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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO, QC, COMMISSIONER

PUBLIC HEARING

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 9 AUGUST 2010

AT 2.00PM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Mr Gormly.

MR GORMLY: Commissioner, we have Ms Fiona Davies from AMA New South Wales present to give evidence.

THE COMMISSIONER: Would you like to give your evidence under oath or would you care to affirm the truth?---Oath, thank you.

10 <FIONA CLAIRE DAVIES, sworn [2.03pm]

THE COMMISSIONER: Yes, Mr Gormly.

MR GORMLY: Ms Davies, your full name is?---Fiona Claire Davies.

And I think you're the Chief Executive Officer of Australian Medical Association New South Wales Limited. Is that so?---I am.

20 You've been with the association since June 1998 so 12 years?---Yes, that's correct.

THE COMMISSIONER: Did you give evidence in the Negligence Inquiry?---No, I didn't 'cause it had a different role at that time.

I see. All right. I know that your association was what might be termed an energetic player?---I, I certainly remember your role very well, yes.

30 MR GORMLY: All right. Now, you have a Bachelor of Business from the University of Technology, a Master of Business and Employment Relations so you're essentially, that's industrial relations?---That's correct.

And that's also from the University of Technology in Sydney. And in a prior role with the AMA I think you've been the director of Workplace Relations and Human Resources. Is that so?---That's correct.

Would it be correct to say that you set the role for the, set the strategic direction for the secretariat of the AMA?---Yes.

40 And that the AMA is, AMA New South Wales is a body that has I think eight and a half thousand members. Is that so?---Around eight, yes.

Eight?---I think we might've revised our figures down slightly since that time so about 8,000 members at the moment.

Right. The AMA nationally I think has some 27,000 members?---That's correct.

Is its membership doctors?---You have to be a registered medical practitioner to be a member of the AMA.

Right. So there are none, no non-registered medical practitioners, you don't have other categories of membership?---Other than medical students and again they have to be registered.

All right. About how many of them are there?---Medical students?

10 Yes, in New South Wales?---I'm not sure off the top of my head, a few hundred so not a significant number.

All right. Now, I think the AMA itself is a fairly substantial body employing some 30 staff. Is that so?---That's correct, in New South Wales, yes.

All right. And I think it sees itself as a body that will pursue the interests of, within the health system generally and of medical practitioners in particular?---Medical practitioners and patients, yes.

20

Right. Thank you. Now, Ms Davies, is there anything that you'd like to say by way of a preliminary statement?---Yes, I will. AMA New South Wales is the largest representative body for medical practitioners in New South Wales. We represent around 8,000 doctors with members ranging from medical students to retired doctors. Membership is limited to registered medical practitioners and membership of the association is completely voluntary so we don't have any compulsory elements to our membership. AMA New South Wales is a company limited by a guarantee. We're also registered as an industrialised association of employees under the provisions of the Industrial Relations Act in New South Wales. We're funded by membership income and commercial arrangements, we don't accept funding from government other than for reimbursement of expenses for specific projects such as training on occupational health or similar grant-based activity. We're managed by a board of eight directors elected from a council of 30 doctors each year and the council is elected from the membership every two years and comprises of geographic and specialist representatives. In a survey of members over 70% members nominated policy as one of our most important activities. We also undertake a range of other activities. AMA is recognised under the Health Services Act as responsible for negotiating the contractual terms and conditions for visiting medical officers in New South Wales and visiting medical officers of a senior salary, sorry, senior medical officers who work on a contractual basis in the public hospital system. We also provide employer association services for doctors in private practice, we offer industrial advice and employment support to salaried doctors including doctors in training. We are required to appoint nominees on a range of government committees including the Medical Services Committee, Medical Council of New South Wales which has replaced the Medical Board recently, committees on

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fluoridisation, RTA and other committees and on this basis we interact with government very regularly. So it's just to give you an idea of the scope of our activities.

MR GORMLY: All right. Thank you. So would it be fair to say that the AMA, I hope you won't regard this as derogatory, I certainly don't, is to some extent a trade union and to some extent a peak lobby group?---Yes. We wear a range of hats, that's right.

10 All right. When you say that there's nothing compulsory in your membership does the AMA take a role in professional indemnity insurance?---No, it doesn't.

Right. Now, I want to ask you before we get into what the AMA does as a lobby group itself whether or not the AMA is itself lobbied. Do you find that the AMA receives lobbying activity?---Not in a particularly systematic way, usually from small groups of say community groups on issues like seatbelts in buses or other related activities but not in a particularly systematic way, no.

20

What about by other medically related organisations like the various some Cancer Councils?---We work with them on public health policies so certainly the Cancer Council, yes, we do work with them. I guess I wouldn't have described it as being lobbied but probably that's in the broadest definitely it would fit into that category, yes.

Why would you put them at all in the category?---Well, I tend to think of us having very shared interests on having, we work together strongly on significant public health projects, so we have very much the same objectives and do often approach government jointly together.

30

So if there's going to be disagreement it's only about how rather than what?---Yes. And I can't think of any instance in which they've raised a policy position that we've had a concern about.

Right now before we also get to your lobbying activities, you said in your introduction that you, that is the AMA, did not accept funding from government?---No.

40 I take it you mean by that that even if it were offered it would be rejected? ---It's very rarely offered. The exception to that is where there's programmes that are related to the education for specific examples, such as GST, major changes in industrial legislation or Occupational Health and Safety we've accepted those grants. But we otherwise don't tend to accept government funding for other projects.

Right. And what's the reasoning behind that?---Generally the difficulties in, in being at times needing to be critical of government with also any level of reliance on funding from them.

So you want to avoid compromise the effect or capture?---Yes. Yes.  
Mmm.

10 All right. Now Ms Davies, can we get down to the, to the task that the AMA has for itself in, in promoting member and patient interests. Can you tell us is there a, an approach of techniques that the AMA would principally use to pursue it's goals with government?---It would depend on the issue. But generally it will be a combination of going to our members to get an understanding of the concerns and issues that they have. Considering whether it's appropriate that those concerns and issues also get raised through the media. Or more directly, that they're then raised with government or New South Wales Health and we put forward the issues and concerns. So that's, or we at times seek other stakeholders to work with, so on issues of public health, we'll often use other lobby groups to work and approach government with jointly.

20 Would I be right in assuming that the AMA doesn't usually have trouble getting access to government?---That's correct. We, we always go through occasional phases where we're in or out of favour, but those tend to last for a period of months and are usually fairly easily resolved. And in credit to the current government, they're very understanding of the need to consult with a range of stakeholders from the medical and health professions. And in the, in the course of your needs to approach government, who would, if you were to approach the minister of health or somebody in health, without having to specifically name names, what, what is the mechanism by which you would secure access?---We'll usually make contact with the chief of staff or the secretary in the office to request a meeting. And most of our discussions happen at quite a formal level with the minister and the chief of staff present.

30 Can I just ask, if you ring the minister, or if you ring the chief of staff or the secretary, are you able to get an appointment straight away or are you rung back with a time?---We are usually rung back with a time.

40 Do you nominate times in the first place?---Only in a broader period of over the course of a couple of weeks or so, mainly because we do tend to take our elected representatives with us. So there's some level of diary management that's involved in that.

All right. How many might attend a meeting with the minister?---Usually myself, our director of policy, our president. At the moment because we have a federal president from New South Wales, he'll usually attend and possibly one other.

Is your director of policy a medical practitioner?---No.

It's an employee of the - - -?---An employee.

Right?---Yes.

What kind of qualifications would that person have?---He's got qualifications in economics.

10 Right. And then your president of course is a medical practitioner?---A medical practitioner.

Right?---As is the federal president and any other office bearer that we will take will be a medical practitioner.

So that's at least three of you. Might there be more?---Generally not more. That's about the usual number.

20 And when you attend may I ask where you would see a minister?---Usually in the ministers office. The meetings rooms at either at Parliament House or Governor Macquarie Tower.

Right. And when you attend the meeting who is present from the non-AMA side?---Usually the minister and the chief of staff and at times a representative from New South Wales Health, depending on the issues that we're discussing.

And will the issues already be known before you get to the meeting?---Yes.

30 How will that have occurred?---At the moment we're focussed on the issues associated with COAG health reform agendas so there does tend to be just one agenda writing but often we'll have an exchange of correspondence in which we set out the formal issues that we wish to discuss at the meeting.

At the meeting itself I take it, I'm sorry, I withdraw that. Does anyone take notes during the course of the meeting?---Usually I'll take notes and I do tend to note that the minister and the minister's staff usually take notes at the meeting.

