



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## **SENATE**

SELECT COMMITTEE ON FINANCIAL TECHNOLOGY AND  
REGULATORY TECHNOLOGY

WEDNESDAY, 19 FEBRUARY 2020

SYDNEY

BY AUTHORITY OF THE SENATE

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**SENATE**

**SELECT COMMITTEE ON FINANCIAL TECHNOLOGY AND REGULATORY TECHNOLOGY**

**Wednesday, 19 February 2020**

**Members in attendance:** Senators Bragg, McDonald, Scarr, Marielle Smith.

**Terms of Reference for the Inquiry:**

To inquire into and report on:

- a. the size and scope of the opportunity for Australian consumers and business arising from financial technology (FinTech) and regulatory technology (RegTech);
- b. barriers to the uptake of new technologies in the financial sector;
- c. the progress of FinTech facilitation reform and the benchmarking of comparable global regimes;
- d. current RegTech practices and the opportunities for the RegTech industry to strengthen compliance but also reduce costs;
- e. the effectiveness of current initiatives in promoting a positive environment for FinTech and RegTech start-ups; and
- f. any related matters.

## WITNESSES

<b>BACINA, Mr Michael, Partner, Fintech Group, Blockchain Group, Piper Alderman .....</b>	<b>6</b>
<b>BAUM, Mr Anthony, Founder and Chief Executive Officer, Tic:Toc.....</b>	<b>45</b>
<b>BELL, Mr Robert, Chief Executive Officer, 86 400 .....</b>	<b>73</b>
<b>BOWER, Ms Michelle, Executive Officer, Gateway Network Governance Body .....</b>	<b>78</b>
<b>BRADD, Mr Peter, Chair, StartupAUS.....</b>	<b>38</b>
<b>FUGGLE, Mr William, Partner, Baker McKenzie.....</b>	<b>81</b>
<b>GRAY, Mr Peter, Chief Operating Officer, Zip Co Ltd .....</b>	<b>31</b>
<b>GRAY, Ms Emma, Chief Data Officer, Australian and New Zealand Banking Group Limited.....</b>	<b>26</b>
<b>HOLT, Mr Anthony, Co-founder and Partner, Square Peg Capital Pty Ltd .....</b>	<b>1</b>
<b>JEEVARATNAM, Ms Shemira, Junior Associate, Baker McKenzie .....</b>	<b>81</b>
<b>LANDIS, Ms Fiona, Acting Executive Director, Corporate Affairs, Australian Banking Association.....</b>	<b>20</b>
<b>LAWRENCE, Mr Adrian, Partner, Baker McKenzie .....</b>	<b>81</b>
<b>LE, Ms Van, Co-Founder and Executive Board Director, Xinja Bank .....</b>	<b>51</b>
<b>MacRAE, Mr Drew, Policy and Advocacy Officer, Financial Rights Legal Centre .....</b>	<b>64</b>
<b>McCLELLAND, Ms Jan, AM, Chair of the board, Gateway Network Governance Body.....</b>	<b>78</b>
<b>O'SHAUGHNESSY, Mr Aidan, Executive Director, Policy, Australian Banking Association .....</b>	<b>20</b>
<b>PRAGNELL, Dr Bradley, Principal, 34 South 45 North Consulting.....</b>	<b>58</b>
<b>PRICE, Mr Daniel, Chief Enterprise Officer, Tic:Toc.....</b>	<b>45</b>
<b>SANDERSON, Mr Guy, Partner, Baker McKenzie .....</b>	<b>81</b>
<b>SCANDURRA, Mr Alex, Chief Executive Officer, Stone &amp; Chalk.....</b>	<b>12</b>
<b>SHANAHAN, Mr Richard, Manager, Data Science and Enterprise Products, Tic:Toc .....</b>	<b>45</b>
<b>WHALE, Ms Caitlin, Special Counsel, Technology and Commercial Team, Baker McKenzie.....</b>	<b>81</b>
<b>WHITE, Mr Andy, Chief Executive Officer, Australian Payments Network .....</b>	<b>58</b>
<b>WILSON, Mr Eric, Chief Executive Officer and Founder, Xinja Bank.....</b>	<b>51</b>

**HOLT, Mr Anthony, Co-founder and Partner, Square Peg Capital Pty Ltd****Committee met at 08:00**

**CHAIR (Senator Bragg):** This is the second public hearing of the Senate Select Committee on Financial Technology and Regulatory Technology, and a Hansard transcript of the proceedings is being made. We are also streaming live audio of the hearing via the web, which can be found at [www.aph.gov.au](http://www.aph.gov.au).

I welcome everyone here today. Before the committee starts taking evidence, I remind all witnesses that in giving evidence to a committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. While the committee prefers all evidence to be given in public, under the Senate's resolutions witnesses have the right to request to be heard in private session. If you would like any of your evidence to be heard in camera, please don't hesitate to let the committee know. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regarded the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. As noted previously, such a request may be made at any other time.

If there are any requests from the media to film or take pictures, please approach the secretariat, who will convey the request to the committee. Please follow the directions of the secretariat with regard to where you should position yourselves.

I now welcome the representative from Square Peg. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Mr Holt:** Yes. I really appreciate the time and the effort to have this inquiry. I think, from a development perspective, at the highest level in the financial services area new entrants and incumbents have a shared objective, so that's a good starting point. The shared objective is a strong, stable financial system, and we've had that and it's been of great benefit to us through different cycles. One of the most exciting things that we get to do as early stage investors is to work with and invest in entrepreneurs who are striving for better ways to deliver outcomes to customers. Ultimately, it's pretty simple, but it's extremely exciting for us to have that opportunity. In financial services, and in other industries, these better outcomes manifest in various ways: more appropriate products for customers, lower costs of doing business, better customer experience and lower aggregate profits, in many instances, with economic shifting to new entrants and shifting to customers. So we think that there are a range of better outcomes that get delivered by this disruption by this innovation.

I think the heart of the issue, from the inquiry perspective as we see it, is: what is required to deliver better outcomes for ongoing product innovation? If you boil it down, there are two categories that we outline in our submission. One is fintech-specific reform or innovation; the other is more general startup related reform. On the fintech-specific reform, a lot of it relates to access, and that access can be defined as access to data, access to systems and access to capital. All are really important components of facilitating innovation for fintech specifically. I can go into any of those in more detail.

Access doesn't just mean access; it means timely and open access, and the timely part is a really important component of the feedback that we get from industry participants. More generally, if you then talk about non-fintech-specific components of innovation and about facilitating that innovation, there are recurrent concerns that we see coming through. I've read a fair few of the submissions, and the consistent thesis is around access to talent and, in particular—maybe it's because of recency bias—concerns about the R&D tax. Those are pretty prevalent and pretty widespread. Those last two—the talent and the R&D tax—are quite general start-up concerns, but they're also obviously very relevant for fintech.

With that brief opening, I'm in your hands.

**CHAIR:** I'm conscious of the time we have today, so I might open it up to questions. Does anyone want to kick off? Senator Scarr?

**Senator SCARR:** Thanks for coming along today. I was really impressed by what you are doing in this space, so congratulations. I wanted to ask a question about access to capital in particular. You made a few comments about the primary investment mechanism in Australia, the ESVCLP, for Australian venture capital. In your submission you refer to a number of grey areas when it comes to investing in fintech companies and say this needs improvement. Could you expand on that by giving some examples of how perhaps that's a roadblock to investment?

**Mr Holt:** Yes, absolutely. I'll give a reasonably high-level answer because I'm not an expert in the detail of the legislation. To give you a couple of examples by concept: there is a distinction that's been tinkered with over time in the legislation. It is between people in the business of providing platforms versus people in the business of lending. Those who are providing platforms, as a general matter, will fit under the legislative requirement to be an ESVCLP-eligible investment. Those that are more specifically providing lending as a primary purpose—I can't remember the exact words, but there's a balance to what you're doing and, to the extent that the balance tips over more on the lending side, you will not be eligible for ESVCLP. It's hard to understand from an investor perspective why that distinction is made. There must be a reason. But it means that it's an element of judgement and an element of evolution for us when we're looking at what's eligible and what's not eligible. That makes it difficult to assess where and how we invest.

Because of the structures that we've got in place because we invest in Australia as well as in international markets, we've got a degree of flexibility that others in the industry don't have and we can use our international structure to invest in non-ESVCLP-eligible investments, and so to an extent it affects us less, but the logic of it not being ESVCLP-eligible is something that is hard to understand and adds a burden for us in making the assessment. It makes things more difficult than they need to be.

**Senator SCARR:** Alright. That's all I had.

**Senator MARIELLE SMITH:** Thanks for your submission and for coming to present. I want to go to some of your comments about the R&D tax incentive and your views on that. It is an issue that has been raised with us by a number of fintechs, and you may be aware that there is currently legislation before the parliament to look at that. I was interested in your perspective of any engagement that you've had directly, or indirectly through the groups that you're working with, with the R&D tax incentive? Where has it worked well and where hasn't it?

**Mr Holt:** There are probably a few layers to that question. Yes, we've had conversations with people who are the beneficiaries of R&D tax incentive grants. It's a scheme that provides benefit pretty broadly to early-stage companies that we invest in. I think the biggest concern for our universe of companies is the uncertainty that's created in terms of the eligibility but, more so, the ability to look back at what was assumed at a point in time to be a valid claim.

The example of Airtasker is one that I think people are reasonably familiar with. It's been reasonably well publicised, and we've had conversations with the founding team there, who were of the view that their submissions were appropriate. It creates uncertainty, and this is an environment where companies are running on tight budgets and the ability to plan for those sorts of unforeseen circumstances is very limited. The ability to plan and provision financially for those just doesn't exist in the early-stage world, and so they're quite significant in terms of being existential risks. Whether or not claims are valid is obviously a really important point, and claims obviously need to be valid, but the uncertainty is the biggest issue for the early-stage companies. The uncertainty with the program is a reasonably universal concern.

**Senator MARIELLE SMITH:** Ineligibility.

**Mr Holt:** Yes, and the time frames and the fact that a claim has been made and granted can be looked at over a period of whatever years—in the case of Airtasker I can't remember the exact details of the time frames. But it's the uncertainty about eligibility but then also the uncertainty that, once a claim has been made, it can be revisited.

**Senator MARIELLE SMITH:** In your view, in terms of this incentive do you think the refundable component or the larger company credit aspect of it is more important or more relevant?

**Mr Holt:** I don't know.

**Senator MARIELLE SMITH:** In your submission you note a couple of issues around the NPP—namely, the slowness of the rollout, which is something we've heard from lots of people, and the inability to compel rates to comply. You also talk about the need for debit-like payments to be authorised through the scheme. Are you able to provide more detail to the committee on these issues and what you'd like to see in the NPP development?

**Mr Holt:** I think the biggest issue that we see in conversations with our universe of companies is the access point and that the access is required to be via an ADI. Therefore, you are as an early-stage company reliant on the protocols, agreements, form of access, whether it's appropriately cloud friendly et cetera. It's the method of access, as opposed to the objective of the legislation, that seems to be the biggest concern amongst the companies that we're dealing with. That's pretty frequent feedback that we get.

**Senator MARIELLE SMITH:** Your submission also talks about the implementation of the CDR leading to extensive and better uses of data. One of the issues which we've been grappling with as a committee—you may have seen our hearings from Melbourne—is use of screen scraping and where that goes with open banking. I wonder if you have a perspective about that to put on the record.

**Mr Holt:** Screen scraping has an emotive element to it in terms of the way the terminology is used, but I think that the most important thing is customer choice: the ability for a customer to nominate when by whom their data is used. Where customers want that data to be able to be used, regardless of whether it's so-called screen scraping or other methods of accessing their data, it should be able to be used to make better decisions on credit, product appropriateness and other methods. Again, it's an element of an objective not necessarily being met by data not being accessible to all participants. As an objective of CDR and open banking, it's really good and really appropriate; it's more about the implementation and whether customers who want their data to be accessible can have it be accessible to new entrants.

**Senator McDONALD:** I wanted to talk to you about other regulatory restrictions on these new players, particularly in the banking sector. I wondered if you had any views on how we manage that. You've talked a lot in your submission about this change in trust environment, which I think is really interesting and possibly generational as well—this change of technology uptake and acceptance. But how are we going to bridge that requirement for government to provide a safe environment and reduce risks, particularly for lending institutions, but at the same time move into and embrace this new way of doing business?

**Mr Holt:** Could you please back up to the first part of your question, because I think I missed that piece of it.

**Senator McDONALD:** At the moment, with our regulation and legislation around banking requirements for risk profiles and margins and how the two different segments of banking, whether it be the big banks or COBA, deal with risks, how do you see these new smaller more agile entrants being able to enter the market? Are they able to, or are you seeing specific restrictions in lending regulation?

**Mr Holt:** There are quite a lot of elements to that question. I'll talk from our perspective as an investor. We've invested in quite a lot of fintech related businesses both here and in overseas markets. I think I detailed in our submission the areas that we invest in—foreign exchange, and finance or lending, including mortgages and small business lending and so on. There is a reasonably consistent theme amongst the areas that we've invested in: they tend to be somewhat vertical specific and not full-service players, and it's not purely by coincidence that they are vertical specific. We've also looked at the integrated players—the 'neo-banks', for want of a better term—that are emerging in this market. We've got several examples of those businesses. Part of the reason that we as a venture capital investor have focused on vertical specific players is that the capital requirements are lower. In the case of lending businesses—Athena in the mortgage space or Prospa in the small-business lending space—they are not regulated from a capital perspective; they're regulated in various different forms. They've got capital requirements to meet their wholesale funding challenges and objectives, but they don't have specific regulatory capital tier 1 requirements.

In terms of the journey for capital, whilst it's typically larger than for most of the start-ups at a similar stage that we invest in, it's way smaller than for those that have the combined capital requirement of the regulatory component. For us, as a reasonably large venture capital investor in this market, we don't have the capital at our wherewithal to fund large proportions of the requirements of the regulated entities. I think I referred to this in the submission, but if I didn't: the concern for us as an investor becomes that we require other subsequent investors to continue to fund the businesses. We don't have the capacity to follow through at the rate that we'd like to, from a proportionate perspective, in those investments. Therefore, there is the risk of the subsequent investor, and the dilution that comes with that, more so than we are comfortable with. You end up with the risk for those entrants where they are finding it harder to access the large amounts of capital that they need to pursue their business.

**Senator McDONALD:** So you're just seeing the start-ups and the capital flowing around regulatory requirements that are requiring large amounts of capital—it's almost self-determining where the start-ups and the fintechs are going to go, and it's going to be away from or around where government has got high levels of regulation.

**Mr Holt:** Regulation from a capital perspective is what I was particularly referring to in the answer. Generally regulation can be a plus and a minus. We're not against regulation per se, but the issue that I'm referring to specifically is that, just from a practical perspective, the wherewithal to invest in those that have larger regulatory capital requirements is limiting, and therefore that would steer us in the direction of businesses that have capital requirements that we can support significantly.

**Senator McDONALD:** I love it that you've made specific recommendations. It's always good to be really clear about what outcomes you'd like to have. I think we've already had a question around this, around the CDR and the strong and robust data safeguarding. Is there anything else that you'd like to add to that, having now had the benefit of seeing the other submissions and thinking about it this morning?

**Mr Holt:** I think I said at the start that the stability of the system—and that includes all components of trust—is almost paramount. Disruption that causes the degradation of the stability of the system is not going to be of great value for any of us. The trust in data is really important within that. Specifically how that's done is not something that I have the expertise to talk about, but the fact that it is done well and allows timely and open access to data is critical from our perspective. In the absence of that you won't have the ability for new entrants to provide product innovation. Data sharing has a wide-ranging benefit—and it's a pretty obvious benefit—the decisions around what products are appropriate and around credit decisions, the ability for businesses to have robust processes off the back of the decision and be profitable from a perspective of the marginal decisions that they make using that data. It is all incredibly important. I think the safeguard, and the absence of the safeguard, was more your question. Ultimately the safeguard is the customer knowing what their data is used for and by whom.

**Senator McDONALD:** Thank you.

**CHAIR:** Mr Holt, thank you for your time. Is there enough capital in Australia to fund innovative and new ideas?

**Mr Holt:** This is a general answer, not a fintech-specific one. We, as an economy, have a below-average proportion of GDP or whatever measure you want to look at going into investment in innovation. It's below the OECD average—

**CHAIR:** It doesn't mean the capital isn't there, though?

**Mr Holt:** Capital has increased. Certainly the capital has increased over the last eight or nine years. The reason I'm using eight years is we founded Square Peg in 2012, so I've got a better perspective as to how capital has emerged over that period. It's a combination of factors. It's both sides of an equation about entrepreneurs and ideas emerging and capital being available to support those ideas.

**CHAIR:** The reason for my question is that we're looking at some of the structures that were put in place during the National Innovation and Science Agenda era, which seems like a eon ago now. The ESVCLP and the ESIC are two structures that were put in place during that period. I guess the question is: are they calibrated properly to get the capital?

**Mr Holt:** We touched earlier on some of the distinctions in definition about the sort of entity that's eligible.

**CHAIR:** On the debt side. Is there anything else?

**Mr Holt:** That part is particularly relevant to fintech. I think that the other part is—again, there's an implementation question. Something that we're looking at, at the moment, is how long an entity is eligible to be held within an ESVCLP. These are technical implementation areas. By way of example, for the ESVCLP, an entity above a certain valuation threshold is no longer eligible to be held inside an ESVCLP. It's not clear that that is an intended outcome of the legislation. It's certainly an interpretation that I think is being applied by the tax office. But again the coordination component between intent and implementation is really important. The more general point—

**CHAIR:** Can we get your answer on notice about that, in terms of the time issue that you mentioned, about the length of time that an investment would be eligible?

**Mr Holt:** It's a valuation threshold. That was the point. On the length of time question, I'm not sure that I understand your question.

**CHAIR:** I guess that what I'm trying to get a sense of is, are there any other things that you think we should change on these two structures, other than the debt issue that you mentioned in relation to the ESVCLP?

**Mr Holt:** If you're asking me to provide additional areas of concern relating to the intent versus the implementation and how long an asset can be held pursuant to the valuation threshold, I'm absolutely happy to come back to you on that point.

**CHAIR:** That would be useful. That is the sort of information we're looking for. In relation to large businesses collaborating with smaller businesses, that is bringing on a new idea, whether it's fintech or something else, to do something, that has been identified as a problem throughout the submissions. Do you think there are any good ways we could recommend to incentivise large businesses to use small businesses, like start-ups and regtechs and regtechs?

**Mr Holt:** There's definitely an appetite for the large enterprises to adopt technology for their own purposes, whether it's regtech or onboarding—KYC, AML. All those processes are able to be adopted and are really appropriate for larger enterprises to use in the fintech or financial services sphere. The bigger impediment is around not so much the larger enterprises using technology and in that way employing services or the product of

these enterprises. It's more about the ability for the new entrants to access the information and systems and the complete integration of the financial services networks that ultimately is required for new entrants to provide timely, good customer services and products. That's the bigger concern about the way in which small and large enterprises interact.

**CHAIR:** Have you had any experience with the ESIC regime?

**Mr Holt:** By observation, yes. But as a fund investor, that doesn't apply to the same degree to us. But it does apply.

**Senator MARIELLE SMITH:** Mr Holt, you mentioned early on briefly about skills and access to talent. It's something I'm trying to get my head around. I speak to some fintechs and they say, 'If you've got an issue accessing talent, it's because of your firm and how you're pitching yourself to talent.' Other firms say there's a real shortage and a real problem in Australia. Others again say that there is a real shortage in Australia, but there is a real shortage globally, and extending access globally doesn't necessarily solve that challenge. What's your perspective on the skills gap, if there is one? Where is it, and what do you see as the most effective way of us dealing with it?

**Mr Holt:** There are elements of your prelude that are absolutely right. For high-growth tech start-ups, talent is a pretty universal problem. On the west coast of the US talent is short supply and very high cost, and somewhat mercenary in terms of its availability for start-ups. So this is not a problem that we have alone. I think we are seeing improvements over time in the pool of talent that has had experience in start-ups, whether that is the well-known case of Atlassian in Canberra and others like SafetyCulture with several hundred-plus workforces, where people with that experience have moved to other organisations. That's a really important part of the development of a tech ecosystem. The bigger point is that any element that detracts from the ability to attract talent is a problem. It's not so much that any element alone will be a distinguishing factors that tips something over the edge, but because it's such a universal challenge we need to ensure that the access is as open as possible. It doesn't mean that anything will be a panacea, in terms of an answer, but where you're creating restrictions on a field that's already difficult it makes it even more difficult. Talent goes to engineering; it goes to sales and marketing; it's a pretty broad requirement for new entrants to build up talent.

**Senator MARIELLE SMITH:** I'll leave the talent question. Have you been involved in taking a fintech out of Australia successfully overseas?

