

GENERAL PURPOSE STANDING COMMITTEE NO. 6

Thursday 3 September 2015

Examination of proposed expenditure for the portfolio area

INNOVATION AND BETTER REGULATION

UNCORRECTED PROOF

The Committee met at 4.15 p.m.

MEMBERS

The Hon. P. Green (Chair)

The Hon. L. Amato (Deputy Chair)
The Hon. C. E. Cusack
Dr J. Kaye

The Hon. M. S Mallard
The Hon. D. Mookhey
The Hon. E. Wong

PRESENT

The Hon. Victor Dominello, *Minister for Innovation and Better Regulation*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CHAIR: Welcome to the public hearing for the inquiry into budget estimates 2015-16. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land. I would also pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister Dominello and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Innovation and Better Regulation. Today's hearing is open to the public. It is being broadcast live via the parliamentary website. A transcript of today's hearing will be placed on the Committee's website when it becomes available.

In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence given at this hearing. I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decides to take action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Chamber and support staff or the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table or behind you. Transcripts of this hearing will be available on the web from tomorrow morning. Finally, I ask everyone to turn off their mobile phones for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

RODNEY STOWE, Commissioner, NSW Fair Trading, and

MARTIN PAUL HOFFMAN, Secretary, Department of Finance, Services and Innovation, and

WILLIAM MURPHY, Deputy Secretary, Department of Finance, Services and Innovation, sworn and examined:

The Hon. CATHERINE CUSACK: Before the Committee hearing commences, have The Greens sent an apology? We have two Greens members on this Committee and neither of them has bothered to turn up. Have they given their apologies for not attending this hearing?

CHAIR: I have not received any apologies from the honourable members. I am aware there are other budget estimates running concurrently and there is a good chance they are in those hearings.

The Hon. CATHERINE CUSACK: I have seen Mr Shoebridge watching the Premier's estimates. I understood it is his duty to be here. He wants these hearings and he does not turn up.

CHAIR: It is a matter for The Greens whether or not they are here. I declare the inquiry into the proposed expenditure for the portfolio of Innovation and Better Regulation open for examination. As there is no provision for the Minister to make an opening statement, we will go straight to questions.

The Hon. ERNEST WONG: Minister, is it correct that from 1 July this year NSW Fair Trading assumed responsibility for administrating the Biofuels Act 2007?

Mr VICTOR DOMINELLO: That is correct.

The Hon. ERNEST WONG: That means you have been the Minister responsible for administering that Act since 1 July?

Mr VICTOR DOMINELLO: That is correct.

The Hon. ERNEST WONG: Is this known as the Office of Biofuels or has the office been abolished?

Mr VICTOR DOMINELLO: The functions of the Office of Biofuels have been taken over by the Office of Fair Trading. That is because under the new administrative orders Fair Trading has a much greater focus on consumer protection and it is more appropriate, given my ministry has a consumer focus, that the functions of the Office of Biofuels be operated now by Fair Trading.

The Hon. ERNEST WONG: What is the office called now? Is it still called the Unit of Biofuels or does it have another name?

Mr VICTOR DOMINELLO: The functions of the Office of Biofuels have now been taken over by Fair Trading. Basically, what was previously being undertaken by the Office of Biofuels is now being undertaken by the Department of Fair Trading in New South Wales. In relation to NSW Fair Trading, they have an outstanding reputation in the marketplace for consumer protection. They have a much bigger resource base and have many more powers in which to ensure that the requirements of the Biofuels Act are maintained and kept.

The Hon. DANIEL MOOKHEY: Minister, is it right to conclude on the basis of that answer that there is no specialist office for biofuels anymore?

Mr VICTOR DOMINELLO: Mr Mookhey, as I said to Mr Wong, the functions are being undertaken by Fair Trading in New South Wales.

The Hon. DANIEL MOOKHEY: Is that the only function being undertaken by NSW Fair Trading or is it in addition to NSW Fair Trading's existing responsibilities?

Mr VICTOR DOMINELLO: That is in addition to their existing responsibilities but they have expertise in the marketplace. That is why it is appropriate that the functions carried out by, previously, the Office of Biofuels come across to NSW Fair Trading where they have a consumer focus. I am happy for—

The Hon. DANIEL MOOKHEY: When did that transition take place?

Mr VICTOR DOMINELLO: I think it was 1 July. I am happy for Mr Stowe to give more detail.

Mr STOWE: The Minister is correct, we are undertaking that function. We have staff within Fair Trading. The biofuels office, as I understand it, only had one position, so we have absorbed the responsibility and we will make sure it is properly resourced, as the Minister said.

The Hon. CATHERINE CUSACK: That was a big hit.

The Hon. ERNEST WONG: The website of the Office of Fair Trading says that the Biofuels Act requires that a certain percentage of the total volume of petrol sold in New South Wales is ethanol. Can the Minister please elaborate on what this requirement involves?

Mr VICTOR DOMINELLO: Going back in history in relation to the mandating of ethanol, this has been a bipartisan policy since 2006, when it first came about. I think the Biofuels Act first came into place in 2007 under Morris Iemma. At that point the mandated volume of ethanol in fuels was 2 per cent. That was to be ratcheted up to 4 per cent in 2009 and 6 per cent in 2011. Clearly, when we formed government in 2011 that same mandate that was undertaken by the Labor side of politics was accepted by our side of politics. It is also fair to say that both sides of politics have struggled to meet the mandate. It is one of the most complex areas that we have.

We need to get the policy settings right. That is why, prior to the last election, the Premier asked IPART to have a look at the various policy settings affecting the consumption of biofuels—ethanol in particular—across New South Wales and how we can manoeuvre those settings to maximise the potential for reaching the mandate in circumstances where the mandate has not been met since the conception of the idea in 2006.

The Hon. ERNEST WONG: Is that saying that the compliance with this provision in the Act has not been scrutinised or followed? Does your department do measures of the compliance? Have you got the figures there? Have they been published?

Mr VICTOR DOMINELLO: Under the Biofuels Act, as you are probably aware, Mr Wong, they are required to meet the mandate. In the Biofuels Act there is a section that says there is a defence available to the companies in the event that they have taken reasonable steps to meet the mandate. In relation to "reasonable steps" we take advice from Fair Trading—as, I assume, the previous Government took advice from the Office of Biofuels—in relation to whether those steps are reasonable.

We publish guidelines in relation to what we consider are workable reasonable steps but it is interesting to note that even in the legislation itself—the primary legislation—it says that if companies do not comply with the requirements in the guidelines they still have a defence available, provided they can prove to a court or a tribunal that in their circumstances they have undertaken reasonable steps. So the guidelines are simply that. I am happy to ask Mr Stowe if he would like to elaborate further on that.

Mr STOWE: You are quite correct. We have only just taken over responsibility for the legislation. We will be convening the expert panel that oversees the performance of the suppliers of petrol and applying the appropriate Government policy, which is, as the Minister points out, identical to the previous administration's policy in this area.

The Hon. ERNEST WONG: Are you saying that there are no findings whatsoever with regards to the performance of the compliance of that particular requirement?

Mr STOWE: A report will be provided next month to the expert panel on the performance of those companies, and the expert panel will analyse the figures that are provided.

The Hon. ERNEST WONG: Will all those reports be publicly available?

Mr STOWE: I am not sure what the practice has been. As I said, we have only just taken responsibility for it. I am more than happy to take advice on that and advise the Committee accordingly.