40 Right. And I'm sure this will vary like a piece of string but are you able to put a rough time on the, how much time a meeting out take?---No, it's generally an hour, that's - - -

Right. When you attend a meeting with the minister and an officer of the department is present are you able to say whether that's usually the director general or is it usually someone else?---It's usually not the director general, it has, in, in, with this current director general it hasn't been the director general in the last couple of years.

Will you usually know the other person present?---Yes.

All right. Do you usually know what kind of qualifications that person has or why they're there?---Yes.

Have you ever requested that they be there?---No.

Right. So that's the minister's discretion in effect?---Yes.

10

Right. And are you aware whether, when a meeting occurs that that departmental person has already been informed or does know about the correspondence or the intended content of the meeting?---I don't know whether they know or not. We would have no trouble if they did but I don't know.

20

All right. Now, in the, in the course of the meetings that are carried out, and I'm not intended to intrude into the content of the meetings here, Ms Davies, but does it ever happen that there are matters that either side would regard as confidential or not appropriate for publication or not?---Usually only in terms of timeframes or in terms, as in a matter maybe is going to Cabinet and we're being sought for advice as to how it may be considered but actually that doesn't, the only instance in which that's happened was recently with a much larger group of stakeholders. It's also only confidential in that if issues are put to us to say there's a range of options and how do you think different options may work in the health system, for instance, you know, where are we going to draw the line on a boundary, we would respect the minister's confidence about not going out and releasing all of the other options that may have been put forward to us in the course of discussion.

30

What would you see as the reasoning behind that?---It's really important that ministers are able to seek advice from the doctors who work in their health system about what the implications of changes will be and we see that as that, that they should have the confidence that we're able to, that they're able to have that sort of open discussion with, with our doctors without feeling that we're going to subsequently go and use that information against them.

40

So that perhaps a minister could tentatively express a view without - - -? ---Mmm.

- - - being bound to it in any way?---That's right.

Or asked questions?---Mmm.

Right. You'd respect all of the contents of that meeting?---Yes.

Do you, do you understand that to be mutual?---Yes.

That you give an opinion but change your mind later for example?---We'd really give them some notice that we were changing our mind later but, yes, I would respect that the views we'd put forward wouldn't get repeated further on.

10 And why do you regard that as useful?---Because a big part of our role is to, to ensure that we're able to, we know health administrators will not always get all of the decisions right in terms of the issues we think our, our members are concerned about and we want for them to feel that they can come to us and, and seek advice on the sorts of issues that may, as to how, how decisions will work in practice.

I'm just not clear on who you're referring to there, the health administrators?---The minister, all, all officials within New South Wales Health.

20 I see. All right. Now when you, you don't object to the use of the word lobby?---No. But I must say, it hasn't been how I'd have thought of us, but it's obviously, given the definitions in the, in the documents, it's clearly indicative of what we do.

Well, put aside the definition. How would you have described yourself before reading the issues paper?---Probably more as advocates. Lobbyists does have a, have a connotation, right or wrong. But what we tend to - - -

30 THE COMMISSIONER: What connotation?---Well, I guess it has the sense of representing a direct interest, which I guess we, we do. But we tend to describe our activities in terms of advocacy. But - - -

MR GORMLY: More about the connotation, why would you, what's the connotation? Feel free to say?---I guess it's in terms of - - -

40 THE COMMISSIONER: We've heard it all before?---Yes, I'm sure you have. I guess to the extent that it may have a connotation that people are obtaining an individual commercial benefit, whereas we very much either, either because of the issues we run or the nature of our membership we don't take on issues that will have an individual commercial benefit. And I think lobbying does have some connotation of, of individual personal gain or, or financial gain.

If you'll forgive me I find that so artificial. I mean you're talking about a group, so there's a group of doctors who you represent?---Mmm.

So if you've got BHP, they're a group of geologists and miners and clerks who they represent?---Mmm.



What's the difference?---It's possibly the issues that, there's probably no difference in the group. It may be about the issues that we put priority on or that we spend our time raising.

Well, there are, but I'm talking about from a point of view of calling, of saying that you're not a lobbyist?---No, I've conceded we are lobbyists.

I know, I know you have. I know?---But it hasn't been how I'd have thought of myself. So I'm - - -

10

We're trying to explore that, not, not for, it's just to get a better understanding of what it is that the, that is generally understood by that term. So can you, how do you regard it or what do you think a lobbyist is? ---As I mentioned, I would've thought it involved more of an element of, of representing a third party and the commercial benefits associated with that. But that's a very narrow definition and I - - -

Yes?---concede that.

20 Yes. But there are commercial benefits which accrue to your members as a result of your efforts?---Yes. There are, yes.

And it's not a third party in the sense that you're an independent contractor acting on behalf of some group who, you don't put yourself out in the market to represent anyone?---No.

You just represent a group of doctors and you always have the same customer?---Mmm. Yes.

30 Does that have, do you think that has a different moral weight attaching to the one and not to the other?---Not in terms of the issues that we focus on and the environment in which we work. I, I, yes. I see it differently. That's, and I guess because of my understanding of the, of the activities we spend our time on.

Yes, thank you.

40 MR GORMLY: I suppose in a sense your, your organisation is jockeying, that is jockeying for funds perhaps or attention or for a legislative focus on your field in contest or in competition with others?---Yes.

Yes. I'm not trying to talk you into a definition here, Ms Davies. It's just exploring the boundaries of the word lobbying?---Mmm.

Is this correct that while what you dislike about being called a lobbyist is that there are connotations to lobbying which are unattractive?---I didn't say I discussed it, I said it wouldn't of been how I'd have described myself.

Sure?---But I think there can be, there can be connotations that can be seen as, as unattractive in a, I guess to give an example of where we have put our issues forward and had some concerns about the lobbying and on the sides, we're running a campaign on trying to reduce alcohol related harm. And, and that has shown how difficult it is to put forward what we think is very obvious and straight forward evidence, that really is there a great community benefit to having pubs in Campbelltown open til 6.00am.

10 Mmm?---And that is a very difficult message to put out there. And there are clearly lots of competing interests suggesting that, that that, that our concerns and messages aren't, aren't appropriate. So I guess that would've been - - -

THE COMMISSIONER: Tobacco's another area? Tobacco's another obvious one, yes.

MR GORMLY: So in a sense you're having to jockey with government but not jockey against government you're jockeying with the lobbying of other private interests such as the hotel industry or - - -?---Certainly in that, in that  
20 campaign, yes. So we've joined with the Police Association and the nurses and other groups and, yes.

THE COMMISSIONER: And also are there issues say with Medicare where you try to get better benefits for your members?---Only New South Wales doesn't have a role in terms of Medicare benefits. Our federal body has a structure that deals with those sorts of issues. We deal with remuneration in terms of visiting medical officers and that's a very defined process.

30 (not transcribable) health funds, the relationship between doctors and health funds generally and the monies a health fund pays is that also an issue for the federal organisation?---More for the federal organisation and different path groups and societies, yes.

But there again, I mean the issue there on the federal level is really aimed at getting the doctors more money to put it crudely?---For federal AMA?

40 Yes?---I couldn't answer on their direct activities of lobbying health funds, it actually tends to be more about the environment in which doctors are able to practice.

Lobbying government for additional benefits for doctors?---Through the various processes that apply to federal AMA, yes. Well, that's quite a complex process though putting up fee changes.

I said putting it crudely?---Mmm.

MR GORMLY: Ms Davies, what about the various, again I'm not seeking to name names here but there are various pharmaceutical lobbies perhaps individual companies or groups or companies for groups of drugs, do you as the AMA find yourselves at times either aligned with or against those kinds of lobbies?---Certainly not at a state level and to my knowledge not at a federal level either. We have very limited relationship with pharmaceutical companies and pharmaceutical lobby groups.

10 You mentioned a couple of minutes ago that you may find yourselves aligned at times with police and nurses and so forth and other groups. Is that something that may be organised by one or other of those groups involved?---Yes, usually. So the Police Association has taken the lead on the last drinks campaign and we've become involved because it's an issue that also impacts on our members and because our members are concerned about health, broader health impacts in our system.

THE COMMISSIONER: And do you find it, so who are you faced with there, is it the hotel lobby?---I presume so. Yeah, I presume it's the hotel lobby. We've raised the issues with government and opposition and I must  
20 say had very little joy, we had the, the sort of famous wowser comment that was the first response from government. I presume - - -

Other lobby groups would oppose you there?---I, I presume it's only the Hotels Association but I, because I have not seen other groups who are supporting the position but I, I could be wrong.