**Mr Holt:** We have invested in fintechs that are non-Australian.

**Senator MARIELLE SMITH:** In terms of Australian ones, exporting their product overseas?

**Mr Holt:** Absolutely.

**Senator MARIELLE SMITH:** You may not be able to comment on this, given your role, but I'm interested in the capability and capacity of our trade department in facilitating fintechs' exposure to overseas markets. I know that the UK government is very effective in doing this and reversing into markets like Australia. Have you had any experience with DFAT in providing help or assistance or guidance in going international?

**Mr Holt:** Personally, not direct, but by general observation there has been a willingness. DFAT is not the only department. The dealings that I have had might have been with subdepartments of DFAT. There's a willingness and ability to help. It is valuable, again whether it is in the form of landing pads or other forms of collaboration. They are incrementally valuable.

**CHAIR:** Thank you very much.

**Mr Holt:** I'll come back on that one for you.

**BACINA, Mr Michael, Partner, Fintech Group, Blockchain Group, Piper Alderman**

[08:31]

**CHAIR:** I welcome the representative of Piper Alderman. Information on parliamentary privilege and the protection of witnesses has been provided to you. Would you like to make a brief opening statement?

**Mr Bacina:** Thank you for inviting me here today and coming to Sydney for this hearing. I'm a partner in Piper Alderman's fintech group and I lead the blockchain group. I've worked extensively with blockchain start-ups and enterprise projects over the last few years as this technology has started to gain more attention. I want to touch on the main aspects that the committee is called upon to report on. We've benefitted from the recently released National Blockchain Roadmap from the Department of Industry, Science, Energy and Resources highlighting the incredibly large opportunity that blockchain presents, which has been estimated by Gartner at \$175 billion annually within five years and \$3 trillion by 2030. There's no other foundational technology outside the internet which is expected to bring this much value. In my view most fintech and regtech projects will either be built predominantly on distributed ledger technology or blockchain or heavily using that within the next 10 years.

However, the challenge we have is in the barriers to uptake of this kind of foundational technology. There are a great deal of submissions that address this problem in the recent Treasury Initial Coin Offering review, which many have viewed as coming a little bit late, because the rise and fall of ICOs, as they are known, had occurred by the time the review started. Many of the submissions dealt with these barriers to both the understanding and regulation of blockchain technology.

The benchmarking of international approaches is something that has come up before. We see that Singapore, the UK and Switzerland have emerged as global leaders who are supporting and fostering environments for blockchain to be adopted. In my experience, that seems to come from the readiness of regulators to provide very clear, bright-line guidance as to what is acceptable and what is not. That's an area that I have seen, certainly with my clients and my surveys of the industry and in my travels around the world speaking at conferences. The interesting part of regtech involving blockchain is that the distributed ledger technology around blockchain enables compliance by designing the level of automation which goes beyond the incremental approaches that we have seen in centralised regtech recently. That's not diminish their value, because they are very valuable developments, but it's very much a paradigm shift and challenging thing for many to get their head around just how fundamentally different business models operate when they're in the distributed or shared system, versus a classic centralised proprietary stack. That can lead to very valuable verticals, and it can add value in very specific ways, but there are shortcomings, which we see in the lack of shared data which has emerged in our economy today.

The only other brief comment that I wanted to make an opening is that at a broad level the blockchain roadmap that has been put forward, if deployed in full over the next five years, will still leave Australia short. We started off with an early lead and had some tremendous achievements in leading the world in anti-money laundering and counterterrorism financing regulation around digital asset exchanges, but since that time there has been a lot more opportunity that could be met.

The shining star that I do want to call out, in part because two of the senators are from the great state of South Australia—the great state of Queensland also has plenty of opportunities!—but I wish to call out South Australia because it is seen as a leader in the space because of the government messaging and support around blockchain, which is one element that I wanted to stress today. Media reports can make clear how regulators view these kinds of innovative technologies and whether it's a positive statement that's coming. You might have seen recently the head of the US Federal Reserve saying that 80 percent of central banks surveyed by the BIS—the Bank for International Settlements—are actively investigating or deploying a central bank digital currency. That contrasts with our Reserve Bank governor quoted in the *AFR* as only say negative things about how central bank digital currency is not appropriate and has too many risks. My concern at that high level is that the messaging is hurting where the blockchain industry is going, and because of its foundational importance to the future of fintech and regtech that's a very important aspect that needs to be dealt with. Part of that does play into concerns around access to talent and education of those who may not have grown up in a natively digital environment and might feel challenges in moving towards these kinds of disruptive technologies.

**Senator MARIELLE SMITH:** I'm really interested in that last point. It seems to me that for a lot of established institutions blockchain presents the future in terms of how they are doing things now and where the opportunities are, particularly on issues around sectoral infrastructure. I'm interested in how many people get it in the financial services industry. Is there something in your sector that you see emerging from young people

entering? Are younger people more across the opportunities here? Is there a lot of resistance institutionally at the top, or do you think that directors get it and do see the potential? I'm interested in your views around where that kind of communication gap or interaction lies.

**Mr Bacina:** I take the generational point there. What I see in terms of the really disruptive work that's been happening in the blockchain space is certainly at that start-up edge. Things like the Commonwealth Bank's labs have put out tremendous proof of concepts. We've had some great pilots that either Australia has been involved with internationally. The bond-i World Bank bond issuance was tremendous, and WWF Australia has led a huge number of projects.

But those teams are led by people from the younger generation. I think that there is an educational gap at the senior leadership level. Being a lawyer, I speak to a lot of lawyers and do quite a bit of training around this. I take a survey at the start of all of my presentations so I can measure the data later. Consistently I see that people may have heard of these concepts, but they're not really getting across them or understanding them. That might not necessarily be needed, because not every CEO or director needs to understand the depth of the technology that they're using. Everyone has a website, but I doubt that everyone knows how to program something in HTML. But I still think there is a gap in understanding of the benefits and the risks. It's very easy for the risks to be played up. There is a role for government there. The Digital Transformation Agency has a question guide for whether blockchain is appropriate. Everyone I know in the blockchain industry has said, 'That's a roadmap to no.' It was based on the US guide that is no longer used. The US is now, at a government level, really leading the way with some fascinating projects. Just in the last four months the Department of Homeland Security in America has issued a million dollars, in Australian dollars, worth of grants to proof of concepts to deal with national security. Cyber security and national security are leading ways that governments are getting involved to see how they can get a pilot or a proof of concept out there and measure the results so they can decide whether this is appropriate to rollout in a broader way.

**Senator MARIELLE SMITH:** I note your comment about not necessarily knowing how a website works, but there is something with blockchain right? It takes a little while to click to understand conceptually what it means. I know when I was first trying to get my head around it, finding that short summation for it to click is not that easy. So I'm interested in that in terms of institutionally how we communicate its benefits and get it to click for more people, because I think once it does you can see more of the potential and less of the risk. Anyway, I'm interested in that. In your submission you talk about the idea of establishing a regulatory sandbox for blockchain projects in particular. Can you give us some of the detail on how you think that might work or what that might look like?

**Mr Bacina:** I think that the Singaporean approach where sandbox settings can be tailored to a project, or a more bespoke approach where a business could go to ASIC in particular to say, 'This is what we'd like to do and we'd like to try it out,' is probably more appropriate to the blockchain space. The challenge I've seen is that the existing sandbox is fit to purpose for the traditional way of fintechs and regtechs operating with limits on interactions with customers and how much money could be involved. But the nature of distributed and decentralised systems means that they generally don't fit within the original design of that sandbox. I think the only sensible answer is to deal with it on a project by project basis because there is so much application that can be done in the space.

I think you're right that it takes someone to have understood what the project is planning on doing, because there are already things happening out there. There is an increasingly large world known as 'DeFi', decentralised finance, which is a place online that digital assets are currently paying seven per cent per annum interest. There's no regulation and no licensing around that space. They're all self-executing loan contracts and self-executing margin facilities with over a billion US dollars currently in that system. They passed that mark in early January, which is a fascinating area. It lets you see what happens when there aren't sandboxes available. In the blockchain space in particular there are a lot of people who are operating in the Wild West, much like in the early internet days, where the opportunity is being taken without consultation with regulators. I can say I have had clients who have come in, spoken to us and said, 'We would not like to engage because we don't think we will lead to a meaningful answer or an answer from a regulator. We're going to Singapore or Switzerland and that's that.' They won't even engage with regulators, and that's my concern around the messaging around the blockchain space.

**Senator MARIELLE SMITH:** One of the things a lot of fintechs have told me is that the UK was very effective, and Singapore as well actually, in terms of their top down facilitation and encouragement of the fintech sector in a way that Australia hasn't been. Australia's been very good bottom up in terms of innovation, which has come from within the industry, but really our government hasn't met them to the same extent that the UK and Singapore have. Do you have a view on that? Do you see that to be the case in Australia.

**Mr Bacina:** I do agree. I think that we're seeing an industry led, bottom up approach to that innovation, but that is starting to, and will increasingly, hit the roadblocks of regulatory uncertainty. That's where the top down approach has a benefit because government leadership around specific pilots, and the blockchain roadmap, highlights AML and KYC as an area that's ripe for that opportunity. It gives confidence to that bottom up approach to stretch further and expand. And that also feeds into access to capital and investment, because when there is certainty around that regulatory environment there are more people who are willing to contribute their capital to back an idea. When there's uncertainty then there will be uncertainty in investment. So I think that we could have the best of both worlds with government taking the opportunity to lead a little bit more in that space.

**Senator MARIELLE SMITH:** I will ask you about the R&D tax incentive. I'm not sure if you were here for our previous witness, but there's legislation currently before the parliament which deals with the R&D tax incentive. In your experience where do you think this is working and where is it not? I've sometimes heard conflicting evidence from different organisations about their ability to access the incentive, either in terms of an inability to navigate the scheme or in terms of confusion about whether it applies genuinely to software development or not. What's your experience working in this space?

**Mr Bacina:** My experience on the side of startups is that the R&D tax incentive is essential to many of the smaller ones as they're getting off the ground. It provides a very valuable lifeline coming through. I think the caps on perhaps larger organisations may be useful, but I haven't had as much experience in that space. But it's certainly viewed as an essential aspect of the Australian startup culture, whether that's because startups have just come to rely upon it or because it provides that critical early boost of funds when a project may be bootstrapping and getting towards a point where it could seek investment. Australia does have a shortage of that very early stage angel investment, and Australia, culturally, is much more comfortable from the investor perspective of investing in something that's a little bit more proven, which does contrast otherwise to our habits of betting on two flies crawling up a wall. But that boost there is very targeted and very useful, and I think that's essential to our start-up space. That covers all fintechs.

**Senator MARIELLE SMITH:** Do you think it's accessible? Do you think enough of these smaller firms are actually able to navigate and access it?

**Mr Bacina:** I think it is. In my experience most of them do go through an intermediary like an accounting firm or a grants specialist who can deal with it, which necessarily has a cost to it. So there's probably an opportunity for an online self-assessment tool or something which could help a firm that's using a tool like Zero or something else to automatically categorise their expenses and look at it. A lot of it is an accounting function, which many start-ups don't necessarily have high on their skill level in-house.

**Senator McDONALD:** Thank you; that was a terrific presentation. As one of the starters of the Parliamentary Friends of Blockchain, I'm really interested in this concept of embracing technology from a regulatory endpoint. It seems to me this is very cultural because we're moving quickly into new technology. A few years ago blockchain was something where you'd go to seminars and people would do a 'What is blockchain?' session as opposed to incorporating it into their business. So things are moving very quickly. Given we have touched on the shortage of talent and the challenges of talent, how do we embrace this cultural change for our regulators and for government to understand exactly what this change is?

**Mr Bacina:** It's a very difficult challenge. Things like the National Blockchain Roadmap are an important first step, but they are what they say on the box. They're a road map; they're a plan. We have to start driving down it. The education piece remains critical. I am still giving presentations where the results of my surveys are that people don't know anything about blockchain but have come along to learn. So there is still a huge education piece. A lot of universities have started rolling out their courses now. RMIT was leading the way. There are certain extraordinarily hardworking—I would venture to say the hardest working—public servants I have ever come across. I would like to take a moment to name Jonathan Hatch at ASIC and Chloe White at Treasury. I've never in my career seen public servants answer emails so late, but they work tirelessly to try and bring more education. I have been fortunate to come in and provide some training to ASIC on what's happening in the blockchain and online crypto assets space so they can get across that. Those kinds of initiatives are really useful. Within the public service I think there's a need to push more education. Whether that comes from the running of courses or is brought from active funding of pilots—I prefer the latter, because I think there's nothing like getting your hands dirty to learn about technology and the benefits and being able to see the real returns—those two aspects are sorely needed, which will also signal that this is something that the government sees as the future and part of innovation and wants people involved in.

**Senator McDONALD:** I have lots more questions, but I'll leave it there.

**Senator SCARR:** Thanks for coming along today. I'll just ask one question on this concept of a central bank issued digital currency. Why do you think that's an important initiative for us to take as a country?

**Mr Bacina:** That's a big question and I don't have enough time to answer it all in a fulsome way, but the early stages of exploration—

**CHAIR:** It's in your submission, isn't it?

**Senator SCARR:** It's mentioned. It's recommended—

**Mr Bacina:** How much time do we have?

**CHAIR:** You should answer the question. We want to know your information.

**Senator SCARR:** I want to get a better feel for why you think it's important for the central bank to take that role in particular.

**Mr Bacina:** Two main reasons: (1) because you have several countries, including China, already moving to issue a central bank digital currency, which will be highly likely to be released at a retail stage in the future and not merely at wholesale level; (2) because a lot of our banking infrastructure is extremely old, and one of the best deployments of any blockchain technology is in the replacement of very, very old technology, not necessarily upgrading something that's only been put in place a few years ago—one of the reasons ASX's deployment to replace CHES is quite useful and has good return on investment. I am not privy to the internal workings of the wholesale settlement system inside the RBA, but, when you have that level—I think it's 53 out of 66 central banks surveyed—already working on it, there is a strong aspect of 'we are not working at the same level that other governments are', and they will be getting involved in this space.

The foreign exchange space has already seen a huge adoption of distributed ledger technologies, and it's already been moving through that industry. That is a space that you see central banks are interested in and involved in. I think I put a survey in my submission that I did at the Australian Payments Network. Payments is an area where a lot of payment professionals see that we will have a lot of the rails changing to have blockchain involved. Our Reserve Bank should be involved in looking into that as actively as it can be, because, when you already have the professionals moving to say, 'Yes, this will happen,' we want our regulators to be as far ahead of the game as they can be, learning, in particular, from the opportunities that other overseas reserve banks and federal banks are looking into as well.

**CHAIR:** In summary, what do you think the central bank should be doing right now?

**Mr Bacina:** They've started their pilot of looking at some wholesale reconciliation using a private ethereum install, and that's a great start. I think they should be looking at what the other central banks are doing now. I think China has been working on this for five years. Investigating their approach would be very useful. Just to say one more point—

**CHAIR:** I'm just trying to understand it. Are you recommending that the central bank should be issuing digital currency or investigating digital currency in the short term? Is that what you're saying?

**Mr Bacina:** I think there should be, yes. I think they should be looking to catch up with the rest of the world, which has been moving on central bank digital currencies for a while. It's just been in the press a lot more in the last three or four months. So the pilots that have been operating, particularly in Europe—and the Americans are looking at it as well—are investigating the benefits of it.

**CHAIR:** Is anyone actually doing it?

**Mr Bacina:** Do you mean issuing a central bank digital currency?

**CHAIR:** Yes.

**Mr Bacina:** China will probably be the first—they've pushed back their official launch, which was originally rumoured to be November or December last year.

**CHAIR:** So no-one's actually doing it now?

**Mr Bacina:** Not in countries comparable to Australia. I believe an eastern Caribbean digital dollar was issued a while back, but it's too small for us to get real learnings from, given the size of the population.

**CHAIR:** It might aid the committee's deliberations if you could take some of this on notice and come back, if you have the resources, because it would probably be quite useful for us to get a sense of where some of the other jurisdictions are on this question that you've raised today. You talk in your submission about ex-tech and R&D. We already have an R&D regime. What is your definition of ex-tech?

**Mr Bacina:** Questions have been raised around R&D and issues came up last year about claims that might have been too broad and whether software development qualifies. Having a specific ex-tech to say, 'Yes, this is

purely software focused and something that, if you are developing a particular kind of software that meets the requirements that we say, you're eligible for this category,' is something that could be added onto the existing R&D incentive, because the R&D incentive is a broadbrush approach.

**CHAIR:** Are you talking about interpretation?

**Mr Bacina:** Of the existing scheme?

**CHAIR:** Yes. Are you saying, 'Clarify the interpretation'?

**Mr Bacina:** Yes. I think that you could either clarify the interpretation of the existing scheme or you could look at a separately funded bucket of an amount that is available for specifically this kind of software-driven ex-tech development—whether it's focusing on fintech, depending on the government's priorities—to provide a specific path to that. That may be something you could tie into a more self-assessed approach to reduce those costs of businesses accessing it.

**CHAIR:** Do you have clients that have had trouble making software-related claims?

**Mr Bacina:** Yes. That is largely because the intermediaries they've gone to, or someone they've sought advice from, has said, 'We don't think you should be claiming this, because it's become an environment where you shouldn't do this; if it was two years ago, perhaps you could.'

**CHAIR:** The question is: are there legitimate advances being made in this area that would not satisfy the criteria?

**Mr Bacina:** I think it's more of a concern around software development, particularly—so it's a maybe. If a business believes that they may not qualify, then that colours what they're doing. So clarity around that could be a solution to the problem.

**CHAIR:** Clarification by the commissioner? You're a lawyer, right? What's going to be the most useful thing?

**Mr Bacina:** I think clarification by the commissioner would be the most useful. Anything that we can have that's a bright line from a regulator, in my view, is very useful when you have reports of these issues coming up. They'll obviously need to be adjusted over time.

**CHAIR:** On the initial coin offering review, where's that up to?

**Mr Bacina:** I believe that we're waiting for the report to be issued. So that's—

**CHAIR:** It's Treasury, right?

**Mr Bacina:** It is Treasury.

**Senator MARIELLE SMITH:** I want to bring you back to your comments about how fantastic South Australia is!

**Mr Bacina:** And Queensland!

**Senator MARIELLE SMITH:** We don't need to go there!

**CHAIR:** It's not even right—perjury!

**Senator MARIELLE SMITH:** In areas like this where the sector is innovative, relatively new and relatively small compared to other sectors, there's an argument that it should be concentrated to one location to keep the skills, capital, talent and innovation in one place. There's another argument that says that we can distribute those benefits and those opportunities more broadly to access a different kind of talent and different pools of employment markets, opportunities and innovation. I probably sit on the second side, being a South Australian senator, and want to see the opportunities for this sector to thrive in my state. The state government is doing a lot there, which I acknowledge, in trying to support the sector. What more do you think we can be doing to make sure the benefits of this industry are spread more broadly than Sydney and Melbourne, and where do you see these opportunities in South Australia, noting your comments on the things that are being done well there?

**Mr Bacina:** On the first part, I think that generally that clarity around regulatory guidance will assist. I think that you're always going to see a pool of financial services towards Sydney and Melbourne because of the historical location of banks and insurers in those cities, and that's something that we have. I think it's challenging to get away from that. I certainly see, in my practice, a bit more of a variety of blockchain startups outside of those cities, particularly in Queensland and in South Australia. But, again, I think that it's because of a historical reason around the economies of those states.

Certainly, South Australia has been pushing the Lot Fourteen project—which the Premier has been quite supportive of—and some other incentives to try and draw that talent in. I think you're correct; there is a huge benefit in those kinds of serendipitous interactions where people are located in one place. The Sydney Startup

Hub is a prime example of how Sydney has done that well—bringing together a number of different hubs in one building so that there will be those kinds of easy meetings and facilitation. Unfortunately, the promise of remote working from the internet in the 90s never came true, but those kinds of core startup hubs are very useful the startup community and also for businesses to come in and quickly access a range of meetings.

Just yesterday, on my social media, I saw something pop up from a leading company that were in the Sydney Startup Hub. They were meeting with a dozen different small startups to see how they could explore working with them. When things are more distributed, you don't have that benefit. So I do lean to more towards that there should be those kinds of hubs to help reduce the transaction costs of getting access to some of these new ideas.

I have seen that when certain startups, who could be seen to be established several years in, have gone and finally got a meeting with larger corporates, they have sometimes unlocked investment because the corporate has seen how useful the technology is and has then come in and said that they want to invest rather than partner. Anything that can be done to reduce those barriers is useful. But the problem is that we just have that pool towards the capital cities. Being Sydney born and bred myself, I don't know how we could try and distribute out more to regional centres, for example.

**Senator MARIELLE SMITH:** But you acknowledge the good things happening in South Australia and Queensland. Do you see opportunities in those two places for this sector to thrive?