The Hon. ERNEST WONG: If you are taking on these new functions, where you are not quite sure of the process, why are you taking it over? We used to have a unit that more specifically looked into the whole Act. You have taken that over, but the Minister has just said that, commercially, you have looked at the broader aspect. You do not know the process so how—

Mr VICTOR DOMINELLO: The biofuel results are published on the website. I have the results here for 1 January to 31 March 2015, Mr Wong, if you would like them. The first line item is volume seller, BP. The partial exemption is 2.4 per cent. The result for the quarter is 2.29 per cent. The next volume seller is Caltex. The partial exemption is 2.4 per cent. The result for the quarter is 2.48 per cent. It goes through Mobil, Viva, United, Park, Freedom, Neumann, Lowes, Woolworths and 7-Eleven. Then it gives the overall figure.

There is a subsection called "biodiesel" and that is broken down again into volume seller and goes through the list again, including the percentage of exemption granted. For example, the first line item is BP and the exemption granted is 0.23 per cent. The result for that quarter is 0.37 per cent. So the overall result for the quarter was 1.64 per cent. These results that I am providing to the Committee are from the information provided by the biofuels website here in New South Wales.

The Hon. ERNEST WONG: Will you be able to elaborate a bit on the exemptions—where the volume of sellers and suppliers will be able to go to apply for it? What ground would that be based on?

Mr VICTOR DOMINELLO: The exemption?

The Hon. ERNEST WONG: Yes.

Mr VICTOR DOMINELLO: That is based on the advice we receive from the expert panel. They will look at that. Then I get advice in relation to whether reasonable steps have been taken to meet the mandate. That will determine whether the exemptions are signed off or not. But it is interesting to note that, even if they do not comply with the exemptions, they still have a general defence available in relation to the Act to say that they may not have met the exemptions but they have still acted reasonably to meet the mandate. That is contained in the Act. I think it is subsection (4) of the Act, from memory. I will come back to you on that in relation to the specific provision of the Act.

The Hon. ERNEST WONG: Thank you.

The Hon. DANIEL MOOKHEY: Minister, following your earlier answer about the assumption by the department of the functions previously discharged by the Office of Biofuels, how many staff are dedicated to compliance monitoring and enforcement of the mandate?

Mr VICTOR DOMINELLO: I will defer to Mr Stowe.

Mr STOWE: The number of staff in our policy unit? I can come back to the Committee and provide that advice, but it would be shared among a number of staff in the unit. As I said before, there is—

The Hon. DANIEL MOOKHEY: Do you have the full-time equivalent number?

Mr STOWE: I am happy to take that on notice and come back to you. As I say, it is a number of staff on our policy team who have taken on that responsibility. As I said to you earlier, I believe there was only one full-time equivalent [FTE] previously undertaking this work in the Office of Biofuels so I suggest there are more staff being applied to this task than would have been the case under the previous agency.

The Hon. DANIEL MOOKHEY: And that is from your policy unit?

Mr STOWE: That is correct.

The Hon. DANIEL MOOKHEY: Do they undertake enforcement actions or enforcement investigations?

Mr STOWE: No. This work is analysing the reports that are submitted to the expert panel.

The Hon. DANIEL MOOKHEY: And the reports are derived from the providers, the retailers?

Mr STOWE: That is correct. Then a report is prepared for analysis by the expert panel. If there was to be any enforcement action then of course Fair Trading, as the Minister has pointed out, has the resources to do that. We have an enforcement and compliance division, which does this work on a regular basis.

The Hon. DANIEL MOOKHEY: When was the last time that there was an enforcement action undertaken in respect of mandates?

Mr STOWE: Again, this Act only came to Fair Trading on 1 July so I am afraid cannot tell you.

The Hon. DANIEL MOOKHEY: Is the enforcement team to which you refer a generalist enforcement team that is available to the department or a specialist in respect of the mandate?

Mr STOWE: No. It is a generalist team that is available to the department, which is quite capable of enforcing many Acts. We administer 40 Acts of Parliament and we use this very, very capable workforce to undertake that work very successfully.

The Hon. DANIEL MOOKHEY: I do not doubt the skills of your enforcement team. Is there an enforcement strategy?

Mr STOWE: The enforcement strategy will be guided by the advice that the Minister gets from the expert panel and the determinations that the Minister makes.

The Hon. DANIEL MOOKHEY: Can I go back to an earlier question about the compliance aspect, which seemingly is entirely derived on the basis of reports by commercial operators who are subject to it? Is there any element of independent checking, or is it 100 per cent derived on the basis of information that is provided to you by the retailers?

Mr STOWE: It will be based upon the advice that we receive. If we think that independent verification of the information is required, we will do so.

The Hon. DANIEL MOOKHEY: Has that ever happened?

Mr STOWE: As I said to you earlier, my department has only just taken responsibility for this task.

The Hon. DANIEL MOOKHEY: Are you aware of it happening under any previous agency? Minister, the question applies equally to you. Are you aware of any previous enforcement action undertaken by the Government when the Office of Biofuels did indeed exist?

Mr VICTOR DOMINELLO: No. Consistent with what Mr Stowe has said, this has only come across since 1 July. But I am happy to take that question on notice and find out what the other department has done.

The Hon. ERNEST WONG: I refer to the Office of Biofuels website and the Australian Bureau of Statistics revelation that the percentage of ethanol sold has declined from approximately 4 per cent in 2012 to 2.75 per cent of total field sales this year. That is correct?

Mr VICTOR DOMINELLO: Yes.

The Hon. ERNEST WONG: Are you aware of that?

Mr VICTOR DOMINELLO: If that is what the website says, I do not dispute that.

The Hon. ERNEST WONG: Minister, can you please explain the reasons for this decline? What action has the Government taken to reverse that deteriorating trend?

Mr VICTOR DOMINELLO: As I said, Mr Wong, this is a really complex issue of policy—both sides of politics have been unable to meet the mandate. That is why, prior to the election, the Government asked the Independent Pricing and Regulatory Tribunal [IPART] to undertake an investigation in relation to the market and what is driving the reduction in the consumption of ethanol, specifically the E10 product. We have now received the report and we are working our way through it. It is a very detailed and comprehensive report prepared by IPART that provides various indications in relation to why the marketplace is performing in the way it is and why there has been a decline. We are considering the report at the moment. We will be in a position to respond to that report in the not-too-distant future.

The Hon. DANIEL MOOKHEY: Minister, when did you receive that report?

Mr VICTOR DOMINELLO: The Government received a report in about May.

The Hon. DANIEL MOOKHEY: Is that a public report?

Mr VICTOR DOMINELLO: Not yet, no.

The Hon. DANIEL MOOKHEY: Is it a public terms of reference?

Mr VICTOR DOMINELLO: Not to my knowledge.

The Hon. DANIEL MOOKHEY: What exactly were the terms of reference of the IPART report?

Mr VICTOR DOMINELLO: Again, we will provide a response. We will make known our response to the IPART report and I will publish the IPART report—just pre-empting a potential question of yours—in the not-too-distant future. We need to work our way through that report. I think it is about 187 pages in total.

The Hon. DANIEL MOOKHEY: Minister, I congratulate you on your intuition but it was not my next question. I was going to ask: When was that report commissioned?

Mr VICTOR DOMINELLO: It was before the last election.

The Hon. DANIEL MOOKHEY: How was that report commissioned?

Mr VICTOR DOMINELLO: It was from the Premier's office.

The Hon. DANIEL MOOKHEY: It was from the Premier's office, so the Premier's office decided its own terms of reference, presumably?

The Hon. CATHERINE CUSACK: Point of order: The Hon. Daniel Mookhey is asking questions of the Minister when he was not the Minister for that portfolio.

The Hon. DANIEL MOOKHEY: To the point or order: Under 4.1 and 4.2, there is wide latitude that is meant to be offered to members in this respect.

CHAIR: Order! There is wide latitude. I am listening very carefully because it is of interest. But it is in the Minister's portfolio. If he chooses to take the question on notice, he can do so. If he chooses to answer it, he can do so.