MR GORMLY: Do you presume that because the way the lobbying system works you aren't usually at least at government level pitched against your  
30 opponent, you don't see your opponent?---Yes, that's correct. I mean it's really who is visible in the media as expressing concern I'm responding.

THE COMMISSIONER: Would it help you to know that the hotel lobby is seeing the minister regularly while this is a hot issue or is that something you assume anyway?---Well, I must say indications of donations and the public nature of donations possibly gives you an indication of why this issue sits in a certain way. It would probably be of, I don't know that it would necessarily change our campaigning approach to have that level of detailed knowledge but it - - -

40 MR GORMLY: What if you saw a, if this kind of lobbying was exposed to public view, that is, you can't see the minister unless your name goes on a public register, would it assist you to see the names of other people or other groups that surprise you but who are plainly there to lobby in effect against the interests you're promoting?---I can see the benefits of it, I can also see the limitations of it and certainly something as simple as a register with the minister would probably not be a major impediment to what all of us are trying to do. Certainly where there's significant commercial benefit I can see that having access to come of that information would be useful.

Let me give you an example. Let's assume that you are endeavouring to, in alignment with the police, the Nurses' Association and someone else, the St Vincent De Paul Society, endeavouring to lobby the government for reduction in closing hours in some way and you have assumed that a hotel group, the AHA, is lobbying against that as you would expect them to do?---Mmm.

10 But you may be completely unaware of the fact that some three or four groups of some alcohol manufacturer is also lobbying the minister on exactly the same thing, that is, backing up the AHA. Would that be of assistance to you to know that or do you think that if they went unknown it wouldn't matter?---No, I think it would be useful to know.

It might affect the way in which you put your campaign?---Possibly, yes.

20 THE COMMISSIONER: And the tobacco industry?---Yes. Alcohol is probably the, you know, tobacco has, the community's expectations of tobacco have somewhat moved on but yes, to have transparency about corporate entities like tobacco and, and alcohol would be useful.

MR GORMLY: Right. It, it is true to say that at the moment for you as an active lobbying body, you don't really know who else is lobbying the minister?---No.

30 THE COMMISSIONER: Would you have any objections to your name going on a register showing what meetings you have with the minister? ---We publicise most of the meetings, in fact we publicise all of the meetings we have with the minister in simply listing that we met throughout New South Wales Doctor and as long as was the level of administrative oversight that would be required I would not see a difficulty with that.

MR GORMLY: And as long as the confidences that can occur within a meeting can be retained I presume?---Yes, that's right, we'd want, we, we record it to our members as simply a meeting with the minister on a certain day.

40 What's AMA New South Wales' position on donations, does it make them? ---We have in the past although at a very small level. We don't, we prefer not to and certainly in the past two and a half years we haven't made any. We've attended a couple of the very low cost sort of parliamentary functions but that's been, I think, the most significant payment for one of those was about \$100.

Is that a, an institutional decision not to make donations?---Yes. It's, our constitution allows for it but we do have to go through quite a detailed process to do it and it's just a preference. Certainly it's a certainly

preference that I have that I don't think it's, I think there's a lot of value in not making donations.

THE COMMISSIONER: Has any pressure been put on you to make donations?---No.

MR GORMLY: Are you excluded from functions or events because they are connected with a donation?---No, none that we've wanted to go to so far.

10

All right. You're, you're no doubt aware that for some industries you can attend a function with the minister or a minister or perhaps have a minister sitting at your table in exchange for what would amount to a fee well beyond the cost of the function?---Yes.

And that that would amount to a fundraising activity?---Yes.

20

Have you or you, the AMA New South Wales ever participated in events of that kind?---I've attended a Ku-ring-gai breakfast briefing, a dinner at Jillian Skinner's house but as, that's \$50 and the other one's about \$100 and about four years ago I understand some of the, the president and some board members attended one of the more higher priced ones for one of the parties but as I said, in, in my time I get all those invitations, we don't proceed with any of them.

30

Do you think one of the reasons for that might be that unlike perhaps other industries that yours is in a sense a critical industry and if you want access to a minister you're just going to get it anyway?---Yes, and that's why it's easy for us to take a high moral ground position on this issue, because I agree. We, we are in a very fortunate situation with the nature of the, the people we represent so that's, I certainly wouldn't say that should then be a basis to applying that position that we take to other people.

THE COMMISSIONER: Are there designated employees in your organisation who will go and see the minister or senior bureaucrats?---Yes. Really we have, I have myself and four, four directors and nobody below director level will go and see ministers or chief of staff and effectively it ends up being around three of us who will interact.

40

Would you object to them, their names being disclosed on a register as persons who may go and see the minister?---Minister or chief of staff?

Or both?---It's hard to see the additional benefit in, in doing that and, and certainly where, this is where when it gets to sort of operational day to day issues will that start to impact on, on people's operational day to day issues, as to does that level of detail need to be reported.

MR GORMLY: How might it?---At the moment because we are dealing with major health reform we are communicating with the chief of staff a bit more regularly than we normally would.

10 When you say we, you mean other people apart - - -?---Others at AMA, myself and my director of policy, by that I mean maybe once every couple of weeks by phone call or by email and that would be simply because there's a major discussion paper out at the moment. Whilst I wouldn't see that that's anything that we have to hide I would, I would not like there to be  
10 an impediment that came in the way of being able to have a free-flowing exchange of advice on really significant issues about the health system.

THE COMMISSIONER: I'm not sure how that would stop that?---I, it wouldn't, it wouldn't cause any concerns from our end but I would not like it to become a problem for the, the minister or the chief of staff that they felt there were only a certain amount of times they could talk to the medical profession or others.

20 I'm only asking, my question was would you object to the names of the persons who speak to the minister being recorded in a register and that doesn't have anything to do with the number of times those people see the minister or when they see the minister or about what they see the minister but merely that these are the persons on behalf of the AMA who see the minister?---Who see the minister. Yeah, no, sorry, I misunderstood your questions.

30 Do you have an objection?---I, I wouldn't see that as a major problem. I can't necessarily see the full range of benefits of that but I wouldn't have a problem with it.

40 Well, it does enable, if the, if the register does, should the register, and this is a possibility that's been suggested to us, that the register should show what meetings are held and when and that's all, no other information and if you put the names of the individuals someone searching the register just seeing the names may not recognise who they are or what they're there for so, but if the register says AMA and these are the people who see the minister, then it makes it more transparent, that's all?---Right. I can't, I can't see at an operation level that being a major problem although that obviously does appear to move not for profit organisations into having a very similar standing to a range of full-profit or commercial and we do have some level of concern about how that will act, should there still, we would still like to see some level of distinction between not for profit or peak body associations.

Why is that justified?---Because of the, I presume there was some justification to it in the original exemptions and because of the - - -

We're searching for it?---Because of the nature of the issues that we interact on and whether there is a significant justification for putting peak bodies and professional associations into the same category as a commercial lobbyist.

10 Do you mean to say that there is some certain, some altruistic element in the objects of the not for profit organisation?---I would like to hope that there is some altruistic elements. And also in terms of it's a very big sector. Issues that may be appropriate for an organisation that's resourced at a certain level such as ours or what impact that will have on the resourcing. It does just seem to be a big decision to, if the decision is to make, to remove the distinction between corporate lobbyists and - - -

We are talking about listing the names of persons to see the minister and the dates of meetings. How does that impact on resources?---That's, I can concede that that may not necessarily be the case.

MR GORMLY: Can I explore a couple with you?---Mmm.

20 A couple of possibilities that, first of all can I just, are you concerned about being in effect lumped in with the third party lobbyists, that is that it's not so much that you're concerned that you're going to be put on the register, is that you're going to be put on the register with them?---Yes.

Is that possible?---I think there should be a distinction.

30 Because you see them as being not, not altruistic or not acting in the public interest?---Well, because they have a for profit role. There's a commercial - - -

THE COMMISSIONER: For them as individuals?---For them as individuals, it is, it is their business for which they are rewarded upon, which is, you know, that's their business is - - -

Yes?---And I, and I think it would, it appears from my reading that this distinction is, is fairly widespread, but what the right line - - -

40 MR GORMLY: You think (not transcribable) with your image?---Yes. I don't believe we should be put into the same group as not for profit - - -

THE COMMISSIONER: And do you say that the persons who go and see the minister for not for profit organisation are doing it otherwise than for money, for themselves?---I think, yeah, I think there's a range of other reasons that not for profit organisations interact with government.

