australian Consumer Law issue here, it is most likely the ACCC's.

CHAIR: That is different from what we were talking about earlier in the week about credit cards, which fall into the ASIC domain?

Mr Gregson: Correct.

CHAIR: I understand.

Senator BERNARDI: What are the obligations on certifiers under the legislation that you administer?

Mr Gregson: I might hand to Dr Chadwick, who is the person looking at certified trademarks. I assume it is in the context of certified trademarks.

Senator BERNARDI: Not necessarily just certified trademarks. It does not have to be registered as a trademark. Anyone can set up and say, 'This is my branding,' effectively. What compliance do they have to deal with?

Mr Gregson: I will answer more generally and then ask Dr Chadwick to answer in respect of certified trademarks. The Australian Consumer Law, at its highest, just prohibits misleading conduct. We do not have a specific role in relation to certification at large. If there was behaviour that was misleading, and where it was otherwise within an area that the ACCC would prioritise, there may be issues there for us, but we do have that specific role in relation to certified trademarks, which are a particular scheme.

Dr Chadwick: Certification trademarks are a type of trademark, so they lodge an application with IP Australia, and IP Australia does its usual kind of review of the trademark. And then, if they are seeking a certification trademark, IP Australia sends the application and the rules across to us. As Mr Gregson said, there are really two types of things we look at. Under the Trade Marks Act, there is a set of requirements effectively that the rules have to specify the attributes of the person doing the assessment; the rules that are being assessed, so the standard; and how they are being assessed. There are also requirements that there are dispute resolution systems. So, if you like, the certification process has to have certain elements. And then the commission also has a broader assessment process, which is really deciding whether or not the trademark and the rules are consistent with the principles of consumer protection and competition.

Senator BERNARDI: Certified Organic is a certified trademark, I understand.

Dr Chadwick: If they applied for a certified trademark, it would be.

Senator BERNARDI: Dr Monk, from Australian Certified Organic, said that the ACCC had been present at their audits so they could see how the scheme works. You would only do that if it was a certified trademark; is that right?

Dr Chadwick: I do not think we have been present at any—

Mr Gregson: No. I think our involvement with organics is that it has been an issue of ongoing interest to the ACCC as the emergence of representations about organics. I am not sure of the specific reference there, but I suspect that, in the capacity of our compliance work, we may attend various forums to explore those issues. We have no formal role with auditing outside of the certified trademark—

Senator BERNARDI: The quote was:

We have even been out with them—

meaning the ACCC—

on audits to farms either to show them how our system works or to assist them in assessing compliance.

So does the ACCC have a role in assessing compliance?

Dr Chadwick: With a certification trademark, our process is simply to assess the rules and the certification process. Once that is approved by us, it goes back to IP Australia, and then, if they finally approve the whole thing, that is really the end of our role. It may well be that—as I know in our free-range context—when we are reviewing the rules, we will ask lots of questions. We will ask, 'How does this work?' and that type of thing. I

know that in one case in relation to free-range eggs we went out and had a look at some farms, but that would only ever be in the context of assessing the rules up front.

Senator BERNARDI: If we presume that Certified Organic is a trademark, and that is sorted, anyone can just make a claim of 'organic' without any sort of reference to the ACCC. Is that correct?

Mr Gregson: That is right. There is no requirement to do anything other than not be misleading, as far as the ACCC is concerned.

Senator BERNARDI: So there needs to be a definition of what 'organic' is in order to be accused of being misleading?

Mr Gregson: We tend not to get caught up on definitions. We look and see what the reasonable consumer would expect.

Senator BERNARDI: The same would apply to kosher certification or halal certification?

Mr Gregson: Yes. I think kosher and halal probably have a less broad application than some other claims. There are obviously specific members of the community who would be interested in those, and that is certainly not something that we have great expertise in.

Senator BERNARDI: There is a huge variation, I have to say, in some of the evidence that is produced about what halal in particular is—there are so many disparate groups in there—and what is appropriate and what is not. The ACCC has no role?

Mr Gregson: No. If we receive concerns that a particular reference—whether it be to kosher, organic or halal—was misleading, we can look at that, determine whether we would investigate, and potentially pursue those issues. Certainly we have done that. As alluded to by Dr Chadwick, the free-range eggs are matters that we have investigated and taken action with respect to. It obviously becomes more challenging when it is in relation to religious beliefs, where there might be some variety of views.

Senator BERNARDI: If the ACCC receive a complaint, do they then investigate the certifier?

Mr Gregson: When a representation is made, we primarily look at who is making that representation. That is the application of the law. If that trail leads to a third party who might be involved in that representation, then that could arise, but, again, I do not want to overstate our involvement in these matters. We tend to prioritise matters to make the most use of our limited resources. It is only a small number of matters that we ultimately investigate.

Senator BERNARDI: Who wears the liability of misleading statements or inappropriate claims by certifiers?

Mr Gregson: Primarily it is the person making the representation who is the person who is caught by the legislation. We can look at those who have been knowingly concerned in the representations, and of course there may be representations behind the representations. A representation made by a certifier may lead to a misrepresentation by a trader. We can look at each of those aspects.

Senator BERNARDI: But the trader should be entitled to rely on the claims by a certifier, shouldn't they?

Mr Gregson: Yes, certainly, when it comes to making direct representations, reasonable reliance on other parties is a matter that would be taken into account.

Senator BERNARDI: What are the penalties for someone who makes a misleading claim as a certifier?

Mr Gregson: For misrepresentation, the Australian Consumer Law provides penalties in the order of \$200,000 for individuals and \$1.1 million for companies.

Senator BERNARDI: Have you found any certifiers in breach of the rules or the regulations?

Mr Gregson: No, I am not aware of any. As I said, we have a very broad remit. We deal with telecommunications. We deal with airlines. We deal with the whole economy.

Senator BERNARDI: You have not found one in that whole lot!

Mr Gregson: Well, certification tends to appear in specific areas and specific industries, although of course it can be quite broad, not just the matters you are looking at in this committee. We do not have, at large, a project or a set of investigations that look at certifiers. It may be that, once in a while, we will look at a matter, but, no, we have not had actions that I can recall that involve those matters.

Senator BERNARDI: It seems odd to me that, for example, I could set up and decide I want to be a certifier and declare something—whether it be kosher, halal, organic or any other thing—create some fancy logo and convince people that it is worth paying me money to put it on their product, and there really needs to be no veracity or anything else behind it; it is just a marketing ploy.

Mr Gregson: In those circumstances, if you had no expertise or no claims to make those representations, that may well put you at risk under the Consumer Law. But we do not operate in a system that requires preapproval or clearance or licensing for business at large, so you would be, in those circumstances, in the same situation as any businessperson who intends to make representations about their goods or services. Where it is misleading, where it overstates your expertise, where it is not based on reasonable grounds, you may be at risk of prosecution under the ACL.

Senator BERNARDI: But you would have to rely on a complaint from a consumer, and the average consumer would be completely unaware of the process behind it, wouldn't they?

Mr Gregson: Senator, you raise a very good point. We do rely heavily, but not solely, on information received from complaints. We do get informed businesspeople, competitors. We get representative groups who also raise matters with us. We also proactively watch the media and issues raised more publicly. You are actually referring there to what we refer to as a credence claim. They are claims which are made which on their face are very hard for consumers to test the efficacy of, and that is a reason why we have certainly had a priority in previous years on credence claims. I can mention some of the matters we have looked at, but they have not touched on the ones that you are considering today.

Senator BERNARDI: When you say 'they have not touched on' them, do you mean they have not involved food?

Mr Gregson: They have involved food. For example, our free-range interest, representations about the healthy nature of products—they are the types of things that we have had a focus on.

Senator BERNARDI: Are the credence claims lodged by consumers or generally business competitors?

Mr Gregson: In the reference to credence claims, they are effectively the representations made by businesses, so I am not referring there to claims made to the ACCC.

Senator BERNARDI: But am I right in presuming that, in the event of a complaint being made to the ACCC about a certification scheme, it would be more likely to come from a competitor than a consumer because a consumer would not have all the information?

Mr Gregson: A reasonable proportion of complaints from competitors and consumers that come to our attention are in that genre. To mention the free-range egg matters: we had significant consumer interest generated, including by other certified trademark matters that brought matters to our attention. It might help to get a sense of the number of complaints the ACCC receives across the economy. We receive between 160,000 and 200,000 complaints or contacts each year and we have to go through a fairly rigorous triage process to work out those that we investigate. We investigate up to about 250 matters each year, ultimately leading to between 30 and 40 court proceedings, so it is a fairly tight funnel in terms of how we use our resources. That is across the economy. The matters you are talking about today are a relatively small proportion of the matters that come to our attention and that we are ultimately able to consider.

Senator BERNARDI: From 250,000 you distil it to 250 and then down to 40 prosecutions.

Mr Gregson: Two hundred thousand, yes.

CHAIR: You talk about a small number. I assume there is crossover, so it is probably hard, but do you actually have numbers for certification complaints? I assume that you categorise the 200,000 and some of them would fall into more than one category because complaints are not necessarily neat but might be broader. You said it is a small number. Do you have numbers?

Mr Gregson: I do. In preparation for today I have an awareness of the numbers of complaints made about particular food certification matters or, if not food certification, certainly claims in relation to food products of the kind that you might be looking at.

CHAIR: Could you share some of the numbers you have got out of the 200,000?

Mr Gregson: Certainly. Without giving any suggestion that you are particularly focused in particular areas, there have been a few hundred contacts or queries in relation to halal matters in the last year. I should emphasise that that seems to be a particular spike in the last year—whether that is related to the matters being considered here today. In previous years there have been closer to 25 matters that have been drawn to our attention—far fewer in relation to other certification claims such as kosher, which again were down around the 25 number.

Senator BERNARDI: What about organic?

Mr Chadwick: Yes, we have a few there. We have had about 70 complaints or inquiries in the last financial year on organic matters. Again I want to emphasise that they have been pulled out about matters raised with us about organic claims, not necessarily organic certifications.

Senator BERNARDI: Of the complaints across those three areas, how many have you investigated or proceeded with in any way, shape or form?

Mr Gregson: I do not have that information, but, as I said, we are fairly disciplined in the matters that get through to an in-depth investigation. There are roughly 250 a year, and that is across all the matters we look at in competition and consumer protection economy-wide. There are a number of matters that we have done in credence claims in the last few years, but none of those go towards halal, kosher or organic.

Senator BERNARDI: What role does the ACCC have in labelling and disclosure of certification? A number of complaints have been received in submissions that people do not want to participate in a particular food labelling scheme and they cannot get out of it, because they do not know that the product has been endorsed by a particular certification process.

Mr Gregson: Again, we have no specific role when it comes to the majority of labelling. We have a very broad remit, and that is to look at issues that might raise concerns of misleading or deceptive conduct, involve a misrepresentation or otherwise be one of the specific prohibitions in the Consumer Law about pricing, for example. But by and large we have no specific remit in relation to the matters you have raised. If a concern were raised with us again, we could consider that.

Senator BERNARDI: In the case of food labelling, is misrepresentation by omission a potential source of complaint?

Mr Gregson: It is certainly a potential source of complaint. The courts have been quite clear that silence in itself is unlikely to be misleading. It requires something more. It requires an overall impression given where signs would otherwise lead the consumer into error.

Senator BERNARDI: We have heard from a number of submitters that supermarkets can send mixed messages to consumers about the certification schemes, particularly in regard to halal certification. There are cases where evidence has been put forward in which they ring up one of the major supermarket chains and are told one set of information but then they ring up another time and get told a different set of information. What is the ACCC's response to the responsibility of those supermarket chains to provide accurate information to consumers?

Mr Gregson: When we look at representations on labelling, our first port of call is often the manufacturer who has been responsible for those specific representations, but we do not say that excuses retailers entirely, particularly when they adopt particular representations. It sounds like you might be referring to scenarios where the retailer is giving information above and beyond that which is passed on to them by the manufacturer. In those circumstances retailers are caught by the same provisions—that is, not to be misleading. We obviously do need to distinguish between confusion and actual misleading statements, and we appreciate that it is challenging for any large organisation to give completely consistent responses. Where that is a result of a compliance factor or a system that is leading to misleading behaviour, we can deal with that. I might be able to be more specific if there are specific examples that you have.

Senator BERNARDI: It is not about specific examples. It is just in general. I entirely accept your point that in a large organisation it is difficult to get entirely consistent information. But, for example, there are many consumers who do not want to participate in a fundraising exercise for religious groups; they want to make a knowing and informed choice. A lot of concern is that they are not in a position to do that. This is due to either inadequate labelling or information that is not consistent provided by food retailers. There are some within, for example, the Muslim community who are concerned about the quality of the certification schemes that they are relying on. That has been put forward by some of the communications which we find on Facebook about the credibility of certifiers. So it comes down to consumers being informed appropriately and people being able to rely on the veracity of information and make appropriate decisions. That is the concern for people out there right now.

Mr Gregson: And obviously it will not come as a surprise that we share an interest in consumers being informed. We share an interest in the absence of misleading representations. They are obviously the things that underwrite our laws and our mandate. Whether silence is likely to mislead is really only going to arise in certain circumstances. Where there are different views of what might constitute a particular belief or process can be a challenging area.

Senator BERNARDI: I will put this scenario to you. It is a genuine one. Someone does not want to purchase a halal product and goes to great lengths to find out. They look for the labelling and everything else. They buy their cheese, open the packet of cheese and, once it is opened, see on the inside that it is halal certified. It does not

seem appropriate information for the consumer who has tried to make an informed choice when the product packager has deliberately hidden away the certification until after the purchasing and opening of the product.

Mr Gregson: But that scenario probably is not dissimilar to the absence of a label altogether or an absence of reference to the certification altogether. Obviously we have turned our minds to those scenarios. I think it is unlikely that the simple absence of disclosure of that certification is likely to be misleading by silence. There might be some scenarios where the overall impression given is that this product has not had certification, and therefore the failure to disclose that might be misleading, but I think that is unlikely to arise in the vast majority of the scenarios that you would be thinking of.

CHAIR: I want to make sure I have understood what you have said. The ACCC's role in all of this, insofar as you have a role, is limited to false or misleading advertising and false or misleading claims.

Mr Gregson: Essentially, Senator, together with our role in very limited circumstances for certified trademarks.

CHAIR: Putting aside the certified trademarks, which is a separate process that you go through—

Mr Gregson: Indeed.

CHAIR: effectively, what you seem to be saying is that, if I claim that a food product is halal, kosher or organic—to use the three examples that we have been looking at in this inquiry—you would test or you could test that claim if someone, be they a competitor or an individual, complains about it. I am going to use an extreme example: if someone claims that a product—which is clearly a pork product and is obviously not going to meet the halal or kosher requirements—is halal, the power that you have available to you under the act is to investigate whether or not that is a false claim. Correct?

Mr Gregson: Correct.

CHAIR: The point that Senator Bernardi is making, which I think is a valid point and which seems to be what your evidence is telling us, is that that is the scope of the law as it currently stands. There is no current requirement for people to declare further information, provided that any omission in that information is not misleading. I will give you an example—and this is an extreme example. The claim is that something is a non-halal product, but the omission of the fact that it is halal certified would perhaps—and this is a hypothetical—give rise to what you were saying before, which is that the omission of information becomes false or misleading.

Mr Gregson: It is a perfect example. It is probably one of the upper-end examples, because it is black and white. But that is exactly the type of scenario where the silence to that certification might be misleading because you have given a prior impression that it did not have some connection.