**Mr Bacina:** Yes, particularly in South Australia because of that very local government support. We, Piper Alderman, have our head office in Adelaide. It was originally an Adelaide firm. It is well known that that support has led to clients of mine who are based in Sydney travelling to Adelaide and led to other professionals I know in the space travelling and moving, in some cases, to Adelaide to access that because they see it as friendly. They see the accessibility of state government ministers to be able to reach out to and ask: 'Can we do this? Can we get some guidance? Could we speak with government agencies about where we can drive improvement?'

**Senator McDONALD:** On that regional part, I think connectivity—being able to have talent able to access business opportunities from outside the major capital cities—is a big part of that, isn't it? Is some of it a nuts and bolts issue?

**Mr Bacina:** I think that it is. Australia has a huge benefit in our culture and climate. I know quite a few people who have moved out of Sydney for cost purposes and also some who've moved to the Sunshine Coast for the lifestyle, and, because of the significant air links, they can still travel to Sydney for meetings and have the best of both worlds. Australia has that huge drawcard that no-one else in the world can really compete with in having that fantastic culture and fantastic weather—absent in the last few months further south. But those settings around education and perhaps support and things like internet connectivity, which the NBN may solve, may assist in helping to drive that a bit more.

**Senator McDONALD:** Yes. Thank you.

**CHAIR:** Thank you very much.

**SCANDURRA, Mr Alex, Chief Executive Officer, Stone & Chalk**

[09:00]

**CHAIR:** I now welcome Stone & Chalk. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Mr Scandurra:** I would, if that's okay.

**CHAIR:** Please proceed.

**Mr Scandurra:** First of all, thank you, ladies and gentlemen. I really appreciate the invitation to appear before you and I congratulate you on having a shared-party approach to looking into the opportunities of fintech and regtech. My experience in the UK before returning to Australia helped me realise the enormous potential Australia has both in fintech and regtech and more broadly, which is why I've dedicated the last five years to helping Australia develop and establish itself as the leading fintech economy in the region. As a not-for-profit founded in fintech, Stone & Chalk's mission is to help Australia's industries so that generations of Australians have the market conditions needed to build successful technology businesses and for the workforce to have meaningful and high-paying jobs so that, as a nation, we can sustain our high living standards.

Stone & Chalk provide a full suite of curated services and support to drive impact, growth, recognition and investment for its residents and alumni, providing the key ingredients necessary to successfully commercialise and scale domestically and internationally. We connect founders to partners as customers, capital, talent, expertise and, now, a national community. Alongside this effort, we help corporates and government agencies develop the tools to help them improve their ability to modernise and digitally transform by innovating from the outside in—that is, being good customers of startups and scale-ups. The relentless focus we've had on this higher purpose has allowed Stone & Chalk to achieve some significant results. In less than five years we have gone from hosting 40 full-time startups and scale-ups to 150; gone from housing 100 full-time residents to 850; established a presence in Sydney, Melbourne and Adelaide; and helped create over 1,000 direct jobs and thousands more in a supply chain. Many of our residents and alumni now export to markets such as those in Asia, Europe and the US.

To ensure we have a common understanding and to give further context to some of the recommendations that we've made, I thought I'd share the following facts and statistics. The average age of founders in fintech and regtech is 42; hence they come with over 20 years of experience and expertise in their fields. It is also widely accepted that, globally, technology based high-growth companies are the largest creators of new and high-paying jobs in a developed economy and that, as an average, approximately 80 per cent of fintech and regtech companies and related startups and scale-ups are business-to-business, which means they create solutions for other businesses, typically medium to large enterprise such as corporates and governments. So, logically, for fintechs and startups more broadly to succeed in Australia, they need to be able to successfully sell to corporates and governments, or, in other words, governments and corporates in Australia need to buy solutions from Australian startups and scale-ups.

So I wanted to share with you these underpinning facts because I see the government putting a lot of effort, and rightly so, and hope into the growth of fintech. But there is a bigger force working against the success of fintech and regtech that I think it is critical to highlight. In Australia, as in other similar countries, we are plagued by oligopolies in almost every industry—oligopolies which, as you know, exert significantly market power—and it continues to be the Australian consumer and smaller businesses that are paying the price. This dynamic is acting as a handbrake on the economy and is stifling innovation, renewal and growth. There is no better example of this than what is happening post royal commission in the financial services sector. Rather than being proud to be the first customer of a startup, as is particularly the case in the US, Australians in positions of authority, the decision-makers, insist on being the third or fourth customer. What makes things worse is that in many cases it takes an average of between 12 to 18 months to sell into government and large enterprise. Five years ago there was a total lack of venture capital in Australia and, whilst the situation isn't perfect today, you could say that there is sufficient abundance of early-stage venture capital such that it is no longer really the substantive problem but rather seed investment at the earlier stages of growth when we talk about investment.

Many high-net-worth individuals and seed investors in Australia have made their money in traditional industries such as property, mining, retail, agriculture and others, and don't really understand technology and therefore perceive it to be a very risky investment class, wanting to see customer contracts secured before investment. Without realising it, what we have in Australia is a vicious cycle or catch-22 where startups need seed investment in order to fund their product development and lengthy sales phases where investors don't put their money in until the contracts are secured.

Because the sales cycles are so long, the outcome of this vicious cycle is that many high-potential firms are failing before they even get off the ground. Given there are various recommendations that we've put forward in the submission, I thought I would narrow—in the interest of time—our discussion to a couple, if that satisfies the committee but of course you're more than welcome to ask any questions that you'd like.

Startups and scaleups: in this forum fintechs and regtechs play a fundamental role when it comes to increasing competition in the Australian economy. There are countless reports and predictions that also estimate that, due to robotic processes automation, over 50 per cent of existing jobs in financial services alone will no longer exist in the next decade—that's hundreds of thousands of high-paying jobs. Therefore not only is the success of Australian fintech and regtech vital to provide the jobs for displaced workers and greater competition; it will mean that consumers and businesses get a better deal; highly-skilled jobs are generated; wealth and tax receipts rise; and together we can maintain and improve our living standards.

There are several recommendations that address the key opportunities in fintech and regtech—and I'll just focus on a couple. First of all, it's how we can help increase the adoption of fintech and regtech, and startups of course more broadly, in the economy and therefore create more of these jobs and companies that pay tax locally. Secondly, how can we increase the availability of investment at a time when startups need it most to ensure more make it to being attractive to VCs and continue on to succeed?

On the topic of increasing adoption, I've suggested two changes that would have an immediate and positive impact at no additional cost to the Australian government or with the cost being relatively negligible. The first is with regard to the existing R&D tax credit legislation, which I'm sure is a topic that's come up several times. We could quite easily update the legislation regarding the R&D tax credit regime by assigning a proportion of R&D tax credit spend with Australian startups and scaleups which can apply to companies with an annual revenue of greater than \$100 million, for example, and so very much in their affordable space. In doing so, this provides a financial incentive to larger firms to conduct research and development with Australian startups and scaleups at no additional cost to the budget. Additional benefits may result in an improvement in the time it takes to commercially negotiate with large firms thereby improving cash flow and having the secondary benefit of obviously increasing the success rate at early stage.

I believe we need to introduce and implement a competition objective and mandate in regulators such as ASIC, APRA, RBA and AUSTRAC. Currently, these regulators are heavily focused on policing, particularly in the case of ASIC when it comes to conduct and APRA when it comes to prudence. I don't believe that it's feasible any longer for the ACCC alone to have a competition mandate as there are too many ways in which, if we are not careful, current mandates for other regulators and their priorities might be such as to unnecessarily increase the barriers to entry as opposed to lowering them over the longer term.

In terms of increasing early-stage investment, the initiatives introduced under NISA, ESIC and others were a great start and statement of intent by the government. The government as well as the opposition should be commended for taking such an important step in helping to pass that legislation. An example is the regulatory sandbox, where it was clear that uptake was quite poor, criteria was too restricted and expansion was necessary. But, unfortunately, current initiatives have made little impact on increasing investment for early-stage businesses. What I mean by that is businesses under a million dollars, so very much the early seed stage.

A recommendation put forward is to remove capital gains tax for investors and founders. I've included founders as they take the highest risk. In many cases they remortgage their properties, sell their homes, deplete all their savings, and they're not rewarded separately in the tax system. I've included investors as they're in extremely short supply, and we do not have the mentor and investor base as do many other economies that are encouraged to invest in this vital asset class moving forward. If you think about it, this has quite a negative impact on Australian tax receipts because these investments aren't incurring today. The excuse that we can't afford it from a budgetary perspective doesn't really fly given those tax receipts aren't forthcoming in any substantial quantity today. Not only that but in taking some of these measures that increase investment in this earlier stage we have the secondary benefit of having more companies make it to venture capital and success. They employ more people and therefore we have an upside in tax revenues through income tax receipts and eventually through company tax.

**Senator MARIELLE SMITH:** Thank you for that detailed presentation and for your detailed submission. There's a lot to unpack within it, so I'll go as quickly as I can. First up, you talked about the changing job market in the financial services industry and the fact that a lot of these traditional jobs are on their way out and the opportunities for growth in the job market lie in this sector. That sits alongside the skills challenge we have in this sector and how we best equipped young people to enter innovative startups and be well prepared to participate in innovative work themselves. I've heard a lot of criticism about our university sector in terms of its capability to skill up the next generation in a way which is useful and valuable to industry. I've heard that there are often much

shorter, cheaper courses that young people can do which make them more beneficial and effective in a startup environment than a three- or four-year university degree. But these courses are obviously not on the HEC system because they're obviously not in universities so they're expensive for young people to do. How do you think we upskill the next generation or even the existing workforce in the financial services industry, which needs to change its skill set, to participate in fintech innovation?

**Mr Scandurra:** The point is quite well made, and one way we're addressing that is that we've recently launched Academy, which is focused on lifelong learning. You're quite right in saying that to focus on the emerging generation isn't enough, because automation is coming now. We've already started to receive communication from some of the large incumbents, for example, that have started to make redundant thousands of workers, and that's really just the tip of the iceberg. What we're focusing on is creating courses that are quite short in nature and are easy to consume but are largely focused on helping people in the workforce transition their existing skills into a new context. How can we help people in large organisations in jobs and potentially even industries that are becoming somewhat redundant take their existing skills and expertise and make them useful in a new context in terms of emerging startups and scale-ups in any sector? How can someone in marketing, for example, in a large 40,000-employee company convert those skills to be of use to a company that is fast growing, only has 50 people and is emerging technology, for example? How do we provide a vehicle for which people can actually move from one to another? Your point around universities is quite strongly made in that, yes, they will always be laggards because they're responding to trends that are happening in industry, for example. I believe that the pace of change will be such that, considering the cycles of course curation, course approval and course delivery and the duration of those courses, they won't be able to keep up with the demands and needs of what's happening in the workforce. More of these types of offerings are critical so that people can maintain their skills and maintain their relevance.

**Senator MARIELLE SMITH:** What jurisdictions are doing this well?

**Mr Scandurra:** It's really difficult to know because so much of this is decentralised. We've looked at companies such as General Assembly as one type of organisation that provides these types of courses. They've come out of the US and they tend to focus more on the technical aspects of skills, whereas we focus on the non-technical aspects, the soft skills, and how you can convert that across. There would be people better qualified than I to provide you with guidance in that area, but I'm more than happy to look that up and share that.

**Senator MARIELLE SMITH:** On the issue of procurement, I'm particularly interested in federal government procurement and state government procurement and what practical steps could be taken to support this sector. I know you mentioned that as an area of reform. Could you give us some examples?

**Mr Scandurra:** Yes. That's so important. If we go back to what this sector needs the most, everything starts with opportunity. You had a question earlier around regional areas, for example. The most important thing that drives everything is opportunity, and in Australia that's about opportunities with large buyers—and the federal and state governments are the biggest buyers in our economy. We have, for various years, tried to help both levels of government become what we call 'startup ready', which is in creating a fast-track procurement process for early stage technology companies in Australia. To a large extent, we've failed in implementing that successfully across the country. When we look at startup and scale-up success, the biggest factor is in reducing the perceived risk profile of that investment and there is no better way of reducing that risk than through validation that comes through customer contracts, and, right now, as governments, we are talking about it, but we aren't doing it and leading the way. So we desperately need a fast-track procurement process that is fit for purpose for working with early stage startups and scale-ups across the country at both a state and federal level. What we don't mean is where there is high risk or where it's core to government systems, for example, where potentially it could be seen as a highly risky decision to employ an immature technology, let's say, versus an alternative. But, when we look at the extent and breadth of government expenditure at both state and federal levels, there is more than enough to provide a real accelerant to startup and scale-up growth in this country.

**Senator MARIELLE SMITH:** How receptive have you found state governments to have been to this idea? I have some experience at state government level of procurement. Obviously there are the high-level strategic, significant procurements which go through one process, but then there are the small level procurements, which are done within agency, with relatively small teams. How have you found accessing those people? Have you found that state governments have been willing to facilitate a conversation with the people doing procurement at the level you want to access?

**Mr Scandurra:** It's a difficult question to answer, for a couple of reasons: (1) each government has had limited success and, I'd say, limited interest and leadership in this space. It typically is the ministers, at ministerial level, where they understand the benefits of taking such an approach. Where this has tended to fall over is in the

implementation and policy setting, such that the bureaucracy understands the mandate that's coming through and that this is something that has very strong intent from the leadership of both the government and the department. To date, we haven't experienced a case where the two are in place. So the initial efforts that are made are either diluted when it comes to implementation or simply aren't implemented at all.

**Senator MARIELLE SMITH:** Angel investment is another area you raised. It's a cultural issue in Australia as opposed to other places, as much as anything, but there are things we could be doing to help facilitate angel investment. Where do you think the government has a role in providing support, encouragement or facilitation for that in our market?

**Mr Scandurra:** You're absolutely right. We have a significant cultural issue across corporates and across government and across investors. Having experienced the last five years here in Australia, I think the best way we can crack this nut is by providing financial incentives. ESIC was a good attempt. It hasn't been successful. I think we need to look at that again and examine what needs to be done and what incentive measures need to be put in place—

**CHAIR:** What are those things?

**Mr Scandurra:** That could be put in place?

**CHAIR:** Do you want to take that on notice?

**Mr Scandurra:** Yes. I think capital gains tax is one thing that I've mentioned that we seriously need to look at, as well as downside protection as far as losses are concerned. But I'm more than happy to take that on notice and give that some additional thought and come back to the committee.

**Senator SCARR:** Can I ask you some philosophical questions—just lifting the level! You're very optimistic and very passionate about the fintech sector. We've got a submission from the Financial Rights Legal Centre which paints a bit of a darker picture. I want to put some propositions to you and get a response from you as someone who's optimistic about the sector, to give me a bit of context here.

This is from their submission:

At every opportunity the FinTech sector representatives sought to build in "friction" to the process of deleting one's data. This seeking of increased "friction" in this case is somewhat ironic given the relentless calls from the FinTech sector to make the CDR, data-sharing and switching "frictionless" transactions. It is only where the FinTech sector's self-interest is served, in seeking to hold onto customers and their data, that they see the benefits of friction.

How would you respond to that?

**Mr Scandurra:** I think that's a really bizarre statement to make, frankly. I've been exposed to hundreds of fintechs both nationally and internationally. If anything, the pursuit of the consumer data right is seen as an opportunity to remove the stranglehold that incumbents in any industry have on the data of their customers. If you look at one aspect of financial services in particular—let's look at lending, for example. Today lending is dominated by four organisations—we know who those four are—which means that they have a significant amount of information and credit data on the Australian consumer. In order for others to provide competitive lending solutions to the same consumers, because we don't have mandated credit bureaus in Australia that have all this information accessible centrally they are at a significant disadvantage simply because they don't have access to that information. What this is seeking to do is simply give the consumer the power to make the decision as to who has the right to access what aspects of their information. What I think is a misunderstanding on their behalf is that fintechs don't actually hold the data necessarily. All they're doing is receiving permission to access it in somebody else's possession.

**Senator SCARR:** I'm going to put two more propositions to you from the Financial Rights Legal Centre's submission. You talked about the lending context and the increase in competition. This is what they say about that in their submission:

Much of the promise of FinTech is that more tailored products and services will be made available with lower fees or lower loan interest rates for many banking customers. However, the flip side to lower fees and interest rates for some is that costs will increase for others. These 'others' will undoubtedly be Australia's most vulnerable, disadvantaged and financially stressed households.

How would you respond to that?

**Mr Scandurra:** I would say that's not a fintech issue; that's an economy-wide issue. As any organisation seeks to determine how it wishes to price to any customer or any segment, that's got nothing to do with whether they're a fintech, a regtech, a start-up, a scale-up or a 50,000-employee organisation. That's a much greater philosophical question that we as a nation need to ask ourselves when it comes to value based pricing. It goes back to the

essence of pooling in insurance, for example, where potentially we don't price per individual but by segment of customer.

**Senator SCARR:** Here's another example on that theme, in relation to algorithmic decision-making—so artificial intelligence:

Algorithmic decision making in the financial services sector has great potential to introduce bias into decision making particularly for marginalised consumers.

**Mr Scandurra:** I guess that would require a lot more investigation into understanding what they're referring to by 'marginalised consumers'.

**Senator SCARR:** One example they give is: if you're applying for a financial services product and you live in a low socio-economic suburb, immediately the algorithm, as it works through, will introduce a bias against you because of your location. Is that something which has any resonance with you?

**Mr Scandurra:** I don't believe any technique, tool or software would potentially introduce any bias that isn't in place today. And, in many respects, what I've seen is an increase in accuracy, for example, of credit assessments. Today, in Australia, as was the case in the UK, there are a lot of false positives and false negatives when it comes to assessing credit. What that means is that, in some cases, people are given credit when they shouldn't, because they can't afford to service those loans. What it also means is that people and businesses miss out on credit when they could service those loans. What we believe is that technology will increase the accuracy of those assessments to ensure that there are fewer people and businesses given credit that shouldn't be given credit—which goes back to responsible lending—and, at the same time, more people and more businesses are given credit that can actually afford to service those loans.

**Senator McDONALD:** To follow on from that, we're already seeing that with the banks making lending not available to certain postcodes, particularly in regional Queensland. It's possibly also happening in the great state of South Australia, but in the great state of Queensland we've already got those issues. On the training path, you said that you were providing training not so much in the technical aspect but in the soft skills. Do you think that, in our education system for our newest graduates, and school leavers particularly, we have really understood soft skill training? I hear my kids' schools talking about it, but I'm wondering what your experience is on the ground.

**Mr Scandurra:** We've got a long way to go. We, as a nation, have focused heavily on technical skills and entry requirements for further education. And I think, for generations, our generations included, we've been letting ourselves down in terms of providing the life skills that we need, as people, to survive. I think that need is severely increasing when you consider the context of the acceleration of change and the acceleration of new technology and how fast that's already starting to impact industries and jobs, for example. When we consider the context of the future of work, where people will have multiple jobs across multiple industries—and we're talking about contingent careers, for example—we're talking heavily about adaptability and resilience: skills that we don't really focus on teaching at any level of education, because they're non-technical. They're very hard to measure and, therefore, they're very hard to provide certification around. Actually, it's not about qualification or certification; it's about skills and competencies. That's why we've taken that deliberate approach around academy, to start to focus more on these attributes of character as opposed to technical skills, because we believe they're the human skills that people are going to need at all stages of their lives to continue to adapt and change with the environment that's changing around them.

**Senator McDONALD:** Chair, that's not really specifically addressed in our scope. I would like to see us find some space for recommendation on that skills part.

**CHAIR:** I agree. Mr Scandurra, thank you for your submission. You represent a lot of different groups, so I understand that you cover a lot of ground, which makes this a difficult job for you. There are a couple of things I would like you to consider taking on notice. The first is on procurement, and the deputy chair probed this issue a bit. If we were going to recommend a framework for government procurement in our interim report—especially given that we're representing the Commonwealth government—what sorts of standard templates and processes could we put in place? You may want to take that on notice. That could be quite useful.

**Mr Scandurra:** I'd be happy to.

**CHAIR:** Thank you. Obviously, we'd expect you, in that process, to consult your members. That could be quite a good piece of work. Just to get you on the record on a few things, how would you summarise the position of competition in banking in Australia?

**Mr Scandurra:** That's a doozy. At the moment, we know statistically that the big four control about 80 per cent of the market. Therefore, you could really classify that as an oligopoly. We've got the additional problem in that, through the forces of competition amongst, naturally, themselves and the way capitalism works, they're

going to be introducing, quite naturally, a high degree of automation, which is going to mean quite a lot of those jobs are going to start to disappear.

If I take a personal view and a personal philosophy in answering that question, I believe that it is a significant handbrake on any economy where four big banks dominate the Australian stock exchange and are the most profitable banks per customer in the world. What that says to me is that a huge amount of profitability is shifting from industry to a financial service which potentially, arguably, doesn't contribute that much to productivity as other areas of industry potentially could, particularly when it comes to technology creation.

**CHAIR:** I guess, because a lot of those stats are well known, one of the questions is: what is the conduct of the four large banks like today?