The Hon. SHAYNE MALLARD: They are asking the same questions of the Premier in the other room at the moment. They are obviously confused.

CHAIR: If Opposition members want to waste time asking the same questions, good luck to them.

The Hon. CATHERINE CUSACK: This is their big set play for estimates; they have been workshopping this for months.

CHAIR: Order! The Hon. Daniel Mookhey may proceed.

The Hon. CATHERINE CUSACK: This is as good as it gets.

The Hon. DANIEL MOOKHEY: Minister, you are presumably currently aware of the terms of reference? You have read the terms of reference?

Mr VICTOR DOMINELLO: As I said before, we have received the report. In relation to the terms of reference and the commissioning of the report, it was done prior to the last election by the Government. I was not the author of the commission. That was either the Minister or the Premier at the time, so I suggest that you—

The Hon. DANIEL MOOKHEY: What are the terms of reference?

Mr VICTOR DOMINELLO: I am not prepared to disclose that now, but I am happy to take that on notice.

The Hon. DANIEL MOOKHEY: Right. When do you anticipate the Government's response and report will be released—the actual report, the report's recommendations and the Government's response?

Mr VICTOR DOMINELLO: As I indicated before, we are working our way through the report. It is very comprehensive—there is no doubt about that—and it is complex, as I said.

The Hon. DANIEL MOOKHEY: Just clarify this, Minister: When you say "we", do you mean the department?

Mr VICTOR DOMINELLO: No, the Government.

The Hon. DANIEL MOOKHEY: Right. I am sorry.

Mr VICTOR DOMINELLO: So, obviously, there are a whole lot of different agencies that can be involved in relation to the report and how we can best work our way through it to ensure that the mandate is reached.

The Hon. DANIEL MOOKHEY: Did the industry have the opportunity to make submissions in relation to this IPART report that apparently is looking into the reasons why compliance with the mandate has declined?

Mr VICTOR DOMINELLO: I will take that on notice.

The Hon. ERNEST WONG: Minister, has the Government actually conducted any research to establish community attitudes to biofuels, apart from the IPART report?

Mr VICTOR DOMINELLO: As I said, Mr Wong, I have been the Minister in this portfolio since 1 July. What was taking place under the previous Minister, I am not aware of; but I can make some inquiries for you and get back to you.

The Hon. ERNEST WONG: So you are saying that there were no reports or any of those research findings that were presented to you when you took up the portfolio.

Mr VICTOR DOMINELLO: No. I am saying that I have been the Minister since 1 July. It is a complex matter. We received a report from IPART and we are working our way through that. I have indicated that we will release the report when the Government consolidates its position in response to it. I am hoping to do that by the end of this year.

The Hon. ERNEST WONG: I assume that I will probably get the same answer for this question. Has the Government sampled and tested E10 for ethanol content?

Mr VICTOR DOMINELLO: I am happy to refer that to Mr Stowe.

Mr STOWE: I believe the department that was previously responsible did undertake tests in respect of that, yes.

CHAIR: In terms of ethanol and renewable energy, I am concerned about this. Thank you for the opportunity to engage in dialogue on this matter. I applaud you because you have nailed the first thing. Can you clarify that you will be publishing the IPART report on biofuels?

Mr VICTOR DOMINELLO: Yes, that is my intention.

CHAIR: Will you be doing that before Christmas?

Mr VICTOR DOMINELLO: That is my intention. I will be working hard to finalise the Government's position in relation to it and, hopefully, by the end of the year we will have that position and publish the report.

CHAIR: Are you aware of the public dialogue about global major oil companies that are basically paying no tax on their fuels?

Mr VICTOR DOMINELLO: Yes.

CHAIR: Do you think that is fair?

Mr VICTOR DOMINELLO: Absolutely not.

CHAIR: When there is a regional company that is not only keeping regional people employed and providing a renewable energy and looking to invest more, after a previous Liberal-Nationals Government engaged for them to stay in New South Wales, do you think that we are able to penalise a company like that by the lack of exercising compliance exemptions?

Mr VICTOR DOMINELLO: Absolutely. Any company that uses a device or a scheme to avoid paying tax in this country is not a good corporate citizen. The reality is that they operate in this country, they make profits in this country and therefore, as a result of the profits they make, they should pay tax. That tax can then be used by the Government to fund essential public service. I do not think it is good at all. In my mind it is shameful that companies are using mechanisms to avoid paying tax in this country.

CHAIR: Do you have a view on how hard it is to get an overseas organisation to invest \$750 million in regional New South Wales?

Mr VICTOR DOMINELLO: I imagine that it is very difficult.

CHAIR: And then for them not to be supported with the assurances that the Government would stand by them to establish that company and see the infrastructure that they need be established so they can have job growth, an economic boost and all the benefits that go into regional New South Wales, do you see that as being an issue?

Mr VICTOR DOMINELLO: Yes, and I very much understand your concern. I can tell you honestly that we are working our way through IPART's report. I wish it was simple because if it was simple many other Ministers and Governments before me would have undertaken that simple solution, but it is not. The market forces at play are complicated, but I can give you this commitment. I will use my best endeavours to try to consolidate a government position in relation to this issue and publish the report, release the report, by the end of this year.

CHAIR: I trust you will. Mr Stowe, you mentioned that you had about 40 different areas that the enforcement team basically has to oversight and you said they were very efficient.

Mr STOWE: Yes.

CHAIR: Surely if they were that efficient we would have a report about the biofuels situation, the exemption, compliance and prosecutions clearly articulated in a report to the Government after 4½, five years?

Mr STOWE: As I said earlier, we have only just taken on responsibility for this.

CHAIR: I understand you have, but do you get my point?

Mr STOWE: And we have received all the relevant records from the previous agency.

CHAIR: Do you have those records?

Mr STOWE: Yes, we have. Our staff have those.

CHAIR: So you will take that on notice?

Mr STOWE: Yes.

CHAIR: And get back with what has happened over the past five years, and what compliance and exemptions and prosecutions have taken place and report it back to the Committee?

Mr STOWE: I am happy to provide that information on notice.

CHAIR: You mentioned the exemptions breakdown—basically, that one of the exemptions breakdown is reasonable steps. Can you explain what some of those are?

Mr VICTOR DOMINELLO: I will get the specific reference in the Act. If you do not mind, I will get back to you because I do not want to misquote the sections of the Act.

CHAIR: In terms of fuel stations, are you aware that the sticker on the pump says, "Up to 10% ethanol". What do you do in terms of compliance to ensure that there is the right amount of ethanol in the fuel mix that consumers think they are paying for? How do you ensure that the minimum has gone into that fuel?

Mr VICTOR DOMINELLO: I am happy to take this on notice, but I understand that there is an inspection regime in place to monitor what the percentage of ethanol is in the fuel. Mr Stowe may have more information on that.

CHAIR: You can take it on notice?

Mr VICTOR DOMINELLO: I am happy to take that on notice.

Mr STOWE: Part of this is the responsibility of the Commonwealth Government because the Commonwealth Government is responsible for fuel standards and it takes regular samples of fuels.

CHAIR: We have seen the toothless tiger at work.

Mr STOWE: No more than 10 per cent ethanol is allowed to be placed in fuel.

Mr VICTOR DOMINELLO: In answer to the previous question, it is contained in section 15 (1) of the Biofuels Act 2007. An exemption can be granted if:

- (a) it is uneconomic for the person to comply with the requirement because of the price at which the person is reasonably able to obtain ethanol or biodiesel,
- (b) the person has taken, is taking or will take all reasonable steps to comply with the requirement,
- (c) other circumstances as are prescribed by the regulations for the purposes of this section.

CHAIR: They are pretty loose.