CHAIR: We have people with us today who will be speaking later and who have a view—and, again, people are entitled to legitimate views—that to be able to make, in their opinion, informed decisions as to what product they choose to buy or not buy, they would like more labelling information. Your point is that that is currently not a requirement under the law. I suppose the question for this committee and this inquiry, Senator Bernardi, is whether or not we recommend something to that effect. That is the question. But, Mr Gregson, you are saying that, as it currently stands, that is not a requirement. Whether that becomes a requirement or not is, I suppose, a matter of policy.

Mr Gregson: Senator, what you say is consistent and a good summary of my evidence today. The only qualifier I would say is that our law requires us to judge things in the circumstances that are present in each matter, and it is very hard to be blanket. But you have probably done as well as you could with that framework to give a summary of what my advice is.

Senator BERNARDI: There are some who would argue that there should be a list of those who are certifying—a register, if you will. You could say that a certified trademark is one of those processes. In the absence of a certified trademark, is it appropriate that people can make claims about the certification of food, given that there is no rigorous requirement for them to undergo any probity checks or anything else?

Mr Gregson: Again, we would assess those types of issues under the misleading and deceptive conduct provisions. I think the reference to 'certification' or 'certified' gives an impression of expertise. Therefore, in making that representation, the person should have good grounds for making that representation and that good grounds should stem from the fact that the person said to be the certifier has expertise or has experience and has actually got a process to make sure they go through and test the accuracy of the claims to be made. Again, that is all the types of things that we would expect under the misleading and deceptive conduct provisions. But, in terms of some further proactive or forward-looking requirement, that currently does not exist, at least not in the regime that we enforce.

Senator BERNARDI: So it is a complaint based enforcement, if you will, rather than a proactive 'Let's establish the veracity of these claims' approach?

Mr Gregson: That is pretty much right, save, again, for the qualifier that we do not simply have to wait for a complaint; we can issue an investigation if matters come to our attention, or if we are out there looking at behaviour that we think might be problematic.

Senator BERNARDI: Thank you very much, Mr Gregson, and thank you, Dr Chadwick.

CHAIR: Mr Gregson and Dr Chadwick, thank you so much for being with us here today.

JAMIESON, Mrs Angela, National Manager, Compliance, AUSTRAC

ROBERTSON, Mr Craig, Acting National Manager, Intelligence, AUSTRAC

[09:30]

CHAIR: Welcome. I remind witnesses that the Senate has resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Do you have any comments to make on the capacity in which you appear?

Mrs Jamieson: I am also acting deputy CEO of operations, AUSTRAC. We would like to thank you for inviting us to appear this morning. We would also like to make a brief opening statement.

CHAIR: I was about to ask you that.

Mrs Jamieson: Thank you. AUSTRAC's role is that of Australia's anti-money-laundering and counterterrorism financing regulator and specialist financial intelligence unit. In this role, there is our AML/CTF regulator. AUSTRAC oversees compliance of Australian businesses, with their obligations under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and also the Financial Transaction Reports Act 1988. These businesses span financial sectors, including banking and remittance, but do not include entities conducting halal certification.

There have been various public claims that fees from certifying halal food may be funding terrorism. AUSTRAC has no information that indicates halal certification is linked to terrorism. AUSTRAC receives financial transaction reports from businesses providing designated services under our act. AUSTRAC monitoring of reported financial transactions allows analysts to make judgements about potential risks of terrorism financing or money laundering and refers relevant information to investigating agencies. AUSTRAC monitors reported financial transactions, including reports of suspicious financial activity and related transactions to identify money movements associated with halal certification. Of the information identified from this monitoring of reported financial transactions, none of these have been assessed as being related to the funding of terrorism, with regard to halal certification fees. AUSTRAC will continue to monitor reported financial transactions and analyse data related to halal certification to identify information that may be relevant to investigating agencies.

In addition to those activities, as a result of additional funding announced in August 2014, AUSTRAC has a dedicated team of 13, producing financial intelligence analysis to better understand terrorism financing in the context of foreign fighters traveling to Syria and Iraq and financial support to ISIL. As part of AUSTRAC's role in the national security environment, the dissemination of financial analysis aims to identify terrorism financing risk, including the misuse of reporting entities. This enables a unique capability of AUSTRAC to target the use of enforcement action to support whole-of-government efforts to disrupt terrorism financing.

AUSTRAC is contributing to global efforts to understand and combat the financing of ISIL, including operational financial intelligence sharing programs with partner financial intelligence units. AUSTRAC also represents Australia in multilateral engagement, including the anti-Daesh, counter-ISIL financing group and working directly with the collective European Union FIUs. Through the operational activities of AUSTRAC, including its international engagement and information exchange on foreign fighters and terrorism financing, there has been no evidence of links to halal certification fees funding terrorism. Thank you. We are happy to take some questions.

CHAIR: Thank you, Mrs Jamieson. I have only got a few minutes of questions; you have answered pretty much everything I was going to ask in your opening statement. But I just want to be clear, because this inquiry is looking at a lot of things, a lot of different matters, a lot of issues around certification and a lot of parts around a lot of issues that do not relate, at all, to AUSTRAC, about: what is the consumers' right to know, and should consumers be given more information so that, if they choose to, they could make more informed decisions? There is a whole scope and some fairly large terms of reference.

The bit that, I suppose, specifically relates to AUSTRAC is: there have been claims made in the very, very large number of submissions we have received—so, in fairness, it has not been in all submissions; it has been in a handful of submissions—that there is a link between certification and, in particular, halal certification and terrorism financing. You are saying: the view of the Australian government, through AUSTRAC, with the information that has been provided to you or that you have available, is that there is no link—no link—between halal certification and the funding of Islamic terrorism?

Mrs Jamieson: That is correct. I might defer to Mr Robertson in that regard.

Mr Robertson: There is not really much to add there, Senator. As you have stated it, that is correct.

CHAIR: I just want to understand how big the team you have here is. Obviously AUSTRAC monitors many things, but is it fair to say you currently have a particular focus, and the government has given you a mandate for a particular focus, on the issue of funding terrorism?

Mrs Jamieson: That is correct. And Mr Robertson actually leads that team; so, again, I will defer to Mr Robertson.

CHAIR: Okay. Mr Robertson, how big is your team?

Mr Robertson: The intelligence function within AUSTRAC is approximately 90 people. AUSTRAC's agency size is about 250 to 260. When we received additional funding last year to combat terrorism financing—

CHAIR: How much was that additional funding? It was in MYEFO, I think, but can you remind me of the figure.

Mr Robertson: Yes. It was \$20 million over four years. That enables us to do two things: there is the people part of that, so we have actually got a team of 13 who have a dedicated focus around counter-terrorism financing and, as Mrs Jamieson said before, the focus around that work is to make referrals to our partners who can investigate things that look suspicious from a financial transaction perspective. In addition to the people funding that we have received, there is also some funding to help improve our systems in order to conduct the analysis and receive the information, if you like, in the front door of the agency from various parts of industry.

CHAIR: This is the last question. I am simplifying the work that AUSTRAC does, and I am probably going to simplify what is a much more complex task, but, in simplistic, layman's language, the task that you perform, as I understand it, is watching the flow of money and seeing where money is flowing—effectively following the dollars—in particular, with this special focus. At the moment, Mr Robertson, you are trying to see the flow of money to see if any of it is going to fund Islamic extremism and terrorism, including the financing of foreign fighters to go overseas.

Mr Robertson: Yes, that is correct. And you correctly state, Senator, that there are a range of issues that we look at—different crime types. We often refer to the work that AUSTRAC does as having an all-crimes focus, because there is quite a breadth of things that financial activity might relate to. While AUSTRAC is an intelligence agency, the information—an important distinction—that it receives is that. So we receive a select number of reports about financial activity from the industry. It does not suggest that all of those reports are suspicious, but we have methods to look at the things that we know represent risk, whether it be terrorism financing or other crimes. We also look at things to detect patterns across that activity. We are talking, in terms of numbers, in excess of 85 million transfers overseas every year that we receive reports about, in addition to reports of suspicious matter activity, which was in the multitude of about 90,000 last year. So by no means can we look at every transaction, but we use some of our own knowledge and our partners' knowledge, things that we learn from overseas, as well as some of the things we build into our system—the IT smarts, if you like—to help us to monitor that activity.

CHAIR: And is it fair to say then, Mr Robertson, that what you are effectively saying here is: there obviously are different elements that you look at, in terms of the funding of terrorism, and that funding of terrorism and funding of Islamic extremism is obviously a serious issue and an issue you are investigating and have been resourced to investigate?

I do not want people to be left with the wrong impression—that what we are saying here is that there is not funding of Islamic extremism and terrorism through different channels. That is what you are monitoring. You are saying that, in the information that you have available to you, there is not a link between that funding and the halal certification processes.

Mr Robertson: That is correct.

Mrs Jamieson: That is correct.

Senator BERNARDI: AUSTRAC is responsible for tracking domestic and external and international money transfers—is that correct?

Mr Robertson: Yes, in a broad sense, although we have much more limited visibility of domestic financial activity by virtue of what is legislated in terms of what is reported to us. The vast majority of the information that we hold relates to the movements of funds in and out of Australia, regardless of their value. We do have some direct reports of domestic activity, normally when they are performed in cash and when they are above a threshold of \$10,000. As I am sure you have seen when you have travelled, you also have the cross-border

movement of physical currency and that gets reported to AUSTRAC as well. The fourth type of report is a suspicious matter report, which does not have a threshold or a particular type that requires that report to be made. It is upon a part of the industry that we regulate. When they form a suspicion, they would report that to us.

Senator BERNARDI: I want to deal with domestic issues for a moment. There are a number of halal certifiers which are not-for-profit bodies and which are involved in the establishment of mosques, schools, da'whas, bookshops—the whole thing. They receive halal certification funds which then flow through the system, and where they end up no-one really knows. But we do know that extremist organisations in Australia are funded by someone and they are linked, in many cases, back to those not-for-profit bodies, either by personnel or individuals or however it may be. Surely, then, there is a link between some of the funding that these not-for-profit bodies receive and the end outcome of extremism in some of their organisations.

Mr Robertson: An important distinction to make for clarification is that, when we are talking about extremism, it is a different category to terrorism, for example.

Senator BERNARDI: Maybe in the sophistry that you choose, but Islamic extremism is what is driving Islamic terrorism. We are talking about funding of foreign fighters and sending them overseas. They are linked, in many cases, to particular groups that have received funding, either directly or indirectly, from organisations that are halal-certifying organisations which derive substantial income from that.

Mr Robertson: As we were talking about before in the initial questions, we do not have any information that suggests that the entities we are aware of that provide halal certification are linked to the funding of those seeking to travel overseas to fight in Iraq or Syria or those who are onshore seeking to undertake any attack planning—

Senator BERNARDI: But you do not really track it, in essence, do you? You do not follow the certification money through a group like AFIC into a mosque or a bookstore where there are extremist materials and the conversion of people and the inspiring of jihadis is taking place.

Mr Robertson: The answer to that is: no, we do not follow those funds, particularly, for those entities who are engaged in halal certification. Our work has not taken us there. The monitoring of transactions that we do and the other information that we have received have not required us to prioritise that. There are other elements of the funding of all the things that present that current threat, which we do focus on, but the halal certification has not been one of those.

Senator BERNARDI: I will turn internationally, then. In a report published last year, *Terrorism financing in Australia*, AUSTRAC said:

The risks associated with the misuse of charities and NPOs are high as these organisations offer the capacity for groups to raise relatively large amounts of money over time.

I understand there are national security issues at play here, but how far do you track the funds that are used by international charities?

Mr Robertson: There is a challenge in that. We can see when money leaves Australia and goes offshore to the first point of recipient, if you like. To put a broader scenario: if you were in the UK, for example, and I sent money to you, Senator, we can see the transaction. Where that money goes next is a difficult challenge for us because it is not part of what is reported to AUSTRAC. If we identified that the transaction was suspicious, we have a number of arrangements with our counterpart type units in different countries. We could ask the question of those counterparts: what happened to those funds next? We would not do that for all the transactions. As I mentioned, we would only do that in cases where we formed a suspicion or one of our partner agencies has asked us to assist them in looking at those transactions and to engage our international partners.

The delivery of funds that go overseas for charitable purposes are often devolved into goods or cash, which are not part of what we are able to track. In recent times, we have worked with our partner agency the Australian Charities and Not-for-profits Commission to engage those charities in Australia who perform that sort of activity. They deliver their aid, if you like, overseas. The importance of that outreach is so they are aware of the risks and, from their perspective, perform the right diligence on the recipients of the money to ensure that it is used for the right purposes. I would suggest in the case of NPOs or charities that the work and the regulation around the charities themselves is the governance around that as opposed to the monitoring of the financial activity.

Senator BERNARDI: Let me give you an example: Human Appeal International. It is an international organisation that has ties to Hamas. Hamas is not a prescribed organisation in Australia, but the Hamas brigades are. You can track the money from Human Appeal International that sends out to Hamas. Is that right? They have to send it to an end recipient, so you know that it is going to Hamas or whatever their organisation is.

Mr Robertson: If Human Appeal International has a bank account in Australia and they send funds, yes, we would see where that money was.

Senator BERNARDI: But you cannot then track what Hamas does with the funding?

Mr Robertson: Based on what is reported to us, no.

CHAIR: A group like Human Appeal International—I am not familiar with this group, so I cannot speak to this—if they are a charity, would be governed by the rules around the ACNC. Is that correct? Is that your understanding?

Mr Robertson: That is correct. If they were a charity and they sought charitable status to collect funds, then—

CHAIR: There is the question about where their money is going and whether or not they have breached their own requirements. Again, I do not know about this group, so I use the broad 'a charity'. You follow money trails. The question about whether or not they are acting appropriately as a charity is an ACNC question. Is that correct?

Mr Robertson: That is correct. Under our legislation, we have various entities that we regulate and charities are not one of those.

CHAIR: When money goes to, say, a questionable place overseas, that is when you work with partner agencies, be it in the US, in the UK—international agencies.

Senator BERNARDI: I want to come back to this. In the report it says:

... charities and NPOs are one of the more significant Australian terrorism financing channels ...

Do you stand by that?

Mr Robertson: As per the report, yes, that is right. We highlighted that as a channel among two others that are the highest risk.

Senator BERNARDI: If a halal certifier boasts about supporting an organisation like Human Appeal International, which is directly linked to Hamas and has personnel on their international body that are linked to Hezbollah, which is not a good group of people, it is not too long a bow to draw and say, 'The profits of halal certification are linked to organisations that are not acting in Australia's interests?'

Mr Robertson: That is when AUSTRAC does not have that investigative mandate in terms of an agency. If we were to see a scenario like that where funds do move, we would need to refer that to a partner agency who would investigate the offences of terrorism financing—they are not offences under our legislation, as you are no doubt aware—and/or then we could work with partner agencies to engage with the country overseas where that money has gone so that we can understand more about it.

Senator BERNARDI: I can find this out through a Google search, effectively. We have a bloke who is boasting and is contributing to a charity which is directly linked to those types of organisations. How can you not conclude that the profits of halal certification, which this man openly boasts runs into millions of dollars for him, are contributing to extremist organisations?

Mrs Jamieson: We look at the financial transaction reports that come in. As we said, halal certification, the business, does not fall under our legislation. So we revert back to the transaction reports that we then receive, which are the international funds transfers. Mr Robertson has explained to you what we do with that information when we receive it.

Senator BERNARDI: If I give money to a charity, AUSTRAC really only see the sum of money and who the recipient is when the charity distributes it. It really does not have any knowledge of my contribution to the charity—or does it? You do not have to answer that aspect of it.