Yes, I know, that's true. But what about the people who do the lobbying? ---As in, does my salary change depending on - - -

Yes, but you get paid to do that?---Yes, as part of a range of other things that we do. Yes. But it's not my - - -

Yes. So because you do a range of other things you should be excluded from the register?---No. My point is I don't believe we should be put on the same status. If there is to be a change to the registration arrangements, I don't believe they should be similar.

10 What if there was a separate register for NGO's, would that be a problem?  
---That would seem a better solution.

I see.

MR GORMLY: All right. Ms Davies, sorry, just give me one moment. One of the reservations you appear to have about publication when you were asked about putting names, it occurs to me it might be the problem of leakage by in effect no professional lobbyists. And I don't mean to cast  
20 dispersions on any of your members. It could happen in any organisation, but lobbyists are generally very good at and are trained to hold information, not speak to the media, bat the media away, bat inquiries away. It may be somewhat more difficult for say a medical practitioner who phones  
themselves in a volunteer but elected public role. Do you think that if the names of the three directors who may otherwise be medical practitioners is made public, that it would be harder for them to maintain the secrecy of, the confidentiality of the content of meetings with ministers?---Possibly, yes. In that they may be more directly contacted by media. It would be expected  
30 certainly that our president would attend, but we do often bring other doctors who may have specific expertise in that particular instance. And yes, naming, naming them and including them in a public register, that could be one of the, perhaps (not transcribable) some concerns.

It might perhaps make them vulnerable to media inquiry?---Mmm.

Would you adopt the view that some media training of persons in board directorships might solve that problem?---We train all of our spokes people in dealing with media. But - - -

40 THE COMMISSIONER: They do that with ICAC Commissioners?---The issue can also be that in dealing with the regular series of journalists, that you, you interrelate within health, that even when you have to say I'm sorry, I can't tell you what happened in that meeting, there can be, and most of them will accept that, there's obviously, then you can at least, you can even just report that they went and they met. We can't prevent that from being an issue.

MR GORMLY: If there's no privacy issue would you agree that so far as the names of elected persons concerned attending a meeting with the minister?---No, not directly. No.



Right. But not even indirectly (not transcribable)?---No. As in we don't keep that confidential. But it is a little different that it's, they're medical practitioners that it's published on a register. I must say I hadn't considered the full implications of what it would mean.

10 I appreciate there can be two sides to every argument, but can I put this to you, that if a medical practitioner stands for an elected position in the AMA and is selected by their peers for a board position, that if they are carrying out the business of the board, it is inconsistent for them also to continue to claim some kind of privacy from scrutiny?---Well, my concern doesn't relate to the elected officials.

Right?---And certainly whilst it's very unusual that we will have people who aren't involved in our counsel meeting the minister, for AMA meetings it's not uncommon in the broader medical profession that that will happen.

20 Right?---I guess from, or that we would have instance for a particularly significant local issue in which we may choose to call on a person who's not on our board or our counsel to attend. And it would be a pity if we had to sort of send them off on their own, because on their own they were not required to be registered and with us, it's, it's not something that happens all that frequently, but it, it is an issue that could potentially arise if we were dealing with a very localised matter. In changes to Area Health Service boundaries that we're about to deal with, we would expect there will be meetings directly between groups of local doctors that are affected. So that is a scenario that could arise.

30 Okay. Can I take you to another area. As I understand it although the AMA doesn't make donations and does have good access, it nevertheless has a, an annual ball or dinner, I think it is, is it?---Yes, we do.

Right. And you usually invite a politician, the word I have is host?---Yes. Because we hold it at Parliament House so we're required to have a host, as I understand it, well, we do, yes.

40 (not transcribable) there's no criticism when I ask this question, what is the purpose of that dinner?---The purpose is to raise funds for the AMA's foundation. So we held it last Wednesday night and we raised funds, this year we raised funds for Head Space and the Children's Hospital at Westmead.

Who was your host on this occasion?---Barry O'Farrell.

Right. Can you remember who it was last year?---Barry O'Farrell was the host last year and Reba Meagher the year before. When she was in her role as Minister of Health?---As Health Minister, yes.

Right. All right. And when you say the AMA Foundation, is that a research foundation?---No. It's a charitable foundation. So we, it's registered as a charity and we collect donations from doctors and choose projects throughout the year to put donations towards.

All health related?---Yes, all health related.

All right. Ms Davies, I understand that the AMA also uses the possibilities of research as a, as a means of advocacy with the government. Is that right?  
10 I may have put that badly?---In the context of surveys of members or, not, obviously not clinical, we don't undertake clinical research.

Does the AMA, oh, I see, so it may be membership research? Research about the views of your memberships?---Yes.

I see?---We undertake extensive surveying of members, yes. So research in medicine has lots of connotations. That's it.

Yes. All right. But what you're talking about there is in effect views,  
20 dominant views?---Yes.

You do that through a central media communications. Is that so?---That's right.

Right. Is that the only means by which you do it?---We retain a central media actually more to manage our day to day public relations and media, as in, not access to government but media releases, media management and that's something we'd done in the last 12 months. And we do also use them to, it's actually more intended to engage our own members to be part of the  
30 decision making process within the AMA.

Right. So far as government relations are concerned you do it yourselves?  
---Yes, we do.

Have you ever used third party professional lobbyists?---No. Certainly not in my time as CEO and previously I'm not aware that we've ever done it.

Have you ever considered doing it?---No.

40 Right. What's the reason for that?---Mainly that we don't need to.

Right. You can do it pretty effectively yourselves?---Yes.

THE COMMISSIONER: And you're probably better qualified with the technical know-how?---It's a very important part of what we seek to do is that we want our own members to be the voice that mainly interacts with government?

MR GORMLY: Is that a yes?---So that's a yes.

Right. All right. Do you know why, I'll withdraw that. Do you know to what extent your membership joins because you are a government lobby group?---That's, in the recent survey about 70% of them said it was the most important aspect however our membership would be higher and better if it really genuinely was only that. Doctors join the AMA for a range of reasons, some of them commercial, some are individual industrial arrangements. There's no question that our voice with government and standing with government is something that most members will list as important to them.

And is there any further information as to how that actually fills out as an idea in the minds of the membership?---I'm happy to provide the survey we undertook on the views of members. The reason for my hesitancy is that that is a consistent result on every survey but selling advocacy to doctors is, is always challenging and it's one of the many aspects that we put forward to them as a reason.

20 We would be grateful for that survey, Ms Davies, if you wouldn't mind, we'll contact you about that later if we may?---Ah hmm.

Now, I just want to explore with you the, again without wanting to intrude in any way into the content of the meetings, explore with you the degree of verbal contact that may exist between a body like AMA New South Wales and government. I assume that when there is something significant on there's probably reasonably frequent meetings. Would that be right?---Yes. Every, probably every couple of months if there's, is about what we're dealing with with the major health reform issues so six to eight weeks something of that nature.

30 So that would be a face to face meeting with the minister?---Yes.

What about contact with the chief of staff, how frequently might that be whether by phone, I'm only interested in verbal here not written?---And again because of the significant reforms probably every couple of weeks we would be speaking and now there's a discussion document out it may be every week, something of that nature.

40 Right. And would that account for the amount, the contact that exists between government and any member of your staff or your board?---No, that would be between myself, the Director of Policy and the President is the level of contact that we would have.

Right. So it would really be confined to those three people?---Plus or minus the federal President at times but generally he will go through myself or our Director of Policy as well.

A meeting every couple of months roughly?--Yes, roughly.

And perhaps some telephone contact with ministerial staff every week or couple of weeks?---Generally it would be every, at most every three or four weeks but as I said with the major discussion document out it's possibly it will be for a couple of weeks.

10 What about contact with the Director-General or senior departmental staff, would that be frequent?---It is at the moment, we have actually regular meetings scheduled with the Director-General or the Deputy Director-General again associated with health reform at the moment. That was at our request because there's been a lot of consultation with all stakeholders in the profession so we probably are speaking with them. We have meetings every, about every three weeks scheduled and then we are speaking with them probably, you know, once or so in between that time as major announcements come up.

20 Right. If you were required, and I'm suggesting you would be, Ms Davies, but if you were required to list those meetings by date and attendees or by date and telephone call, let's just say, would I be right in thinking that it would not be a long list?---It would depend on who we were limiting this to, if it was the Director-General and Deputy Director-General. Is that your - - -

And minister and chief of staff?---That probably wouldn't be a particularly list. Longer obviously for the Director-General and Deputy Director-General and that could be a more onerous undertaking.