Mr VICTOR DOMINELLO: That is the Act as it is currently framed.

CHAIR: It is no wonder there is a big hole in it. Do you have a view that if you set up a product and then you have a competing product and you have a bigger margin than the second product, you can reduce that margin to take out the lesser product in terms of marketing strategy?

Mr VICTOR DOMINELLO: Yes—

CHAIR: With ethanol-mixed petrol and unleaded-mixed petrol the consumer may have a choice. That is not a problem; I have no problem with consumers making a choice. However, I have a problem with a product being used to divert a consumer's choice based on maybe misleading or price indications or what that product will deliver.

Mr VICTOR DOMINELLO: Again, I share your concerns on that front. As the Minister responsible for Fair Trading, my primary obligation is to the consumer and the best way that we can provide service to the consumer is to provide them with informed choice. That is the bedrock of what we try to do. It is across a range of issues. Perhaps Dr Kaye will ask me about some of those issues later. I share your concern about providing the consumer with informed choice.

CHAIR: I am sure, in a David and Goliath battle, it is unfair that Goliath does not pay tax on top of that to knock out David. Who does pay tax?

Mr VICTOR DOMINELLO: When it comes to regimes that are put in place to take tax away from this country so that the average mum and dad are paying essentially more tax to subsidise big corporates that are using tax havens elsewhere, I do not think that is right.

CHAIR: It is shameful.

Mr VICTOR DOMINELLO: That is absolutely right.

CHAIR: Thank you for your answers and I know you will be doing your best to address those issues. I turn to online scams. The Australian Competition and Consumer Commission has said that online dating scams cost Australians almost \$28 million a year. What steps are you taking to focus on and protect more vulnerable elderly constituents and particularly single mums from being ripped off?

Mr VICTOR DOMINELLO: I will refer that matter to Mr Stowe.

Mr STOWE: Awareness is one of the most important issues when it comes to scams. We have a program called MyPlace where we take our resources out to geographical areas for a week at a time in New South Wales. One of the key things we present is a scam awareness session, particularly for elderly people. Recently we have evaluated that program. We have had an independent evaluation where people were tested before they went to the seminar and after. We found that seniors are able to retain the information and are much more confident about dealing with scams. They know where to go when they encounter scam activity. So it has been a very effective program.

In addition, and as you would be aware, we are regularly able to get messages out to people across New South Wales when we detect scams. We encourage people to let us know, and they do that. Particularly in telephone scams we find that because they are generated from overseas and they use prefixed dialling they break out in various regions of New South Wales. So by identifying where that is happening we can quickly target the media and get the message out. Hardening the target is probably the most effective remedy we have.

We also work closely with the Australian Competition and Consumer Commission [ACCC]. They are part of an international consumer enforcement network. Through that cooperation they are able to use the resources of the home States from where these scams are perpetrated to take action. You mentioned the romance scam. That is one area where there has been considerable success—working with law agencies in East Africa there have been a number of arrests. This has been a very effective program that the Australian authorities, along with the ACCC, have been involved in.

CHAIR: It is bad enough that they hit your wallet, but when they rip out somebody's heart then it is just shameful.

The Hon. CATHERINE CUSACK: I would like to welcome Dr Kaye to the meeting and point out that the Government members of Parliament have kept this Committee meeting quorate for him so that he can ask questions now.

CHAIR: Order! Dr John Kaye, this is your time for question.

Dr JOHN KAYE: I did want to begin by apologising to the Minister for being late. I had a play date with his boss—also known as the Premier's budget estimates. I had to be there and that is why I am late.

Mr VICTOR DOMINELLO: There is no need to apologise. It is fine.

Dr JOHN KAYE: I thank the Government members for maintaining the quorum for me. On the Independent Pricing and Regulatory Tribunal [IPART] report, Minister, are you prepared to table the reference to IPART?

Mr VICTOR DOMINELLO: I will take that on notice. I think I have already answered that question.

CHAIR: Dr Kaye, that question has already been taken on notice.

Dr JOHN KAYE: Let me go where I suspect no man or woman has been before in this inquiry, that is, the issue of free range eggs. First of all, Minister, have you consulted with anyone in the free range industry?

Mr VICTOR DOMINELLO: Following our meeting, I gave Dr Kaye the undertaking that I would. The first farm I went to was called Oakville farm or Oakvale farm, from memory.

Dr JOHN KAYE: Can you tell me who owns that farm?

Mr VICTOR DOMINELLO: No, I cannot remember their name off the top of my head; but I can get back to you.

Dr JOHN KAYE: Could you give me on notice the details of that farm?

Mr VICTOR DOMINELLO: Yes.

Dr JOHN KAYE: Have you spoken to the free range egg producers association?

Mr VICTOR DOMINELLO: All the people I have spoken to are listed in my ministerial diary disclosures.

Dr JOHN KAYE: Which means you have not spoken to anybody then, because I have been through your ministerial diaries—at least up until 30 June; we obviously get the next tranche soon—and there is no mention in your ministerial diaries of anything relevant to eggs.

Mr VICTOR DOMINELLO: Dr Kaye, as I said, following our discussion—and I thought we had a pretty productive discussion—I did take up your suggestion. The very first farm I visited was a free range.

Dr JOHN KAYE: Can you tell us how many chickens per hectare they keep?

Mr VICTOR DOMINELLO: From memory, I think it was about 1,500 per hectare.

Dr JOHN KAYE: So they were within the model code?

Mr VICTOR DOMINELLO: Yes, from memory it was about 1,500.

Dr JOHN KAYE: So you will get back to us with the details?

Mr VICTOR DOMINELLO: I will. It was, from any viewpoint, a free range farm.

Dr JOHN KAYE: And is that the only one you have been to so far?

Mr VICTOR DOMINELLO: No, I have been to another farm; I have been to Pace Farms. It was free range and in the vicinity of 10,000 birds per hectare.

Dr JOHN KAYE: It would have been. Whereabouts was that farm?

Mr VICTOR DOMINELLO: It is out in the Hawkesbury area.

Dr JOHN KAYE: Can I ask you for a non-expert opinion? As a Minister, did you see a difference between 10,000 birds and 1,500 birds?

Mr VICTOR DOMINELLO: Yes, obviously the production methods are different; there is no doubt about that.

Dr JOHN KAYE: And do you think the average consumer, whose best interests you represent, would respond differently to 10,000 birds per hectare compared to 1,500 per hectare?

Mr VICTOR DOMINELLO: As I said to you before in our meeting, and as I have said to my ministerial counterparts across the States and Territories and even federally, I think the most important thing we can do on this issue is to provide consumers with informed choice. I have taken a very strong stance in relation to this issue—an issue that, quite frankly, has not progressed very far over the last five or 10 years. To the eternal credit of Fair Trading NSW, they took some leadership on this.

When I became the Minister I took it to another level of zealotry, if you will. I am absolutely determined to make sure that we get a national standard. We are meeting again in February next year at the next Legislative and Governance Forum on Consumer Affairs [CAF], which is the meeting of consumer affairs Ministers from right across Australia and New Zealand, and will deal with this issue. Hopefully we will have a proposed national standard that we can discuss by the end of the year in preparation for that meeting in February.

Dr JOHN KAYE: So officers of the portfolios across the country are working on developing a proposal. Is that correct?

Mr VICTOR DOMINELLO: Absolutely.

Dr JOHN KAYE: Are we the lead jurisdiction?

Mr VICTOR DOMINELLO: We are the lead jurisdiction.

Dr JOHN KAYE: So that is happening in the office of Fair Trading.

Mr VICTOR DOMINELLO: Yes, and I am happy for Mr Stowe to explain more.

Dr JOHN KAYE: I would like to hear that, thank you.