**Mr Scandurra:** In what aspects?

**CHAIR:** How have you found it? You run Stone & Chalk, and you've been there since it started. How have you found the conduct of the four large banks in how they have embraced new ideas and different entrants? For example, have you found generally that large banks have been open to new ideas, accepting that there could be some loss of business, or have they defended every last piece of ground and tried to destroy any new entrants?

**Mr Scandurra:** It's certainly varied. One could take a view that the delay in implementing the consumer data right and open banking is one example where efforts were made—by some, not all—to either stall it or crush it. Some have been quite successful and open about trying to invest in and collaborate with Australian start-ups and scale-ups on a genuine basis. Also we're in a very important juncture post the royal commission, in that we've seen several boards and executive teams withdraw, close and shut down innovation functions and funds that were looking to invest, and are taking the view that innovation and collaboration with start-ups is really just that shiny thing about the horizon as opposed to a way in which we can actually transform and modernise our organisations.

**CHAIR:** Do you have a view on the four pillars policy?

**Mr Scandurra:** I haven't looked at that in quite some time. I think it's definitely worth reviewing, particularly in the context of what we're seeing now.

**CHAIR:** We'd be grateful for your views on notice. You no doubt have a lot of smart people on your campuses that would have a view on that. This is the last question I had for you, Mr Scandurra; I wrote it down so I wouldn't forget it. In 2016 we put in place the two schemes, ESIC and the—

**Mr Scandurra:** The ESVCLP.

**CHAIR:** Yes.

**Senator SCARR:** It just rolls off the tongue!

**CHAIR:** I fail at it every time I say it.

**Mr Scandurra:** You've got to love those acronyms!

**CHAIR:** From my understanding of the people that were driving those reforms at the time, including the Prime Minister when he was the Treasurer, these schemes were always designed to be flexible, to respond to changing market dynamics and to be iterative in nature. Again feel free to take it on notice, but we'd be grateful for your views on whether those two schemes need to be recalibrated in any way. Certainly other people who have submitted have suggested there should be tweaks, so we're quite open to your views on that. The reason I've asked you to take so much on notice is that I know you have a great community that will want to give us that feedback.

**Mr Scandurra:** I'm happy to. With regard to ESIC, to use the colloquial term, I think it's a no-brainer that we definitely need to look at and understand why there hasn't been the adoption that was intended through its introduction. I was certainly one of the proponents that helped to put to the Treasurer at the time that we needed such a measure in place, largely based on what we put in place in the UK. What is in place in the UK has seemingly been much more successful in mobilising private capital at seed stage than here in Australia. I think we need to compare what the two regimes look like and further understand the Australian context as to what we need to do further.

One thing that I would stress and caution is that over the five years I've been engaging with government there also tends to be a tendency to look at what we've done in the past as opposed to what we need to do to outdo our competitors. And so through this review what I'd like to encourage is seeking to outdo our regional competitors and perhaps in some cases global competitors in terms of the policies we put in place to ensure we attract the best talent, capital and expertise to Australia, as opposed to doing better than we did last year.

**CHAIR:** That's all very good, but the problem with a lot of these changes is that the bureaucracy will often kill them in the detail. How have you found the Treasury and the bureaucrats on these sorts of things?

**Mr Scandurra:** That's exactly what happened. We fought tooth and nail on the first regulatory sandbox, and it got watered down so badly. That's why we only had seven organisations go through it in the number of years since it was introduced and why the expansion of the sandbox was just so necessary. I don't suspect at all but, in fact, know that the same occurred with ESIC and a few other policy measures that were put in place. So I believe we need to be really clear and prescriptive about what the policy and legislative measures we need to put in place.

**CHAIR:** In the five years you've been in that role, have you found there's been a cultural improvement at the Treasury? The Treasury has now got an office in Sydney. The whole idea is that they're supposed to be closer to the market.

**Mr Scandurra:** There absolutely has been improvement in Treasury and improvement in all the regulators, but we need to do more.

**CHAIR:** And your main view from your statement is that there should be a competition mandate for ASIC.

**Mr Scandurra:** And APRA.

**CHAIR:** This product intervention power has been raised by some other submitters as something that could upend innovation. Have you got a view on that?

**Mr Scandurra:** Yes. That's part of the reason behind introducing that competition mandate. We've seen that occur and we've seen opportunities for Australian start-ups and scale-ups go down the gurgler as a result of this intervention.

**CHAIR:** So you're saying that, because of the intervention powers, you have seen innovation not happen?

**Mr Scandurra:** What I'm saying is that we have experienced first-hand and second-hand through our network that various start-ups and scale-ups in the country have had contracts fall through because of perceptions of risk from some of the regulators. Therefore, the incumbents haven't proceeded to procure those products and services.

**CHAIR:** And so those businesses then go on to other jurisdictions?

**Mr Scandurra:** In some cases yes, and in some cases they have basically struggled to survive.

**Senator SCARR:** That's a very important point—from my perspective, at least—because we're going to have the opportunity to ask questions of ASIC. Maybe you can take this on notice. We can have case studies or examples of start-ups that have been in that position. We can walk through those examples with the regulator. That would be most useful. There are probably ways in which, if they want to protect their confidentiality, we can engineer that. If you could take that on notice, that would be greatly appreciated.

**Mr Scandurra:** Yes.

**CHAIR:** We will write to you, but basically, could you give us something on notice on the examples that Senator Scarr talked about in relation to a competition mandate, the four pillars piece, procurement and ESIC.

**Senator MARIELLE SMITH:** Also, we didn't get a chance to talk about the R&D tax incentive, and I was keen to. I appreciate your detailed suggestions on it. Obviously there is legislation currently before the parliament on changes to the incentive, so, if there's anything you wanted to provide to update your contribution on that in light of the legislation which is currently sitting before the parliament, I'd really appreciate that too.

**Mr Scandurra:** Sure.

**Senator MARIELLE SMITH:** Can you paint us a quick picture of what the centre for fintech and regtech development that you call for looks like? Who supports it, who is involved and what does it do?

**Mr Scandurra:** What I'm looking for there is effectively a body that works hand in hand with government and is focused on what we need in order for fintech and regtech to succeed in Australia: groups of people coming together, providing that advice and in many respects creating a strategy from the top down as to how we as a nation are going to drive this forward. I don't say that lightly and I don't say that from the point of view of bias towards fintech and regtech; I say that because I know that those two sectors in particular touch every single aspect of the Australian economy and have a massive potential to increase competition and positive outcomes for Australians and businesses.

It is just like Singapore and just like the UK, where they have realised the potential and importance of fintech to their economies. They have taken a very central and very-high-level government view of its importance and put together a top-down strategy as to how that sector can succeed across multiple areas across the country. I think that's what we lack. We've got lots of initiatives happening, but they're not necessarily tied together to drive a holistic impact.

**Senator MARIELLE SMITH:** That's the strategy piece which is missing, isn't it? Do you think agencies within government are talking to each other well enough? Is there a disconnect there in the conversations being had at an interagency level?

**Mr Scandurra:** I think that, like most organisations in the public and private sectors, everyone is extremely busy and they're all focused on the specific outcomes that they're accountable for. I think we need something with a bit of teeth that's got that whole-of-government focus and which also helps educate the Australian public on why this is important.

**CHAIR:** Thank you very much and thank you for your time.

**LANDIS, Ms Fiona, Acting Executive Director, Corporate Affairs, Australian Banking Association**

**O'SHAUGHNESSY, Mr Aidan, Executive Director, Policy, Australian Banking Association**

[09:41]

**CHAIR:** Welcome. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Mr O'Shaughnessy:** Yes, please. Good morning Chair and members of the committee. The Australian Banking Association welcomes the opportunity to appear in front of this committee on financial and regulatory technology. The ABA applauds the government's considered approach in examining an important part of the Australian economy. The ABA supports many of the findings identified in the issues paper. The ABA agrees that this inquiry is not about big or small businesses or start-ups; it is about all Australian businesses being as innovative as possible to create the next wave of employment economic opportunity and improved customer outcomes.

Australia's banks have a history of innovation, including offerings such as the NPP, contactless payments, online banking and digital wallets. Australians have rapidly embraced the digital age; consequently, our customers now expect and demand that banks will innovate and compete on customer outcomes and experience. 2020 is an important year with the imminent launch of open banking. The consumer data right, which is at the heart of open banking, is an Australian innovation that will empower consumers to utilise their own data securely. It will help them make more informed decisions about the financial products that best suit them and their families. This committee had identified that capital and funding, tax, a skilled workforce, culture and regulation were key factors that determine Australia's competitive position to attract and maintain investment in technology. The ABA does agree with those findings.

The ABA asks this committee also to consider how Australia should best manage the data in our emerging digital economy and to examine how best to connect all data policy into a single national data strategy for Australia—a considered single approach to policy development for the digital economy that balances privacy and security but also facilitates innovations. Thank you. My colleague and I are here to answer your questions.

**CHAIR:** Thank you. Senator Smith.

**Senator MARIELLE SMITH:** I go to your comments on this not being a question of big and small organisations. A lot of the innovation in the fintech is happening within the banks and amongst your members. So I just thought you might want to put on the record a contribution talking about your involvement in the development of fintech rather than fintech being in competition with your services.

**Mr O'Shaughnessy:** You're correct, Senator. It's very much bank customers demanding a lot from Australian banks, particularly in the retail area. The offerings, the apps and the competition in that area's fierce between our members because customers are demanding the best possible functionality in each of these. You'll see with the new neobanks—there are six new neobanks entering Australia. They're all online. They all have digital offerings and they are competing aggressively in that area. So it's not only customers, but it's the smaller banks, the newer banks, that are pushing innovation to new levels in this sector.

**Ms Landis:** The Consumer Data Right will also fundamentally change the way established banks in Australia are engaged with the start-up community. Obviously, that's coming in July and that will be a fundamental transformation. Customers will be able to call their bank and ask them to transfer their data to another provider. That will create a whole new collaborative model in terms of how we work.

**Senator MARIELLE SMITH:** How does the innovation within your members compare to what banks are doing globally and overseas? One of the issues we've had raised is that we've got a significant amount of innovation in the fintech space, and in the UK there have been tremendous amounts done to facilitate the growth of that sector. However, in terms of the internal development of innovative financial products, the Australian banking market has been more effective than perhaps the banks in the UK and other places, partly because of the impact of the global financial crisis and the ability to continue to invest. Do you have any comments to make on that and how we compare in terms of the internal innovation within your sector?

**Mr O'Shaughnessy:** You are correct: there have been a number of international surveys that benchmark the digital offerings of the banking sector in Australia against other jurisdictions. We've always performed well. You're probably correct as well in saying that, because Australia was less impacted by the global financial crisis, banks were able to dedicate more resources in investing in technologies. It's also I think part of the culture: Australians love digital offerings. They love technology and they're fast adopters. The adoption rate of the NPP, for example, as a real payments platform has exceeded the UK, Sweden and Denmark. I think, coming up to the

end of last year, there were about a million transactions every day for about a billion dollars worth of value. The demand is driven by customers and it's driven by competition.

**Ms Landis:** In terms of what's actually happening in Australia, it's clear the government has set out this sector growth as a significant priority. We have CDR coming. We had the regulatory sandbox pass the parliament recently. There have been six new digital banks approved in Australia in recent times. That is all evidence that there is growth and focus on driving new entrants to the market. Is there more to do? There is always more to do, but you can clearly point to activity in this sector and growth.

**Senator MARIELLE SMITH:** I just want to come to the question which was raised at our last hearing around the issue of screen scraping which you'd be familiar with from that discussion. Do you have a contribution or perspective you'd like to make on that practice and, in particular, where it might be going under open banking?

**Mr O'Shaughnessy:** I think that the short answer for it is in Scott Farrell's report on open banking and the Consumer Data Right from December 2017. His view—and I think it's probably in the opening part of that report—is that open banking would effectively make screen scraping redundant by replacing screen scraping with an easily accessible and probably more secure method of passing of data.

**Senator MARIELLE SMITH:** How do you manage the risks in the meantime?

**Mr O'Shaughnessy:** There definitely are risks, and the government regulators have a number of positions on screen scraping. When it comes to individual banks, they tend to warn their customers: these are the possible risks involved in passing your data in this method.

**Senator SCARR:** In relation to the screen scraping issue—sorry, it's obsessing us—we've had submissions from a number of fintechs and also from overarching industry bodies that from their perspective they're still going to see a role for screen scraping moving forward, even when the new systems rollout opening banking et cetera. Do you think that's misconceived or is it a question of them having a different perspective, because of the resources of their members and what they consider is feasible?

**Ms Landis:** Our understanding about the government's expectation is that CDR is designed to stop the practice of screen scraping. That is the intention. We understand that there may be different views in the sector but that is how the government is setting out this issue.

**Senator SCARR:** Right. So that's a statement with respect to the government position. I guess I'm more concerned at this point in time, in terms of this inquiry, about working out the practicalities for the players in the sector. I'll be quite frank, from my perspective when we have certain players who say they're being frustrated by the behaviour of the large banks, in terms of allowing them to increase competition in the sector, and they're concerned about the prohibition of screen scraping in that context—and I'm hearing from the association that there is no need for screen scraping to continue. We have these two competing views and we're trying to find an evidence based truth as to what the actual commercial position is in that regard.

**Mr O'Shaughnessy:** The way the ABA would view it is that this is a customer's data, it's their financial data, and banks take the security of their customers' data very, very seriously. The consequences of getting it wrong, or data leaking out of the system, are quite serious for the individual. When you look at screen scraping it is an unregulated way of passing data from one entity to another—

**Senator SCARR:** Sure. On that—and I've raised this question with a representative of a major bank—are there any case studies you have of screen scraping leading to misuse of data impacting consumers, impacting the large banks? Are there any case studies in that regard?

**Mr O'Shaughnessy:** Not that I'm aware of, but the method of screen scraping is an unregulated method and it is open to risk.

**Ms Landis:** I think what we're talking about here is trying to strike the right balance between allowing new entrants into the market—but ultimately what we are talking about is looking after people's information and looking after people's money. What comes with that is a great responsibility and it's a great privilege doing it, therefore, there are regulatory costs associated with participating in that part of the market. We understand that newer entrants see screen scraping as a mechanism, in many ways, for them to participate, but the reality is there are many views that it is an unsafe way of sharing data in the economy.

**Senator SCARR:** It surprises me though, to be frank with you, as I'm trying to get my head around this issue—I'd never even had heard the term screen scraping before joining Senator Bragg's inquiry—

**CHAIR:** Sorry to hear that!

**Senator SCARR:** I'm a better educated man. I'm a better not necessarily wiser but I'm better educated. Given the incidents of online fraud et cetera, and obviously protecting the integrity of customer data is absolutely

fundamental, and I agree with everything you've said, it surprises me that you can't give examples. Given the risks you talk about, you can't actually give case studies or examples where screen scraping has led to loss suffered by a customer or a major bank. To be frank, that surprises me.

**Ms Landis:** I think the point to make is that what screen scraping requires is you handing over or allowing your user name and password to be used by other providers. That is inconsistent with what the federal government would maintain as safe cyber security.

**Senator SCARR:** I understand that philosophically. As a matter of principal I understand it. I'm sort of a practical person, so I'm interested to know if there are any examples where it's gone wrong where we can say: 'Look at this. This was a disaster' and it doesn't sound as if there are.

**Ms Landis:** There may be. It's just that the ABA probably wouldn't be aware of those examples. It may be a question that you can put to regulators.

**Senator SCARR:** Okay.

**Mr O'Shaughnessy:** It would be a question you could also put to Financial Rights, the consumer advocates who help consumers to—

**CHAIR:** We will.

**Mr O'Shaughnessy:** I think that submission contains some examples.

**CHAIR:** We'll get to that this afternoon.

**Senator McDONALD:** As a recent small-business operator and merchant facility operator, I think that there is some sense that when we're talking about screen scraping and customer data we're talking about little old ladies sitting in their homes in suburban Australia, but as a merchant operator I would put it to you that what the banks are really trying to do is commercialise my data, my transactions as a business owner. What do you say to that—that that's the pushback on data usage? It's not about privacy; it's about how you commercialise it.

**Ms Landis:** Banks have access to information already, despite all of these reforms; they always have had. I'm not sure there is any new evidence to suggest that they are commercialising it necessarily. We have invested significant resources—we are working day and night—to be ready for the consumer data right, which means that people are able to ring up their provider now and transfer that information to somebody else. That is a significant shift in competition. That is a really important reform that is very close to being live.

**Senator McDONALD:** Again, my direct experience was that each bank was commercialising the use of merchant data particularly by establishing, in partnership with fintechs, their own companies that would then be able to map customers and customers' transactions. So, it's very powerful and it's very useful, but it wasn't available to the business owner. I'm interested in the idea that you're preparing for customer data to be made available, but my experience is that you're not allowing it to happen.

As far as this committee's hearing, I put it to you that the reality of what the big four are doing and the rhetoric are not matching. I would like you to please take on notice this concept of: what actual steps do you think your change in policy position will make for making consumer data available, and do you believe this is a government regulatory solution or is this an industry responsibility? I guess that's the second part of the question: which one do you think it is—is it government or is it industry?

**Ms Landis:** It's absolutely a joint responsibility—and I'm very happy to take that question on notice and provide some more information to you. We would certainly agree that data is a very powerful resource. But I see it in a much more positive light. I think it's a great benefit for people now that new providers will have information about these customers. It means that you can tailor products and services more specifically to that customer's need. I see it in a much more positive light, frankly.

**Senator McDONALD:** Do you think the banks will be charging a fee for making this data available?

**Mr O'Shaughnessy:** That's not envisaged in the open banking regime.

**Senator McDONALD:** I just wanted to clarify that.

**Ms Landis:** We could give you a more detailed briefing or provide questions on notice, but we can show you how CDR is actually supposed to work in practice. When a customer contacts their provider it authorises their provider to share their information with a third party. It is designed to be a fairly smooth, seamless process. They won't have to pay a fee.

**Senator McDONALD:** And that will apply to all customer data—individuals and businesses, merchant data as well as bank transactions?

**Mr O'Shaughnessy:** The launch of the consumer data right—obviously open banking is the first cab off the rank. Then there are ambitions for energy, telcos and superannuation. With open banking, the initial ones are restricted to individual customers—transaction accounts, deposit accounts and mortgages. There are ambitions to progress further to business customers, but we need to resolve—and it's still with the ACCC—the data standards authority. There are a number of technical questions. For example, if you are a director of a company but there are four directors, there has to be four consents for the data to be passed. So there are levels of complexity that the ACCC are fully aware of and are now working with to implement standards for the industry.

**CHAIR:** I have some questions about this as well. Who is slowing the CDR down, in your view? Is it the banks, is it the ACCC, is it a combination—what is it?

**Ms Landis:** I don't think anybody is slowing it down. I think the important point to make now is that we are in the testing phase—that is, the most critical phase. There are no shortcuts in the testing phase. If there are issues we need to resolve, we need the time to see what the data looks like at the other end. We need to get that right, otherwise it's going to be very difficult for this to work. It is an extremely complex process. I think the banks have put significant resources, energy and commitment into this initiative, as have the regulators. The ACCC has been working for many months now for this to be ready. I wouldn't accept that anyone is slowing it down.

**CHAIR:** You haven't seen any evidence of any of the big four banks trying to slow down open banking?

**Ms Landis:** Absolutely not.

**CHAIR:** What is the ABA's view on four pillars?

**Mr O'Shaughnessy:** The four major banks?

**CHAIR:** The four pillars policy. What's your view on that?

**Mr O'Shaughnessy:** We actually don't have a position.

**CHAIR:** The ABA doesn't have a position on four pillars?

**Mr O'Shaughnessy:** No. That would be a question for government.

**Ms Landis:** We have 23 member banks; they are major banks, non-major banks, regional banks and international banks.

**CHAIR:** Have you looked at many of the submissions to this inquiry?

**Ms Landis:** Yes.

**CHAIR:** So you'd be aware that there are a lot of smaller organisations that have made serious allegations about anti-competitive behaviour in the Australian financial sector emanating from the large banks. Do you want to respond to that theme in any way?

**Ms Landis:** Can you be more specific?

**CHAIR:** We can talk about open banking, practices around screen scraping, the lack of collaboration between large and small organisations—all of which have been put to this committee. I thought you would be well placed, as the representative body of 23 banks, to offer a view on that.

**Ms Landis:** We've been very clear in our public statements in recent times that the banks have had a very difficult period. There have been instances where we have let our customers down. We've been through a whole royal commission process. But we are absolutely committed to working with the government and supporting the implementation of all of those recommendations. There are significant data driven initiatives underway that will shift the competition landscape in the way consumers interact with our members. CDR is one of them. Comprehensive credit reporting is coming as well. We are an industry that is in the middle of a significant period of reform and change, and we all think that that will benefit customers all across the country.