30 Further down into your body is there contact at lower levels of the department as well?---Yes, and that's where you move into our much more operational role and that's where registers or obligations would become quite significant because we, with our industrial staff or our legal staff we, we would have members of staff talking to somebody in New South Wales Health all the time.

Would it be correct to say that most of that contact would be information gathering?---Yes. So it's not, yes.

40 Lobbying in the sense of wishing to persuade the government to bring about a decision or a change is going to be pretty much limited to the upper level of contact. Would that be right?---Yes. And, and I must say even most of our interaction with the Director-General and Deputy Director-General is much more around operational style issues than lobbying.

When you say operational can you expand on that?---How the political decisions have already been made about the provision of services or where services will be allocated but we've got concerns about how a particular

policy has been applied, how a determination, the visiting medical officer's determination - - -

So you'll still be in a persuading role?---Always, always persuasive. But it's about operational issues about how policy is actually being implemented, that's the majority of our, our contact with New South Wales Health so the policy's been established and we're working with them on how it's actually being implemented at an operational level.

- 10 But it's more than just provision of, or obtaining of information, if there is a problem in implementation you're endeavouring to suggest or press a method of implementation?---Yes, in some instances, yeah.

Right. Which may sometimes be acceded to or sometimes objected to or there's a process or persuasion?---Yes, or we realise that there's been a misapplication of a policy or a miscommunication of an issue as it's gone from New South Wales Health down to an Area Health Service level, that's quite common.

- 20 Right. Now, Ms Davies, we've talked a lot about the approaches that the AMA may make to government. Does government initiate much contact with the AMA?---At times, certainly to seek advice but much more through New South Wales Health than government directly.

So that will be departmental contact?---Yes.

And is that to you or is that to other persons in your organisation?---That will be to me or our Director of Policy or at times our President.

- 30 And will that come from a senior level of the department?---Yes, usually, yeah, and that will be about issues that we've been discussing or policy announcements that are being considered.

- 40 All right. If you just give me one moment I think we may be done. Can I just ask, I'm not asking what they do but does the involvement of the company an essential media communications, don't answer this question if you don't want to, Ms Davies, I'm not trying to find out what happens between you, has their role altered the way in which the AMA does its public relations?---Not in a, in our relationships with government, they're very focussed on trying to better demonstrate to members what we do as a, as an organisation so where I actually, so actually they have a significant role in helping us to better engage our members, the government aspects of that then don't change a great deal but members feel more involved in the work we're doing and as a membership organisation that's the key, our key goal, our key deliverable is, is, you know, meeting the needs of our membership and so that's been the, the basis of that contact.

Is your, do your members on a day to day basis make it known that they want you to lobby?---No.

Letters or calls or - - -?---No. We, no, that's, that's why we've implemented a much more formal structure of encouraging them to talk to us about the issues and concerns they'd like us to take on and, and our survey demonstrated that much of that was about public health issues, about a range of broad issues that concern doctors and patients in New South Wales.

10 All right. Now, I have two more questions. Does the AMA ever talk to, for the purposes of lobbying, backbenchers or people not in a government decision-making or executive role?---In recent legislation around national registration we wrote to backbenchers but it's not something we do regularly, it possibly is something we should do more frequently but it's not something we have a systematic approach towards doing.

20 What sort of factors would be involved for the AMA in deciding to approach backbenchers?---The legislation in this instance was a very significant change to the way medical practices registered and there were issues that we felt it was important that people were aware of and it was quite a complex matter. So it was probably something of a, a kind of once in a generation magnitude but it's not something we undertake quite, all that regularly.

So that was perhaps beyond a question of ministerial discretion and much closer to say party policy?---Yes.

30 You wanted to persuade perhaps government at a party level?---We wanted all members of parliament to understand the significance of the legislation they were considering.

The whole of government?---The whole of, the whole of government, yes.

40 All right. Thank you. And also has the AMA in recent times, that is say in the last 10 years, hired, that's a coloured word but employed, retained, retained ex-members of parliament or ex-staffers to assist with its government relations activities?---No, in the last 10 years, I'm just trying to make sure, I can't think of anybody but certainly nobody, our, our director of policy over a decade ago worked for New South Wales Health by that's the only person I can think of in that capacity.

So you haven't felt the need to seek out that kind of, that, that body of skills of people who are involved in government?---No, we haven't had the requirement. We tend to look more for people who have operational experience of dealing with health system matters, that's probably been a much more appropriate skill-set for us to seek out, we certainly wouldn't turn people away but for instance for my position it was knowledge of the health system was considered a much more significant factor.

Do you think that would be true of other peak lobby groups?---I'd suspect it would depend on their skill-sets and expertise as they varied from time to time. We wouldn't have, I'm not at liberty to know who else applied for my job but I can't imagine they'd have ruled that out but I know it was one of the, there were a much broader set of criteria applied.

All right. Thank you, Ms Davies.

10 THE COMMISSIONER: Thank you, Ms Davies, for all your helpful comments?---Thank you.

And your time?---Thank you.

**THE WITNESS EXCUSED**

**[3.04pm]**

20 MR GORMLY: Commissioner, we have in the hearing room Mr David Pigott. Thank you, Ms Davies. Mr David Pigott from Mission Australia.

THE COMMISSIONER: Mr Pigott, would you like to give your evidence under oath or would you like to affirm the contents of your evidence?

MR PIGOTT: Under oath.

MR GORMLY: Mr Pigott, can you tell us your full name?---My name is David Henry Pigott.

I think you're currently the leader of, a title that is Government and Cross Sector Partnerships at Mission Australia. Is that right?---That's correct.

10 Where does that relate to in the organisations hierarchy, Mr Pigott?---It's a position that used to report to the chief executive officer and it now reports to the head of corporate affairs and marketing but it's largely a consultant role so I can float across the organisation (not transcribable).

That's a full-time paid position you're in?---It's a full-time paid position, yes.

Okay. Now I think - - -

20 THE COMMISSIONER: Forgive my, sorry, forgive my ignorance, Mr Pigott, I'm very ignorant, what is Mission Australia?---Mission Australia, it's, it's a national not for profit organisation primarily concerned with assisting disadvantaged people through employment services and community services.

30 So economic, just economically disadvantaged or physically disabled?---A range of disadvantages, primarily economic disadvantage for, for example, we're large contractors to the federal government for the Job Services Australia contract so we deliver employment services under contract to the government around Australia and that's working with Centrelink to place unemployed people into, into work.

Before Mission Australia existed who did the job?---Oh, yes, the government job - - -

40 So this is a form of contracting out, is it?---Yeah, yeah, the CES used to provide those services under the old system about 10 years ago but we also do a lot of work at the state level with housing, for homeless people, disadvantaged young people, it could be drugs, it could be alcohol issues, it could be mental health issues and families and children, a range of programmes to assist them.

MR GORMLY: All right. Mr Pigott, just so that we can get an idea of the substantial size of Mission Australia, I think it has a, a turnover of in excess of \$300 million a year. Is that right?---That's correct, yes.

And it's got net assets as at June last year of \$61 million, so it's a substantial body?---Yes, it is.



THE COMMISSIONER: And how is it funded?---About 87 per cent of our funding comes from government, one way or the other, primarily federal government but the state governments around the country so the New South Wales government is a significant funder.

And, and the balance?---The balance is through fundraising, through donations from the public and, and philanthropists and some corporate sector.

10

In your activities do you ever come into competition with private organisations?---We do in the employment services area because it's a fully contestable market at the moment so we compete with a range of other not for profits but also some, some profit-making bodies in that space.

Can you just describe how that occurs?---Simply because the legislation enables, allows organisations to, to tender for, for the government business so it's - - -

20

So what, what business would you tender for?---Well, for example the Job Services Australia tender was out last July so we tendered for that along with - - -

Well, what does that involve?---It involves essentially running employment agencies in what they call a job services area with other organisations or standing alone, so we've got sites all around the country where we do that and that's under a contract to the government and we're remunerated on our performance and we're paid on outcomes we get to place people in work.

30

What sort of, commercial organisations would compete with you?  
---Training organisations, so for example the former prime minister's wife ran an employment services business, that was a profit-making entity. She subsequently sold that.

40

Personnel hire organisations?---Not as such, we tend to, we're not a labour hire company we, we are contracted by government to take on people in the Centrelink system who are unemployed so they register with Centrelink, they're referred to one of any number of job services provider, us being one of them, to then case manage their, their, hopefully their, their transition back into the workforce.