Mr STOWE: Dr Kaye, a consultation regulation impact statement [RIS] is being prepared. It is being coordinated by the Secretariat, which is part of the Commonwealth Treasury. That will be released fairly shortly and submissions will be sought from both the public and stakeholders. Also some work is being done on a cost benefit analysis, which will be part of the RIS process. Once the consultation has occurred with the RIS, the next stage will be to prepare a decision-making RIS for Ministers to consider, as the Minister indicated, at their meeting in February.

Dr JOHN KAYE: When you say "shortly" can you put a timescale on that?

Mr STOWE: It will be within weeks.

Dr JOHN KAYE: Fantastic, that is good. Thank you. Can I ask a related but slightly different question—

Mr VICTOR DOMINELLO: I was just checking my memory on this. Just to remind you, Dr Kaye, in order to get that national standard we need to get four jurisdictions, one of which has to be the Federal Government. So even though we are proceeding with this, we still need to bring our colleagues on board on this journey.

Dr JOHN KAYE: I understand, and I probably also have a fair idea of the politics that are going to be involved in this and the difficult task ahead.

Mr VICTOR DOMINELLO: Like in our discussion earlier on biofuels, if it was simple then it would have been done before. But I am determined to give my best efforts to bring this to a conclusion. My primary focus here is unashamedly on the consumer. If the consumer is given choice then that is a good outcome for everyone. So I will be working with my ministerial colleagues across the jurisdictions to see if we can get a resolution by the end of the year, and definitely by February.

Dr JOHN KAYE: Just on that point, briefly, do you see the label "free range" as something very specific? When you say "choice" that often means we will introduce some more labels or label standards to indicate different welfare standards. Do you see "free range" as being invested with a very specific location in the possible range of standards?

Mr VICTOR DOMINELLO: I do not want to pre-empt the very delicate discussions that need to take place with the other Ministers by raising my flag right here right now. But people who have had discussions with me know that my priority is to protect the consumer through information and therefore through choice. Ultimately, that is my responsibility as the Minister responsible for Fair Trading and therefore through choice; and that will be the square focus of these discussions. That is why I have been so passionate in my drive to try to get an outcome on this. If we can get an outcome with some solid standards, that is going to be good for not only the farmers but also the consumers. In the past I think people have approached this with a lose-lose outlook. I really believe there is an opportunity here, if we can get some standards, for a win-win; and that is what I will be working towards.

Dr JOHN KAYE: Just to be clear, I do not think I have ever approached it as lose-lose; I have always approached this as a win for consumers, a win for free range farmers and a win for the animals.

The Hon. SHAYNE MALLARD: The Hon. Mark Pearson will be very upset with this line of questioning.

Dr JOHN KAYE: I do not think he will actually.

Mr VICTOR DOMINELLO: I now have the information we discussed earlier. The free range farm I visited is called Oaks Organics. I am sure the owners would not mind me sharing their names; they are Peter and Julie Clinch. I can also give you their address off the record if you wish.

Dr JOHN KAYE: I will go to a slightly less delicate issue, which is pork. You might be aware that today the Australian Competition and Consumer Commission [ACCC] came out with some fairly harsh words about a number of pork labels saying "free range" or "bred free range". What is your response to that? What will New South Wales do to stop this? This is a long-running scandal. In the case of Otway Pork using "bred free range", it goes back to July 2000, when the ACCC found this label to be deeply misleading.

Mr VICTOR DOMINELLO: I have not had an opportunity to see the report. I think it was released today.

Dr JOHN KAYE: That is correct.

Mr VICTOR DOMINELLO: I will read it and would be happy to canvass my views with you after I have read the report.

Dr JOHN KAYE: That is probably sensible. You may strategically wish to address the free range egg issue first, but you would also recognise that there is a significant issue with deception around labels to do with other animal products as well.

Mr VICTOR DOMINELLO: We are well on the way to trying to get a historic outcome in relation to free range eggs. It impacts so many people right across the State. A lot of people in New South Wales consume eggs so it impacts on their lives.

Dr JOHN KAYE: And 40 per cent of those are buying eggs labelled free range.

Mr VICTOR DOMINELLO: That is why we need to get to a standard. Hopefully, by February we will get there, but I have a lot of work to do to get my counterparts on board. I can give you my assurance, Dr Kaye, that I will be passionate about this and will use my best endeavours.

Dr JOHN KAYE: Thank you, Minister.

The Hon. ERNEST WONG: Minister, thank you for citing the exemption Act. Who makes the decision to make the exemption and how often has that been revealed?

Mr VICTOR DOMINELLO: My understanding is ultimately I have to sign off on the exemptions.

The Hon. ERNEST WONG: You will make the final decision on exemptions?

Mr VICTOR DOMINELLO: Correct.

The Hon. ERNEST WONG: Can you provide the Committee with a list of all the partial exemptions that have been granted?

Mr VICTOR DOMINELLO: I hope to get back to you with that during the course of this hearing.

The Hon. DANIEL MOOKHEY: Otherwise, will you take it on notice?

Mr VICTOR DOMINELLO: Otherwise, I will take it on notice.

The Hon. DANIEL MOOKHEY: Minister, how many service stations in New South Wales are not subject to the ethanol mandate?

Mr VICTOR DOMINELLO: Again, I am not aware of that detail. We will take that on notice and if there is a note in the folders behind me, I will dig it out and get it to you.

The Hon. DANIEL MOOKHEY: Is Costco one of the service stations that is exempt from the ethanol mandate?

Mr VICTOR DOMINELLO: I will get that information to you.

The Hon. DANIEL MOOKHEY: Have you heard of Costco?

Mr VICTOR DOMINELLO: Yes.

The Hon. DANIEL MOOKHEY: Are you aware of the Costco company?

Mr VICTOR DOMINELLO: Yes.

The Hon. DANIEL MOOKHEY: Are you aware of the size of it as a global operation?

Mr VICTOR DOMINELLO: Yes.

The Hon. DANIEL MOOKHEY: Are you aware of how many petrol stations Costco has in New South Wales?

Mr VICTOR DOMINELLO: No.

The Hon. DANIEL MOOKHEY: Are you aware that Costco has a petrol station at Crossroads in Casula?

Mr VICTOR DOMINELLO: No.

The Hon. CATHERINE CUSACK: I am shocked you do not know that, Minister.

The Hon. DANIEL MOOKHEY: Are you aware that the Costco fuel station in Casula is one of the biggest petrol retailers in the State?

Mr VICTOR DOMINELLO: No.

The Hon. DANIEL MOOKHEY: Are you aware if the Costco retailer is currently exempt?

Mr VICTOR DOMINELLO: I am not aware of the specifics of the questioning at the moment, but I am happy to get the detail and get back to you, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Minister, are you aware of the regulation that is part of the Biofuels Act that specifies the number of service stations a company can own before becoming subject to the mandate?

Mr VICTOR DOMINELLO: I am happy to get the details and report back to you.

The Hon. DANIEL MOOKHEY: Would it be a surprise to understand that the regulation states that if a person or company owns fewer than 20 then they are exempt?

The Hon. CATHERINE CUSACK: Point of order: I know the member has been elected to this place recently, but he is aware that asking for legal opinions in committee hearings is out of order.

The Hon. DANIEL MOOKHEY: I am not asking for a legal opinion.

The Hon. CATHERINE CUSACK: You are seeking legal advice from the Minister. All of these questions seek legal opinions.

The Hon. DANIEL MOOKHEY: To the point of order: The Minister has already quoted from the Act. All I am asking is whether or not—

The Hon. CATHERINE CUSACK: Because he is a generous and knowledgeable Minister.

The Hon. DANIEL MOOKHEY: I did not interfere when the Hon. Catherine Cusack raised her point of order and she is taking my time.