Mr Robertson: It is easy to answer that in one sense. If you donated less than \$10,000 to a charity in Australia and you put it into their bank account, it would not be reported to us; but if it was more than \$10,000 and you put it into their bank account, it would be reported to us.

Senator BERNARDI: In the same report, you said terrorism financing in Australia has been limited to a handful of charities and NPOs. Are you able to tell me which charities and NPOs they are?

Mr Robertson: It would be difficult to comment in an open session on which charities they are, although we have highlighted examples of cases that have gone through the courts previously that have been prosecuted here by law enforcement agencies. The one that stands out related to the LTTE, the Tamil organisation, some years ago. Aside from that, it is difficult in an open session to comment as to the specific entities that might be involved.

Senator BERNARDI: Once again, I come back to this: have you specifically looked at the use of funds by organisations that conduct halal certification?

Mr Robertson: The answer to that is no, we are not looking specifically at the use of those funds. As Mrs Jamieson outlined in our opening statement, we do monitor for movements that relate to those activities. We use

either names of entities or keywords, as we do for a range of things, in order to surface any information that we would then need to assess. But aside from those regular types of monitoring activities we do not have any active work against those movements of funds.

Senator BERNARDI: I have learned not to rely on ABC Fact Check. ABC Fact Check said, 'A spokesman for AUSTRAC told Fact Check it had no information to indicate that there are links to terrorism financing from halal certification fees.' That may be entirely accurate but it is because you have not investigated halal certification fees and the use of that.

Mr Robertson: Again, for clarity, we do not conduct the investigations per se—and I know it is terminology. On the basis that a third party outside of AUSTRAC has not been able to refer us to information that provides that evidence to look at it—and our own detection and monitoring systems of what we know about how terrorism financing occurs has not surfaced that information—the short answer is no.

CHAIR: You have a team of 13 people working under you at this point in time and \$20 million of extra funding over the last four years to investigate the funding of Islamic terrorism. Correct?

Mr Robertson: Correct.

CHAIR: What you do specifically, because you are AUSTRAC, is follow the money. I assume then your investigations, and what you look at, are based on two separate things. The first thing is your own inquiries and investigations as you follow the money, see where the money is coming in and trace it back and forth. And I assume that the Crime Commission, the AFP and the other agencies will come to you and say: 'Hey, you're the experts when it comes to following the money. Help us follow the money in this space.' Correct?

Mr Robertson: Correct.

CHAIR: The proceeds of halal certification do fund Islamic organisations. That is a matter of fact. The money goes into organisations. That is a statement of fact. I do not want to leave the impression that AUSTRAC does not look at any of these things. You have had no information that would allow you to believe there is any direct link between the funding of Islamic terrorism and halal certification?

Mr Robertson: That is correct.

Senator BERNARDI: Because they have not investigated halal certification.

CHAIR: They have. They have a team of 13 people, they have \$20 million and their job is to track down and look at the funding of Islamic terrorism. You have the government agency responsible for finding the money here telling us that they believe there is no link between the two. What more do you want, Senator Bernardi?

Senator BERNARDI: You obviously have not read their report, where they talk about the commingling of funds and the ease with which it is done. They have not investigated halal certification at all and they do not investigate domestic transfers. You are cherry-picking. I know you are doing it for the cameras—you always do it.

CHAIR: No—

Senator BERNARDI: It is simply—

CHAIR: This whole thing is about discrediting an entire industry.

Senator BERNARDI: We know you. You regard the inquiry into halal certification as some racist dog whistling, because that is what you have established. What has happened is you have compromised yourself, because you are not interested in the facts. You are actually interested in grandstanding and discrediting.

CHAIR: Senator Bernardi, you have been running a campaign against this for the past several months. You can whip up whatever hates and views you have, but the ACC are about to come and we have AUSTRAC here in front of us.

Senator BERNARDI: The Senate has approved an inquiry into certification schemes and you have compromised yourself already because you are not interested in the facts. You are only interested in getting your agenda out there. That is what the problem is.

CHAIR: Senator Bernardi, you have been running a three-month campaign. You have done *Four Corners*—

Senator BERNARDI: No, I have been talking about this for four years, mate—four years, not three months.

CHAIR: Your views on this have not exactly been kept secret. You are entitled to your views, as I am entitled to mine, and we are sitting here getting evidence.

Senator BERNARDI: We are establishing the facts and you do not want to listen to the facts. You distort what is—

CHAIR: We were just clearly given the facts. The facts were clearly presented to us by AUSTRAC.

Senator BERNARDI: No.

CHAIR: Anyway, the witnesses are not needed here. We can do this without you!

Mrs Jamieson: I just want to clarify, Senator Bernardi, that we do not investigate, and I think that is a key point. When you mentioned that AUSTRAC investigates, really what we do is receive financial information that we then analyse. We then work with our partner agencies in providing that information.

Senator BERNARDI: Thank you, and my apologies for our conduct just then. I think it is probably inappropriate. I apologise for you too, Chair.

CHAIR: I apologise. Perhaps some of this should be restrained and kept for the floor of the Senate. I am sure we will have these debates there as well. Thank you.

HANSFORD, Mr Hamish, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission

[09:57]

CHAIR: Mr Hansford, thank you so much for being here with us today. You have been here all morning and you have heard everything?

Mr Hansford: I have, yes.

CHAIR: I just want to remind you that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Thank you for appearing. I know I have some questions and Senator Bernardi has some, but before we get to that I want to give you the opportunity to make a brief opening statement.

Mr Hansford: Sure. I will make a brief opening statement which might clarify some of my views. I think you are most interested in answering the question: are there links between halal certification and terrorism or halal certification and serious and organised crime? The short answer is that the Australian Crime Commission has not identified any particular links between halal certification and terrorism or halal certification and serious and organised crime. But of course we have identified links between serious and organised crime, terrorism and money laundering.

I might set some context for why we have come up with that statement. The context is the Australian Crime Commission is Australia's national criminal intelligence agency, with special investigatory functions.

We are the only agency solely dedicated to serious and organised crime of national significance. We have access to powers of a standing royal commission, as well as covert and coercive powers, and we work with a range of partners. Indeed, every state and territory seconds police to the Australian Crime Commission, as well as a whole range of Commonwealth agencies. We have a board that oversees the Crime Commission of all of the Commonwealth heads of law enforcement, and state and territory police commissioners.

One specific thing the Australian Crime Commission does is run task forces. Since 2012, we have run the Eligo task force focused on money-laundering. This is particularly focused on the alternative remittance sector and the informal value transfer system. This, if you like, is money that is remitted overseas from individuals—such as a taxi driver who might remit their legitimate earnings overseas to a foreign country. But, equally, it is used by serious and organised crime to remit proceeds of crime overseas. Since the inception of the task force, we have seized \$74 million in cash alone, we have restrained \$48 million worth of proceeds of crime, we have identified 285 criminal targets previously unknown to law enforcement, and it has given us a good insight into the movement of funds in Australia and offshore. We have a good understanding of the methodologies by which serious and organised crime remit money offshore, and we have a good understanding of the transnational money-laundering syndicates involved. That provides some context to the statement that we have made.

Equally, like the evidence that AUSTRAC provided earlier this morning, we have been involved in and funded for the response to Islamist terrorism by the Australian government, particularly focusing on money-laundering, and we are involved with a whole range of partners, including AUSTRAC. This is in addition to our daily work on anything from illicit drugs, gangs and high-risk crime targets, to cybercrime. So it is in this context that we made the following statement, and on 12 November—following a considerable number of media requests, and some statements by the media that actually identified the Australian Crime Commission as having found links between halal certification and terrorism—we put out a press release that said exactly what I said at the beginning: that we have found links between money-laundering, terrorism and serious and organised crime, but we have not found any direct links between halal certification and the funding of terrorism.

My evidence today is based on our operational work and the intelligence holdings that the Australian Crime Commission has. Since this issue has been highlighted in the press, we have been on a heightened lookout for any links between halal certification in our intelligence holdings, and to date we have not found any direct linkages. So, with these introductory comments, Senators, I am happy to take your questions.

CHAIR: I have just one thing to ask. You have pretty much answered anything I was going to ask, but I just want to be clear here. Effectively, if I am interpreting what you are saying right, there is a current public policy debate around food certification that this committee is engaged in, and there are different views out there about what should and should not be the right level of information provided to consumers. That sits completely outside the remit of what the ACC's legislative requirement is to look at. There is a legitimate debate and there are

legitimate views. There are people who want more information and more details, and are arguing a right to know. We are going to have them a bit later today, and—as I have very strong views, as to the financial services sector, about people having a right to know—I am perhaps sympathetic to people wanting to also know about other areas that they are interested in, like food certification and others. So we will have that debate later.

But, as to the specific part of the terms of reference, I want to be clear here: I do not want to leave the impression that this is simply an inquiry into the link between terrorism and halal certification; it is a much bigger inquiry. But that is the bit that obviously the ACC touches on. The point that you are making seems to be that, as far as the Australian Crime Commission is concerned, as to a specific link between the funding of Islamic extremism and terrorism and halal certification, in the information that has been provided to you in your own investigations, there is no direct link.

Mr Hansford: That is correct.

CHAIR: In saying so, though, I do want to also add that that does not discount the other parts and other legitimate views about halal certification that are out there, which obviously are not matters for the ACC.

Mr Hansford: Indeed.

Senator BERNARDI: Mr Hansford, use of the term 'direct link' is very specific. Is there or has there been any evidence that organisations that are involved in halal certification, such as charities and not-for-profits, have given any funds to other organisations, such as charities and not-for-profits, that participate internationally and may be linked to funding of extremist activity or terrorism?

Mr Hansford: I think the answer to that question is in a very similar vein to AUSTRAC; that our focus is on the highest-threat serious and organised criminal targets to Australia. We look at the funds that are remitted offshore, particularly laundered, to international individuals. We have not identified any links between halal certifiers and the funding of terrorism. But as I said in the opening statement, we have identified money that has been laundered for terrorist purposes.

Senator BERNARDI: I will draw on some of the evidence that was produced to us. For example, the Islamic Council of Western Australia said in their 2013 annual report that they made donations to Syria, but they did it through a charity, the Al Imdaad charity, to ensure that no recriminations could be directed to the Islamic Council of Western Australia. So you could say if, for example, the Al Imdaad charity was involved in untoward activities in Syria—and I do not know whether it was, but there are no good guys in Syria, apparently—then there is no direct link to an Islamic certifier funding terrorism or extremist activity, but there may be cause for an indirect conclusion to be drawn.

Mr Hansford: I think that wherever there is a sector with large amounts of cash that are being remitted, there is an opportunity for either serious and organised crime or people sympathetic with terrorism to utilise and exploit that particular sector. That is the answer, but from the high-risk crime targets that we look at and the money laundering operations that we have undertaken, we have not seen a direct link.

Senator BERNARDI: We come back to this directly. If a certifying agency decides to remit funds overseas for whatever purpose—for humanitarian or charitable aims, either directly or through a third party—you are not really in a position to assess how those funds are utilised overseas. Is that correct?

Mr Hansford: That is correct. But we are in a position to understand how money is laundered by organised crime, and no sector in the Australian economy is really prone from infiltration by serious and organised crime, whether that is a bank or a casino, or the alternative remittance sector. All of them have the potential to be exploited, and for laundered money—

Senator BERNARDI: But we are not talking about money laundering. We are talking about legitimate businesses, or organisations in Australia, that raise money through the halal certification schemes or whatever, and then they say they are going to participate in an international outreach, either through a charity or anything else. They are not laundering money; they are just sending money overseas for a cause. There is no way you can assess, realistically, where every dollar of that money goes once it reaches an offshore destination like Syria or Iraq or Palestine, or anywhere else.

Mr Hansford: I guess the answer is that our focus is on money laundering and on serious and organised crime.

Senator BERNARDI: So we are talking apples and oranges.

Mr Hansford: Yes.

Senator BERNARDI: Thank you for your appearance today.

CHAIR: I would like to ask a follow-on question. This is perhaps somewhere that the committee may end up going to, so it could help us with some of our deliberations. The point that you have made is an interesting one. I want to go back to what you said at the start in your statement: that you have received a lot of interest from both media and the public in this matter of halal certification and where the money goes. Correct?

Mr Hansford: Correct.

CHAIR: Without going so far as to ask you for an opinion, perhaps this committee—and again, I do not speak for Senator Bernardi—may be saying at the end of this that even though, in the evidence you have given, you believe there is no direct link between the funding of terrorism and halal certification, more transparency is never a bad thing, certainly for public policymakers. And that perhaps more transparency in the system would allow the concerns that have been raised with you by, I assume, both individuals and the media and agencies and whatnot to be addressed.

Mr Hansford, I do not want to put you in the uncomfortable position of having to speak for the agency in itself here, so perhaps you could take on notice the question: if this committee were to recommend more transparency in that space, from a public policy perspective, would you or the agency have an opinion on that or be able to help give us some direction on how best to do that?

Mr Hansford: Sure. I can take that on notice.

Proceedings suspended from 10:09 to 10:43

SMITH, Mrs Kirralie, Director, Halal Choices Incorporated

CHAIR: Welcome. Is there anything you would like to add about the capacity in which you appear today?

Mrs Smith: As well as being the director of Halal Choices, I am also a consumer.

CHAIR: Mrs Smith, I want to begin by thanking you for what is a very detailed and extensive submission that you provided for our inquiry. I acknowledge that putting together these kinds of submissions takes an immense amount of time and effort, and I did want to say that we appreciate all the work and effort you have gone to to produce that. In the Senate economics committee we deal with a lot of big agencies—big banks, especially—that have an incredible amount of resources, and even they struggle to put anything of that quality together. I do want to acknowledge the quality of the work that you have put together.

Mrs Smith: Thank you.

CHAIR: I invite you, if you want to, to make some opening remarks or an opening statement.

Mrs Smith: I realise that it is a 200-page submission, but I would like to say a little bit more. First of all, I would like to thank you for the opportunity to address the committee. There are many and varied issues surrounding halal certification in Australia, as you aware from the almost 1,500 submissions that you have received. I want to state that I think the export issues should be dealt with separately to the domestic market. I am primarily concerned with the domestic market for consumers.

In 1982, there was a royal commission into the meat industry. One recommendation was that halal certifiers should be permitted to make reasonable charges to cover wages and out-of-pocket expenses for their part in the system. Such charges should not be seen, though, as a way to raise revenue for other Muslim purposes unconnected with the meat industry. This has clearly not been heeded. There are no substantiated figures of just how much profit the halal certifiers earn; however, there are boasts by individuals that some of them have become millionaires as a result of this industry. We also know that other halal organisations have millions of dollars to spend on Muslim purposes 'unconnected with the meat industry', despite what the royal commission recommended. Profiteering to promote Islam via our everyday grocery purchases is a primary concern for many Australian consumers.

The Minister of Agriculture and Water Resources, Barnaby Joyce, recently told *Four Corners* that we have had halal certification for 50 years. What he failed to clarify is that the main concern for the domestic consumer is that in very recent years halal certification has moved from primarily being a marketing tool for red meat export to being a major revenue raiser for Islamic religious purposes. It has moved way beyond red meat export and it now covers approximately 80 per cent of all grocery purchases that Australian consumers would make in this country. While an argument may be made for limited halal certification on some red meat exports, no-one seems able to satisfactorily answer why the Australian consumer needs to be subject to halal fees and practices for domestic purchases. Should our food chain really be about funding the promotion of Islam?

I would also like it noted that I have been ridiculed, mocked and harassed by many people, including prominent Muslim leaders. Such leaders have tried to muddy the waters with meaningless name-calling and misinformation without engaging in the actual concerns that we have as consumers. My family has had to move house and keep our location secret because I have dared to ask questions about the halal certification industry in Australia. My issue is primarily with the payment of fees for Islamic religious practices and the imposition of such on all Australian consumers.