**CHAIR:** I'd like you to take on notice: what could we recommend to improve collaboration between large and small businesses, an example being how a small fintech start-up that's got a great idea—let's say it's a regtech solution. How could we get that business on the books of a large bank? A lot of these organisations are saying, 'We've got great ideas, but we just can't get onto the books.' There could be very valid reasons for that, but we want to try and get a more collaborative system happening. Do you want to take on notice any ideas you've got around big and small collaboration?

**Mr O'Shaughnessy:** I can answer that now. To reiterate a point my colleague made: banks are very much focused on implementing many of the recommendations of the royal commission, so there is a significant workload on banks. As we progress through implementing many of the royal commission recommendations, I am hoping that the focus will return to the technology projects that drive competition. I read with interest the FinTech

Australia submission. They had some good ideas about the research and development incentive. One concept was—

**CHAIR:** Sorry; I'm asking about collaboration between big and small organisations.

**Mr O'Shaughnessy:** And I think FinTech Australia brought up a good idea with the research and development incentive.

**CHAIR:** Which is a tax incentive.

**Mr O'Shaughnessy:** Yes—particularly around collaboration. I think one of the issues here is making incentives on both sides—the banks would have data, customers and resources; the fintechs, as the smaller businesses, would have good ideas—and optimising the tax environment to facilitate that. I'd include universities and entities like Data61 and CSIRO in that small-business category.

**CHAIR:** I'd like you to take it on notice, because we need to put some meat on the bones of these ideas. I figured you'd be well placed to do that.

**Ms Landis:** Very happy to do that.

**CHAIR:** Thank you. My last question is more to do with the Hayne implementation. You'd be aware that 25 per cent of all the legislation is going to be related to your industry. What can regtech do to alleviate some of the issues that are in the Hayne final report?

**Mr O'Shaughnessy:** As I said, as we go through the implementation of the royal commission recommendations, I am hoping that in the coming few years banks' technology projects will pivot more towards the competitive side of projects. In that, compliance costs are growing exponentially for banks; they are the biggest part of their expenditure on a yearly basis. I think, when banks look at this and say, 'How do we reduce costs?', regtech will come into play. There's no silver bullet; there's no one company that's going to solve every problem. From our discussions with banks, they're saying there are smaller solutions that will solve particular problems. That's what I'm hoping their focus will go on. The interesting conversation is—

**CHAIR:** Just on regtech: what is the ABA doing to facilitate regtech uptake in its membership?

**Mr O'Shaughnessy:** At the moment, nothing. Our focus is on the royal commission recommendations.

**CHAIR:** But isn't it the same thing? Haven't we learnt in the last decade that more and more laws doesn't mean better outcomes?

**Ms Landis:** I think you have to think of them differently. The royal commission recommendations are all about changing the way we sell products to people. There are things in there about making self-regulatory codes enforceable. There'll be a compensation scheme of last resort set up. The way the ABA is supporting regtech is by working with its members to participate in the consumer data right. This is a transformational regime that will help new businesses enter the market. That is one of our highest priorities and a very clear way of how we are supporting growth in the sector.

**CHAIR:** I'm more interested in regtech and the compliance side, not the open banking side. We may well look at recommending that industry does more to collaborate with regtech, and I assume you'd be open to looking at any recommendations we make. At the moment, your answer is there's nothing in particular that you're doing to—

**Ms Landis:** I think the point to make is: a lot of those decisions are commercial decisions our members would make in working with new entrants to the market. The ABA doesn't have a role in directing or influencing the commercial decisions of its banks. Our role is to develop policy, and I appreciate you are trying to create a policy environment here, for growth to occur. One of the points we have made in our submission is: what would help with that is setting up a more clear, accountable regulatory structure to drive that growth. You've got a lot of regulators with a basic role in this in some ways. What usually helps and what a lot of other countries do is to set out a clear national strategy for an industry, which then flows through to having the Treasury make a clear role of what they are trying to achieve here, and all of the regulators would have a clear role as well. That's lacking at the moment, I think.

**CHAIR:** I take you back to the terms of reference for this inquiry. We are particularly looking at what regtech can do to improve compliance outcomes in a more efficient way. You're saying you leave that up to your members to determine how to do that?

**Mr O'Shaughnessy:** ASIC has a role in this. In 2019 ASIC had a number of industry sessions where they brought together industry players and our members to talk about the use of regtech within the banking sector. Banks see it as a competitive advantage. Regtech has the ability to reduce operating costs significantly. I think banks will drive this very quickly; it's just the capacity. Open banking is a focus, as are a number of the royal commission recommendations.

**CHAIR:** That's fine. There are no wrong answers here. I'm just trying to get to the point of what you are spending your resources on. Are you helping your members try to comply with the slew of new laws and/or what are you doing to facilitate this regtech opportunity, which is in our terms of reference? Your answer is: you're doing all you can to help chaperone legislation through parliament.

**Mr O'Shaughnessy:** The royal commission recommendations on open banking are a priority for 2020.

**CHAIR:** So, at this stage, there is no other particular initiative on foot to deal with the uptake of regtech?

**Mr O'Shaughnessy:** Not within the ABA.

**CHAIR:** That's fine. There are no wrong answers. I just want to try and get to the information. Thank you.

**Senator MARIELLE SMITH:** One thing that fintechs have been asking for is right access to form part of the open banking machine. What's your view on that?

**Mr O'Shaughnessy:** I note that Treasury appointed Scott Farrell again to do a review of transitioning the consumer data right from read access to read-and-write access, which brings it more into line with the European and UK regimes. My understanding is that an issues paper will be issued and Scott Farrell will report to government sometime in September this year. That approach is actually a very good way of doing it. With the CDR, we have all the pieces of infrastructure but it hasn't even launched yet, so the priority for not only the banks but also government should be ensuring that we launch a very successful consumer data right, open banking being the first cab off the rank. It should be secure and usable and there should actually be people using it from day one. For extending the consumer data right, my view is that the approach the government has taken using Scott Farrell to examine how best to grow the consumer data right is the best way.

**Senator MARIELLE SMITH:** On the R&D tax incentive, you mentioned the idea that FinTech Australia put forward in terms of how that could be used to foster collaboration. Do you think the R&D tax incentive is working as effectively as it should be? If not, what are your suggestions for its improvement?

**Mr O'Shaughnessy:** I haven't actually looked at that legislation in a while. I suppose the view I would have is there's no one silver bullet, but it is one area where we could bring in a small entity with good ideas and match it up with the bank or another large financial institution that has the resources and the data. If the tax environment facilitates that partnership, I think it's one way we can grow it for the digital economy in Australia.

**GRAY, Ms Emma, Chief Data Officer, Australian and New Zealand Banking Group Limited**

[10:12]

**CHAIR:** I now welcome ANZ. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Ms Gray:** Yes. Thank you for inviting me to appear. Ensuring that Australia has good innovation policies is critical for banking, and we're really pleased to contribute to this inquiry. I am ANZ's first chief data officer, and I was appointed to the role in February 2017. I also sit on the Data Standards Body Advisory Committee, which you've obviously talked to. Additionally, I sit on the Board of Directors of Data Republic, which is a fintech that ANZ has invested in to help support its development.

ANZ is a strong supporter of fintech. While fintech is important to many things we do, we do have a dedicated innovation investment function called ANZi. It makes investments in fintech startups, it builds and launches new companies and it develops relationships and growth opportunities for ANZi companies and startups. Through ANZi we have made investments like Data Republic, which is a data sharing platform; Lendi, which is a home loan origination platform; and Slyp, which is an interactive smart receipts platform. Those are some examples. Our desire to foster fintech in Australia informed our submission to this committee.

The consumer data right, the CDR, can be harnessed by fintechs and banks alike to create new opportunities for customers, or consumers, and we strongly support that regime. We've been working very busily with industry, with consumer groups and the ACCC to stand it up in line with the government's requirements, and we believe open banking has the potential to provide important benefits and innovation to consumers. But we also support the application of the CDR regime to other parts of the economy so it can create more opportunities.

Our submission provided what we see as the logical next step after the current regime against the maturity for the CDR regime. We currently have one level of accreditation to receive bank data. To get this level of accreditation, entities must prove they can meet a high level of data security. That's entirely appropriate because the data at play is customer bank records. To lower barriers to entry and therefore accelerate fintech access, we believe that additional levels of accreditation that are easier to obtain could be introduced that would allow entities to receive either less sensitive CDR data or simply insights from the data rather than the data itself.

If I can offer an example of one way this might work, I'm going to introduce Mrs Smith. To be eligible for a new home loan insurance offer by a service provider, Mrs Smith needs to be able to demonstrate that she has been current on her mortgage repayments for the last 36 months. There are two ways to do that. Firstly, a fintech, with her consent, could access all of Mrs Smith's loan repayment history by becoming an unrestricted and accredited person in the CDR regime. Alternatively, that fintech could ask an unrestricted accredited person who is already in the regime a simple yes or no question: 'Has Mrs Smith been current in her mortgage repayments for the last 36 months?' In the second scenario, the data is still quite sensitive and requires a level of security, but I think we can agree that it is not nearly as sensitive as having all of Mrs Smith's information.

The benefit of having multiple levels of accreditation is that the level of regulation can be calibrated to the level of risk and the level of data that is being shared. When entities pose less risks to consumers, they would potentially be subject to lower levels of regulation. We believe that would decrease barriers to entry to the market by imposing fewer requirements. In any scenario, consumer consent is always going to be paramount, but we believe that the fintech sector would be a strong beneficiary of this approach, so they and others can fully realise the benefits of the CDR regime. Thank you and I look forward to your questions.

**Senator MARIELLE SMITH:** Thank you for that opening presentation and for your submission. With regard to this proposal, how do you see consumer consent applying? I'm interested in the idea of informed consent and what generally constitutes consent of the consumer to share their data. Do you have a perspective on that?

**Ms Gray:** I would say that considerations around consent have been a really important discussion topic for the data standards board. As always, there are different considerations to take into account. On the one hand, how elegant can the mechanic look to enable a consent process to be gone through as quickly and feasibly as possible? On the other hand, we believe that it's important to ensure that the consumer understands what they're in fact doing. We believe that the consent approach that's being adopted in the CDR as it currently is has to balance the need to help consumers understand that they are sharing sensitive information and on the other hand trying to make that process relatively streamlined so it can be done in an acceptable time frame. That's really the balance that has been struck.

I feel that in the CDR the consent mechanic is robust. What I would say is that for our digital economy to evolve, without consumer confidence across the economy we will have a hard time gaining ground. I would come

back to the CDR constructs that we have. We believe that we are marrying that balance between consumer information and security of the regime.

**Senator MARIELLE SMITH:** How do we best build consumer confidence in the opportunities around the use and distribution of their data?

**Ms Gray:** That's a great question. I think we also need to recognise that innovations take time to get off the ground. If we look at the UK, for example, where open banking has been alive and kicking for a number of years, in fact the take-up has been relatively low for a long period of time. I can talk more about that. I believe that changing consumer behaviour does take time. I believe that confidence from the get-go is critically important. That has been a consideration within the workings of the ACCC, the data standards board and the implementation to say, 'How do we make sure that when we launch this we launch it having fully tested it so that when consumers interact with it they have a good experience and come back a second time?' We believe that making sure it is stood up to succeed from the get-go, with all the appropriate education around that, is a critical part of the regime taking off.

**Senator MARIELLE SMITH:** Harnessing data differently offers opportunities for almost every section of our economy, every industry and every business. Do you think we are taking a too conservative approach in Australia, in terms of the opportunities and benefits in data collection and use? Or do you think we're striking the balance right? I know there's a lot of potential for innovation internally within Australia, in terms of the way we use and process and manage data if we can get these issues around consumer confidence and consent right. What's your perspective on that?

**Ms Gray:** I think the government has launched what I consider to be a very exciting innovation. We have taken a very different tack to the UK, for example, by saying that we believe in the digital economy and we believe that data-sharing across sectors is a really important bedrock of that. That will produce a lot of innovation that none of us here today are going to be able to say exactly what it looks like. The ability for a consumer to say, 'I'm going to trust whoever I trust for a range of services that may be within their field or may be outside their field, but they have proven to me that they have earned my trust.' That's a really interesting point. I think that as we move more towards that services economy it puts a really high bar on where consumer trust goes. That needs to be earned. I really applaud the government's move. I think that we are in the first innings right now. That's moving at pace. We look forward to the government moving both through the banking sector and beyond the banking sector to other fields.

**Senator McDONALD:** You made the point about introducing additional tiers of accreditation to receive data under the CDR. Can you expand on that a little for me, please?

**Ms Gray:** Absolutely. That's why I used the example of Mrs Smith looking for home insurance products, if it would be that the initial data holders, which are the banks in this instance; but they would be different depending on the sector—there's a degree of infrastructure that is required to enable security of customer data and investments in cyber and all of those things. But it comes with responsibility around the data that one holds. The notion of tiered accreditation suggests that if I'm a fintech and I'm interested in offering a particular service or product, often what I really want to know is a yes or no answer to a particular question. Did Mrs Smith repay her loans in each of the last 36 months? Does Mrs Smith have a current telco account? There are those types of questions. That's very useful, because if I'm trying to develop a picture of Mrs Smith, often yes-no answers to good questions that a fintech will have the creativity to ask correctly will be more than sufficient.

There are lots of scenarios where, when one has access to the actual data, that brings a responsibility with it. Now that I have that data, I need to protect and maintain it and make sure I have the infrastructure to do that. So that as we walk through how open banking evolves and how it evolves in other sectors, as the ACCC put thought into the different types of scenarios it will start to see that maybe we have sectors where the level of accreditation in banking may not be what is required. Indeed, there are lots of use cases where people need yes-no answers and therefore can be much more likely accredited than what we're looking at right now. So we believe it will just accelerate how the regimes can take off.

**Senator McDONALD:** You mentioned the UK and the uptake there. Can I ask you to consider whether or not the UK's uptake has been based on that the speed of transition into this new fintech environment has been so fast that the data from the UK might just be reflective of the world's increasing trajectory. We've heard evidence this morning from people reflecting on the change in the last five to eight years, over the same period. Could it be reflective of there not being the appetite for business to be able to implement fintech to date and that has been the reason for the slow uptake?

**Ms Gray:** It's a good question. I believe that data sharing is a relatively new concept, and sharing my banking data is a relatively new concept. If I look at the UK regime, what's interesting is that they had read-and-write access from the get-go, and it was very focused on financial services. The beauty of the ACCC and data standards board approach is that we've tried to learn from that example and say, 'Do we do anything different in this instance?' What is interesting about that example is that yes, the uptake was generally slow, but it did kick in. Certainly we have seen a much bigger curve to December 2019—something like 292 million API pings of the banks. That's a fair number. Interestingly, only two percent of that was payments initiation. The vast majority of it is really better information—personal financial management, comparison sites, those types of things. So I think the pace of the game is still much more about 'help me understand'. Whether we move to 'help me act on that' is too early to tell.

**Senator McDONALD:** That's a very interesting point. It's my understanding that ANZ has a pretty significant investment in Asia in IT development. Is the reason for that the skills shortage in Australia?

**Ms Gray:** I would probably point to my area. My passion is about making Melbourne in particular—Melbourne is our home, and my passion is about making ANZ the employer of choice for data professionals. That's data engineers, data scientists, data analysts. We have invested heavily. We run datathons, for example, where we will work with government data and bring hundreds of practitioners together to help us solve problems. We try to recruit based on those types of events. We work with the University of Melbourne. I have sat on the board of the centre for data analytics. Part of that is to make sure that we get access to the great talent that sits there. I would say that in the Australian marketplace we don't really have a shortage of talent for what I'm doing. Our challenge is much more making sure that we have what people want to come to us, so that they see like-minded souls around and we provide the right environment and the right kinds of challenges for them so that they come to us and not others.

**Senator McDONALD:** Could I ask you to take that question on notice then—the number of people that you've employed in Asia to do this development of financial service software for ANZ?

**Ms Gray:** Absolutely.

**Senator SCARR:** Thanks for appearing today. Can I take you to your example of Mrs Smith, or Ms Smith, our mythical person who is getting their home loan, and this concept of an intermediary who has higher access to confidential data. If you were in the position of the fintech who was wanting to get direct access to the data, under your scenario I can understand it from the perspective of ANZ, but from the perspective of the relevant fintech, instead of the fintech getting direct access to the data and being able to run the process wholly within house, by using an intermediary aren't they then exposed to whether or not the intermediary comes up with the right answer? It might be something as simple as yes or no, such as whether the home loan payments have been made over the last 36 months or is there a telephone account. But because an intermediary is introduced, that introduces risk for the entities, the fintech at the other end, because they're then reliant on that intermediary getting it right.

**Ms Gray:** I guess what I would point to is that any intermediary needs to become accredited. We are currently in a testing phase with fintechs. The testing phase is one-to-one—big bank fintech, fintech A, fintech B, fintech C—

**Senator SCARR:** Sure.

**Ms Gray:** and then there is a testing of the environment. What that's testing is: did the pings go where they were supposed to and is the information accurate? That's one of the reasons why testing in each sector is really important—to make sure that the quality of underlying data is sufficient to be exchanged. If anybody—fintech or other—becomes accredited, they'll have gone through, effectively, the criteria that the ACCC requires to be able to hold that position. So, yes, the fintech would be relying on the veracity of that intermediary, but I would point to a robust accreditation regime as a precursor to that.

**Senator SCARR:** My only other question is in relation to this phenomenon of screen scraping. In your role in ANZ—and maybe you're not aware—are you aware of any instances or case studies where screen scraping has occurred and it's lead to actual loss to a customer of ANZ?

**Ms Gray:** It's a good question. ANZ has not done a particular study. I think it's a question, potentially, for regulators. What I can say is that we have spent a significant amount of time and effort on the CDR, and that's along with everything else that's going on in banking. The reason we've done that is that we believe it to be a safer way for consumers to share information. To the point of whether it's happening soon enough, we're very conscious of the argument around convenience. That's definitely worth reflecting on from a fintech perspective. But the UK example suggests that, from an API call perspective, once the CDR or equivalent comes online, the perceived need for that does decrease significantly.

**CHAIR:** Thank you for your testimony. The question of competition inside this market has been raised widely by people who have issued submissions to this inquiry. Some people have pointed to the delay in open banking and others have pointed to examples of screen scraping attempts by smaller organisations who have been stopped by one particular competitor of yours. What do you make of the competitive dynamics inside this market?

**Ms Gray:** We view it as competitive. I think that's witnessed by customers refinancing home loans every few years. Competition has certainly accelerated quite a lot over the last period of time. We view open banking as a really important reform, and we think we're going to have to compete hard, frankly.

**CHAIR:** Do you think anyone is trying to sabotage open banking?

**Ms Gray:** No.

**CHAIR:** That's not your view?

**Ms Gray:** No.

**CHAIR:** Have you seen any evidence of the big four trying to engage in otherwise anticompetitive behaviour?

**Ms Gray:** No.

**CHAIR:** I asked the ABA about the four pillars policy, and they didn't have a view. Do you have a view?

**Ms Gray:** No.

**Senator SCARR:** Do you have a view, Chair?

**CHAIR:** I think it's incumbent upon us to have a look at the market, right?

**Ms Gray:** I would say that the consumer data right and open banking allow access to consumers, and they would be able to compete whether they be a fintech or a big bank. I think, within that context, it's a really important reform.

**CHAIR:** From our point of view, the driver here is ultimately more jobs and better choice. So you've got to look at anything that's potentially going to restrict you achieving either of those objectives. That's why I'm probing. The other issue is more around collaboration between larger organisations and smaller organisations. During the Melbourne hearings, we spent a lot of time talking about how smaller fintechs or regtechs who have a good idea get on the books of ANZ. It's pretty difficult, and for good reason; it should be hard. What do you do day to day to try to make that possible?

**Ms Gray:** Thank you for the question. I would also just say—

**CHAIR:** Was it better than my last questions?

**Ms Gray:** That was a much better question! One of my colleagues actually sits on the Stone & Chalk board, so we've met with Alex and his team. They've taken a particular focus there. I sit on the Data Republic board. That's one of the fintechs that I know has been very vocal. I think the role that I'm able to play in that environment, which I think is a really important role for fintechs, is helping them understand big customers and how they work. Banks have lots of different parts from legal and procurement teams who are responsible for contracts to compliance teams to their need to maintain their position with the regulators and comply with different regulations. So it's a complex environment. I think the role that I play in that instance is helping that fintech within these big environments understand how to deal with which departments you have to have, kinds of considerations to make and how you front into them and what a customer service orientation looks like in that environment. It's a really different thing for them. So that's been very helpful, I think.

**CHAIR:** It's a market-to-market transaction; we're not in the business of trying to regulate those transactions. This is Australia, after all. The question is then: is there anything we can do to help push that along or is that a conversation you have between Stone & Chalk's constituents and ANZ?

**Ms Gray:** We are very focused on, for better or for worse, what problems we need to focus on today. Part of that is that, because the environment is so complex, one has to take a very focused approach and not an end-to-end approach, because we're trying to solve problems in time. If you don't do that, it takes too much time to solve them. So we tend to be very focused on each problem as it occurs. If a fintech has a solution to that problem, we are always searching for those. I go back to dealing with a big company requiring some education, so we spend a lot of time with those that we're working with. They also need to be clear on the regulations that we need to comply with as a prudential organisation.