The Hon. SHAYNE MALLARD: You did.

CHAIR: There is no point of order. The Minister has the right to answer a question if he so chooses or he can take it on notice. He can be asked for his opinion and if he is able to give it that is great, if not he can choose not to do so.

Mr VICTOR DOMINELLO: In response to a previous question, I have been informed that Costco at present is not a volume seller under the current definition.

The Hon. DANIEL MOOKHEY: Wonderful. As a result of that information, is Costco therefore exempt from the mandate?

Mr VICTOR DOMINELLO: I will get back to you on that.

The Hon. DANIEL MOOKHEY: Do you think it is fair that being a global retailer decides that Costco is exempt from the mandate on the basis of that regulation?

Mr VICTOR DOMINELLO: If I can refer to my previous comprehensive answer in relation to this, I am not suggesting for one moment that either side of politics has got this right. I readily concede that we need to do more to get it right and that is why we have taken steps to ask IPART to have a look at the various forces at play in the marketplace. Many of you, particularly the Chair, have looked carefully at some of the forces at play, whether that is bowsers, pumps, marketing et cetera. There are a lot of levers that may be used to increase the use of ethanol. IPART has given a comprehensive report and we are working our way through it. I have given a commitment to do my best to get a government response by the end of the year and the production of that report. I cannot be more comprehensive than that.

The Hon. DANIEL MOOKHEY: I understand. Do you think there is any correlation between the absence of a specialist unit and the absence of market information you are showing? Do you think the absence of any element of the compliance or enforcement strategy explains the reason, or is your department aware of any of these issues?

Mr VICTOR DOMINELLO: No. As I said, the fact that the Government has moved the functions of the Office of Biofuels into NSW Fair Trading is a demonstration that this Government is focused on the consumer and ultimately it is the best outcome for the consumer.

The Hon. DANIEL MOOKHEY: Minister, do you know who is the biggest producer and refiner of ethanol petrol in New South Wales?

Mr VICTOR DOMINELLO: Manildra Group.

The Hon. DANIEL MOOKHEY: Do you know where it is located.

Mr VICTOR DOMINELLO: Yes, although I have not been to the plant.

The Hon. DANIEL MOOKHEY: Where is it located?

Mr VICTOR DOMINELLO: I do not know the exact address.

Mr STOWE: Nowra, I believe.

The Hon. DANIEL MOOKHEY: Are you aware of how many people work at that plant?

Mr VICTOR DOMINELLO: No, I have never been there.

The Hon. DANIEL MOOKHEY: I am not asking that. I am asking: Are you aware of the number of people who work at the plant?

Mr VICTOR DOMINELLO: No, not specifically.

The Hon. DANIEL MOOKHEY: Are you aware of media reports about the viability of that plant that have appeared recently?

Mr VICTOR DOMINELLO: I have read reports.

The Hon. DANIEL MOOKHEY: So you are aware?

Mr VICTOR DOMINELLO: I have read reports.

The Hon. DANIEL MOOKHEY: Are you aware that in those reports the company has made it clear that the exemption, including the current design of the regulatory structure and the exemption that companies such as Costco have taken advantage of, has created a severe economic problem for that plant?

Dr JOHN KAYE: They would say that.

The Hon. DANIEL MOOKHEY: I do not know who said that, but I am asking the Minister.

Mr VICTOR DOMINELLO: I am aware of reports saying that, yes.

The Hon. DANIEL MOOKHEY: Has that caused you any concern?

Mr VICTOR DOMINELLO: Of course it has caused me concern and that is why the Government has asked IPART to look at the various forces at play in the market to see what we can do—

The Hon. DANIEL MOOKHEY: Did Manildra have an opportunity to make a submission to that report?

Mr VICTOR DOMINELLO: —in relation to increasing the uptake of the usage of biofuels. I will use my best endeavours to get the Government's response to this very complex issue by the end of the year.

The Hon. DANIEL MOOKHEY: Thank you. Did Manildra have an opportunity to make a submission to that report?

The Hon. CATHERINE CUSACK: Point of order: I want to take a point of order and I am entitled to do so. The Minister has been asked twice if industry had the opportunity and has taken it on notice. This line of questioning is badgering.

CHAIR: I do not believe the Minister has taken this question on notice.

The Hon. CATHERINE CUSACK: He has taken the issue of—

CHAIR: Order! I am listening very carefully because it is a matter of great interest. If the Hon. Daniel Mookhey wants to rephrase the question to ask whether the Minister is aware if Manildra had an opportunity to contribute to the IPART report as a witness, the Minister can answer.

Mr VICTOR DOMINELLO: I will take that on notice.

CHAIR: Thank you.

The Hon. DANIEL MOOKHEY: Does the Government have a specific process in place to address the concerns raised in the reports you have read about that plant, other than IPART or is it just the IPART recommendation response?

Mr VICTOR DOMINELLO: We are now working our way through the IPART report. I have been informed that Manildra has made submissions in relation to the IPART report.

The Hon. DANIEL MOOKHEY: How many applications for partial exemptions from the mandate have been refused?

Mr VICTOR DOMINELLO: I will have to take that on notice, the period prior to my ministry. Since 1 July—

The Hon. DANIEL MOOKHEY: Can I ask the question then of Mr Stowe?

Mr VICTOR DOMINELLO: Yes.

The Hon. DANIEL MOOKHEY: Mr Stowe, are you aware of that from the documents you referred to earlier?

Mr STOWE: I am sure my staff are and I am sure they will be happy to provide you with that information.

The Hon. ERNEST WONG: Minister, has your department received any complaints from consumers about E10?

Mr VICTOR DOMINELLO: I will ask Mr Stowe if he is aware of that.

Mr STOWE: The most recent complaints, I think, related to some adulterated fuel on the M4—that was widely publicised. We attended that particular service station to investigate what had happened. I understand that there was ingress of moisture into the fuel tanks, which caused the problem. The service station responsible compensated, I understand, the consumers whose cars were adversely affected. That was the most recent complaint I am aware of in respect of E10.

The Hon. ERNEST WONG: How many complaints? Only one or have there been regular complaints?

Mr STOWE: I do not believe there have been a high number of complaints about E10 fuel. As I say, the only one I can recall is in relation to water ingress into the contaminated fuel.

The Hon. DANIEL MOOKHEY: Minister, are you aware of part 4A (2) of the Biofuels Act 2007 which states:

The regulations may include any other person or class of persons in the definition of *major retailer*.

Mr VICTOR DOMINELLO: Do you mean section 4A or part 4A?

The Hon. DANIEL MOOKHEY: Part 4A (2) of the Biofuels Act 2007. I will rephrase the question because I do not want to make this a question about that part of the Act. Are you aware of any—

Mr VICTOR DOMINELLO: Which section were you referring to?

The Hon. DANIEL MOOKHEY: I was referring to part 4A (2) of the Biofuels Act 2007.

Mr VICTOR DOMINELLO: I think you mean—correct me if I am wrong—part 1, section 4A (2).

The Hon. DANIEL MOOKHEY: I defer to your superior knowledge of the Act.

Mr VICTOR DOMINELLO: It is not superior; it is just a reading of the Act.

The Hon. DANIEL MOOKHEY: Are you aware that that particular section states:

The regulations may include any other person or class of persons in the definition of *major retailer*.

Mr VICTOR DOMINELLO: That is what that section says.

The Hon. DANIEL MOOKHEY: On the basis of that section is it possible for a retailer like Costco to be included?

Mr VICTOR DOMINELLO: Again, in relation to the detail of that I will take the question on notice.

The Hon. CATHERINE CUSACK: Mr Chair, I accept your ruling, but the member is not only asking for legal opinions but he is asking for legal opinion in relation to a specific case.