Consumer boycotts are a reaction to the betrayal of leading supermarkets and retail companies who refuse to adequately label products and give them a true choice at the point of sale. Promoting and funding religious practices must not continue without the consumer's knowledge or consent. Some certifiers will argue that halal fees must be paid on already compliant products to give Muslim consumers peace of mind that such products have not been contaminated, but I want you to note what the Food and Grocery Council said: there is no contamination; it is not a food health safety or hygiene issue; this is purely an Islamic religious fee that is being paid which is irrelevant to approximately 97 per cent of the Australian population. For instance, pork and alcohol are not contaminants. They are not classed as contaminants on any level. There are safely consumed by many Australian consumers and so for Islamic certifiers to say that they are a contaminant is incorrect and misleading.

Australian consumers, myself included, are very frustrated with the lack of choice and information regarding halal certification on their everyday grocery purchases. It is almost impossible to make informed choices as many products are not clearly labelled or the company refuses to give clear and accurate information about halal fees and practices on the items they produce. I have produced this booklet. I believe it has been handed in. It gives you an idea of the companies that are paying for halal certification. Most of those do not put that on their label.

Consumers are concerned about animal rights issues, revenue-raising for the promotion of Islam, the imposition of Islamic religious rituals without knowledge or consent, as well as the question, 'Where does the money go?' It is my sincere hope that this committee will take these genuine concerns of Australians consumers very seriously. I want to commend each of you for this opportunity to take it very seriously and I look forward to answering your questions.

CHAIR: Mrs Smith, thank you so much and thank you for that fantastic introduction and the remarks. I am going to draw an analogy, because I am perhaps quite sympathetic to some of the points you are making. This is a committee that has spent most of its time dealing with the financial services industry and we do a lot of things on banking and multinational tax avoidance. Part of the theme of this committee over a long period of time over many inquiries has been the issue of transparency and about giving people more information, be it through financial products or tax disclosures. It sounds like part of what you are saying is this. There are probably three types of consumers—and we could put percentages on them, but it does not really matter. There are those who are seeking halal products and want to purchase halal products. There are those who are probably indifferent—and, in my opinion, the majority of people would fall into this category. And there are those who have an objection to purchasing halal products, whatever that objection that may. They may have an objection with the Islamic nature of it or, like the RSPCA, have an objection to do with animal rights. For whatever reason, people are entitled to their opinion. It seems that the argument that you are making is that the third group of consumer should have the right to have more information and more transparency so, whatever their reason is, they can make an informed decision about whether they want to purchase the product—is that correct?

Mrs Smith: That is correct. But of those who are indifferent, many of those are also ignorant. They do not know anything about the industry. For instance, after the *Four Corners* report recently, some people contacted me to say that they did not know anything about it and were perhaps indifferent beforehand but with the information have now moved into the third group that you referred to.

CHAIR: From a public policy perspective, and we are here to make recommendations to government about setting rules, if people in the community want to engage in debates about whether something is or is not right, consumers are entitled to make that decision themselves. People like yourself may inform them of one opinion; others may come and give a different view. That is part of the public policy debate that makes this country great. I want to get clear my understanding of what you have been saying. Someone like me perhaps would not share your objection to halal products, but you are saying that people want to have the democratic right through consumer action to make a decision about whether they want to purchase something. I would argue that there are people like me who are sympathetic to other people having that right, even though their reasons for not wanting to purchase halal is not something that I would necessarily share. I want to get to the specifics of it.

From a policy perspective, where do you draw the line? This is the challenge. You are saying that you know of people like yourself who would like food labelling to change to inform people of whether or not it is halal so they can make a conscientious objection. I do not think that is an unreasonable argument. That is the position you are putting forward. But where do you draw the line, in your opinion? Where do you stop? You are speaking specifically about halal. For halal, you could call it religious certification. Then there are the organic products and certification, and people say that that should all be declared. From a public policy perspective, the question for us is where do you think we should draw the line about how much information you give consumers without making it such a burden that you almost cannot package your product?

Mrs Smith: I am not sure I can answer that question other than to say that, as a consumer, I want that information. I want it to be clear. Through my submission, you can understand that it took years to find out from companies whether they are halal certified or not. The other issue is that a cow may be slaughtered according to Islamic rights then the fee is paid and then the fees could be paid again at the wholesaler. However, because the retailer refuses to pay those fees even though it is halal certified and has undergone all of those processes, it is no longer classified as halal because money has not changed hands with one of the big supermarkets to say that it is halal. There are so many complex issues here, I do not think there is a simple answer to that question.

CHAIR: Your point—the one I am perhaps sympathetic to—is that more transparency and more information for consumers will allow them to make decisions for themselves.

Mrs Smith: Sure.

CHAIR: I would put on the record that I am perhaps not of the same view on those decisions themselves, but that is my opinion. Effectively it sounds like what you are saying is that, if I do not share those views and if there is a more informative labelling option, it is not something where I would have the choice as a consumer to take one course of action and you as a consumer would have the right to be able to take a different course of action. That is the point I think you are coming here to make. Is that fair?

Mrs Smith: We want choice. We want information. Yes.

Senator BERNARDI: Mrs Smith, you opened your remarks by referring to the 1982 royal commission. What evidence do you have that certifiers are profiteering from this rather than conforming to the recommendations of that royal commission?

Mrs Smith: Where to begin is hard. First of all, you have two categories of halal certifiers generally. One is the private companies, and then you also have the not-for-profit organisations, but in both cases many say that they have huge profits and they are going—say, in the case of AFIC—to fund lots of schools, charities and Islamic organisations. They are activities that are not related to the meat industry. That is plain and clear to see. Then we have private companies that are halal certifiers, and again they are making boasts in media and social media that they are millionaires and making a lot of money, and again we would suggest that that is not connected to the meat industry.

Senator BERNARDI: You also made the point, in response to Senator Dastyari, about the halal certification chain, if you will. If a beast is slaughtered in a halal way and fulfils those requirements, is it your evidence that it ceases to be halal as soon as there is a non-halal aspect of the chain—a transport operator, for example, who is not a Muslim? Would that break the chain?

Mrs Smith: I gave evidence in my submission that there was a delivery driver who was in exactly that position. He did not have to change anything in his processes and the way he operated his business other than to pay money to a halal certifier, and he was boycotted by the retailers and in the mosques and was not able to continue his business as a result of that. As I said, there are so many examples of where meat is in fact slaughtered in a halal way but, either because it is transported with pork or it is not transported with an approved halal certified company or the large supermarkets will not pay the fees to say that it is halal—that is what the supermarkets say to us: 'We have no obligation to tell you that it was slaughtered in that halal manner.'

Senator BERNARDI: The evidence that we have received is that there are 76 abattoirs that are certified or authorised for export. The evidence was also that the majority of those, if not all of them, are halal compliant. There are also another 80 or so abattoirs, I believe, around Australia that are not export certified. Do you have any information about how many of those are halal certified as well?

Mrs Smith: No, I do not, and we have found that information very hard to come by. Many people do not want to answer our questions, because of the exposure, I guess, that it has had in the media and because of this inquiry, and some have been quite antagonistic towards answering those questions as well and just do not want to get involved. They do not want to give us that information, so it is hard to determine.

Senator BERNARDI: Do you have any idea of the fees that are involved for individual certifiers?

Mrs Smith: Again, we have a very broad spectrum of fees. Some companies will pay a few hundred dollars a year, and there are reports that some abattoirs are paying \$2.4 million a year, and everything in between. It can be thousands or tens of thousands. On the whole, though, most companies will not disclose it, and the halal certifiers will not tell us. We have been told that some companies will actually sign nondisclosure forms as such. So it is very difficult. There is no transparency in this industry to have those questions answered for us.

Senator BERNARDI: But some would argue that it is just a commercial-in-confidence transaction and it is none of your business. How do you respond to that?

Mrs Smith: When companies are being pressured into paying those fees and, again, it is not related to the actual service that is provided or it is unconnected to the meat industry, and where the money is going may be funding the mosques, the schools, the Islamic charities and perhaps beyond, consumers want the right to understand where that money is going.

Senator BERNARDI: Where is the pressure on companies to subscribe to halal certification then coming from?

Mrs Smith: That is varied. It comes from some of the halal certifiers. As I have explained, some of them, because they want the whole chain halal certified, will put pressure at different points along that chain. We have also been told by some companies who have paid for it in the past that they were told by, perhaps, the large supermarkets that if they did not get this kind of certification that the supermarkets would go elsewhere and find another supplier. For most businesses in this country, that is a terrible thing to hear. They do not want to hear that their customers will go to the competition instead of using their product, and, if the fee does not seem that much, they will do it. There are many consumers who obviously, on a point of integrity, have a big issue with that.

Senator BERNARDI: So you have companies that are paying for halal certification—whether because they voluntarily want to do it or because there has been some pressure applied to them—but a lot of them, according to

your evidence, are not identifying that their products are halal certified. So why would they pay for something if there is no benefit to them of it or if they are not prepared to market that and use it as a resource?

Mrs Smith: I think that there are a lot of complexities here. I do not think there is a straightforward answer. Some of them have told us that they did not want to be labelled racist bigots, so they paid the fees. Others felt that they were offered a price that—say, \$1,000, a year—did not seem very much, and, if it was going to open a market, to them that was worth it. Others felt pressured that they would lose the opportunity to sell through that retail outlet, so they made that choice.

Senator BERNARDI: I cannot miss this point. I am terribly sorry, but how is halal certification in any way related to racism or being called a racist?

Mrs Smith: That is a fantastic question. It cannot be related to racism. Islam is not a race. Halal is not a race; it is a religious certification. I think it is an absurd, ignorant and offensive term that is used to try and shut down this sort of conversation.

Senator BERNARDI: In your investigation, how many companies have you come across that are not open about paying halal certification schemes?

Mrs Smith: What do you mean by that?

Senator BERNARDI: When you contact them and ask, 'Do you pay for halal certification?' and they do not want to discuss it and do not want to disclose whether they do or not?

Mrs Smith: I would find it really difficult to put a figure on that. I have contacted personally around 600 companies. Especially in the initial stages, in 2010 and 2011 when I began, I would say that probably half of them were very evasive or they were very difficult to get that information from. They wanted to know why. They would ask if I was Muslim, they would ask what I was going to do with that information, or they would simply say that they did not have that information and were not able to let me know. Some were very straightforward and happy to give us that information and copies of the certificates. As time has gone, they might acknowledge that they have halal certification, but they will not be open to any further questions.

Senator BERNARDI: When it comes to certifiers, in your research have you come across evidence of one certifier refusing to acknowledge the authenticity or efficacy of another certifier—'If you want to have my certification, the entire chain has to be through my company'? Do you have any evidence or suggestion of that?

Mrs Smith: Yes. Very early on in my research, I contacted the Halal Certification Authority of Australia, believing that the word authority meant that it was either government approved or had some sort of weight behind it. At that point, they published an 11-page halal guide. I am not sure how many pages it is now, but the one that was sent to me then was 11 pages. It seemed very confusing to me, because I was led to believe that that halal guide was the comprehensive final word on what was halal or permissible. I noticed that in that guide there were many companies that did have the symbol on the product but were not included in the guide. So when I rang the Halal Certification Authority of Australia and asked them to clarify, they said that they would not recognise other certifiers in Australia, that they did not believe that other certifiers were following either the Hadith or the Koran, and that the other certifiers did not have the correct qualifications. They said that they refused to acknowledge them, that they would make it widely known in the Muslim community that you could not trust those other certifiers and not to trust their symbols, and that they would explain to businesses that they needed to be halal certified through them if they wanted to be accepted in the Muslim market.

Senator BERNARDI: Once again, isn't it just a business marketing opportunity? They say, 'We are the definitive authority, you should rely on us rather than these other operators that may have sprung up overnight.'

Mrs Smith: Possibly. Personally, I think that is terrible conduct to do that. But I also think, unfortunately, you have that extra added pressure, where companies do not want to get involved when it is a religious issue—and as we have clarified, it is not a race issue. But that is the pressure that companies feel, that they just do not want to be a part of that, so they will just go along with it anyway.

Senator BERNARDI: The number of halal certifiers is in the twenties, I understand—more? Okay. It is a substantial number. Obviously, they vary from large operators to smaller operators. Who, in your understanding, confirms the veracity of the processes that they go through? Do you have any evidence that the processes of halal certification may be perhaps not as substantial as otherwise may be thought?

Mrs Smith: We know there are at least 33 halal certifiers in this country. There are probably more that we are not aware of. You had the Department of Agriculture on the first day of hearings explain there are 22 halal certifiers that are registered with AQIS for red-meat export. But I have also included in my submission a Muslim man who saw the opportunity to profit from halal certification. He is not registered. He just started the business of

his own bat—I am not sure what qualifications, if any, that person has—and is going around to takeaway food outlets and, for exchange of money, giving them a certificate to say that they are halal certified. So in answer to that, my understanding is there are no recognised qualifications to start this business. There is no board or even international authority. There is a lot of discussion around the world at the moment, whether it is going to be Malaysia or Saudi Arabia, or who it is going to be that will start setting some international standards, but there is no standard, there is no qualification, and there is no regulation.

CHAIR: Mrs Smith, what we are dealing with here is the export market and the domestic market, and the intersection between the two. That obviously adds a level of complexity. Part of what you are saying—which is evidence we have had to this effect also—is that for the export market, there are different recognised authorities that different governments across the world will recognise, and there is only so much power in the Australian space as to telling the Qatari government or the Saudi government. If we want to export to them, we have to fit in within their rules. It is the export market, and Australian producers will fit in within them. That is part of the complexity. But I do want to stress, your point seems to be around the domestic market as opposed to the international market. There are a whole lot of international complexities, and we have had a lot of evidence and a lot of strong views that the export market—you touched on where former senator, now Minister Barnaby Joyce has made remarks about the importance of it from an export perspective. Let us just park the export part aside and talk about the domestic market.

Mrs Smith, the point you have been making, and the point you make largely in your submission, is that people have conscientious objections, they are entitled to their objections, and people do not have to agree with their objections, but as consumers they should have the right to make an objection if they want to, using the power of the consumer in a free market—is that fair?

Mrs Smith: Yes.

CHAIR: And you are saying that to be able to exercise that freedom of expression in a commercial sense, there is an absence of information?

Mrs Smith: Correct.

CHAIR: I have to say, the idea that people should have information to be able to make decisions is not something that a lot of people would be unsympathetic towards. At the same time, it sounds like what you are saying is there are elements of the industry itself that perhaps lack a degree of regulation—is that so?

Mrs Smith: Yes.

CHAIR: And that is something we are looking at elsewhere, and you are not the only person who has said that. The bit, though, that I just want to touch on is this notion that while you believe consumers should have the right to have information to be able to make decisions for themselves—and it seems like you do not have an issue with this—provided that is the case, businesses can make a commercial decision as to whether or not they want to partake in a halal certification process. That is a business decision, but if they make that business decision, consumers should be informed so that they can make a decision themselves. Is that a summary of what you are saying?

Mrs Smith: Yes, that is correct. Can I add something to it though?

CHAIR: Yes, of course.

Mrs Smith: I would just like to add that I think there are many businesses that do not understand or do not have enough information to really make that as a true commercial decision. I have been told by a number of them, whether it is tea, salt, milk, nuts, grain or honey, they are all classified permissible halal by the Muslim community. And so this exchange of fees or being told that they need to have a certificate, I think, is somewhat misleading and I do not think the companies understand this in a lot of ways. So that may not be your responsibility but, as a consumer advocate that is something that is very important to educate people on.