Yes. The sense I get, please correct me if I'm wrong, is that the areas where there is competition between you and the private sector are small. Is that right?---Yes, that's probably the main, the main area. In fact the - - -

And it represents an insignificant part of your business?---Not insignificant, the employment services area is probably about 45% of our business so it's a significant share of our business at the moment.

And is this, you compete in the sense that you are looking for the business, the profits you earn would go to maintain your other services while the profits the commercial organisations would make go to shareholders?  
---That's correct. Because we're a company limited by a guarantee so we're  
---

10 So some of your funds don't come from, I mean a portion of your funds come from profits?---A portion does, yes.

How much?---I think you'd find the return from fee for services and for the employment services would be probably less than 5% and they essentially cover our overheads, international office and some other areas.

Thank you?---We make a small surplus each year but, but if we make a surplus our board is usually very happy.

MR GORMLY: All right. Now, I think the organisation's roots are back in the 1930s, I think it started out as Child Fund. Is that right?---No, sorry,  
20 Mission Australia goes right back to the 1850s and it started off - - -

(not transcribable) Society?---Sydney City Mission was its founder but there are other city missions around the country also in Newcastle and Wollongong.

THE COMMISSIONER: Is it a religion based organisation?---It's a non-denominational organisation but it's Christian, Christian focussed but we're not run by any church or association of churches. So we are company limited by a guarantee with our own board and we are registered under  
30 ASIC as a company limited by guarantee.

MR GORMLY: All right. Now, I'm just going to spend a minute or two if I may just to get out a little about your background and then I'm going to invite you to make an opening statement if you'd like to - - -?---Certainly.

- - - then finding out about Mission Australia but you have a history I think in either law or accounting with Price Waterhouse Coopers. Is that right?  
---I've worked at Price Waterhouse Coopers Legal but I don't have a law degree or an accounting degree, my background is primarily in government.  
40

Well, I think you were an advisor in the Office of the Minister for Foreign Affairs at one period?---That's correct.

Which minister was that?---That was Minister Downer.

Thank you. And I think you've also been the State Director for the Liberal Party in South Australia?---That's correct.

And you were a private secretary in the New South Wales Premier's Office?---Correct.

Right. Which Premier was that?---For Premier Greiner and also for Premier Fahey for a short period.

Right. And when you were with Price Waterhouse Coopers I see, I think you were in Strategy Advice and Public Policy Practice?---That's correct.

10 All right. So government and politics has been your background?---Yes, most of my, most of my life I've been involved in government or politics in one way or the other with some, some time in the not for profit sector (not transcribable).

Right. And that's tended to move to some extent into administration of one kind or another as well?---Yes.

All right. Now, I think you hold a range of other positions as well substantial, Mr Pigott, I can see but have we essentially got your  
20 background and your current position?---That's essentially correct, yes.

Thank you. Would you care to make an opening statement about lobbying?  
---Yes, Commissioner, I have a brief opening statement. I'm pleased to have the opportunity to appear before the Commission to assist its inquiry in relation to the lobbying of public officials and public authorities in New South Wales. In this opening statement I do not wish to advocate for any particular changes or reforms to the current regulations regarding the registration of lobbyists or the associated code of conduct rather I make myself available for questions to share my professional experience as  
30 someone who for over the last 30 years has worked in the government private and not for profit sectors. This experience has included working as a ministerial advisor at both the federal and state levels and State Director for a major political party which has already been alluded to. A consultant in a professional services firm and most recently as a senior manager at Mission Australia where I'm currently responsible for the facilitation and coordination of Mission's relationships with government. In these roles I have observed lobbyists and lobbyist interactions with government and have represented clients most recently my current organisation to government.  
40 Mission Australia is a respected national provider of community and employment services for disadvantaged people and last year we assisted over 300,000 people through our programs. Over 85% of our income is provided by commonwealth and state governments mostly through service and program contract. Effective working relationships with government are therefore important for Mission Australia's financial sustainability in order for us to continue to assist our clients. We also believe a strong and effective voice to government is critical to our advocacy on behalf of disadvantaged Australians consistent with our vision for a fairer Australia. I'd be pleased to answer any questions of the Commission.

Mr Pigott, let me start with your experience of lobbying. Do you hold the view that organised lobbying by either professional third party lobby groups or peak bodies or other forms of organised lobbying has increased over the period that you've been exposed to public life?---Yes, I would certainly say that.

10 Why would you say that's happened?---My experience probably goes back to the early eighties working in Canberra where there were probably a handful of known lobbyists but looking at the register now there's, there's literally over 100 I think current lobbyists registered but there wouldn't have been that many around.

THE COMMISSIONER: Is that firms or individuals?---Individuals or individual lobbying firms. So I think particularly in the nineties you saw significant growth or late nineties a significant growth in the number of, of call them what you like, lobbyists, public relations firms.

20 And what (not transcribable) the last couple of years?---In the last couple of years I'm not so aware of a large increase, there's been obviously a large, well, there's been a number of high profile individuals cited in, not only in New South Wales but in other states have been involved in lobbying which I'm aware of.

30 But growth in lobbying are you able to comment on whether there has been a growth in lobbying over the last say five, three years or do you think it's come, it's reached a plateau?---I'm not able to say whether it's grown, I think in the last ten years there was a significant growth, whether it's grown in the last couple of years I'm unable to say. Certainly my sense is as the complexity and size of government has grown probably there's been a commensurate growth in lobbying perhaps more than a commensurate growth in lobbying in that time.

MR GORMLY: Do you see lobbying then as a reflection of a change in government?---Not so much a change of government, I think it's just a - - -

40 I meant a change in government processes, complexity?---Yes, changes in the size probably, you know, when I started in Canberra a typical minister's staff would have five people on board, five or six now there's, what, probably fifteen, ten to fifteen in the average ministerial office so certainly the size and complexity of government offices and structures has grown significantly.

Why do you think there's a relationship between that size and complexity and lobbying? It may seem obvious but tell us?---I'm not sure whether it's obvious, I think it's just that, that the amount of dollars the government spends each year, the size, the growth in the number of ministries, the growth in the number of agencies I think is, is just a general trend that's

happened in the last, well, obviously a growing trend since, since Federation but certainly in the last, well, the time that I've been working in government it's become more sophisticated and, and, and larger, perhaps not so much more complex but certainly larger.

10 It's been suggested here on a number of occasions that lobbying is a professional activity based on the need to technically marshal information provided by a client or obtained on behalf of a client in a fashion that the lobbyist knows is a matter of technique is acceptable to government or is provided in a form useful to government. Do you think that's correct?  
---Partly, I think it's also a recognition particularly by companies that perhaps they, they need another skill set to assist in, in putting views to government in, in, in putting a case to government or whatever they wish to achieve.

20 Do you think it's possible that lobbying was levelled out in its growth?  
---I'm unable to say that but my sense is there hasn't been a massive increase in the last, last couple of years but as I said I think over the last decade - - -

20 You just don't know?---I just don't know but I think certainly since 2000 I haven't seen a huge, a huge growth.

Mr Pigott, can I take you direct to Mission Australia. Would you accept that Mission Australia is a body that lobbies government?---Yes, in, in, in a sense that we, we seek to get outcomes for our programs and advocate on behalf of what we, nearer to work, yes, we do.

30 Apart from your direct application for contracts, so we're moving away from areas like tendering and provisioning, are there other areas that Mission Australia would lobby government in?---Primarily in the advocacy's base so we're constantly seeking new and better ways to, to assist clients and we, we have a focus on our disadvantaged clients so we, we think it's appropriate to have a strong voice before government on issues that affect our clients whether it's homelessness, mental health issues.

40 Does this relate to legislation?---It can. Certainly we were very involved in the whole welfare reform debate under the previous federal government. At the state level, again, we can get involved in, in particular issues if we're concerned about what, what we think is the government outcome.

And apart from legislation what other areas are you involved in, in lobbying?---I think it's also to inform parliamentarians of our services, what they do in their local electorates.

With what in mind?---Again, we think it's good to have support and have good relationships because our funding is often on (not transcribable) basis

with contracts and we do on occasions get grants from government for programmes rather than contracts, so there's a - - -

MR GORMLY: Do you lobby for the grants?---Yes, we would. We would go to government if we think we have a particular programme that, that needs funding and is worthy of government funding.

10 And is that, is that process of actually putting up what the programme is and then persuading government that it's worthwhile providing funds for it?---Yes. On occasions we have, we have put forward pilot programmes which we, which we think are evidence based to demonstrate that we can meet outcomes consistent with what the government is trying to achieve. So we would, we would either lobby to, to get some start up funds for that programme on a, on a pilot basis.