The Hon. DANIEL MOOKHEY: To the point of order—

CHAIR: Order!

The Hon. CATHERINE CUSACK: It is completely out of order to do that under the standing orders.

CHAIR: I do not believe that this particular budget estimates session is on innovation and better regulation. I think it is totally in order that we can draw some questions from the regulations and the Act. At this point in time there is no issue. But the way some questions are being asked is sometimes out of order. The Minister was more than aware of the law in the question put to him.

The Hon. CATHERINE CUSACK: But not specific legal rulings.

The Hon. DANIEL MOOKHEY: To the point of order—

CHAIR: Order! I am not a lawyer or a barrister, the Minister is. If the Minister is unable to answer a question then he is welcome to say so. Once again the witness has the right to answer or not to answer. At this point in time the Minister has taken a lot of questions on notice but he has also elected to answer some. Until the Minister makes me aware that he is unable to answer a question on legal grounds then I will rule accordingly.

The Hon. DANIEL MOOKHEY: I ask that the member be reminded that she should not take frivolous points of order, particularly after she has said she has accepted the ruling of the Chair.

CHAIR: I will not give that ruling. However, I remind members that it is disorderly to interrupt.

The Hon. DANIEL MOOKHEY: Does the New South Wales Government sample and test E10 for ethanol content?

Mr VICTOR DOMINELLO: That is correct.

The Hon. DANIEL MOOKHEY: Since 1 July how many samples of E10 have been taken?

Mr STOWE: None. We have not been involved in that.

The Hon. DANIEL MOOKHEY: How many are planned for this calendar year?

Mr STOWE: I could not give that information at this stage. But we base our compliance and enforcement of work on risk assessment. So a risk assessment will be undertaken as part of that work.

The Hon. DANIEL MOOKHEY: When will that risk assessment be undertaken?

Mr STOWE: In due course.

The Hon. DANIEL MOOKHEY: When was the last one undertaken?

Mr STOWE: First, the last sampling would have been taken by the previous agency with responsibility for this area. We will do a risk assessment and we will discuss this issue with the Minister.

The Hon. DANIEL MOOKHEY: Is any planning currently underway as to when that risk assessment will be undertaken?

Mr STOWE: I think the Minister has indicated that there are considerable discussions taking place at the moment into how the Government will approach the ethanol mandate in the future. That will include how any enforcement work is done.

The Hon. DANIEL MOOKHEY: Is the implication that I am reading into your answer—and correct me if I am wrong—that that planning will not occur until after the IPART recommendation response?

Mr STOWE: No, it is ongoing. The Minister and I have had a number of discussions about how we will approach the administration of this Act, and that will be an ongoing discussion. In addition, the Government is looking at the wider issues of how its policy will work in this area and that will include compliance and enforcement activities into the future.

Mr VICTOR DOMINELLO: Absolutely.

The Hon. DANIEL MOOKHEY: So far no sampling has been undertaken this year? Well none that you are aware of?

Mr STOWE: This year?

Mr VICTOR DOMINELLO: That was not his answer.

The Hon. DANIEL MOOKHEY: No, I am just asking. It is a different question. Are you aware of any sampling this calendar year under the previous agency?

Mr STOWE: I would have to check the records. What I can tell you is—and I answered this before—I understand the previous responsible agency has taken samples in the past. I am very happy again to make the necessary inquiries to provide the Committee with that information.

The Hon. ERNEST WONG: So not since the Department of Fair Trading has taken over that function?

Mr STOWE: I understand that there has not been regular testing in this area.

The Hon. DANIEL MOOKHEY: So there has not been regular testing?

Mr STOWE: In the past there has not been testing every week of every year. I understand there probably has been dip testing at various stages, but I have said to you that I am happy to provide information based upon the records that the agency now has available to it.

CHAIR: Could you tell us about funeral plan scams, particularly in Aboriginal communities? Aboriginal communities are being targeted by unscrupulous traders. What are you doing about that and how are people responding?

Mr STOWE: NSW Fair Trading is leading the Indigenous consumer protection agenda for the States and Territories. One of the areas identified is the way in which Indigenous communities have been exploited in the past when it comes to funeral products. We are leading a national campaign intended to bring greater awareness to people in those communities about the different types of funeral products that are available. One area we have been particularly concerned about is insurance products that have been sold inappropriately to Aboriginal people.

As part of this process we will be letting people know about the range of products and what other means they have of supporting their funeral—in many instances people are not aware that they can actually receive support from the Commonwealth Government, local land councils and the like. We have quite a comprehensive process involved right across the country in making people aware of their entitlements. At the same time the Australian Securities and Investments Commission [ASIC] has also been looking at the activities in this area and will be taking compliance action where it finds breaches of the Australian credit legislation.

CHAIR: I have seen a lot of funeral plans advertised on television, but the writing is so small you cannot read it.

The Hon. CATHERINE CUSACK: You can read the phone number, but not the fine print.

CHAIR: That is right. Minister, you mentioned that the Government will adopt a number of changes to address red tape for small businesses. You said: "Currently there are about 769 licences in New South Wales and we live in an age where information is at fingertips. In fact, we have been bombarded by information and regulation. I think it is the job of government to take leadership and reduce regulation where it is sensible and that is what this review has done."

Mr VICTOR DOMINELLO: What a good quote.

CHAIR: Yes. What steps has the Government taken to reduce red tape? Can you indicate whether the one-stop system the Government is rolling out across the State is addressing these reforms?

Mr VICTOR DOMINELLO: I believe it is. The title does not refer to "less" regulation; it refers to "better" regulation. The reality is that we need regulation in the marketplace where there is market failure. We need regulation to protect consumers, and this Government is committed to providing it when appropriate. One way of reducing the interface between government and customers or consumers—apart from reducing red tape and regulation where and when appropriate—is to introduce synchronisation or streamlining.

These one-stop shops—which have been implemented through Service NSW—have proved to be very successful. There has been enormous client satisfaction. I think the last satisfaction rate I saw for Service NSW was 98 per cent. The Government is also committed to doing what it can in the regulation space. Where there are regulators in the marketplace, we should see where they intersect with businesses and where we can, for example, reduce the number of forms from 10 across 10 different agencies to one.

That tell-me-once approach to government is a good place to start. I have introduced a bill repealing four pieces of legislation, and I will shortly introduce another bill that will hopefully repeal a lot more and thereby reduce red tape. I am committed to reviewing the situation periodically. The Government has also commissioned the Independent Pricing and Regulatory Tribunal to report on licensing, which sometimes causes unnecessary red tape. That is the source of that figure of 769 different licences. We have said that we will look at the top 40-odd licences that cover the most in terms of volume and revenue receipts. We will target them to determine whether they are necessary, and, if they are, whether they can have a soft touch, be a negative licence and so on. The first thing we must establish is whether they are needed in the current market environment.

We also introduced legislation to amend the Motor Dealers and Repairers Act at the end of last year. We consolidated 22 licence groups or classes of licence into three. That is another simplification and therefore a reduction in the business/government interface. That is a good thing for businesses because it means less red tape and more opportunities for them to engage in the work they need to do; that is, servicing consumers and

hopefully employing many people in the process. Finally, this Government has a proud record. We committed to reducing red tape by \$750 million when we came to office in 2011. We met our deadline ahead of schedule, and by 30 June we had reduced red tape by \$815 million. That is just the beginning; we have a long way to go. However, I am committed to ensuring that we play a vital role in government by continuing our vigilance about the proliferation of red tape.

CHAIR: Numerous Australian standards have been developed for the building and construction industry that contribute to the safety, efficiency and cost effectiveness of building in this country. I would like to see an increase in public awareness of building standards. Responsible builders have told me that at times they are called in to repair the work of dodgy builders. They suggest that if the public were better informed they might question builders along the way and hopefully prevent disasters. Will the Government consider making these standards publicly accessible and free of charge?