CHAIR: Okay. Mrs Smith, the point that you are making, which is one of consumer empowerment and consumer choice and being an activist in that space, people do not have to agree with you to respect your right to be able to be an advocate for a consumer position. We deal a lot with groups like Choice and others who sometimes we do not agree with what they advocating, but their right to be able to advocate and inform consumers is a principle that I think you would find a lot of support for.

I do not want have your position wrongly framed, but you are not putting the position that says that people and companies should not have the right to undertake halal certification. You are not saying that companies should not have the rights, should they choose to for commercial decisions, to partake in halal processes. You express some concern around the transparency of halal processes. That is your opinion, you are entitled to that. But your big

position is you want consumers to have more information so that they can respond in whatever way they want to choose.

Mrs Smith: Correct.

CHAIR: Okay.

Senator BERNARDI: Mrs Smith, I want to pick up on a few other things. I use the term 'animal husbandry', and there are people concerned about slaughter. We have had evidence that the vast majority of halal certification involves stunned slaughter, particular where it is cattle. How do you respond to that?

Mrs Smith: I have not been able to go to an abattoir and I do not understand all the processes fully. But I have had people who have worked in abattoirs contact me—so this is anecdotal, I cannot provide evidence to that. However, they say that the reversible stunning actually means that the animal will regain consciousness while it is bleeding out and it is quite a different process to the stunning that may happen without that—in what I would call the 'normal' way of slaughtering the animal.

Senator BERNARDI: Okay. This is new to me, I did not know there was reversible stunning and regular stunning. We just talk about stunning of beasts and you presume that knocks their brain out and there is no pain involved. So you have had anecdotal evidence there is a thing called 'reversible stunning'—

Mrs Smith: Correct.

Senator BERNARDI: which immobilises the beast for a period of time; its throat is then slit and it regains consciousness while it bleeds out?

Mrs Smith: Correct. One of the west Australian halal certifiers actually states on their website that they are against pre-stunning. However, because it is a law in this country to do that, they go along with it. But at the same time, they still issue the certificate. So again, it is just an interesting point that they do not agree with it, but they will take money for it anyway.

Senator BERNARDI: Even if you do not have an issue with the religious aspect of this, for a consumer to make a conscious decision there may be those who are concerned with the ethics of ethical treatment of animals and the slaughter of animals. And so if a meat product has been subject in any way, shape or form, to a religious ritual, even labelling in that space will benefit those who have the ethical issues attached to it.

Mrs Smith: Yes, it will. That is right.

Senator BERNARDI: That would apply, of course, to kosher—we have had evidence about that as well—and any other form of religious ritual, I suppose.

Mrs Smith: Yes. I specialise in looking at halal, so I cannot speak to the other things.

Senator BERNARDI: You have also suggested about the funding—you do not know where the funding goes. You may have heard the interaction we had before with AUSTRAC and ACC and so forth. What is your position on the funding?

Mrs Smith: First of all, we do know—as Senator Dastyari explained—that there is no disputing the fact that money does go to mosques, Islamic schools and Islamic charities. A lot of consumers do have a conscientious objection to that and do not want that money raised without their knowledge or consent. I am happy—and I will speak for myself—that any approved religious expression in this country has the right to fundraise. However, I think it needs to be with people's knowledge and consent. In this case, that is not what happens.

The second thing relating to the hearings this morning is that, to me, it is quite clear that the government cannot definitively say that there are no links to funding either extremists or terrorism. Over and over again in those reports they talk about the charities being one of the major conduits for funding terrorism, and all of the halal certifiers—maybe not all, but let's say the majority—boast about how much money they give to charity. I do not think that there is ever going to be a direct link. As with most criminal activity, there are no direct links, and that is why we need investigations to uncover these sorts of things. But it is quite clear that the halal certifiers are giving to charities, and AUSTRAC, AIC and ACC have all said repeatedly that those charities are major conduits for funding extremists and terrorism both here and overseas.

Senator BERNARDI: There was a charity I mentioned this morning, HAI, which a very vocal halal certifier—I would say—boasts about contributing to. A cursory search finds that HAI, internationally, is linked to some unusual organisations. Have you uncovered any other sorts of suggestions about charities involved in activities that are not in the national interest?

Mrs Smith: Yes. I have many pages in my submission, as you would be aware. Firstly, overseas there is a lot of documentation from the FBI, the CIA and the US treasury, as well as the Canadian department of revenue, that

there are strong links between those charities and Hamas, Hezbollah and the things you mentioned earlier. There is a lot of evidence—official government evidence—documented overseas of those things. I do think that the point that is constantly made by our government officials is that there may be—well, there are—genuine humanitarian aspects to this money raising, but it is very hard to determine what goes to the humanitarian side of things and what goes to funding the terrorists. There is no clear distinction that is able to be made in that.

Senator BERNARDI: Are there any links internationally between halal certification and the funding?

Mrs Smith: I will just find it in my submission.

Senator BERNARDI: I think there was somewhere in Canada, but I am not sure. I just wondered if it was off the top of your head.

Mrs Smith: Just for accuracy's sake, I would like to read it. In Canada, the example is that the Muslim Association of Canada did raise money in a number of ways, and one of the ways was through halal certification. They then gave money to IRFAN of Canada, and IRFAN then channelled approximately \$14.6 million to Hamas. In that time, IRFAN has been deregistered as a charity and is no longer able to raise funds that way. That was one documented way. In the US, it was the Holy Land Foundation around 2001. CAIR, in America, was another, similar to IRFAN; it was an unindicted co-conspirator of the Holy Land Foundation, which was also found to be funding terrorism at the time.

CHAIR: I think you have picked up, Mrs Smith, that I am sympathetic to part of what you have been saying today. But I do not want to miscategorise what the ACC and AUSTRAC said this morning. AUSTRAC and the ACC—and I am paraphrasing their words so I may misquote them slightly here—said explicitly that there was no direct link between this and funding extremism. And they used the words 'direct link'. Going beyond the direct link, in their view of the powers that they had available and with the information available to them they seemed to express no concern that halal certification and the money was being used for that purpose. That is their view and their opinion. They expressed that this morning.

For a lot of people, that may satisfy them enough. They may feel comfortable with that level of information. You are saying that there are people like yourself and others who do not share that view and feel that there are more indirect ways. The point that I would make is: the evidence provided this morning from ACC and AUSTRAC was that they disputed the notion, based on the evidence that they had, that there was a link between this and funding terrorism. There are others who may have a different view, and they are entitled to their different view. Your point, Mrs Smith, seems to be that greater transparency will allow those who have a different view to be able to exercise their rights as consumers in how they choose to purchase products.

Mrs Smith: Yes. But obviously the reports were not read in their entirety and there was some cherry picking going on this morning as well. As I have said, AUSTRAC in 2010 said that they list financial contributions through formal charitable donations as one of the three most common methods by which terrorism funds are raised in Australia. We know that these halal certifiers are giving to those charitable funds. I do not think the question was answered this morning other than it was not a direct link. Yes, we need more transparency and more investigation so that the government can comprehensively and confidently say to consumers that our grocery purchase dollars are not going to fund extremists or terrorists.

CHAIR: What I would say to that—and, again, I am trying to frame this in a question, but we are having more of a conversation than a questioning—is: based on the evidence that I was given this morning by the ACC and AUSTRAC, the point that you are making is not one that I nor others may necessarily share. But the point you are making—and, again, this is, perhaps, where I am trying to find some common kind of thing about the different views that have been presented—is that regardless of ACC's position and AUSTRAC's position, and the position that others have put, you would like to see a situation where consumers are empowered to make more decisions for themselves. That is pretty much the theme of what you are about.

Mrs Smith: Absolutely. Halal Choices—we want choice.

Senator BERNARDI: I want to just state for the record: I understand that Senator Dastyari is making a point, but AUSTRAC and the ACC said they were concerned with money laundering and direct links. There is no suggestion for a moment that these are not businesses. So they are not laundering money; they are giving money to organisations which may or may not be used as conduits to funnel funds to prescribed organisations to fund extremism and to fund terrorist organisations. There is no assurance from AUSTRAC or ACC because they said they cannot track what happens to the money when it gets to the other end. That is the reality of it.

Mrs Smith: That is what I heard.

Senator BERNARDI: They have limited investigative powers. They do not look at the domestic market. They do not track the money that goes into AFIC and exactly what organisations it goes on to then fund. They do

not track what HIA does with its money, and other international charities. We know it ends up with Hamas. What Hamas does with it, we do not know.

CHAIR: On a point of clarification, Senator Bernardi: now we are just rehashing and, perhaps, mis-characterising to an extent evidence that was already provided this morning.

Senator BERNARDI: Oh, please! Come on!

CHAIR: No, no. Hear me out here.

Senator BERNARDI: If you do not do it, I will not do it. What about that?

CHAIR: But then what would we be doing here? The point, I guess—

Senator BERNARDI: Just do not repeat yourself! Do not repeat it again, because then we will go through it. Let's move on.

CHAIR: There is a *Hansard* record. People can go back and assess what exactly the agencies said this morning, and probably can do a better job of doing that than us trying to rehash. I understood it slightly differently from what you said. But the record will speak for itself in time.

Mrs Smith: But as a consumer it does not put my fears to rest. From the evidence I have heard and the reports I have read, I think there are still more questions. And it is reasonable for us to ask some questions. I actually have not made allegations that these things definitively do; I have said that overseas these links have been made. I have said that I have genuine concerns about these things. And I would hope that the government would take it very seriously and would want to investigate it.

CHAIR: What you are saying is that consumers have a right to know, just as Senator Bernardi supports the right to know for multinational tax avoidance and minimisation.

Senator BERNARDI: That is another inquiry. You are muddying the waters. You are a specialist in muddying waters.

CHAIR: No, I am asking the question that it seems to be a theme of transparency here. That seems to be the theme, and I want to give Mrs Smith the opportunity to be able to present—because the theme of your report and your campaign as I read it, while there were views in some areas that I did not share, and I want to be clear about that, seems to be transparency. The questions I have been asking are around that.

Senator BERNARDI: On that we are agreed. Mrs Smith, you referred to Barnaby Joyce. You said that the halal certification industry has been around for 50 years in this country.

Mrs Smith: That is what he said.

Senator BERNARDI: Yes, that is what he said. Is it correct?

Mrs Smith: I have not looked into it in its fullness, but I do know that there has been legislation since about 1982. That is for the red meat—

Senator BERNARDI: Arising out of the red meat—

Mrs Smith: The royal commission, yes.

Senator BERNARDI: That begs the question, if halal certification is a requirement for Muslims in choosing their food: Muslims have been in this country since the Afghan camel herders, going back 150 years. What did they eat before they could find certified products?

Mrs Smith: I do not know, because I was not there, but I would suggest that they just ate normal food. Again, I have anecdotal evidence of refugees and asylum seekers coming here who are of a Muslim faith and have never even heard of something called halal certification. They do not even understand what the question means when we ask them, 'Do you need your food halal certified?'

Senator BERNARDI: Did you see the *Four Corners* program—

Mrs Smith: I was in it!

Senator BERNARDI: That is right; you were featured in it, actually. Apparently I was, too. I have not watched it myself. But you obviously saw it.

Mrs Smith: Yes.

Senator BERNARDI: Did you see the evidence by one of the Victorian certification authorities maintaining that money does not flow overseas?

Mrs Smith: Yes. It was one of the Victorian ones, I believe, who said that the money stays within Australia for Australian mosques and schools, but later on in the program it was revealed that a \$5 million school is being built in Indonesia with some of the money from halal certification profits.

Senator BERNARDI: I understand that arising out of that program a representative of one of the religious leaders in Indonesia said that this was entirely unnecessary. I do not want to mischaracterise it, but are you familiar with what he said?

Mrs Smith: I do not have the specifics of that, but I have quoted where they have been quoted in newspapers saying that certainly halal certification should not be for profit—that there should be no fees for those sorts of things. That comes from a number of halal certifiers or Islamic leaders around the world.

Senator BERNARDI: Let's see whether we can get some areas of agreement here. Would you be in favour of a system where products that are naturally halal—honey, milk, water and you mentioned nuts, and fruit—

Mrs Smith: Yes, and vegetables, seed grains—

Senator BERNARDI: Yes, that sort of stuff. Would there be an opportunity for every provider of those to simply say, 'This is halal approved' or 'naturally halal' or something like that and put that sticker on it without having to pay a fee?

Mrs Smith: I would support that, but I would also suggest that Muslims already know that, so it is unnecessary to put that on any manufacturer or producer.

Senator BERNARDI: Then, what is your way forward? How do you see this working? What is the government's role in this to assist the consumer, to prevent rorting, as you might characterise it? What should we be doing?

Mrs Smith: It is hard to summarise it. First of all is choice; that is my primary platform.

Senator BERNARDI: Everything should be labelled.

Mrs Smith: Everything should be labelled. And, as I said, there are complex issues, because, as I have said, meat, particularly that sold in the large supermarkets, can often be halal slaughtered. It is not considered halal at the point of sale. So, somewhere along the line those people have a conscientious objection to having their meat ritually slaughtered and not getting that information here. Even though they cannot, according to probably Islamic law, say, 'This is halal certified meat'—because it may then have undergone some process that makes it no longer halal for a Muslim consumer—it has still been halal certified. So, it is very complex. I do not know that there is a simple solution there.

Senator BERNARDI: In one of my outrageous speeches to the Senate I suggested, regarding those who have an ethical objection to religious slaughter of any nature, that it should be a requirement for any meat product that is subject to religious slaughter to say, 'This has been subject to religious slaughter.' It might not be halal; it might not be kosher, at the end of it. But it should be labelled to suggest that a religious practice had been involved in the butchering of the beast, and then consumers can make that choice themselves. It would not necessarily have to have 'halal' on it; it would just say, 'subject to religious slaughter'. So, if you have an ethical or religious objection to it, you can make an informed choice.

Mrs Smith: Absolutely. But, again, there are also great complexities there, because if you buy a chocolate bar that has gelatin in it and that gelatin is halal certified—with processed foods there are so many ingredients, so many things that add into that. One halal certifier boasts that all gelatin in this country is halal certified and therefore every processed product we are eating has been subject to those religious rites and fees. It seems so large and so complex. That is why I have not set out a very comprehensive way forward, but I think labelling is a starting point, but it is certainly not my end point.

Senator BERNARDI: Yes, where do you end? If we go back to what Senator Dastyari said about transparency and about consumers being able to make an informed choice, it also seems that there needs to be transparency about the money that is changing hands, the ethics of the certifiers themselves, the processes that they go through. I have heard anecdotally of a certifier agreeing to certify a practice even though they had not seen it because it was too far away to travel.

Mrs Smith: That is correct. In my submission I have included an email exchange involving an animal rights organisation that claims that bribes are paid to get certification in some markets. That was confirmed on the *Four Corners* program. When one of the departments here was asked that question in the hearings they denied any knowledge of that, but I think that those sorts of things definitely need to be investigated. And there is anecdotal evidence of halal certifiers just doing it for money, basically, and it has nothing to do with the service that is provided.

Senator BERNARDI: 'Write me a cheque and I'll give you a certificate.'

Mrs Smith: Exactly. And I do not know whether I can say this—

Senator BERNARDI: Just say it, and we will tell you whether you can!

Mrs Smith: A halal consultant who was due to appear today but for whatever reason chose to pull out confirms that in his submission. He says that there are fraudulent and corrupt practices within this industry. Companies are paying for services that are actually not being given in return.