**CHAIR:** I'd be interested in anything you could provide us about how you've succeeded in that space on collaboration with smaller businesses. We also need to look at our own processes of how we procure things as the Commonwealth. If you have some lessons that you can pass on, we might adopt them.

**Ms Gray:** I'd be very happy to—

**CHAIR:** Because I think a lot of the problems, whether you're a large business or whether you're government, are on how you engage with someone who's got a great idea coming out of Bridge Street or wherever they are now. It's a common problem. So I'd be grateful if you could take that on—

**Ms Gray:** We'd be very happy to. We've certainly spent time with some of the regional governments on how to develop an innovation culture within a bigger organisation and how to break some of those problems down. So we'd be very happy to do that.

**CHAIR:** That is all I have. Thank you very much for your time.

**Proceedings suspended from 10:38 to 10:50**

**GRAY, Mr Peter, Chief Operating Officer, Zip Co Ltd**

**CHAIR:** The committee will now resume. I now welcome Zip. Thank you for your time. Information on parliamentary privilege and the protection of witnesses has been provided to you. Do you have any additional comments to make on the capacity in which you appear today?

**Mr Gray:** I'm co-founder and executive director of Zip Co.

**CHAIR:** Would you like to make an opening statement?

**Mr Gray:** I would. Good morning, Chairman and committee members. Thank you for having us. Zip welcomes the opportunity to appear before this important committee. We are encouraged by this committee's proactive mandate and approach that is looking for better ways to coordinate, regulate and support technology and innovation. Before I outline my key comment, I believe it would be useful for the committee to understand the multifaceted nature of Zip's business.

Zip is a fintech, founded in 2013, and is now an ASX listed company and a leading player in the digital retail finance and payments industry. We currently have a number of core products in market. Zip Pay is our buy-now pay-later product. It is not currently regulated under the National Consumer Credit Protection Act; however, the industry is currently in a consultation process around a voluntary code of conduct. We have Zip Money, a regulated credit product under the Credit Code. It's a line-of-credit product for larger purchases. We have Zip Biz, an online loan product for small businesses, and we also have Pocketbook. Pocketbook is one of Australia's leading personal finance management apps. Across the platform, we support about 2.3 million Australian consumers. We're also a provider of services to our merchant and retail network. As I outlined recently in our submission to the RBA, we offer lead generation, marketing and no-fraud and charge-back guarantee services to Australian retailers. We provide our products and services through our proprietary tech platform, utilising cutting-edge technology, data and innovation to provide real-time solutions and delightful customer experiences. In summary, we're a fintech who provides a conglomerate of services to different parties and we do so through the use of innovative solutions and technology.

We're seeing many fintechs both in Australia and globally use technology to provide simple and consumer friendly products and great customer experiences, which is leading to a significant adoption across all generations of mainstream Australia. Compare this with the incumbents, who, over time, have developed unnecessarily complex product constructs with a reliance on fine print that have not adapted or developed with innovation or newer technology or supported customer demands. But here's the rub for fintechs: in providing cutting-edge services and products, we operate in a variety of regulatory landscapes and are faced with a myriad of current and potential regulation from different regulators that does not speak to the technology or products that we have created. As a quick snapshot, we're currently regulated or overseen by ASIC, the ACCC, AFCA, AUSTRAC, the OAIC, APRA, Treasury and the ASX, and now, in addition, the RBA is also making moves. With the pace of change and adoption of new technologies, we understand it is at times difficult for legislation to keep up.

How can we bridge this gap so that regulation and technology work together to foster innovation? We believe there should be a dual approach. First, regulators and regulations alike should adopt an outcome based approach, focusing on consumer protection and good consumer outcomes. Second, regulators need to work together to ensure there is no duplication of oversight and to utilise current powers in the first instance rather than seeking to create further regulatory red tape. To be clear, Zip supports appropriate regulation that delivers minimum standards and appropriate levels of consumer protection, but the regulation should be via a coordinated, consistent approach. It should be fit for purpose with a focus on consumer outcomes. Given our business model, we are adopters and innovators of many new technologies, from screen scraping and OCR to NPP, and are governed by many regulators and much legislation. We are happy to work together with the relevant regulators to refine and simplify any change to legislation or governance structures. We believe the regulatory framework needs to foster fintech and innovation, delivering outcomes that deliver consumer choice and better outcomes for those consumers.

Both here and in our submission we have tried to highlight some of the challenges and opportunities for fintechs and regulators alike. Thank you. We're happy to answer any questions.

**CHAIR:** Thank you very much. Deputy Chair?

**Senator MARIELLE SMITH:** Thank you for your submission and your presentation. One of the things your submission notes is the difficulty for non-ADI firms in accessing the NPP. My understanding is there are secondary access arrangements within the NPP and also under development. Do you believe these will suffice for fintechs to access it, or do you think something needs to change there?

**Mr Gray:** We believe that something needs to change there. We'd support the other submissions with regard to that. Clearly fintechs and payment service providers need an equal seat at that table. It seems evident that the pace of progress in the adoption or implementation of the NPP platform is a little slower than anticipated, which is probably a bit of a roadblock to certain fintechs.

**Senator MARIELLE SMITH:** Why are those secondary access arrangements insufficient?

**Mr Gray:** I think there's little ability to influence, and you're more a participant in another bank's scheme.

**Senator MARIELLE SMITH:** On the research and development tax incentive, we've heard various views from fintechs about the ability to access the scheme—the difficulty navigating it—particularly for software development, and from others who say that it's been fantastic and was necessary for the very development of their business. What's your perspective on the tax incentive and where it could be improved?

**Mr Gray:** I'm possibly not the best person within my business to talk to that, but we have found certain aspects of it reasonably challenging, particularly with tracking. I would say it hasn't made a meaningful impact in terms of the development of the Zip business in its totality. I think it's a very good concept to provide support, if you look at what government can do to support fintechs, and there are taxing incentives or other benefits that can be provided to start-ups.

**Senator MARIELLE SMITH:** Would you be able to take that on notice, in case there is someone else in your team who can provide information on that?

**Mr Gray:** Absolutely.

**Senator MARIELLE SMITH:** The question of merchant fees—there's been some criticism from other providers around BNPL providers in their contracts with merchants basically requiring that costs can't be put onto customers, and there's a view with other providers of payments that those costs inevitably end up back on them and impacting them. Do you have a response to that view?

**Mr Gray:** Yes, certainly. We believe that our fees are a commercial arrangement between us and our retailers. I think there's a very narrow lens that's being used to pigeonhole our services. The services that we provide are significantly different to just a payment processor. As such, our commercial arrangements should not be subject to the same sort of scrutiny or legislative construct as traditional merchant fees. We're delivering significant amounts of additional benefits to our retail platform. This was part of our submission to the RBA recently. We're providing millions of leads and new customers to these businesses. We're providing marketing assistance. We're providing no-fraud and charge-back guarantees. There's a significant bottom-line benefit to that guarantee in itself. Fraud is obviously highly penetrative for online transactions and is a meaningful bottom-line cost to retailers. Our services actually deliver no fraud or charge-back losses to the business. So I think the lens that's being applied to that sort of conversation is too narrow, and it's not really considering the services that we provide.

We would also argue that ASIC probably have powers to deal with any consumer harms that may eventuate from our pricing. They have product intervention powers that can investigate and deal with any consumer harms that may come from the utilisation of buy-now pay-later services.

**Senator MARIELLE SMITH:** One of the things your submission notes is the conflict between the stated position of ASIC in terms of data usage principles within RG 209 and the consumer data right. Could you expand on that point.

**Mr Gray:** ASIC's reg guide indicates that consumer data or screen scraping, for example, in this instance, is a great tool for complying with your responsible lending obligations. I think it also indicates that the use of the information as part of that capture process is to be used for the initial purpose only. I think the consumer data right probably has slightly broader implications in terms of the ongoing use of that information for multiple purposes.

**Senator MARIELLE SMITH:** Some consumer advocates were pretty concerned about the prevalence of buy-now pay-later options, particularly when there are a multitude of options on the market that people can access concurrently. What would you say to those criticisms of the readiness and availability of these services in the market?

**Mr Gray:** Firstly, I'll speak to Zip's position. Since our inception, we've adopted a position of responsibility with the provision of our services. We've done ID credit checks on every single customer. We fulfil our mandate of ensuring that our products are provided in a responsible way to customers who can afford the repayments. That's demonstrated in Zip's results. One in 100 Zip customers in any given month is late. That compares with other buy-now pay-laters, which have one in six, or other credit card providers, which were also at about the one-in-six mark. We, speaking for Zip, don't feel that's a great number; one in 100 is more appropriate.

Speaking on behalf of the industry, we have commenced the process with AFIA of implementing a buy-now pay-later industry code, which dictates minimum standards that are required prior to giving consumers access to these sorts of services. I think that's a great start, and we'll continue to develop that code. I think there are some other important inbuilt provisions that are often overlooked with regard to our sorts of services. Unlike credit cards, if a consumer is late or demonstrates any signs of financial hardship then they're locked from the services. Under a credit card construct you're able to continue to make multiple purchases, and it's not uncommon for credit cards to be racked up to their limit prior to a customer going bankrupt, as an example. There are multiple inbuilt protections. Again speaking for Zip, we consume more data at the point of application than any other financial services provider, whether for a regulated or an unregulated product. We are consuming all that data to make responsible decisions.

**Senator MARIELLE SMITH:** Excuse my ignorance, but when you offer this service to a customer can you see how many other buy-now pay-later services they're subscribed to?

**Mr Gray:** With Zip, we can. Part of our application process is the review of banking transactional information. In that instance, we are able to see payments made to other buy-now pay-later providers. Not all providers can see that. Similarly, until comprehensive credit reporting is fully permeated through Australian lending—there are two credit bureaus. So if Converse use one bureau and a provider uses another bureau, it is difficult to get that lens at times. That's why we find the banking transaction information is the best source of truth to understand a customer's financial position.

**Senator MARIELLE SMITH:** Could you tell me about the voluntary industry code. What sort of measures do you see that encompassing?

**Mr Gray:** It's at the consultation phase at the moment. We believe it's a very important first step in ensuring that minimum standards are adopted by players in our space. Clearly, buy-now pay-later solutions are being adopted by mainstream Australians in their millions. We think it's very important that there is a code that is implemented that enforces minimum standards on participants in the industry. Obviously there are a number of new participants entering the space all the time. Four have entered in the last 12 months—

**Senator MARIELLE SMITH:** Would it enforce minimum standards if it's voluntary?

**Mr Gray:** It's a starting point. We believe that it's appropriate that it's a starting point. Obviously the space has been the subject of an ASIC review—report 600 came out. It's also been the subject of a Senate inquiry on its own. Neither of those reviews found significant evidence of consumer harm, which didn't lead to a recommendation for additional legislation. One of the findings of the Senate committee was the implementation of a voluntary industry code, so we are following the recommendation of the Senate inquiry in the space. Again, Zip's perspective is that it's a very important starting point. Obviously the minimum standards will be implemented and improved over time. The consequences and buy-in—one of our recommendations as part of a legislative way forward might be more regulator involvement in voluntary codes, similar perhaps to the ePayments Code which is administered by ASIC. So a potential pathway forward for fintech regulation might be the adoption of more industry codes with regulator involvement, endorsement and some –

**Senator MARIELLE SMITH:** You'd be open to that?

**Mr Gray:** sort of consequences for non-compliance—exactly right, yes.

**Senator MARIELLE SMITH:** Who's using your product? Could you paint me a picture of who is signing up to Zip and what they might have been doing before. Were they accessing traditional products before, or are they new people in the market who hadn't otherwise been using credit to make purchases but are now because of the availability and accessibility of it, or do you think they are people who are moving away from more traditional lines of credit like credit cards?

**Mr Gray:** There is probably a degree of crossover. We probably have about 1.7 million consumers using our services and products at the moment, so that would be quite a wide spectrum of mainstream Australia. One in five Gen X Australians used the buy-now pay-later product last year. I think there is a perception that it is adopted by millennials only. There is an over index to younger customers. When comparing us and the other buy-now pay-later providers, we have a different product construct. We have a slightly older customer. Our average customer is about 35. The average credit score of a Zip customer is higher than the average credit score of a big four bank credit card applicant. What we see is that the majority of our customers also have a credit card but are choosing and adopting solutions like Zip because of its simplicity and better terms.

**Senator SCARR:** Mr Gray, pursuing that line of inquiry, in relation to some of the criticisms that have occurred in relation to buy-now pay-later services, I put to you three points that were raised in the submission received by this inquiry from the Financial Rights Legal Centre. These are the risks they say were referred to in

ASIC report 600. I'd like you to respond to each of the risks as I raise them. I want to give you an opportunity to put your perspective as a service provider in this space.

**Mr Gray:** Sure.

**Senator SCARR:** The first risk they raise, in their words, is:

- Pushing users into debt—one in six users had either become overdrawn, delayed bill payments or borrowed additional money because of a buy now pay later arrangement. Concerningly, 23% were making repayments with a credit card.

Maybe you're not across the particulars of those numbers, but in terms of the concept of the provision of these services in fact pushing users into debt which they would not otherwise have incurred, how would you respond?

**Mr Gray:** Firstly, I'll speak on behalf of Zip. Zip is delivering significantly different outcomes to those numbers provided. As I touched on, we're providing our services in a significantly different way to other buy-now pay-later providers in the market. We're doing ID, credit and banking checks on our customers prior to them utilising our services. That's delivering one in 100 as a late customer metric, whereas other buy-now pay-laters are at closer to one in six, according to ASIC report 600. Again, it also stated that number is similar for credit card customers; one in six credit card users are actually late in any given month.

**Senator SCARR:** We ought not to generalise, then, about buy-now pay-later service providers.

**Mr Gray:** Absolutely. That's a misconception that's often applied to our products and services. We're significantly different to other providers in conduct at application time and also in terms of product construct. With regard to the debt spiral, I think one of the advantages of buy-now pay-later products is actually that the repayments repay the debt very, very quickly. With Zip the average debt is repaid in about four months. With other buy-now pay-laters it's generally less than two months. Again, it's significantly different to other traditional credit card constructs. There isn't recycling or pushing customers into the debt trap. As I touched on, they are unable to use the services should they be experiencing financial hardship or be late.

**Senator SCARR:** The second of the three points in their submission, in their words, is that these sorts of services are:

- Encouraging people to overspend—81% of people believed that these arrangements allow them to buy more expensive items than they would otherwise and 64% of users were spending more than they normally would.

**Mr Gray:** Again, speaking for Zip, we ensure that we conduct thorough due diligence on customers prior to them utilising our services so that we understand what is an appropriate limit for them, so that we are managing to work together with them with regard to their financial capacity and ensure that they don't overspend or put themselves in a position that may not be appropriate for them.

**Senator SCARR:** The last of these three points, in their words again, is:

- Providers using behavioural techniques to influence consumers to make a purchase without careful consideration of the costs.

**Mr Gray:** I would need to see some evidence that buy-now pay-later providers were actually engaging in that conduct. It's not clear to me what conduct they're referring to.

**Senator SCARR:** Okay. I have two more quick questions, if I have enough time. First, in relation to access to capital, you've done extremely well as a business. I don't recollect you raising in your submission the issue of difficulty raising capital as a particular concern, whereas this is a concern that's been raised by a lot of people making submissions to this inquiry. I'm interested in your thoughts around the issue of people in the businesses and start-ups in the fintech space raising capital and the obstacles they might have in an Australian context.

**Mr Gray:** It's an interesting question. I can certainly speak to the pathway that we followed. It's difficult for me, in some ways, to contemplate a one-size-fits-all model here. Obviously we conducted our initial round to fools, family and friends—the three Fs—who seeded the business, and we grew from there. We had a very tight plan and understanding of our opportunity and how technology was going to see us disrupt some of the incumbents. We struggled to get much traction with the VC market in Australia when it was time for the next round. We found there were limited players who were open for us to access. We found they had limited risk appetite at that time. That may have changed. It's certainly a very different environment in Australia compared to the United States. The terms we were offered by those guys were fairly prohibitive to us proceeding with them. We found that the ASX was a great platform for our business. It really supported us in terms of our capital requirements for growth, it gave us a great profile, and it gave investors additional comfort that we were highly regulated and we were, if you like, kosher. So it de-risked it to some degree. We believe that the ASX has certainly been a great platform for Zip.

**Senator SCARR:** I have a last question. You mentioned the product intervention power of ASIC in your testimony here today in the context of—don't let me put words in your mouth—consumer protection. Other entities that have made submissions to this inquiry have raised the product intervention power from the perspective of regulatory risk. They don't have the certainty that they need around their products and the exercise, or the threat of exercise, of that power posed risk. I'm interested in your thoughts on that.

**Mr Gray:** Great question. We think that the product intervention power is a great example of an outcomes based approach. Clearly, with this power, ASIC have the ability to engage with industry when they see new products or services being implemented. They can understand the implications and work with the industry. If there is any evidence of consumer harm, they can then deal with it under that power. ASIC has indicated that they are happy to use that power in a targeted way, either against a bad actor in the space, or against an industry more broadly. It actually has the benefit of being able to foster technology as it goes. With regard to certainty, regulatory guides provided by ASIC in the past have been quite useful for guiding industry in terms of what is acceptable practice under the current legislative framework. So we believe the implementation of a PIP, with regulatory guidance provided by ASIC, is actually a great outcome. It's dealing with the protection of consumers—which is the ultimate ideation of regulation in the first place—and it doesn't inhibit innovation, particularly if they're able to provide guidance which is not only relevant to incumbents but also particularly relevant to new products and services that use new technologies.

**Senator McDONALD:** I want to ask you a little bit more about this mismatch between the Australian consumer credit law and the development of Australian privacy law. I love that you talk about outcomes based regulation—that's a fresh and novel disruptive idea. Could you talk more about some specifics in that space?

**Mr Gray:** With regard to regulatory overlap?

**Senator McDONALD:** Yes.

**Mr Gray:** There are a number of instances. There's some press out today, for example, with the ACCC touching on responsible lending obligations and the conduct of providers in the solar energy industry. Obviously, responsible lending obligations are under the ASIC remit, so there are actually two regulators dealing with responsible lending. To some degree, the RBA process with regard to surcharging, in our view, is already covered under the ASIC intervention powers. So there are some obvious examples in the market where legislative overlap may be occurring. The simplification of remit or the clarification of remit—in fact, collaboration between regulators as well as industry participants—would be good too.

**Senator McDONALD:** What about privacy laws? Are there specific examples where you think we could be looking to the future and where you would recommend a better alignment?

**Mr Gray:** I think I'd probably take that one on notice to come back with a detailed response.

**Senator McDONALD:** You've also talked about collaboration with regulators at an early stage. You probably touched on this in response to Senator Scarr's questions on consumer experience and appropriate lending and so forth, so I won't ask you about that.

**CHAIR:** One of the things that the committee has been focusing on this morning is around the competitive dynamics in financial services. We have had a discussion about the four pillars. You may or may not have a view on that; I won't press you on it. In relation to buy-now pay-later services, has there been a move to try to nobble this development over the last few years from the larger banks?

**Mr Gray:** I think there are undertones of activity that are occurring. I wouldn't necessarily want to out anybody, but I think—

**CHAIR:** This is not an inquisition. I am just trying to get the information.

**Senator SCARR:** It was a pretty direct question.

**Mr Gray:** I totally understand. I think it's fair to say there has been some activity with regard to certain implementations of technology and how it might affect customers and their contractual obligations to those entities. It's interesting that one of the big four is supporting a foreign based provider of our services as opposed to engaging with local players. That speaks a little bit to self-interest with regard to competition from fintechs. I think that's a fairly overwhelming statement—that they haven't necessarily supported some of the participants in our industry particularly but are now supporting foreign entrants.

**CHAIR:** It's a clear theme that's emerging. As a successful fintech you've been able to employ—how many Australians?

**Mr Gray:** I have 350 Australians on the payroll full time, and growing monthly.

**CHAIR:** And in terms of export prospects?

**Mr Gray:** We have implemented a global strategy. We now have a footprint in New Zealand and the UK. We have an interest in business in both America and South Africa. We have seen the first internal transfers of Zip employees to foreign jurisdictions, which is very exciting for the individuals and for us as a business. We very much see Australians as pioneers—in fact, world leaders—in buy-now pay-later. The success of us and Afterpay both in Australia and on a global platform shows that we are significantly ahead in our industry because of the way we have approached our products and services.

**CHAIR:** It's an interesting theme. There has been some success in this buy-now pay-later space, and there has been a concerted attempt to try and close that down. The question is: have you succeeded against all odds or were there dynamics in this market that made it possible for this type of product to be successful here? You're not the only person who's exporting; Afterpay is exporting too. So we've got to be doing something right.