You said, you're still having to compete for funds?---Yes, we do. The not for profit sector is a large sector and while there aren't that many large providers out there, we do work either in collaboration or in some sense compete with other not for profit organisations in the services.

20

THE COMMISSIONER: For, for money from the government. Is that what you mean by compete? I'm just not sure what you mean by compete? --- (not transcribable) to, to run services and some of our programmes we run, government will, will fund a number of organisations to run the same programmes in some cases. Equally government will on occasions fund a specific programme which only one organisation has put up because it fits their, their, their policy, policy focus at the time.

30 So the, the competition, when it comes to legislation you really are not in competition with anyone else except perhaps the general community for allocation of funds?---That's correct.

When it comes to the provision of services you're in competition with other not for profit organisations or similar organisations for the right to perform services to the people who you help. Is that right?---That's correct. But we also may be a competition for capital funds, for example, for new facilities.

40 Where there are other organisations who, which provide the same services as you do, and they are not for profit, what's the point of competing? Why, why would, why is there a competition amongst them? What is the benefit that you get in you getting the contract rather than a similar organisation? ---Again I'll take the Federal Job Services contract as an example. I think the government at the time took the view that having a range of providers providing a service for the government would be able to do it more cheaply and more effectively than, than government was- - -

Just market, just market factors?---Market factors, yes. And if you take the Job Services contract for example which is now our fourth contract we're in,

over the years the number of providers have shrunk from I think over several hundred now down to about less than slightly over a hundred.

And you want the job because that's your function I take it. I mean- - -?  
---Yes. We, we- - -

10 - - -because it doesn't really make, it makes no financial difference to you whether you get a particular task or not, it might even benefit you if you don't, I assume?---Yeah, we, yes, most of our services we don't run at a surplus so there's not a financial advantage, but equally if we were to lose a large contract we would then have to dismiss staff, we would have to hand over those services to somebody else and certainly in the employment space we, we, well, in all our areas we think we do a very good job and, and probably better than a lot of other for-profit providers in delivering those services.

20 And also, I mean, I'm just trying to understand, there is really no sinister background to my question, but do you, I mean, the name Mission Australia maybe just for historical reasons does connote that you have a mission and I presume that the more people you help, the more you're able to convey your mission. Is that part of what you're competing with and do other people, your competitors, have a different mission?---Yes, we do. So, you know, a good example would be the Salvation Army. You know, we, we provide similar services to the Salvation Army for similar reasons under a similar management structure. The only difference is the Salvation Army happens to be a church, we are not a church. That's, that's the, the, the way we work. Uniting Care is a, is another organisation under the auspices of the Uniting Church that provides a whole range of services in a similar basis.

30 Yes.---So they, they're, they're, like, like-minded, like typical organisations that, that would work in a similar way to us in provision of services.

40 And the notion is that in this altruistic sphere, everyone should have a free rein to do what they like without transparency?---There's been an interesting Productivity Commission Report that came out as you may be aware earlier this year on the not-for-profit sector and they spent a lot of time looking at contracts, transparency, what's, what's an appropriate way to fund not-for-profit organisations with, with government funding, so there's a, there's an interesting debate around that and some interesting dilemmas around that, I would concede um, but certainly we, we would argue strongly for transparency and the reforms proposed actually do deliver more transparency in terms of similar reporting across jurisdictions in terms of expenditure.

Sorry, I didn't hear what you said. I beg your pardon?---The, the reforms recommended, the reforms proposed, yes.

By you?---Ah, supported by us.

Supported by you?---Yes. And- - -

Where will you find these reforms?---This is the Productivity Commission Inquiry into the I think effectiveness of the not-for-profit sector in Australia, so there's been a large report done over the last, it was released earlier this year and the government is still to respond fully to the recommendations in it.

10 And do these reforms have anything to do with lobbying?---They don't discuss lobbying specifically, they, they discuss contracts and, and I guess accountability for, for spending of government funds, taxpayers' funds and, and what's the most effective and efficient way to do that, given, given the size of the not-for-profit sector and the services they, they provide.

Do you see any merit in having a register of not-for-profit organisations that engage in lobbying that's separate from lobbyists?---I don't- - -

20 With you, with your own rules, catered specifically for not-for-profit organisations?---Yeah. I don't, I don't see a need for a register to cover lobbyists in not-for-profit organisations, no, I don't.

30 So that means you don't think there's a need for transparency in that or is that a wrong inference to draw?---I think that's an incorrect inference to draw on the basis that, that the contacts we, we ah, we apply to are all very transparent. Certainly the government ones are. I just don't see, if we go to government, government know that it's Mission Australia they're dealing with, they have very strict guidelines about tender periods and contracts to cover all of that, so there's a very strict set of code for example if we deal with the Department of Housing here or Community Services.

I understand. And as I understand you, certainly Mission Australia is not really, is competing only to a minor degree with commercial organisations? ---That's correct. Mmm.

40 And is there any perception of corruption of which you are aware? I'm not talking about actual corruption but perception of corruption in the allocation of funds to not-for-profit organisations by government?---I'm not aware of any. There have been some incidents of some audit irregularities I think in some of the employment services contracts, not in our organisation but in other organisations, which, which some, some years ago which caused I think one organisation to lose some of those contracts.

And is there any reason why government would favour one not for profit organisation over another for reasons other than the pure merits of the organisation?---I would like to think not so the contracts are straightforward, you put in a tender and, and on the basis of the service you can provide at the cost you're assessed, on some of the other programmes it's a bit more ad



hoc, I guess it's on the basis of, of whether, what you're putting up accords with government's, government objectives to meet a particular social outcome or not and I think government is, is always looking for new ways of doing things, new innovation in delivering of services so they'll be open sometimes to, to new ways of doing things.

10 I'd now like to ask you a question which, not in your capacity as an office bearer of Mission Australia but in your general experience of lobbying and government, am I correct in understand that there are a number of areas where charitable organisations can compete with commercial organisations so for example use of land, acquisition of land, development of land is one? ---Yes.

And I presume supply of goods is another sometimes?---Yes.

20 And there are commercial organisations which suggest that at least in those particular areas the lobbying requirements should apply both to the charitable organisations and to the commercial organisations because otherwise the charitable organisations get a, an unfair benefit?---I, I wasn't aware of that, that argument. The, the issue that comes up more for us is the, the various tax treatment of not for profits versus the profit-making entity.

30 Yes (not transcribable) the tax and I'm not talking about at Mission Australia here because I don't see Mission Australia in that category and that's why I said the question is, is divorced from your capacity?---One area that is interesting is the whole social enterprise area now where some not for profits, including ourselves, start up what they call small businesses with a social purpose and that - - -

Well, Hillsong, Hillsong is, is an example?---Ah hmm.

Now people, Scientology is perhaps an example, now organisations of that kind may or may not lobby but should they, should there be regulation of those?---The issue I guess comes down to the, the advocacy that they might put forward and for what reasons they, they advocate and that's where it gets a bit messy.

40 Quite, it's the areas - - -?---Yes.

- - - not the organisations, so one would focus on the lobby, on lobbying activities in particular areas that require control of some sort?---Yes, the issue comes up there. I know it's become again a taxation issue that the federal government was concerned about tax deductibility for organisations whose primary purpose was not to provide services but to advocate for a particular, a particular issue so there's always been a debate, I think, around, around, around that. Our organisation is primarily a service delivery agency but we use advocacy to, as part of that. So, so, yeah, the issue gets

complicated when there's a, when there's a, a religious purpose I guess involved in that so - - -

It's easy to think of land, the zoning of land when land, you know, when a, when a religious or charitable organisation wants to build a large building on a piece of land which might attract people who the local inhabitants wouldn't really want in that area and they both lobby or a commercial organisation, a commercial organisation's lobbyists have to comply with certain requirements while the charitable or religious organisations don't?

10 ---Yes, I would concede that, that's obviously the case.

Now, do you think there's any merit or is there no merit in trying to devise a system wherein those particular areas there are regulations designed to ensure that everyone's treated in the same way?---I think it gets difficult to where, where you draw the line. It's - - -

It does?---It comes down to a question of degree I suppose and, as I said, it's been a, an ongoing debate at the federal level around the taxation boundaries and, and you get into the same issues I suppose with, with advocacy or on zoning issues.

20

Yes, thank you.

MR GORMLY: Mr Pigott, just coming back to Mission Australia, I assume if we put aside provisioning and tendering I assume that there are occasions where Mission Australia will want to lobby the government on issues of, on social issues and social policy and on provision of government services, particularly for social problems?---Yes.