Senator BERNARDI: Just for the record, and I am sure the chair will pick this up, a number of Islamic organisations that were scheduled to appear before the hearing have requested another date because of—the Eid festival?

CHAIR: The Eid festival, yes.

Senator BERNARDI: So, it is of religious significance to them, and the committee, quite wisely, listened to that, and hopefully we will hear from these people later on.

Mrs Smith: I hope so too.

CHAIR: Just to confirm, for the *Hansard* record, several Islamic organisations have been very willing to come before this inquiry and will come before this inquiry. Today was just not the right day for them to come. We will certainly be hearing from them as well in this debate.

Mrs Smith: Great.

CHAIR: It seems to be a bit of a separate issue, but you do make the point that you have been given anecdotal evidence that there are situations in which people have misused or have been taking money for doing halal certification when the certification has not taken place.

Mrs Smith: Or the inspection perhaps has not taken place.

CHAIR: I would say that in a way that flows to your broader point with consumer choice. The victims of that are actually the consumers out there who are wanting to purchase halal products and who have been ripped off in that process. Is that fair?

Mrs Smith: Absolutely. That is correct. Muslim consumers are also disadvantaged. There are a lot of discussions about those things as well.

CHAIR: That goes back to the initial question when I asked whether it is fair to categorise people into three groups: those who particularly want to seek out halal products for religious reasons or cultural reasons or social reasons and are entitled to; those who want to not purchase halal products for whatever reason; and then those who may be indifferent, in the middle, and that group is up for debate. And people can have views within all three groups. But you are suggesting that part of what this inquiry needs to be looking at is also making sure that those consumers who want to purchase halal products are not getting a raw deal in the system as well.

Mrs Smith: And I do have Muslim consumers who purchase Halal Choices, either a shopping guide or a phone app, or contact me through the website, who express grave concerns about some of the products that are halal certified, because either they work in the industry or they know that the ingredients are not actually halal, they are not permissible. Yet a fee has been paid, a symbol has been put on it or it has been labelled as halal certified, but many Muslim consumers have contacted me, upset, saying, 'But that's not halal; it's not permissible for us to eat that, so why is it halal certified?'

Senator BERNARDI: Indeed, in I think the UK recently there was a product labelled as halal certified that was 80 per cent pork or something like that.

CHAIR: I think under our laws, from what the ACCC said this morning, that would be false and misleading advertising. But I think what the ACCC also said this morning is that part of the challenge with false and misleading advertising is the sheer size of everything that is being looked at—200,000 complaints.

Senator BERNARDI: This inquiry arose out of quite literally thousands of contacts that I have received regarding mostly halal, but a few other certification schemes as well. I wanted to compare and contrast the various schemes. I am glad the Senate agreed to do it. But it is an opportunity to allay a lot of misconceptions, a lot of the alarm. Frankly, I do not know what the truth out there is and what is not the truth. That is what we are seeking to get to the bottom of. You have an organisation called Halal Choices. How many consumers do you purport to represent in the sense of how many have contacted you and expressed concerns about this? I am guessing it is quite a number, given the work you have put into what you have produced.

Mrs Smith: For social media I have around 18,000 followers. However, on our website—I am not very technologically able!—we get reports monthly and yearly of the traffic, and we get up to 100,000 unique visitors

a month to the website. I would suggest that that is quite a large number of consumers who are visiting the website. The website is primarily the shopping list. That is primarily what it is there for.

Senator BERNARDI: I am finding it difficult to establish the truth of some claims by people who contact me, but it is your evidence today that you have found it difficult, too, to identify the veracity of some of the claims that are made. It is not about saying whether they are right or wrong; it is about finding out what the truth is.

Mrs Smith: I absolutely am committed. This conversation needs to be had often. I feel that it gets shut down a lot by different elements of the community. But I feel that my website provides a vehicle for people to have these discussions. I do not agree with everything that is either written on my Facebook pages or emailed to me. There are a wide range of views and a wide range of reasons that people are concerned about halal certification. But I am before you because I think there need to be choices, and I think there needs to be information to be able to make those choices.

Senator BERNARDI: Part of that means companies being up-front, labelling being up-front, certifiers being up-front and—I am loath to say that government has a greater role than it already does in anything, but maybe government needs to look at a way in which it can police this or regulate it.

Mrs Smith: Absolutely.

CHAIR: Thank you so much for being with us today. Again, I want to commend you for the amount of work that went into your submission.

Senator BERNARDI: Mrs Smith, may I thank you, too.

Mrs Smith: Thank you senators.

KARLEN, Mr Wayne Scott, Private capacity

[11:41]

CHAIR: Thank you for participating in our inquiry. We have been given a written copy of your opening remarks. I understand that you are keen to read this into the *Hansard* record. However, as your written opening statement will be tabled with the committee, would it be possible for you in your opening oral statement to give us a slightly more summarised version of it as this will allow us more time for questions?

Mr Karlen: All right. Thank you for the invitation to appear before this committee. I am interested in the food certification process, and specifically the halal certification process, as it relates to the competitive free market processes that we follow in this country. Halal certification of food includes equipment, materials and processes used in the preparation and marketing of food and related supply lines. The primary markets for halal certified foods are domestic and foreign. Unfortunately, Islamic organizations here and overseas have deemed halal to be a certification process that is restricted to those of the Islamic faith.

In my opinion, restricting halal certification to Muslims creates an artificial monopoly restricting competition in certification activities, which has led to cartel behaviours and price fixing. I submit that this practice contravenes our existing legislation.

Restricting the certification and compliance auditing to Muslims also represents a discriminatory employment practice on religious grounds, in some cases. This discrimination has been extended to requiring workers involved in food preparation to be of Islamic faith in some industries. The requirement to utilize halal slaughtermen in halal certified abattoirs, for example, represents both religious and gender employment discrimination. The workers' faith does not appear to be an inherent requirement of the primary duties of this job or of halal certifying and compliance auditing, and therefore does not appear to represent a relevant exemption.

Halal certification requirements are cascading down the food supply lines, involving non-food items such as cleaning products, and have the potential to be extended further. The risk to our competition based free market principles and economic productivity is growing as a result of these monopolistic behaviours.

I support halal certification and its benefit to export markets and the domestic market. The challenge is to ensure halal certification processes conform to our Australian standards of behaviour, while preserving the value of the related export markets. Natural monopolies, as we know, are sometimes regulated in order to ensure fair access and reasonable service rates. One option is to regulate halal certification in Australia to ensure fair pricing. A more effective approach might be to institute internationally agreed halal standards and enforce competition in the certification process. Having government involved in the development of reasonable halal standards and compliance processes, and enabling industry to provide the compliance auditing in a competitive market, would be consistent with other certification processes, our free market philosophy and our drive to improve economic productivity.

Unfortunately, the participation of a critical mass of exporting countries would likely be needed for a standardized and competitive halal certification process to succeed without material disruption to our halal export markets.

In summary, a standardized and competitive halal certification solution respecting free market principles is unlikely to be resolved by Australia on its own without compromising our valuable export markets. Some form of regulation and enforcement of existing competition laws may be required in the near term to at least address the current practice of halal certification price fixing.

CHAIR: To summarise how I see what you have said, you are coming at it from an economic perspective and you concern is cartels and anti-competitive behaviour. Is that correct?

Mr Karlen: Primarily. Halal is something that should be supported. It is good for the economy. It is good for our exports. But at the same time it should work within our normal competitive and free-market processes.

CHAIR: There is one question I have not asked the ACCC, who were here this morning, and it is perhaps something we can put on notice to them. It is the question as to whether they have looked at cartel behaviour or have done any kind of investigation of it. We asked them specifically about false and misleading advertising. I do not believe, Senator Bernardi, that we asked them this morning a question about whether they have had a look at or are prepared to have a look at cartel behaviour. Perhaps the secretariat will put that question on notice to the ACCC to see what work they have done in this space.

It seems that what you are saying—and I am simplifying a more complex position—is that if there is going to be a recommendation from this committee that there needs to be a stronger regulatory approach towards this, for

whatever reason, we should be looking at competition and making sure there is a robust competitive market within the certification space.

Mr Karlen: That is correct. It is similar to what Australian governments would do for any other industry practices that have the potential to exercise cartel or monopoly behaviours.

CHAIR: In your written statement you say—and I am not in a position to verify this statement:

The worker's faith does not appear to be an inherent requirement of the primary duties of this job or Halal certifying and compliance auditing ...

Whether that is or is not the case is not something I am aware of. I note that the department said that the sheer number of export nations, each of them having different requirements, makes the whole thing more complex. It seems that a part of what you are saying is that you would like to see us work closer to try to drive an international agreement or framework in this space.

Mr Karlen: Similar to what has been done in other areas of food and other certifications, like ISO 14001, for environmental certifications. It is a fairly typical thing that governments can get involved in. I guess I mentioned that the halal slaughtermen have two sides to their work. I am not a butcher so I am not an expert in this—

CHAIR: None of us is an expert on it—

Mr Karlen: But there are certain ways of doing the butchering and you do not have to be a Muslim to be trained in that. Then there is the blessing side of it and obviously that would be a religious requirement. I have been involved in other activities where a blessing is required because of cultural issues, and normally you hire a person of that faith and you pay them a small remuneration to do the blessing, but the person that is doing the skilled work does not have to be of that faith. I am also not a lawyer, but when I read the exemptions it appears, in my opinion, that there is no requirement for a person to be a Muslim to be able to butcher in this fashion.

Senator BERNARDI: Which you could contrast with the evidence that was given on the kosher slaughter ritual, where there is a requirement that it be done by a religious figure that had to be Jewish. I think they flew them out from Israel in order to conduct the butchery. So you are saying there is a difference between the two—or you are not saying that; I am saying it.

Mr Karlen: Yes.

Senator BERNARDI: One is a matter of fact and the other one is a question.

Mr Karlen: I think I have some references to the actual requirements, where they do require that a halal slaughterman be a Muslim. They must be of the Islamic faith. But again—

CHAIR: But that is the same with kosher. The evidence that we were given was that in the kosher situation the slaughterman had to be Jewish.

Mr Karlen: That is right, so there is a parallel there, but there are two skills involved. One is a skill of doing the blessing, which is the faith part of it.

CHAIR: I only have one more question. Mr Karlen, I just want to park part of what you are saying. What you are saying is that the best-case scenario is an international agreement that gives more transparency over what is and is not the requirement for halal. We heard from the department that that is a view that they share, because it is a complex space and from an export perspective we want to get it right. Part of the challenge is that there are so many slightly various requirements by different countries. I think the example they used is that there is a slight variation if I want to export to Qatar from what it is if I want to export to Iran or Iraq. It varies slightly. The incoming agencies in those countries have slightly different requirements—Indonesia and Malaysia. That is part of the challenge.

Mr Karlen: That is right.

CHAIR: Let us say this committee in its inquiry perhaps makes a recommendation that there should be greater international cooperation—regardless of just the desire of the Australian government, because it is somewhat outside our control or the Australian government's control alone. Parking for a minute the idea that the best outcome is an international agreement and an international framework that we are working within, if that is unachievable, how do you believe you could improve the system here currently?

Mr Karlen: From my limited scope, it relates to the free market. It would be the regulation of the certification process and ensuring that everyone can compete in that certification process. I also do not see why that has to be a Muslim organisation to actually do the certification either. Even if it does, they should not all have a regulated price. There are some references that I have attached that refer to media articles saying that some of the Muslim organisations doing the certification have got in trouble with other organisations because they were undercutting their pricing. They were forcing a standardised price. That is cartel behaviour.

CHAIR: So what you are effectively saying is that a more transparent market will drive an outcome. If we have a more transparent market, there will be better outcomes for consumers?

Mr Karlen: Yes—more transparent.

CHAIR: You want a more open and transparent market because you believe that will provide the best outcome for consumers?

Mr Karlen: Yes, that should be the best outcome for consumers, but it is also enforcing competition.

CHAIR: The point of competition is the consumer outcome.

Mr Karlen: That is right.

Senator BERNARDI: You have talked about the cascading effect of halal certification, and you gave an example of cleaning products in your opening statement. You talked about certifying dynamite used for mining coal to make steel that is used to make food-processing equipment et cetera. So it is all this supply chain; it is not beyond expectations. What evidence do you have of that sort of slippery slope, if you will?

Mr Karlen: There is evidence—well, evidence is what I have read in the media, and I have attached to my opening remarks on the cleaning solution—and just what I have heard reported that there are concerns that, as this takes hold, it will be expanded further and further away from the actual product itself. It is not hard to understand if they are already doing it with cleaning products then what makes up those cleaning products? What chemicals go into those cleaning products? And then, okay, what about the plant that makes those chemicals? And it goes back and back. If it is something that has been exposed to a prohibited item, whether it be pork or whatever, what if a chemical that makes this cleaning product was exposed to pork way back at the original plant? That basically means that the cleaning product is not halal. So how far do you go back? That is something that would have to be addressed in the standards as to how far you go back.

Senator BERNARDI: According to one certifier's social media boasts, everything in the history of creation—and I am paraphrasing—will need to be halal certified by his company in order to authorise them all. We will deal with that when he comes to give evidence. The other aspect is if there is a requirement to have Muslim slaughtermen. Do you have any evidence of people being precluded from being employed in an abattoir because they are not Muslim?

Mr Karlen: I tried to find evidence of that and I could not find any—by googling the press, obviously. But there is evidence in some of the attachments where the standard actually says, 'For this product to be deemed halal, it must be processed by a halal slaughterman.' So by definition, if we are going to have a huge export market and if you start a company up and they are export market is primarily into the halal market, the slaughtermen are going to have to be of the Islamic faith.

Senator BERNARDI: It is fair to say we found it difficult to have any abattoir owners or operators come and give evidence. Perhaps that is why. Chair, I think we have covered everything.

CHAIR: That was a nice, clean submission and contribution, Mr Karlen. We thank you for the contribution you have made to this inquiry. It has been very worthwhile and you have raised an interesting perspective that we certainly want to capture on the record.

Mr Karlen: Thank you.

CHAIR: We are running ahead of time, which is very rare for this committee and this inquiry.

Gaynor, Mr Bernard William, Private capacity

[11:58]

CHAIR: Mr Gaynor, thank you for being with us today. So we don't recap things that have already been covered, have you heard all the evidence that has been presented today?

Mr Gaynor: I did not hear the first witness and I arrived towards the end of the second witness.

CHAIR: In that case, we will not ask you questions specifically about evidence that was provided this morning if you were not here. Do you have any comments to make on the capacity in which you appear?

Mr Gaynor: I am a writer about conservative issues in Australia.

Senator BERNARDI: I am a writer about conservative issues in Australia too.

CHAIR: I do not know what to say that. Mr Gaynor, I just want to give you an opportunity, if you have a brief opening statement or opening remarks, then we will get to questions.

Mr Gaynor: Thank you very much. I would like to start by thanking the Senate Economics References Committee for holding this inquiry, and for the opportunity to appear today. Food certification is an important issue. It affects all Australians, and it is an issue that has many Australians worried. I do appreciate the opportunity to present these concerns, concerns that have been outlined in detail in my submission, and that are not just shared by myself but are shared by millions of Australians. This level of concern is demonstrated by the large number of submissions received by this inquiry. I would like to mention briefly that my submission received the support of nearly 6,000 Australians in just a few days. This number has since grown significantly, although due to the cut-off time for submissions, I was not able to include the details of many additional Australians. We sincerely hope that this committee will listen to our concerns, understand them, and then provide appropriate recommendations to address them.