**Mr Gray:** Absolutely. To be clear: for the success of any fintech or start-up, timing needs to be one of the critical factors. In terms of the Zip journey, we saw an opportunity where the incumbents really weren't—

**CHAIR:** By timing, you mean with the royal commission and everything?

**Mr Gray:** Not necessarily. I would argue that we were probably successful prior to the royal commission. What we did see was shifts away from incumbent credit card providers. We saw shifts away from traditional credit constructs not only here but also globally. We saw the development of technology that allowed us to deliver our products and services en masse, and we were able to plug into other ecosystems to acquire large numbers of customers. The adoption and use of technology has enabled us to succeed.

With the royal commission, it's very interesting; it shows that high levels of regulation do not necessarily deliver better consumer outcomes, to Zip's overarching theme that regulation should ensure that there are good consumer outcomes. I don't think anyone could argue that some of the things we saw coming out of the royal commission were not ideal. The fear is that it feels like there's a wave of regulation coming off the back of the royal commission as opposed to less, more streamlined—I think that would potentially stifle innovation in competition, because the well-funded banks are probably the only ones who can deal with the compliance red tape necessary to survive in that world.

**CHAIR:** It's interesting, because 25 per cent of all the legislation we will deal with this calendar year will be in relation to the Hayne royal commission. You think of all the diverse people who sit in the two chambers in Canberra and all across the country, and to think that one industry's issues will take up 25 per cent of the time is remarkable. When the ABA were here, we asked them how they were looking at things like regtech to try and improve compliance, because, as you say, reams of acts of parliament don't necessarily improve consumer outcomes. Is there a role for the ABA and these sorts of groups to embrace regtech? It's a difficult thing for the government to drive, frankly, because it comes down to procurement.

**Mr Gray:** I see regtech as a great solution for industry. There are a number of utilities for it. If you look at most compliance functions, they are fairly repetitive and they are required for each customer or each transaction. They are repetitive. That's why technology can be used to solve the challenges required to identify a customer or to monitor a transaction. I think the implementation of minimum standards or an accreditation process for providers of regtech, to allow businesses to get comfort in outsourcing some of these functions to that, has a great use case. For compliance related functions, regtech is a great initiative.

**CHAIR:** I have to say, it feels like this regtech space is very underdone. The evidence we're getting suggests to me that there isn't a strong focus on regtech. There's a strong focus on, 'Oh my goodness, we've got all this legislation coming at us. We'd better hire more lawyers,' and not, 'We'd better hire more guys with a propeller,' at your place.

**Mr Gray:** That's a great observation. With regard to regtech, we would say that we have built in and utilised the similar technologies to a regtech provider in our service offering. We understood that technology was available to solve our requirement under responsible lending and to solve our requirement under KYC. To your point—I don't want to speak for the banks, but they're very stuck in the old way. They're not embracing technology as the best way to deal with some of these overarching problems.

**CHAIR:** So that is your view—that they are focused on the lawyers and not the propeller guys?

**Mr Gray:** That's what it feels like. They're certainly very slow to move; they're very risk-averse. One of them is starting to make some moves with a view, clearly, that growth is the best way forward to move out of the compliance black hole. I'm not sure all the others are moving as swiftly. It does seem that they're stuck, and that is another risk of the wave of regulation that may come from Hayne.

**CHAIR:** On another topic, I just wanted to ask you about how we're organised, as a country, to do this. Many submitters have said that Singapore do fintech well. What is the best way for us to be coordinated or to organise

ourselves? I think it was your submission that said that having a council of financial regulators was a way that it could be done. At the moment, how coordinated or uncoordinated do you think we are in fintech?

**Mr Gray:** Again, it's very easy for me to speak to our position. I outlined in my opening remarks the number of regulators that we are beholden to or deal with or interact with—it's a large number. I think we understood that when we were starting our business, given that we are a credit provider. It is a challenging one, given the platform that we're coming from, with the amount of regulators—some sort of simplification of jurisdiction. If you take a consumer outcomes based approach, to some degree, some of the regulators don't need to play in other spaces if consumer outcomes are the main thematic of what the regulation is trying to enforce. We see industry codes for specific industries in consultation with regulators as a great way or a pathway to legislation, should that be required. In terms of simplifying the structure, it's probably a slightly longer process, I would imagine.

**CHAIR:** Your idea of having a council of financial regulators, which is used principally for financial stability, would draw upon the existing agency resources and coordinate. Some people have said, 'We should have a whole agency or a whole department for open banking,' for example, but you're suggesting more of a hub and spoke in this, aren't you?

**Mr Gray:** Yes—absolutely. I think that's a much more preferable model to aim for, rather than a new department that deals with open banking to add to the plethora of regulators that we currently have. Exactly the cadence of that work—whether or not it was industry participants providing papers to that council and then them ensuring that it was being regulated in an appropriate fashion: amongst them, rather than all regulating in different ways that have overlaps.

**CHAIR:** Thank you very much.

**BRADD, Mr Peter, Chair, StartupAUS**

[11:24]

**CHAIR:** Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make a brief opening statement?

**Mr Bradd:** Alex McCauley sends his apologies—he's our CEO. He's unable to be here, so I'm representing StartupAUS. StartupAUS made a submission that covered four elements. One was the R&D tax incentive, which I can talk about today. Another is around the early-stage tax incentives, and the definition of 'eligible company' in particular.

In terms of my role, I was a founding director of StartupAUS back in 2013. I also was the founding director of Fishburners, which was Australia's first tech co-working space 10 years ago. I'm an entrepreneur myself. I founded my first tech startup when I was 22. I partnered with Qantas, Australia's largest airline, and licensed their brand to create some technology that they then promoted to their customers. For the last four years, I've been working with Australia's largest companies, government departments and universities, doing innovation consultancy and digital transformation consultancy. I've done a lot of work with Sydney and Monash unis in particular as entrepreneur-in-residence. I've also done a lot of work with the federal government's Digital Transformation Agency—recently as the expert-in-residence for their collaboration lab, and I set up the govX program with them, looking at customer journeys.

**CHAIR:** Okay. Do you have any questions, Senator Smith?

**Senator MARIELLE SMITH:** I do.

**Mr Bradd:** I may need to take some questions on notice, depending on what you ask.

**Senator MARIELLE SMITH:** That's fine. I might kick off with the R&D tax incentive, given the concentration on that within your submission. Are you aware of the current bill before the parliament relating to that tax incentive?

**Mr Bradd:** I'm not.

**Senator MARIELLE SMITH:** It might be one you need to take on notice; I was interested in your views on that. Your submission references research that demonstrates that the provision of R&D funding to startups leads to job creation. Are you able to provide some further detail on where you see that correlation, if you've got any real-world examples you can share?

**Mr Bradd:** Yes. The submission comes from our *Crossroads* report—if you haven't got it, I suggest you pick it up—which we produce every year. This one, the latest one, came out in December, so it's just a couple of months old. In our submission we did our own research and we found that nine out of 10 startups said the program was very important or critical to their success, and 82 per cent of the respondents said they used the money to hire more staff for product-related research and development. So eight out of 10 startups are using that money to hire more people. That's from our own research.

In terms of a broader comment around jobs, I don't know if you need me to reference different statistics, but new firms under three years old are known to be the job creators. Again, we mention in our submission—I don't have the figure right here in front of me, but I think it was 1.4 million jobs from new firms, compared to older firms having a net job loss. They are some Australian government statistics in our submission. The other one we looked at was the Kauffman foundation in the US, which had similar statistics. I've got them here if you want me to reference them.

**Senator MARIELLE SMITH:** If we don't have them already, could you just provide them on notice.

**Mr Bradd:** They're in the submission. The data was from the Australian department of industry and shows that new firms create substantially more jobs than established ones and that, in Australia, firms up to three years old created 1.44 million jobs over the six years to 2011, compared with a net loss of 400,000 jobs by established firms over the same period. It is not unique to Australia, we noted. The Kauffman foundation in 2015 found that 1.5 million new jobs are added to the US economy each year by new firms, while over the same period older firms were net job destroyers, losing a total of one million jobs.

**Senator MARIELLE SMITH:** Do you have any examples or anecdotal evidence, from your experience in the sector, of specifically where the R&D tax incentive has directly led to job creation?

**Mr Bradd:** Yes. Our finding was that they were around product—research and development jobs around product. When people are creating software or the products that they sell, they need to hire people to do that research and development. We also provided in our submission some information around the types of roles for

which companies are hiring. As I said before, in the research that Alex did, 82 per cent of respondents said that they used the money to hire people.

**Senator MARIELLE SMITH:** I just want to bring you to the question of skills. You mentioned you're working within the university sector on innovation. One of the criticisms I've heard about the university sector is that it's not currently adequately preparing new graduates for the changing nature of work in this sector so that they're able to participate and contribute. There are also issues around the long time required to be a participant in the course: there are three- and four-year degrees, whereas some of the skills relevant to filling the gaps in this sector can be learnt in much shorter courses through private providers, and there are greater opportunities there. Can you talk to how you think the university sector is—successfully or otherwise—building the skills we need to grow the fintech sector into the future?

**Mr Bradd:** I don't know StartupAus's official position on that. I can speak about my experience with the universities. A university that I think is doing very well in that space is the University of Technology Sydney. They've invested a lot of time and money since 2011 into creating a new—I don't know what the best name is. It's not a course but a new cross-disciplinary subject that people can take from any course that they're studying, be it arts or law, to give them the skills for the future. They also invested into UTS Startups and took over the old Fishburners space in Ultimo, which is going very well. That all came off the back—from what I've been told by Attila, who runs the university—of a study they did that showed that over 40 per cent of their students want to be entrepreneurs; they don't want to work for other companies. They therefore suggested they needed to shift their focus. So they've been doing well.

I haven't noted anything in Monash or Sydney that's of note to me in how they're educating their students. They have similar programs—Monash has the Generator and Sydney uni has the Genesis program—but there is nothing of the significance of what UTS in particular has. I'm not familiar with all the universities, but UTS seems to be a leader in this space.

**Senator MARIELLE SMITH:** In your experience, are we producing graduates who are internationally competitive to work in this sector?

**Mr Bradd:** I don't know the answer to that question. In the submission, we speak about the talent gap. Part of our submission is on the talent gap. Again in our submission, we call for—let me see what Alex called it—a national entrepreneurship academy to help train students in that. He referenced the Stockholm School of Entrepreneurship, which is being somewhat replicated by the Sydney School of Entrepreneurship, a New South Wales initiative with a certain number of universities. I haven't seen how successful that has been. I don't myself see it prominently. I don't hear people talking about it at Fishburners or anything like that. I don't hear students who come into the startups that I see and work with noting it. So I don't know the answer to your question.

**Senator MARIELLE SMITH:** I've had conflicting evidence from fintechs when we're talking about a skills gap for this sector. Some have told me that there is no problem with finding excellent talent in Australia and, if you're not attracting and recruiting sufficient talent, it's because of what you're offering to your potential employees. Others have said that there is a talent shortage and that we need to open up our visa system to enable us to recruit more highly skilled people from overseas. I've had others tell me that the talent shortage is a global shortage, so that would not necessarily solve any problems either. Can you tell me what your perspective is on this issue.

**Mr Bradd:** Yes, I'll tell you what I know from the work that StartupAus has done. We did a talent report, which is in the submission. They talk to a global shortage in specific roles, like data scientists and product managers in particular. In terms of being able to attract talent, you spoke about university graduates. You want people who have not just the knowledge that they've learnt from the textbooks but the experience in doing it. We have a nascent startup ecosystem in Australia. Then, if you go to fintech and regtech, it is even more new to Australia. People who have worked in firms like that of the gentleman you had before me just don't exist in Australia. There are fewer of them compared to other places—Senator Bragg mentioned Singapore. This talent that does have the experience is available globally, so I think we need to be tapping into a global talent pool, which StartupAUS has always advocated for.

We referenced the GTES scheme, Global Talent Employer Sponsored scheme, which is a new way for eligible startups to get talent in as a very flexible method, because one of the previous problems was the codes for the jobs were outdated and the types of roles that startups hire for weren't in the codes that we needed for the visa systems. So this new method is providing the flexibility that we need.

**Senator MARIELLE SMITH:** I want to bring in the question of angel investment—in terms of the culture within Australia towards angel investment it's been a pretty significant criticism—and I guess where the

government, or others, sits around facilitating angel investment. What's your perspective on that in Australia? Do you have a view on what we can be doing to better facilitate and encourage angel investment?

**Mr Bradd:** Yes. I'm fairly proud of one of the things StartupAUS advocated for, that we got in the National Innovation and Science Agenda, which was a scheme similar to what they had in the UK which was to incentivise angel investment. Angel investment is important because when you're a new startup, or you've got a person with an idea, and you want to commercialise that idea it's very difficult. You don't know a lot about everything you need to do. If you go to a place like Commonwealth Bank they have heads of everything. When you're a startup you have to do all of those roles. Angel investors, particularly at the early stage, have the money and they've made that money generally, or ideally, through the industry that you're hoping to work with. They have the knowledge and the networks to work with you.

We're not looking for super angels, people like Steve Baxter, that make a lot of investments and, therefore, don't have the time; we're looking for angels where it might be their first, second or third investment and they do have the time to get on the phone with you at 2 am in the morning when something is going wrong. They do have the network that they haven't over tapped out to help introduce you. They do have the knowledge, the very specific knowledge, on how to break into or get around those industry norms, I suppose, when you're trying to get into it. At that very early stage if we don't have angel investors helping the opportunity to be successful is significantly reduced.

The angel investor tax incentive in the UK has been very successful. I went over to the UK and got all the economic modelling when Malcolm Turnbull was Prime Minister and gave it to his office. We've subsequently got the new scheme around the incentives. StartupAUS has advocated for some changes to what's an eligible company in our submission.

To answer your question, before I come to our recommendations, the amount of angel funding has actually decreased since that's come in, which is in the *Crossroads* report. If you look at the *Crossroads* report page 19 from 2018 to 2019 there's been a decline. It's the lowest it's been since Alex's research, which goes back to 2014, 2015 before these incentives came in. It's much lower than that. Every year up until 2018 to 2019 there were over 100 deals being made. It's reduced and the value of money has somewhat stayed the same.

In terms of our recommendation, in our submission we looked the innovation test—so this is around the early stage innovation company qualification criteria. There was a 100 point test and we suggested that there were probably some things that a startup does that could qualify them as a startup. We gave some examples for inspiration, but membership of a recognised accelerator program, or being a recipient of the accelerating commercialisation grant are two examples.

In terms of the early stage test, we suggested that the age requirement of three years serves little functional purpose and can easily disqualify somebody that spent a little bit of time getting their idea up and running or doing a little bit of work doing customer development. It's not uncommon for somebody to start a company and still work and spend a year and a half trying to validate it, so that three-year limit doesn't have a lot of purpose so we've advocated for it to increase to five years.

We also looked at the amount of money. The revenue is capped at \$200,000—that is, accessible income at \$200,000. We want to increase the threshold of income to \$500,000 and the threshold of expenses to \$2.5 million. Particularly around the expenses, as we've noted, startups are hiring staff. As we want these startups to grow, it's counterintuitive that if they're growing they're spending more money, particularly on staff costs, and if they lose their status as an eligible company that can have the undesirable situation of them not hiring staff at that point of their growth.

The third thing the UK does quite well that we don't do here is promote and educate. Angel investors—and Senator Bragg mentioned this in the media—are in every industry. We want innovation in every industry. They might be innovating around something that's quite a small industry, and we want the people that are very successful in that industry to back the innovators by being angel investors. They often haven't had the experience of being angel investors before. The UK has a specific entity set up. It's either not-for-profit or government funded. Maybe we could get some grants from the government to help educate and advocate around how to be a good angel investor.

**Senator SCARR:** Thanks for attending today. I think you've made some very good points around the early-stage innovation company definition, so thanks for that. From my perspective that was very useful information. I want to ask you about your own background. There's a discussion about an entrepreneurship academy, and they've got the academy in Stockholm, and there's a similar concept here. Your own journey—I think you said you were 22 when you engaged in your first startup.

**Mr Bradd:** Yes.

**Senator SCARR:** I'm interested to know, from your own personal experience, what you thought were the barriers to you doing that, your motivation to do that and how you became inspired to do that. It is an inspiring story. I'm interested in that personal context.

**Mr Bradd:** I decided to be an entrepreneur very young. I worked in a number of franchisee companies when I was—

**Senator SCARR:** How do you decide to become an entrepreneur? Someone decides they want to be a policeman or a fireman or a farmer or a lawyer—how do you decide to be a entrepreneur?

**Mr Bradd:** The epiphany I had when I was quite young was when I was working for minimum wage, \$5 or \$6 an hour, when I was a teenager at school in places like Costi Seafood and Video Ezy. The franchisee owners would make a serious amount of money coming through the tills. They'd just come in and collect it. They'd drive a Porsche in, and their kids would come in and take ice creams out of the fridge, and I thought: 'You're a muppet if you work here. You need to own the place.' That's how I made the decision to be an entrepreneur. It's better to own than to be employed.

**Senator SCARR:** And then going into the technology space?

**Mr Bradd:** I did agricultural economics at university, which is essentially studying small business and mega business. In terms of technology, I've always been interested in technology. I've got a couple of brothers, and growing up I was probably the person my parents asked to help fix things. I didn't study engineering or anything like that. I was self-taught. I had an idea when I was travelling around the world that people should be able to turn their own photos into postcards. Rather than buying pictures of the Eiffel Tower, they could send pictures of themselves. I partnered with a very successful entrepreneur, a guy called Greg Johnson, to create that business.

**Senator SCARR:** How did you find that partner?

**Mr Bradd:** Through networks. I'd already cold called Qantas's reception. I did some phone based sales work while at university, and I cold called Qantas's reception and told them I had an idea and asked how to pitch the idea. They gave me an email—marketing@qantas.com or something like that. I emailed them. Somebody got back to me. They had a person whose responsibility was to look for ways to create ancillary revenue for Qantas. I got to come in and pitch. I pitched to about 16 Qantas executives.

At that stage I started telling people in my network what I was doing, and somebody who was interested in entrepreneurship himself got in touch and invited me round to his place for dinner. I told him the idea. I was trying to raise capital at that point to pay for some people to build the software. He told me that I was going down the wrong path, and that was sort of the end of the dinner. He went to Spain on a holiday, and I think it was about 48 hours later he sent me a link to a website that he'd built for me to turn photos into postcards. So when I went to the meeting with Qantas I showed that website. I'd sent it beforehand. They created postcards and they were pretty impressed with the customer experience compared to the customer experience for Qantas customers on their website at that time—this is going back to 2006.

What I learnt from Greg was you can bootstrap in the startup world. Depending on what you're doing, you don't need to raise capital, which is what I was going for. The people I was working with were trying to encourage me to raise capital and spend that on agencies, and if you get a seriously talented software developer they can do some things pretty quickly. He built what we needed within 48 hours on a plane to Spain.

Then the iPhone was invented. The app store was invented. I learnt how to build iPhone apps. I learnt a lot from being at Fishburners.

**Senator SCARR:** Just describe Fishburners to us.

**Mr Bradd:** Fishburners—how it started, or what it is?

**Senator SCARR:** What it is—the environment.

**Mr Bradd:** We started in 2011. It's a tech-co working space where people come to share an office space. Previous to 2011, I was working at home and in cafes, and I used to go out for beers on a Friday night with some other entrepreneurs. It was like a Sydney tech meet-up or something like that where 20 or 30 entrepreneurs would get together. So we decided to co-work together. It was a guy called Mike Casey's idea, and he founded a company called GradConnection. He sold it to SEEK last year. We hired a space in Ultimo—a 300-square-metre space—and we moved in. We got \$50 desks from IKEA and some chairs. People tethered off their mobile phones, and the aim was just to be together. The product wasn't the office space; the product was the community of people being together.

I was the initial CEO. I volunteered for two years just to run the place. We did a lot of rounds of community. We set up community groups so people could learn from each other. We set up a thing called Werther's Winners Wednesdays, which was every Wednesday. When you're an entrepreneur, often there aren't many people to hold you to account, particularly if you're bootstrapping—you don't have investors. This group would get together, similar to the people in this room, and we'd talk about our wins, losses and challenges for the week.

**Senator SCARR:** We should do that in politics! Canberra would be better!

**Mr Bradd:** If you had wins, other people would see those wins. One of the benefits of being in a space like Fishburners is you see how other people are successful. I cold-called Qantas, because I knew how to cold-call. A lot of people ask: how did you win Qantas as your first customer at 22 just out of university? I said, 'I called them.' Other people have longtail ad word strategies. I didn't at the time know what longtail ad words were—you probably don't know what longtail ad words are—but it's a very effective strategy to grow a business. Being at a place like Fishburners gives you a breadth of knowledge that you can't get even in some of the big corporate companies. Again, it comes down to that experience. You're seeing a lot of cumulative experience and learning from people all the time.