30 It may be alcohol, it may be homelessness or whatever else Mission Australia is interested in. You'll agree that those are the types of areas that can sometimes stir quite opposing views among people who are nevertheless well-intentioned on social policy but they may argue about how it's to be done. Are you, I'm - - -?---Yes.

I'm saying this for the record, you're nodding throughout all of that, correct?---Correct, yes.

40 If Mission Australia lobbies because of a belief that it has on the formulation or implementation of some issue of social policy would you accept that that is lobbying in the classic sense?---Yes, I accept that, yes.

Endeavouring to persuade a government to follow a particular path legislatively?---Yes, we would, we would call it advocacy.

Now, there may be another organisation of similar intent to Mission Australia but perhaps with completely different philosophical or religious roots which has a completely contrary view as to the formulation or

implementation of the same policy, that area of policy. To that extent, would you accept that if lobbying is to be transparent there is no harm in, and there is some good to be obtained, in having those bodies known to the public as lobbyists for particular interests or views?---I don't see a need for that, the issue is only known to government and we, we, we're in a contestable debate within the public as anyone else in terms of ideas in the daily cut and thrust of, of government policy.

Mr Pigott I want you to - - -?---Yes.

10

- - - understand that I fully accept that when that kind of issue occurs it's something that's going to be known to government and the government will be aware of the nature and roots of the contestants but from a public point of view and from a transparency point of view, there is a good argument for ensuring that the public also knows that there is lobbying on a particular area of social policy occurring. Do you agree?---I agree with that, yes.

All right. I think you were present during Ms Davies' evidence - - -?---Part of it.

20

- - - immediately before?---Yeah, mmm.

Do you recall that there was an area of discussion concerning whether or not there would be a register for parties that lobby or whether there perhaps might be a separate register for non third-party professional lobbyists? Do you have a view about whether if, if lobbying registration was to be extended to your body whether you would prefer Ms Davies' model or whether you adopt the view that lobbying could all be disclosed on the one register?---I don't concede the need for a, a register to cover the, the not for profit sector. My, my concern would be in our organisation for example that there'd probably be 20 or 30 people that have interactions with government at any one time on a whole range of issues.

30

THE COMMISSIONER: Of an advocacy kind?---More on, on operational matters.

Well, they wouldn't be required to register?---And I guess in our, in our case it becomes an issue with where we pick up from our operational side, evidence where we think, suggest the need for change and that's where it overlaps into advocacy and that's where you get difficulty in drawing distinctions. So for example would it be okay for my CEO to go and talk to the government about something but, but not myself without, without being registered so that's, I see where some of the issues would, would arise and for example our state directors all have in their job descriptions the task of relating, representing that organisation to the government in, in that state so our New South Wales state director for example is the face of Mission Australia in New South Wales and she'd be expected to have the primary contact with, with government.

40

MR GORMLY: Would I be right in thinking that as a general rule you would oppose registers and registration of any kind for lobbying for your body?---Yeah, I would see it as being unnecessary. Obviously if it was introduced we'd, we'd comply with it and I don't see a great difficulty with that I just see some operational challenges around that in terms of the number of people who deal with government on what issues and where you draw the line between advocacy versus operational issues in a large organisation.

10

I'm going to give you an example, Mr Pigott, and it's solely for the purpose of dealing with lobbying not the underlying issue. At present there is a public housing policy in New South Wales which enables families to be housed in public housing at low cost but long term, family length term. Let's assume that there was under consideration or that some party wish to lobby for a termination of public housing after a period in order to make greater use of the stock of housing, have greater turnover and also to make funds available for associated public housing services, that is, to try and perhaps increase employment. That, I'm sure you'd agree, would be a highly contentious community issue at least for one segment of the electorate or some segments of the electorate?---Yes, it would be.

20

Do you allow them to remain in family period or do you cut them out after a period on the assumption that they have cooperated with some employment policy but either way there's the question of capital committed permanently here or capital liberated here. Now, that is an issue about which governments would very likely be heavily lobbied. Do you agree with that?---There would be a range of views, yes, put to the government in terms of the, the, the most appropriate way of looking after the interests of those people, yes.

30

Right. Totally non-religious but left groups may well take one extreme and find themselves hand in hand with the Catholic church or your body whereas on the other side you may well get a, much more perhaps right wrong groups or those who have a much more active view of social policy and a completely different set of groups and views?---Yes, that's, yes, and, and the example you give is not, is not out of the realms of reality because we are dealing with social housing on a regular basis and communities who do not want social housing in, in their areas and we are a provider of social housing.

40

Your body would be one of the better informed in debate of that kind? ---Yes, and we, we, we like, well, we always work on evidence base from our, our operational services and, and that then forms our policy, policy approach.

Of course that's just one of a dozen types of issues that could occur which would perhaps involve Mission Australia?---That's correct, yeah.

It's not hard to find issues of that type. Do you agree?---No, there are a number of issues and you've mentioned one that is quite, quite relevant.

Right. One of the complaints about lobbying is that it occurs behind closed doors and that people don't know who is lobbying the minister. I'm sure you'll be familiar with that argument?---Yes, I am.

10 Yep. Now, if you look at that kind of example and you consider the complaints and objections made to lobbying it's difficult to see why Mission Australia would not be prepared to have its name on a register at least of those bodies that do lobby government upon those types of issues?---It's not unreasonable that we would appear on such a register but to go back to your point about the public knowing in almost all cases our advocacy would be accompanied by some media coverage, our CEO would do an opinion piece in the, in the paper so we, we put our case not just to government but also in, in a broader, broader advocacy perspective. So someone reading the paper for example would, would have a reasonable idea of the sort of things we stand for and sort of issues that we're lobbying on.

20

All right. Can I put to you though that while you may be a substantial respected and authoritative body carrying out a respected body of work that there may be other players in that debate who don't have anything like your authority but about whom the public might be particularly interested if they had substantial funds and perhaps a view that many would react against? ---Yes, there would be smaller organisations that (not transcribable) would be the, the public would not want to support more funds going to.

30 It would certainly be healthy to have them exposed to public view on a register. Do you agree?---Again if, if, if the processes for distributing government funds or taxpayer's funds were transparent and, and with proper checks and balances around them I, again I don't see the need but I can see the argument from the public perspective that that may be of interest to some people.

I'm suggesting that the fallout consequence of ensuring that some bodies are registered and known to the public, bodies who might be of no interest to the media fallout consequences that a body like yours may end up on the register for the sake of completeness. Do you understand the meaning?  
40 ---Yes, I understand that. I guess, yeah, my response would be it would be a shame I think if, if we all had to call up in the same system for the sake of some hypothetical cases which, which might be desirable to have, to have on a register.

Mr Pigott, it's the experience of bodies like this that it's always the small number for which one is creating systems. I take it that you're not putting forward any objection in principle, it would be more the administrative inconvenience?---Yes. No, obviously we'd, we'd be happy to comply with

any change in regime that required us to do that. I can see some difficulties in how that operates just operational versus advocacy and what levels of the organisation, if I'm the only person in the organisation who has that particular role am I, am I the person who has to be registered or is the organisations registered and various people in the organisation registered to, to, to have the capacity to speak to government.

Does Mission Australia in fact have to make appointments to see ministers?  
---Yes, we do, we, we seek appointments from time to time on the issues  
10 that we, we're involved in, yes.

With what sort of frequency might that occur?---At the federal level we, we, we'd certainly be in touch for example with the Housing Minister, the Minister for Employment at our CEO and executive leader level several times throughout the year but we would also be asked to make submissions to government, we, we also sit on several government advisory bodies by invitation from the government so there are a number of ways that we interface with the government.

20 Are there rules within Mission Australia as to who it is that has contact with ministers?---Yes, we do, we, we are establishing some protocols. One of the purposes of my position was to bring some, some structure around how we approach governments so that we weren't having a multitude of voices going to government on a whole range of things without the coordination and because we were many different organisation until the year 2000 that's been a bit of a challenge to, to, to bring back together.

Commissioner, I don't think I have anything further.

30 THE COMMISSIONER: Yes, thank you. Thank you, Mr Pigott, again for your thoughtful contribution. It's been very helpful?---Thank you, Commissioner.

**THE WITNESS EXCUSED**

**[3.48pm]**

THE COMMISSIONER: The Commission will now adjourn.

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**AT 3.48pm THE MATTER WAS ADJOURNED ACCORDINGLY[3.48pm]**