It is obvious that when it comes to food certification, the primary area of concern for Australians is halal certification. Under current arrangements, there is a crisis of confidence around halal certification, and this has led to a market failure. This market failure is demonstrated by a lack of clarity over halal certification and, in some cases, outright refusal by food producers to provide consumers with details about their products. There is no doubt that the failure of food producers to provide Australian consumers with information about the Islamic component used in the food-production process is because of negative connotations held by the Australian consumer about sharia-law-compliant food.

The 2011 review into food-labelling law and policy identified that it was necessary to impose mandatory labelling in circumstances where precisely this type of market failure occurred. The Islamic community is divided over standards, procedures and the power gained by certifying authorities. That is one aspect of the crisis, and it affects those who wish to comply with sharia law. But it is not the aspect that concerns the majority of Australians. The vast majority of Australians have no interest in complying with sharia law when they sit down at their dinner table. For this majority, the crisis of confidence comes for many reasons, but I put forward that there are four main reasons that ordinary Australians are concerned.

Firstly, halal certification is viewed as a form of religious tax that funds the growth and spread of Islam in Australia, and that it is ultimately funded primarily by the non-Muslim majority of the population. Secondly, halal certification is seen as a way of imposing sharia law and Islamic religious beliefs on the majority of non-Muslim Australians every time they sit down to eat. Thirdly, halal certification causes concern, because it results in the embedding of an Islamic religious ritual in the food-production process of meat products. This necessarily results in discriminatory employment practices, and raises additional concerns about a loss of religious freedom. Many Australians also have concerns that the Islamic slaughter process results in adverse animal welfare. Fourthly, Australians feel like they are being taken for a ride. Halal certification is sold as a means of gaining access to export markets. But in the case of Australia's staple meat product, chicken, 95 per cent of it is consumed in Australia, and most exports do not go to Islamic nations. Yet, almost all chicken-meat in Australia is sacrificed to the Islamic god, Allah. Halal-certified chicken is not exported, but it is consumed locally by a population that is 98 per cent non-Islamic.

It is irrelevant whether these concerns held by ordinary Australians are about Islamic religious beliefs and halal certification are valid or not in terms of this inquiry. But I would argue that there are strong and legitimate reasons to hold those concerns. Those concerns exist, and the Commonwealth government has no power or legal role to play in presenting the case or proselytising for Islam. It does, however, have a role to play in ensuring that consumer confidence is addressed when there is a clear market failure in food-labelling arrangements. The market failure and crisis-in-confidence over halal certification can be addressed very easily, and it can be done in such a

way that it does not limit any Australian's religious freedom, whether they be Muslim or not, and it can be done in a way that fits with our fundamental belief in freedom and choice.

Quite simply, where food, religion and money meet, this should be disclosed to the consumer. The consumer then can make an informed choice about what sort of products they wish to purchase and eat. Unfortunately, due to the complexity and requirements of sharia law and the processes used by halal certifiers, consumers are not being informed when food, religion and money meet. This can be seen by the chicken that is sold at a major supermarket without any halal logo or symbol, even though it was sacrificed to Allah, slaughtered by a Muslim employed specifically on the basis of his religious belief and certified by a halal authority in the production phase—for a fee that is then used to fund Islamic programs in Australia or overseas. If retailers disclosed these facts at the point of sale, the crisis of confidence would be addressed and the market failure would be rectified. This will probably not address, I agree, the concerns that many Australians hold about Islam and sharia law, but at least those who hold those concerns would be free to make decisions that they feel are appropriate when they shop for their food, and they would not feel forced into culinary sharia law compliance at their dinner tables.

That is why my submission makes a number of recommendations in this area. The key recommendations are: that mandatory labelling of food is required where a religious element is added into the food production process; where food is produced by a person employed specifically because of their religious belief; and where religious certification schemes are used to raise funds for a particular religious community. In addition, my submission recommends that a voluntary food industry standard and logo should be developed for products that are naturally halal and are therefore, in the halal certification process, subjected to a negative certification. This would eliminate the requirement for these food producers to pay for the certification of products that are inherently halal, reducing overall production costs and eliminating the concern that Australian consumers feel that they are funding the spread of Islam when they shop for food. These recommendations will not reduce the ability of Muslims to purchase and consume food that complies with sharia law. Instead they will provide both Muslims and the majority of Australians who are non-Muslim with clarity, allowing them to make free and informed purchasing decisions. These recommendations will increase choice.

Finally, it is important to note that my submission does recommend that Australian exporters should not be forced to comply with food labelling laws for products they sell overseas. The Australian community does not want to hurt our exporters; however, where exporters do sell to the Australian markets they must provide consumers with information and choice. There is a good reason for this: the Australian consumer should not cede his rights or religious freedom because we have an export market to Saudi Arabia or elsewhere. Finally, I thank you for the opportunity to briefly outline these concerns and some proposed solutions, and I now look forward to your questions.

CHAIR: Thank you for that, Mr Gaynor. I want to acknowledge that these are matters that you have obviously spent a lot of time thinking and working on. The amount of work that goes into preparing those kinds of statements and those kinds of views is not insubstantial, so that should be acknowledged and appreciated.

You heard the kind of conversation we were having with Mrs Smith. It is fair to say that I probably come at a lot of these things from a very different perspective than you do, Mr Gaynor, but I want to focus on where there may be a convergence of views that I am interested in, as opposed to where there is not. You outlined four reasons why you and others have an objection to halal certified foods: you saw it as a religious tax, you saw it as the promotion of sharia law, it embeds an Islamic ritual, and there is a sense that consumers in that process have been taken for a ride. That is a summary.

People like myself or others may not—and in my case, do not—share those views, but it seems that in your submission the constructive point you are making is that they are the views you hold. You express that they are not the views that you alone hold, and that there are other people who hold those views. We can have a debate about how many it is; you have used the terms 'millions of Australians', I believe it is less than that. But park that to one side. It seems that what you are saying is that you want to see a certification process that would allow you to conscientiously object to products that are labelled. You want to be able to express your conscientious objection to halal certification for whatever reason that may be. It may be because you do not like the Islamic nature of it, it may be because you do not like the food-stunning process of it—as the RSPCA and others have objections. You want to be able to express those objections through not purchasing halal products, and you feel the certification system has let you down because you do not have that option, because you do not have that information.

Senator BERNARDI: These are splendid soliloquies. Splendid!

Mr Gaynor: I understand what you are saying, Senator, and I think, in general terms, it is correct. I would say that it is not conscientious objection. I would say conscientious objection is where you are a minority in a larger

system that is imposing requirements on you that have some problem with your conscience and you object to those. I represent the majority of Australians who are non-Muslim, so we are not conscientiously objecting at all. We just want to see our way of life continue; but the majority of meat in Australia is sacrificed to Allah. According to the statistics of the Australian Chicken Meat Federation, about 95 per cent of chicken meat in Australia is sacrificed to Allah. There is a mismatch there between—

CHAIR: Can I ask you a question about that?

Mr Gaynor: Yes.

CHAIR: So what? If your objection is the labelling of it, is your objection that 95 per cent of chickens are slaughtered to Allah or that when you go into a shop you do not have the right to be able to purchase products that are not sacrificed to Allah?

Mr Gaynor: It is both. I do object to eating something religious.

CHAIR: I am trying so hard to agree with you, Mr Gaynor. You are making this difficult for me.

Mr Gaynor: I understand that. I am not saying that people have to have my views. I would say we live in a democratic society and everyone has got different views. If someone wants to eat a chicken that has been sacrificed to Allah, then I say go for it 24/7. I do not want to go down that path. I find it strange in a non-Muslim country that it is difficult to find a chicken that has not been sacrificed to Allah.

CHAIR: But if that is a commercial decision, Mr Gaynor, and if the labelling issue were addressed, the point you are making is that you should be able to go into a shop and purchase a chicken that has not been sacrificed to Allah—for whatever reason you have that objection. Again, I want to stress that it may not just be an issue with the faith component of it; it may be with the slaughtering process. It could be whatever. You might just not like it for whatever reason. It is about consumer empowerment. But, so what if 95 per cent are slaughtered to Allah? I mean, as long as it is labelled and people want to purchase it on that basis, then so what? Who cares if 100 per cent of people want to buy it that way? Shouldn't that be a matter for the market?

Mr Gaynor: I think it should be a matter for the market, absolutely. Two per cent of the population want to buy chicken that is slaughtered to Allah, yet 95 per cent of chicken meat sold in Australia is slaughtered to Allah. That is a mismatch there. You could argue that maybe it is five per cent who want it or what not.

CHAIR: Is it a mismatch, though, Mr Gaynor? In fact, if I am chicken producer Ray and I am making a commercial decision, as a business, that this is something I want to do—you are saying people should know, consumers should have more information as to what they are doing; it is an argument that obviously Mrs Smith has put as well—so what? So what if 100 per cent of it is being slaughtered to Allah? So what? How is that relevant to the percentage of the Muslim population, provided it is a business and a market decision?

Senator BERNARDI: As long as consumers can make a conscious choice.

Mr Gaynor: Sorry, Senator. It seems a strange market decision to certify almost every chicken produced in this country as halal and then not disclose that to consumers. That is a strange market choice, because that is what is happening. As I have detailed in my submission, if you walk into Coles or Woolworths or go to Lenard's Chicken and ask them if their chicken is halal, they cannot tell you. But if you ring the chicken producers, they will tell you, in almost all cases, that their chicken is halal. In the cases where they will not tell you, as with Ingham's chicken—I believe it was in my submission—who said they will not answer that question, if you want the question answered, you need to ring the Islamic Council of Queensland. That is a strange commercial decision for that company to make; but that is the situation we are faced with.

Senator BERNARDI: Mr Gaynor, Chair, blessed are the peacemakers; so I am going to agree with both of you for a moment. Senator Dastyari makes a point that, if consumers can make a clear choice through labelling and they can choose and vote with their purchasing decision whether they want a halal slaughtered chook or do not want a halal slaughtered chook, it should not concern you how many people choose the halal slaughtered chook. You personally will not choose it; some people will not care.

Mr Gaynor: I do agree with that. I am not saying that there should not be halal slaughtered chickens in Australia.

Senator BERNARDI: Let me just conclude this. The guts of it is that you want consumers to be able to walk in and vote with their dollars about whether they want halal or whether they want non-halal—

Mr Gaynor: Yes.

Senator BERNARDI: because they do not like the religious element or they do not like the animal husbandry element or anything else. That is a true market decision. As for the chicken producers: if they are compelled to put

halal or not halal on it, people will make their choices accordingly, and the market will say whether you are right or Senator Dastyari is right.

Mr Gaynor: Absolutely. On this issue I think the best approach is a free market approach, and, to have a free market, there needs to be information. You cannot have information if there is nothing that is provided to the consumer.

Senator BERNARDI: May I say that that is what struck me about your submission. You went to a lot of work contacting organisations and clearly you got different information and responses from the same organisations according to when you called and who you managed to get onto. The ACCC earlier said that that is not necessarily misleading; it just can be the lack of knowledge within an organisation. We accept that, but, if you struggle with it and big organisations are struggling with it, it is little wonder that consumers are confused and there are thousands and thousands of people—maybe millions—who want to get to the bottom of what this is all about and how much of their product that they consume is subject to these sorts of religious tithes.

Mr Gaynor: Yes.

CHAIR: A point of clarification: I think what the ACCC said this morning was that what they regulate is false and misleading conduct and, insofar as that has been interpreted by the law, the act of not giving information is not deemed false and misleading in itself.

Senator BERNARDI: You are quite right.

CHAIR: The policy question for us is whether or not that is something that should be judged.

Senator BERNARDI: That is indeed a policy question, but it is not relevant to what I just said. I said that the ACCC said it is not necessarily deceptive or misleading if organisations give conflict information, as Mr Gaynor has unearthed, because it is sometimes just a product of who you get onto and whether it is above or below their pay grade—whatever the case may be.

CHAIR: Yes, sorry.

Senator BERNARDI: It is not necessarily malicious; it is just compartmentalised.

Mr Gaynor: I certainly went to pains not to paint it as malicious. I just think people working in supermarkets generally have a very poor understanding of what is halal, what is sharia law, what the process is and what the product is. It is clear to me that across the supermarket industry it is hard to get answers, because people simply do not know. They are not trying to hide anything at the coalface from the consumer; they just do not know themselves.

Senator BERNARDI: If you go in to ask the deli assistant if this chicken is halal, it is not likely that they are going to be advised about everything. I said in Woolworths store No. 3 that it is illegal to sell halal products without a logo. That is clearly not the case. So that is a bit misleading.

CHAIR: Yes, it is a lack of knowledge.

Senator BERNARDI: Yes. This is the thing. It comes back to this all the time and it is consistent from a consumer angle. It is about clear and appropriate labelling so that consumers can make their respective choices based on whatever criteria they deem necessary or important to them.

CHAIR: I'm starting to agree with Senator Bernardi, and that's worrying on many levels!

Senator BERNARDI: Scary, isn't it! We'll have to adjourn the hearing!

CHAIR: Especially the bit where he said we need more regulation and with regard to your point, Mr Gaynor, that regulation is what is required for a free market.

Mr Gaynor: If I could be so bold, you asked Mrs Smith a question that I thought was very good, and I would like to give some input.

CHAIR: Sure; what was the question? I thought all my questions were very good!

Mr Gaynor: You asked her where you draw the line on the certification. I think that answer has already been found for us. In my submission I refer to it towards the end. We do not need to reinvent the wheel on this.

Senator BERNARDI: Could you remind us?

CHAIR: Yes, if you have it in front of you. I read your submission a couple weeks ago.

Mr Gaynor: That is alright. It is the last paragraph on page 83. This is from the 2011 report into labelling logic. Before this it talks about things like halal certification being an issues based issue that lends itself to voluntary certification but one that may need to be monitored if self-regulation is ineffective. The last paragraph

explains when self-regulation becomes ineffective and constitutes a market failure that requires mandatory labelling to solve. It says:

The Panel proposes that market failure is the principal argument that should be advanced for any prescriptive intervention in food labelling in the area of consumer values issues. There are mutual market benefits (to buyer and seller) of promoting food with positive/aspirational origins (e.g., chocolate from Switzerland), yet non-reciprocal benefits from withholding such information when it relates to origins with perceived negative connotations (e.g., food products from countries with poor human rights records). This situation constitutes market failure and the reason for government intervention on the issue of CoOL.

So country-of-origin labelling came because some food producers were trying to hide the country of origin from consumers. The market failure was because the certification or labelling was deficient because to reveal the information would probably have reduced market share. I would argue very strongly that, in the case of halal certification, where we have many food producers selling halal products or products that are from an Islamic ritual that would have been halal at some phase early on in the production, withholding or failing to disclose that constitutes a market failure. Quite clearly the upside of halal certification appears to be export markets. We appear to be saying we are going to tell our export markets but food is halal certified, but the Australian consumer is being kept in the dark. Producers are failing to disclose to the Australian consumer the certification, the Islamic origins of the food or the religious ritual that is part of it, and that is what is constituting the market failure in this case.

CHAIR: To be honest, I am not quite sure I necessarily agree with you in terms of using the term 'market failure' there, but I accept the point you are making.

Senator BERNARDI: This is a question I probably should have asked of Mrs Smith as well. In your examination of halal certification, have you come across any other religious certification organisations that are operating in the Australian market or even internationally?

Mr Gaynor: I am aware of kosher certification.

Senator BERNARDI: I should have mentioned that, I beg your pardon—as part of this inquiry.

Mr Gaynor: My recommendations in my submission relate to religious certification, so they are not focused specifically on halal. They are focused on wherever there is a religious input. It is not a negative certification like saying it does not have alcohol. That is a negative input. It is a positive certification to say this blessing has occurred or this sacrifice has occurred. Where there is that kind of religious intervention in the food production process, it should be disclosed regardless of what the religion is. So I am aware of the Jewish process. I am also aware—although I do not have much information about it—of it in relation to the Sikh religion. It is not so much a certification issue and I am no expert in this area, but they seem to want to avoid meat products in particular that have been blessed under a different religious law, so that is an issue for them.