Mr VICTOR DOMINELLO: I will let Mr Stowe answer that question.

CHAIR: You can take that question on notice.

Mr STOWE: I am happy to respond. I understand that building Ministers this year agreed that they would make this information freely available to everybody in the industry. That is indeed occurring; that action has already been taken.

CHAIR: Is it on the website?

Mr VICTOR DOMINELLO: Yes.

CHAIR: Please take that question on notice.

Mr VICTOR DOMINELLO: The Government's strata legislation includes a 2 per cent defect bond. It requires builders/developers to lodge money upfront and they cannot get it back. That provides an incentive to the builders to do the right thing during the construction phase. They will get their 2 per cent back if they do the right thing. We can also design schemes—for example, the strata reform—that will help to lift standards across the industry.

Dr JOHN KAYE: I have some questions about USB chargers, power boards and travel adaptors. How many noncompliant or unapproved devices have been withdrawn from the market in the past 12 months?

Mr STOWE: Dr Kaye, you might recall that we had a significant problem when this issue was identified last year. As a consequence, we immediately went to the marketplace and inspected many thousands of retailers across New South Wales. We identified about 60 noncompliant USB chargers.

Dr JOHN KAYE: Sixty brands?

Mr STOWE: Sixty individual USB chargers were removed.

Dr JOHN KAYE: Sixty items?

Mr STOWE: Yes. We have continued that program throughout the year. It was an intense program because there had been a death as a result of a faulty USB charger, and it was essential that we removed them from the marketplace. We have ongoing programs that are aimed at ensuring that those sorts of items are eliminated. Of course, they are supposed to be tested in the first place to ensure that they are compliant.

Dr JOHN KAYE: Of course, there was that tragic event to which you referred. Since then, how many items have been taken out of the marketplace?

Mr STOWE: I will take that question on notice.

Dr JOHN KAYE: Have there been any prosecutions?

Mr STOWE: I believe compliance action is underway. Those matters are still being litigated. Again, I am happy to take that question on notice.

Dr JOHN KAYE: Have any penalty infringement notices been issued?

Mr STOWE: I will take that question on notice.

Dr JOHN KAYE: Is this still a matter of concern to NSW Fair Trading? Does the office believe that there are still unapproved and noncompliant USB chargers and other items?

Mr STOWE: We are confident that since that event last year we have done a good job in making retailers aware of their responsibility to sell approved USBs. We have also had good cooperation from businesses that sell these items online. We conducted an intense campaign to ensure that we removed them very quickly from the marketplace. We are in much better shape because of that campaign and our ongoing activities in this area.

Dr JOHN KAYE: I refer to the Infinity cables that have been recalled. I am pleased to inform the Committee that I do not have any, despite the fact that I have had electrical work done. I have climbed into the roof of my house to check. Were those cables tested when they first came onto the market for compliance with the Electricity (Consumer Safety) Act 2004?

Mr STOWE: I believe that the suppliers had some form of certificate claiming that they met the Australian standards. However, when allegations were made that they did not, we tested them and it was clearly demonstrated that they were noncompliant with Australian standards. We immediately launched a mandatory recall across New South Wales. We are still prosecuting the company concerned. There are still matters before the court in respect of the supplier of those cables in New South Wales.

Dr JOHN KAYE: I know these cables have a half-life, as it were. Your testing immediately showed that the cables were dangerous.

Mr STOWE: There were several tests undertaken.

Dr JOHN KAYE: It was an accelerated insulation decay test, is that correct?

Mr STOWE: That is correct. The issue with these cables is that the plastic sheeting will disintegrate at a much faster rate. All cable will over time be subject to disintegration. In the case of Infinity cables it is much quicker. In areas of heat it is even further accelerated.

Dr JOHN KAYE: Have you looked at the people who signed the certificate which the manufacturers of Infinity cable claimed they had?

Mr STOWE: That is one of the matters before the court at the moment.

Dr JOHN KAYE: Are the consultants to that company currently being prosecuted?

Mr STOWE: It is evidence, I understand, that is currently being brought in terms of that prosecution action before the court.

Dr JOHN KAYE: Is it too early to say that a lesson can be learned from this? The total cost of recalling the cables is enormous. I imagine some of the cost is being borne by NSW Fair Trading in terms of inspections.

Mr STOWE: The whole issue with non-conforming products is being looked at generally. It is not unique to New South Wales, of course. I know the electrical regulators and the Australian Consumer Law regulators are looking closely at it. New South Wales has a good record of making sure that products that are sold in this State are compliant. As you would be aware, a number of electrical articles must be tested before they can be sold. They are tested either by NSW Fair Trading or expert organisations on our behalf. That ensures that these products that are used every day in people's homes are safe.

Dr JOHN KAYE: That is not true in the case of Infinity cables.

Mr STOWE: No, it is not.

Dr JOHN KAYE: They were tested by a company that was contracted by Infinity.

Mr STOWE: They had a certificate I think from the manufacturers in China indicating compliance.

Dr JOHN KAYE: Why was that certificate acceptable?

Mr STOWE: I am not saying that it was. In fact, that is the subject of court consideration.

Dr JOHN KAYE: Perhaps I should change my line of questioning. Is it correct that if I go any further I will run into matters of sub judice?

CHAIR: This relates to the point of order that my colleague raised earlier. I ask that you redirect your questions away from any matter that is under consideration by the court.

Dr JOHN KAYE: When do you anticipate that matter to be completed in the court, as much as you can say?

Mr STOWE: A further hearing is scheduled before the end of the year. I cannot determine how long the court will take to resolve it.

Dr JOHN KAYE: So it will be into next year before we know.

Mr STOWE: As you are aware, this matter has been going for quite some time.

CHAIR: Order! I do not think there is an issue with the time line.

Dr JOHN KAYE: Thank you, Chair. In general terms, leaving aside this court case, is it the case that consumers are being warned not to accept certificates that come with products from overseas that do not conform to the standards of NSW Fair Trading or to the standards of experts that you contract to do that testing?

Mr STOWE: That whole issue of conforming building products, which is what I think you are talking about, is a national issue that is being addressed at the moment by a Senate committee. The Australian Competition and Consumer Commission [ACCC], with the assistance of other States and Territories, is supplying information to that inquiry with a view to ensuring that in the future these sorts of issues are properly addressed.

Dr JOHN KAYE: You may like to take this question on notice. What was the total cost to NSW Fair Trading of its entire engagement in the Infinity cables matter? Are you seeking to recover that from the distributors?

Mr STOWE: I cannot tell you what the total cost is. The distributors have gone into liquidation and do not have any assets, so there will not be any opportunity to recover costs. As you would probably be aware, with Infinity cables this is now a national voluntary recall that is being coordinated by the ACCC. So it has taken a leading role.

Dr JOHN KAYE: Is New South Wales still engaged in it?

Mr STOWE: We are still pursuing the original supplier. That court action is underway. We have also imposed a mandatory recall on the 25 small suppliers in this State who were involved in providing Infinity cable to consumers and householders in this State.

Dr JOHN KAYE: Thank you.

CHAIR: Sadly, that concludes this informative hearing.

Mr VICTOR DOMINELLO: It has gone so fast, Chair.

CHAIR: It has. I wish we could stay longer, Minister, but we all have other things to move on to that are just as important. Thank you, Minister, and thank you to your officers for presenting today. You took a

number of questions on notice. You have 21 days to provide your responses to the Committee secretariat. I appreciate your efforts this afternoon.

Mr VICTOR DOMINELLO: Thank you, Chair.

(The witnesses withdrew)

The Committee proceeded to deliberate.