Senator BERNARDI: Indeed. We have had evidence that it is forbidden for them to consume products that have been blessed. They specifically identified Islam, but I am not sure if there are any others.

Mr Gaynor: I am not aware of any other religious food certifications.

Senator BERNARDI: I am trying to find a way through this. I am guessing that many Muslims and many Jews do not want to consume pork products. It would satisfy their requirements in many instances to say it contains no pork like way say things contain no traces of peanuts for other people who have allergies or contains no alcohol in the case of those who do not want to consume that. That would be what you would call negative labelling.

Mr Gaynor: Yes.

Senator BERNARDI: And that is a product for the market. But you are saying that, where there is a positive intervention—where there has been a religious ritual exercised in any way, shape or form on a product that is available in the market, it should be disclosed. I could characterise it in this manner: we have freedom of religion in this country, but you are suggesting we should also have freedom from religion for those who want to opt out of particular things as well.

Mr Gaynor: That is one way of putting it. I would not say 'freedom from religion'. I have got my religious beliefs, and, as part of my religious beliefs, I do not involve myself in other religious beliefs. Some people could say that is freedom from those religious beliefs; that is one way of putting it. But, as part of religious freedom, Australians should have the choice of their faith, and they need to work out—

Senator BERNARDI: Which is the freedom of religion that we all have.

Mr Gaynor: Yes. And part of that is to not be forced—

Senator BERNARDI: To participate in others'—

Mr Gaynor: to participate in other religious beliefs. I argue that when you are forced to purchase pretty much chicken that is sacrificed to Allah, whether that be a free market way of approaching it or not, that is a form of reducing religious freedom.

Senator BERNARDI: So it is a compulsory participation in a religious ritual, even if it is just a financial mechanism of doing it?

Mr Gaynor: Yes.

CHAIR: I would not share those views. But I think your point, Mr Gaynor, is that I do not need to share those views for you to be able to exercise your views if you had that information?

Mr Gaynor: Sure. And, Senator, you can eat all the halal certified chicken you wish. I would not want to stop you from doing that either.

CHAIR: Thank you. I will assume I have been, and I will continue to do so—

Senator BERNARDI: He slaughters his own chickens!

CHAIR: When I was speaking to Mrs Smith before, I said that there are three categories of consumers. Firstly, as to halal or kosher or any kind of certification, there are people who want that type of certification—and let us just talk about religious certifications. Let us talk about kosher and halal—they are the main two religious certifications—because that seems to be the bulk of where your inquiry is going, because you look at it from a religious rights perspective. So there are those who seek it out. Secondly, there are those who are indifferent and could not care less, and who, regardless of how much information you give them, are not going to change their behaviour. They like eating Oporto's, regardless of whether or not it has been slaughtered bioethically or not, and, even if you told them, it is not going to change what they do. Thirdly, there are those who would want to object and not choose to do it.

Say we went down the path of doing what you are saying, and what Mrs Smith is saying, which would be to provide more information to consumers—and again we will talk to some Islamic leaders at a further date; I cannot imagine them having an objection to greater labelling. Again, I do not want to speak for them because, if they want to seek these products out, having that information is not going to hurt them. It is not going to hurt the people in the middle, who do not care, because they do not care anyway.

The argument against it that I imagine is going to get put to us is that all of this—and this is what has happened in the entire food labelling debate—is a cost impost on consumers, and that every time you go down this path of verifying and labelling—and there is only so much space on a packet—these things are not free, and the act of doing that is a cost. I am sure that, if we end up speaking to the grocery council and others, they are going to say: 'Hang on; this becomes a cost and a cost that is put on consumers.' The question for us, as policymakers, needs to be: is that a cost that is worth imposing? Because it is a cost; it is not—

Mr Gaynor: I understand that, and I think it is a good question. Certification is a cost, and disclosing it to the consumer is, presumably, another cost. There is the question of how much space is on a label. I am not denying that. But I think we can be creative, and we are especially fortunate today with the internet, and the easy access to information available on the internet, that we can come up with solutions that allow enough information to be provided to consumers to have choice, even if it is not all on the packet. For instance, you might choose—due to space limitations—to have a very small disclosure on the packet, but there could be a website where that additional information could be located for consumers who wanted that information. That probably would be much cheaper anyway than putting it on the packet itself and redesigning the packet every time some production process changes or those types of things.

Senator BERNARDI: There will be many food producers and retailers that would say that that already happens, and for anyone that is interested they can go to halalchoices.com.au and pick up that sort of information. You can go to Cadbury's and you can find out that all their products are certified, even though they do not have the label on the packet. It is not realistic that a consumer is going to go and walk around with their shopping guide and examine every little thing. It just does not make much sense. And why would you pay for a certification if you are not going to highlight it to your market to say, 'Hey, look at this. This is really good'?

Mr Gaynor: Yes. I think that, if you are going to incur the cost of certification, that should be disclosed. How much information goes on the packets is something to be decided, but I would disagree that you can go to food producers and get the information already. You cannot. If you go to the chicken producer—I cannot remember which one it is here—they will tell you to go and talk to the Islamic Council. They refused—

Senator BERNARDI: Inghams, it was.

Mr Gaynor: They told me that it is company policy not to answer the question. So you cannot get the information when you ask for it.

Senator BERNARDI: So it comes down to appropriate labelling, because it is not always available on the internet, and you cannot make it mandatory. I know how governments disclose information on the internet. They hide it in a myriad of webpages, and no-one can ever see it, or it is very difficult to find. I just keep coming back to it. The other point is that you could argue that it is the informed choice for Muslims and non-Muslims alike with respect to halal and in the fact of the Jews' kosher certification as well. They need to make an informed choice for themselves.

Mr Gaynor: Yes. I will just go back to the internet point because there needs to be information there on the packaging, but not all the information can fit on the packet. I am talking now from the perspective of the Islamic community. There is a wide discrepancy between halal certifiers on their standards and processes, and that information as to what their standards and processes are simply cannot be put on a packet. I believe that they should be made to disclose their processes so that people who are searching for certification understand exactly what they are getting, because it is very difficult to have consumer confidence in a certification industry where the Islamic Council of Western Australia state publicly that stunning during the slaughter process is against Islamic requirements, but they will still issue halal certification when animals are stunned.

Senator BERNARDI: Sticking with Islam for a moment, there is a divide between the Sunni and the Shiah, and there are other interpretations of Islam out there. Are we really expecting a Muslim to sit there and say, 'Okay, I'm a Sunni; every product I consume has to be authenticated by that particular certifier of that strand of my religious beliefs, and I won't consume one that's been certified by an alternative certifier'? It is completely unrealistic, so you cannot have—

Mr Gaynor: Sorry, are you saying they are not doing that?

Senator BERNARDI: I am just wondering whether that is the case.

Mr Gaynor: Well, it is, and I will take you to my submission, where—just bear with me for one second—there is a Facebook page where there is a lot of Islamic unhappiness over the certification process.

Senator BERNARDI: I am familiar with the Facebook page. There are also issues on MuslimVillage with the authentication of the chickens and so forth, so I am familiar with that. The question is: how far do you go with this? That is really the question that we are going to rack our brains about and try to form a united response to, aren't we, Senator?

Mr Gaynor: I will go back to my submission.

CHAIR: I would not go that far, but, yes, we will definitely try to.

Mr Gaynor: *Labelling logic* said that, when there is a market failure which is through the withholding of negative information that has negative connotations, that should be addressed with mandatory labelling. My submission argues that, where there is a religious element in the production process et cetera, that should be disclosed.

CHAIR: You did not say it before, and I let it go, but I will just put on the record that the idea that it is a negative connotation is a matter of interpretation, which is not one I share. But that is your opinion, and that is the point I suppose you are making.

I know that in your submission you draw on different views within the Islamic community. I think it is fair to say that you are not and do not purport to be an expert on Islam or to speak on behalf of—

Mr Gaynor: No, I am not trying to solve the differences. I am not trying to do that. That is up to the Islamic community to do.

CHAIR: To end: in your personal objection to this—and, again, you are entitled to your personal objection, and others have different objections; there are those who choose to object because of the stunning process, and the RSPCA have real issues with some of the steps that are taken, and I want to put that on the record—you come from a religious rights perspective.

Mr Gaynor: I would not just limit it to that. I certainly do have that objection but, as I detail in my submission, there are serious concerns about where the money goes. Even if you take the whole extremism issue out of this, it is raising money for a religious community in Australia and overseas that Australians are subsidising every time they shop, pretty much. Most Australians are not Islamic, so there is a concern about that.

CHAIR: Why is that a concern?

Mr Gaynor: If I were being asked to raise funds for the Buddhist community, the Sikh community, an atheist community or the Labor Party and I did not want to fund those organisations—

CHAIR: If you were raising funds for the Liberal Party, you would be running a royal commission.

Mr Gaynor: Well—

CHAIR: I could not miss that. I should not have said that—sorry.

Mr Gaynor: I make my points. People should be free to fund the organisations they support. Only two per cent of the population is Islamic and they can raise funds, I am sure, as much as they want. But 98 per cent of Australia is actually funding the halal certification process in this country, and that is going to support the Islamic community. That is why it is seen as a tax. I understand all the technical legal arguments about that, but that is the way it is viewed.

CHAIR: Again, I am going to put it on the record. My point here is I do not agree with you that it is a religious tax. I do not agree with sharia law. I think you are trying to say—

Mr Gaynor: Sorry, you do not agree with—

CHAIR: I do not agree with the reason that you choose to object.

Mr Gaynor: Sure.

CHAIR: Again, this is where I am trying to find some common ground here. You are not saying I need to agree with your reasons for objecting. You are saying you want the information so that you can make your objection.

Mr Gaynor: Yes. We need to have the choice. I will turn the question back. If only two per cent of chicken was halal certified, it would be like saying, 'We want to increase it to 98 per cent and anybody who objects has no reason to object—we're just going to do it.'

Senator BERNARDI: You chose a perfect analogy before in respect of political fundraising. I am a Liberal who would never knowingly give money to the Labor Party. It is a rarity. But if a business is a substantial—

CHAIR: I think your leader has in the past, but keep going.

Senator BERNARDI: If a business had a strong link to the Labor Party and continually gave them hundreds of thousands of dollars every day, I could exercise my right not to go there, and I would know that because it is disclosed.

Mr Gaynor: That is correct.

Senator BERNARDI: Similarly, when Senator Dastyari says to people, 'Don't go and shop at Cory's supermarket because he's funding XYZ,' it is exactly the free market and it is all disclosed. In this instance it is not disclosed. I believe it is a very reasonable analogy.

CHAIR: Can I make a point of clarification, Senator Bernardi. I think in this instance it is inconsistently disclosed.

Senator BERNARDI: Yes, that is true. It is inconsistently disclosed.

CHAIR: It is not that it is not disclosed; it is inconsistently disclosed.

Senator BERNARDI: The omission is a deliberate act.

Mr Gaynor: Yes.

Senator BERNARDI: That, I think, is significant. They choose not to put it on there, for multiple reasons, but it is a conscious decision not to. When 70 per cent of our meat is exported through these abattoirs, the remaining 30 per cent, which is being halal certified, is not disclosed as halal when it appears in our supermarkets. That is a conscious decision. Everything else is certified and stamped 'halal'. I wonder why they are not disclosing to Australian consumers.

CHAIR: Every labelling decision is a conscious one, whatever the reason for it may be.

Senator BERNARDI: Yes, but there is a conscious act of omission, because it has come out of the same factory, the same packaging line. Everything about it is the same except for the fact there is no halal stamp on it.

Mr Gaynor: Yes, and I would say—

CHAIR: I disagree with that, but we can talk later about it, in the Senate.

Mr Gaynor: The food labelling decisions that are made are made to increase market share or sell the most products. If domestic producers thought that halal certification declarations were going to help them sell more products, it would be on the packet already. That is why—

CHAIR: It is on a lot of packets, though.

Mr Gaynor: Not many. If you ask, you get no information. That is why the *Labelling logic* document stated that market failure is where information is withheld because it has negative connotations. It is obvious from the response to this inquiry and the fact that this submission got 6,000 signatures in about 10 days that there is a great deal of concern in the community about halal certification.

Senator BERNARDI: It also begs the question: if a company is paying for halal certification and it is not putting it on the packet, it is not putting it on the website and it is not prepared to inform consumers, why are they paying for it? Why are they doing it?

Mr Gaynor: It is a very good question, because I honestly do not understand that. If I were a business certifying a product, I would be disclosing it because, as the *Labelling logic* document itself says, these voluntary certification schemes are a way of increasing market share. I would be doing it for a business reason. Why are they not disclosing it and why are they still paying the fee, however nominal it might be or however large it might be? That is an important question. I am surprised that these producers and wholesalers are not answering the question. I would have thought that, if they were so in favour of halal certification, they would have presented their case.

CHAIR: They have, in fairness. Again, we are conflating, and it is difficult not to conflate, what is an export decision and what is a domestic market condition. As much as we may sit here and decide that they are two very separate things, from a production perspective at times there is a correlation between the two, for process reasons.

Senator BERNARDI: Chickens are a good example.

CHAIR: Mr Gaynor, something I want to draw your attention to is this. There have certainly been many people who have expressed a view and who have concerns. You have noted 6,000, and that is not an insignificant number of people by any stretch of the imagination. We have not heard any major concerns expressed to us in the evidence that has been provided so far from proprietors and businesses. In fact, the grocery council and others who have come from the industry perspective have presented an alternative view that does not discount the rights and views of consumers. But I do not think we are now in a position to be talking about the views of the people in the industry when they themselves have not expressed their views to us.

Senator BERNARDI: We have not heard from that many in the industry.

CHAIR: No. We can hear more as we go through.

Senator BERNARDI: On the nondisclosure, am I correct that the nondisclosure can also act as a barrier to other people's informed religious choices—for example, the Sikhs, if they cannot eat blessed meat?

CHAIR: I am not sure Mr Gaynor is an expert on Sikh religious practices.

Senator BERNARDI: No, but we have received evidence and it is about—

Mr Gaynor: I take the point. If you do not know what religious element has gone into a product, you simply cannot make an informed choice. You might buy it on the assumption—

Senator BERNARDI: Or the promise of the deli assistant.

Mr Gaynor: Yes, that is right. But, if you actually knew the facts about that, you might make a very different choice. I think that is important. The export industry is obviously very important and Australians do not want to hurt our export industries, but I will make this point. It seems to me and to many Australians that our trade with Saudi Arabia, Malaysia or the other countries is considered more important to the national interest than Australians themselves.

CHAIR: I do not agree with that statement.

Mr Gaynor: So we are going to disclose to consumers overseas religious elements of a product because it is going to make us money, but we are not going to disclose to Australian consumers at home the religious element of a product because we think it is going to lose us money. I do not think you can have your cake and eat it too.

CHAIR: I am not sure I agree with that statement—

Senator BERNARDI: You do not have to. This is a beautiful thing about the Senate. We can get a whole bunch of different views, put them on the record and distil them into a unanimous report, can't we, Senator Dastyari?

CHAIR: That is a beautiful segue to end this hearing. Mr Gaynor, is anything else you want to add?

Mr Gaynor: No. It is all in the submission. Thank you very much for the opportunity to present and appear today. I think it is a very important inquiry and a lot of Australians are watching with interest, so thank you very much.

Committee adjourned at 12:44