**Senator SCARR:** So that's an example of what's referred to as an entrepreneurial ecosystem, is it? From your perspective is that—

**Mr Bradd:** There's a book by a guy called Brad Feld who created Techstars. His book's called *Startup Communities*, and that's a really good book that explains to people what a startup community or ecosystem is. He talks about players as leaders and feeders. Leaders are the entrepreneurs and feeders are the people who support the entrepreneurs—the incubators, the accelerators, the co-working spaces, the R&D lawyers, the specialist startup accountants, the graphic designers, product managers. The people who support entrepreneurs are all of the feeders, and then the leaders are the companies, the people that have quit their jobs to start a business.

The ecosystem is all of those people coming together. Precincts are important. I've just walked over from the Sydney Startup Hub, but there are precincts all over Australia and the world. The key to a precinct is density—just running into people, serendipity, increasing the chance of luck. Someone like Bill Bartee, who runs Main Sequence Ventures at CSIRO, is at Fishburners a lot. At Fishburners they're looking at some CSIRO IP, so he's there a lot. People that want meeting just bump into him in the left. You don't need to make an appointment to be with him. The whole purpose of the precinct and that density is to encourage or facilitate that serendipity. If you're sprawling it never happens. You don't get those bumping into people affects.

One thing I'd like to note is that in Stone & Chalk's submission I think they reference that about 80 percent of startups are trying to enable incumbents' business models, and only 20 percent are trying to displace or compete or win their customers through better choice. That's point that I've probably seen not appreciated for the majority of my time. A lot of startups are trying to enable the incumbents' business models and help improve their business models, rather than displace or disrupt them. When you talk about fintech or regtech, these innovative startups are often actually trying to help our major institutions keep up with customer demands and be internationally competitive.

**Senator SCARR:** Your Qantas relationship is an example of that, in a way.

**Mr Bradd:** Exactly.

**Senator McDONALD:** I really enjoyed hearing your story, as someone who has run a business as well. How do we manage the 40 percent of people who say they don't want to work for somebody else, which is a different thing to running a successful small business? We heard evidence this morning that one of the skill sets that's often missing from startups is the accounting function. I'm sure there are other important business parts. What you have as an entrepreneur is special and unique. I'm concerned that we are encouraging people to rush out and get a qualification in wearing a propeller hat, as the chair would say, but not necessarily setting them up. They're taking on what can be a highly stressful big risk and big commitment to run a business and employ other people. So I'm just interested in the training part for entrepreneurial skills. What is the middle ground? Do we just keep training people and letting some people discover the hard way that they not an entrepreneur?

**Mr Bradd:** Your question is multifaceted. One thing that I see as very successful is internships in startups. I did an internship program with UTS back in 2012, I think, when I was running Fishburners. Ten interns came and worked with startups. Only one wanted to work with the startup after they'd had their internship. That's a good way to talk about how difficult it is. If you run a small business or any business you learn so much, and your value to yourself and the market and your happiness significantly increases. I encourage everyone to be entrepreneurial if they can. I was speaking to a parliamentary friends of innovation group years ago, probably in 2014, and someone said, 'You're encouraging my kids to get out of PWC, this well-worn path to being successful,

to be entrepreneurs. I don't know what the stats are, but I think nine out of 10 startups fail, so all you're doing is encouraging them to fail.' I said, 'If your son or daughter leaves NAB or CBA to be an entrepreneur and they do fail, they're only going to go back into that company or another company more senior than they ever would have been if they'd stayed there.' It's only a good thing.

You spoke about accounting. One thing that Greg, my co-founder when I was doing Cornice postcards, taught me—I had to learn a lot myself—there's outsourcing. It depends what you're trying to do and what you need to raise venture capital and move quite quickly to secure a market. But if you have a bit of time, and that's not a necessity, learning yourself how to do things is useful. I learnt how to do all of my accounting and bookkeeping, setting up my Xero myself. I have an accountant now that does it for me, but I can look at his work and tell him where he is right or wrong very quickly, because I know what's going on. I know how to read the reports.

**Senator McDONALD:** That's critical.

**CHAIR:** Can I ask you about the ESIC structure? I know you've suggested that we should change the innovation tests and change the early-stage test. Are these suggestions that you made at the time?

**Mr Bradd:** In terms of when we were asking for the tester?

**CHAIR:** I'm talking about the early-stage investment company structure. You mentioned that you were involved in the development of the NISA. Are these changes that you suggested at the time?

**Mr Bradd:** I would have to look at our notes.

**CHAIR:** In all probability we will recommend refinements to these things. The whole idea of having this area of law is that it's supposed to be responsive to the market and not static. If we made the changes that you suggested in your paper on the innovation test and the early-stage test—I know you didn't write this up—

**Mr Bradd:** I've read it.

**CHAIR:** Hopefully we can have this conversation—that would do what? Would it improve—

**Mr Bradd:** the number of eligible businesses. Alex mentioned in the submission that he has met startups that are not eligible, who would like to be eligible and who should be eligible, but they've fallen foul of some of these functional requirements.

**CHAIR:** Examples are really good.

**Mr Bradd:** I will take that on notice and ask Alex to come back to you.

**CHAIR:** I'm sorry to be annoying, but I thought it would help us to make the case for changes.

**Mr Bradd:** Absolutely. Alex mentioned in the submission that there has been a modest existing uptake of it. He believes that the scheme is well protected and that changes in the criteria, which are quite small changes, won't impact the integrity of the scheme. Things like extending to five years rather than three years will help those startups. What they could do is start up a new company, but that's just a way to tack around the law.

**CHAIR:** If you could give us some examples, that would be very good, as to what additional companies could be included. There are two other issues that I want to ask you about. One of the recurrent themes here is that capital is just so important. One way that you can get capital into a startup is through getting a big business on your books, so collaboration between large and small. Are there any good models?

**Mr Bradd:** I run a company called Rainmaking Innovation. We founded a company called Startupbootcamp, which has run 90 industry accelerator programs and has 900 startups through it. We now help the world's largest companies to collaborate with—we call them 'scale-ups', the later-stage companies. The model that we use as we go to companies is similar to what I did in my previous consultancy business. We'll go to a company like CBA and help them understand the future of the industry, say around fintech or wallets; we'll then do a global scale and who are the best companies to participate with; we'll then run what we call a co-pilot, like dating for three months to see if they can work together. If they can, the next hard step is commercialisation. How do you integrate with an organisation's technology and culture? That's our approach. We do that with companies like IKEA and Facebook and others. Recently the Commonwealth Bank launched 15 ventures. I don't know whether you're familiar with that. They've launched an organisation, a new business outside CBA but within the MD that runs it, so it's within the risk preference of the group. That's an organisation that fintechs can go to in the banking sector to collaborate with. I don't think that CBA has decided whether they want to own 100 per cent or whether they want to be customers of it yet.

**CHAIR:** These are all market things, which is great. As a Liberal, I'm very happy if the market can sort out these things. My question is more about whether there is anything else that the government or the Commonwealth can do?

**Mr Bradd:** If your question is around regulation and legislation, I don't know an answer to that. What I think you can do and everyone should be doing is talking about it more.

**CHAIR:** That's why we having the enquiry.

**Mr Bradd:** Yes. Or keep getting in the *Financial Review*. The AICD put out a report in September on the board gap. I suggest that you read it if you haven't read it. It was from research done by the University of Sydney in collaboration with the AICD. I'm not surprised, but I find it shocking, that the boards of public companies aren't talking about strategic risk. They talk about one day a year. They feel like they've got nothing to add to the conversation. How can you expect the people who report up to the boards to be doing anything about it?

**CHAIR:** That's an interesting point. One of the things that was suggested to us in Melbourne was that there could be a way to get companies to report differently on the uptake of technology, for example. I know that's a slightly different point to what you're making. There are a lot of precedents for forcing public companies, especially, not through law but through the corporate governance regime, to report on these sorts of things.

**Mr Bradd:** Yes. The report by the AICD showed that boards of publicly listed companies aren't talking about strategic risk. I gave a talk to one of the committees of chief risk officers, and they had no idea about startups that were trying to work with them or collaborate with them. I showed them maps by CB Insights. They had no idea that the material even existed. These are the chief risk officers of public companies.

**CHAIR:** To change tack a little bit, on the R&D issue, just so that I understand your position correctly, your position is that you would like either the commissioner or someone in the government to clarify the treatment of software—is that right?

**Mr Bradd:** Yes. We have in our submission what we call a fix:

... there needs to be some assurance for vulnerable software companies. Companies with turnover of less than \$20m that have been claiming the incentive, in good faith and on credible professional advice, need an assurance that they are not going to be subject to audit processes unless their claims are manifestly unreasonable or have had sharp unfounded increases.

We suggested:

Specifically the moratorium should:

- Be applied to all software claimants with turnover less than \$20m.
- Prevent new audits and halt existing audits as long as • the claim in question is similar in scope to claims submitted in previous years (i.e. similar technology area); • the claim is not more than 50% larger than the previous year; and • the claim has been developed by a specialist R&D advisor (professional services firm).

**CHAIR:** Verification.

**Mr Bradd:** The work that Alex has done around the R&D tax incentive is incredibly thorough, right from the intent of the legislation and back to 2010 when the reading was done in parliament. He looks at that. He then looks at AusIndustry's formal advice. He then looks at the history of the ATO and AusIndustry issuing a taxpayer alert, which they clarified to us was not a change in legislation. Scott Morrison then announced in his budget speech in May 2018 that there was a crackdown, despite the intent. The startups don't have the time or the money to be fighting the government on this stuff. The impact, as Alex explains, is significant. He states that if these firms can't do it with the assurance, they won't do it at all.

**CHAIR:** I understand that. Thank you for your time. We appreciate it very much.

**BAUM, Mr Anthony, Founder and Chief Executive Officer, Tic:Toc**

**PRICE, Mr Daniel, Chief Enterprise Officer, Tic:Toc**

**SHANAHAN, Mr Richard, Manager, Data Science and Enterprise Products, Tic:Toc**

[12:04]

**CHAIR:** Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Mr Baum:** Thank you. Yes, we would. Firstly, thank you for the opportunity to address this committee. By way of background, Tic:Toc is a financial technology company with both a direct proprietary home loan business, under the tictoc.com.au domain, and an enterprise software business through the recent launch of a product called XAI Validate, which allows other lenders, brokers and financial services—industry participants—to undertake assessment and validation of a customer's financial position. It generally adopts artificial intelligence technologies and machine learning technologies to create better customer outcomes and greater regulatory compliance. We have actively engaged with both industry and regulators to explain the benefits of our technology for the customer, as well as evidencing its ability to enhance regulatory compliance standards.

Tic:Toc advocates for the swift implementation of an effective and genuinely open banking regime in Australia, which we believe will deliver better customer outcomes through improved customer experiences; increase access to competitive financial services products through increased price transparency and the efficiencies available through digitalisation and automation; create product and service innovation; make improvements in the financial literacy and wellbeing of many Australians; and—picking up on the themes of the prior attendee—help to develop a vibrant and, potentially, economically significant financial technology sector.

We support customers having access to their own data and the right to share that data in order to maximise the consumer benefit. The ADIs, fintechs and intermediaries who access customer data are merely custodians. We should avoid, at all costs, a system where access to raw data is in any way limited or blocked, other than by consumer choice or non-accreditation of a recipient, thereby maximising the opportunity for competitive forces to benefit the customer. Tic:Toc strongly advocates for the development of legislative and regulatory frameworks where accredited parties can access CDR raw data with the consumer's consent, and for the establishment of transitional arrangements which provide a regulatory framework to ensure we transition from the use of data consent and supply technologies available today to the new CDR regime, without product or customer experience disruption.

Whilst our technologies specialise in data enrichment and explainable or human-in-the-loop automation assessment, we currently rely on existing data consent and supply structures to source raw financial institution data from consenting customers for accurate assessment. We must be able to rely on a complete, full coverage of financial institutions constantly, or nearly constantly, and we must have full account type coverage at all times, with secure access to the information and a guarantee of consumer consent and privacy. Accordingly, we strongly recommend a transitional approach, and we covered that approach in our submission.

We also want to address, briefly, the comments by some parties that actually we could put, effectively, an algorithm to the data whereby we would create limited access or consolidated access to a consumer's data, under the suggestion that that would help protect customers and reduce industry liability. It's Tic:Toc's strong opinion that this approach would only serve the major bank ADIs that sit on the vast majority of customer data and limit the ability of Australia to achieve its objectives with respect to the development of a financial technology and regulatory technology sector and to creating greater competitive customer outcomes and new business models.

We would like to see a really sensible tiered structure of accreditation implemented. Whilst Tic:Toc is a well-capitalised fintech, and we are very confident that we can meet all the governance and capitalisation requirements and security thresholds required to meet full status, we acknowledge that there is a risk that, if we take that too far, it'll actually act as a barrier to entry to new entrants with new ideas, because they won't be able to effectively have the resources to meet those standards from day one. We must also balance that with developing a system that is highly secure and trusted by the Australian public. We will be pleased to answer any questions of the committee.

**CHAIR:** Thank you very much.

**Senator MARIELLE SMITH:** Thank you all for attending today and particularly for travelling up from South Australia. It's really good to have a perspective from a firm outside of the Sydney and Melbourne base that has different challenges and opportunities. I really appreciate your participation in this process.

On the issue of genuinely open access to data: there are huge opportunities across our entire economy and in every sector in terms of accessing data, but there is a concern within the community around consent and around trust in institutions' use of that data. How do you think we can overcome that, and what do you do with your customers to gauge genuine consent and genuine understanding and knowledge about how their data is shared, how you use it and how it works to their benefit?

**Mr Baum:** I will start the answer, and then Richard can pick it up with reference to our submission on the relevant forums for putting that legislation in place. Fundamentally we believe philosophically in customer choice and transparency as to what the data is being used for, and that legislation should only facilitate the use of the data for the purpose for which the customer has consented. If you operate with those broad principles, you obtain and can retain the customer's trust. There is a strong ability to de-identify data post its use case, and legislation can be extended with respect to that. Through that mechanism, what you're effectively doing is empowering the customer to make the choice as to what that data is used for. We believe that the benefits materially outweigh the negatives, and we need to, when we're assessing that, look to global benchmarks such as the way the UK has implemented open banking. If we take a more restrictive approach, then we will not see the same level of benefit that's available to the Australian consumer materialising versus what's available to those other jurisdictions. That would be my holistic response.

**Mr Price:** Before Richard jumps in on the technology, the point around customer choice is particularly pertinent. How you develop trust within an ecosystem of using an open data framework, or any framework, is by ensuring that you interact with your customers in the way they want to interact with you. It is not for us to dictate to a customer that, to get the product or service they're looking for, they need to jump through these hoops. That's essentially been the environment we've been in for a long time, because processes and procedures within not only the financial sector but all sectors have dictated what needs to occur.

Customers in the modern world want to interact on their own terms, and they've been given the power and technology has shown them that they should have the power to do that. Anthony's point with regard to choice is that a large majority of customers may not want to use the open banking framework, at least initially, and ensuring that as a company, or as part of an ecosystem, we can say to them: 'It is actually alright if you don't want to converse with us in that manner. We will open up the other avenues for you to converse in whichever way you want.' In our world specifically, that works towards validation and financial position. Traditional methods like obtaining payslips in a manual form is still an option although it's not our preferred option. It may be the way that some consumers wish to engage with us. Ensuring that customers have that ability to choose actually instils that trust that we're looking for in the industry.

**Mr Shanahan:** We can speak from experience from our direct home loans business. Consumers want access to their data quickly and reliably. You do an application through Tic:Toc. You can do digital validation or you can link your banking and transaction data. Seventy per cent of our customers opt for that. The rest will do it, and sometimes they can't remember their banking credentials. We use a data aggregator to facilitate that. The fundamental premise is that they want that data. They want to participate in getting a better experience, a value exchange, and they want to do it quickly.

**Mr Baum:** We have two pathways to financial validation in an assessment process. You have the fast way or the traditional way, and customers can choose either path. Two-thirds of customers choose digital validation and the fast way purely with non-prompted choice other than disclosing that, if you take that second pathway it will take longer to give you a decision and you'll need to supply these things. They then go through and can upload their documents. But we think that framework and that ability probably in some way diminishes some of the concerns as to people being forced to do things with their data as opposed to having the choice to provide their data to obtain products and services which we've run as a philosophy from day one.

**Mr Shanahan:** Going to your original point, Senator: how do you instil trust? Through a really well-managed clear consent process and user experience—what's going to happen with my data; how are you going to use it; and what can I do if I need to de-identify and remove that data? We're completely upfront and transparent. It's good to see the work that Data61's been facilitating around the consent process for CDR. It adheres to the principles that we already embed in our experience.

**Senator MARIELLE SMITH:** Just to clarify: through Tic:Toc to the financial validation, you're effectively using screen scraping to access that data. When open banking and CDR are fully rolled out, will you still be needing to do screen scraping or will that replace the need?

**Mr Baum:** What we're recommending is two things. One is that we legislate the role of intermediaries to create infrastructure businesses that facilitate data access and then we do a transition where aggregation—or screen scraping if you want to use that term—is used to facilitate transition. Once the open banking framework is

fully up and running, we have accredited intermediaries that are providing all the APIs that facilitate the structures. If enough of the institutions, including some of the smaller ones—and I'll come back to those—have been able to complete their process of participation, then you can switch off the screen scraping product. If you do that before all of that is in place, you're actually going to send innovation in this market backwards before we go forward and miss a significant part of the opportunity of being one of the early adopters of open banking legislation through the vision of the government and therefore the opportunity to create businesses like ours that have potentially global applications for our technologies as open banking rolls out globally through all of the other jurisdictions that are looking at it.

The concept of screen scraping as a solution has in Tic:Toc's opinion been given an unfair bad name, and it's been given an unfair bad name, frankly, because it's a product that actually drives competition and drives innovation. It therefore has been restricted to the extent that they've been able to restrict it, because consumer demand has basically been the reason it's been taken up by the larger industry players. Their data is actually how they, in part, how they protect their market shares. So access to that data allows businesses like Tic:Toc to offer cheaper, faster, better customer experiences, and naturally you want to slow those new market participants and entrants. In the US, for example, the largest screen scraper in the world, Yodlee, is actually a party that is regulated by the banking industry as an accredited mechanism for the supply of data for the purpose of use in financial services processes.

I would argue we've taken a very immature view to it as opposed to supporting it more holistically through bringing the service into the regulatory tent, which is how the US operates. Regardless, we've gone to the open banking framework, which will ultimately achieve the same thing. We just want to keep going forward as an innovative, vibrant financial services and financial technology economy as we manage to that optimal outcome. I'm not disputing that the optimal outcome is the open banking framework we're looking to put in place if we do it right; I'm just proposing that we manage the transition without creating backward steps.

**Senator MARIELLE SMITH:** I'm interested in your experiences with the R&D tax incentive. For you it's been a positive experience. I've heard negative and positive stories out of the fintech sector. One is the difficulty in fintechs accessing the incentive for software development. Can you step us through your experience and whether there are any areas in the incentive where you see we could improve it?

**Mr Baum:** I'll take the first part and hand to you, Dan. At a strategic level, Tic:Toc has developed very innovative products which have been able to fit into the current legislative framework for R&D. Last financial year, 2019, 43 per cent of our total expenditure was on R&D for the development of products like XAI Validate. We are sufficiently resourced that we're also able to pay for the professional services that need to be purchased to actually ensure at a board level that we've got the right governance and assessment process in place with respect to ensuring our claim is within the spirit and legislative framework that's in place.

However, I would make one final statement before Dan adds anything he would like to at the technical level. I think Australia should do more to support R&D, to update the legislation for the way technologies are evolving and to effectively support the sharing of risk with respect to development of software as we see the businesses in the technology sector grow as a percentage of the overall economy. I think the framework around revenue and the hurdles you need to jump can be set as your revenue base grows. I also acknowledge that some very large companies were using those frameworks in a way that probably wasn't related to the original intent of the legislation. So it's just resetting that to create that outcome.

**Mr Price:** To give you a little bit more of a practical view on the R&D tax credits, coming from the person within Tic:Toc who actually sat down and checked every requirement and every piece of work that we did the first year that we did it: it is very onerous, depending on the scale of the business. Once the practices within a business are properly embedded, that task becomes much easier, but also, as the previous speaker talked about, the risk of audit for what I could imagine a smaller fintech would be, I think, would be very real. As Anthony pointed out, we're probably now at a scale where the R&D tax incentives are very beneficial to our business and we can manage the risks associated with those, but I would fully support that tiered approach where true fintechs, depending on where that dollar figure scale is, are exposed to slightly less risk with regard to audit but, the higher up that scale you go, the higher the burden you would expect to manage that process.

**Senator MARIELLE SMITH:** Another area which has been raised by the industry is skill shortages and access to particular skill sets in Australia. Your office in South Australia employs a lot of people. Can you jog my memory? It's—

**Mr Baum:** Seventy.

**Senator MARIELLE SMITH:** 70 people in South Australia. How have you found accessing the people you need in South Australia and Australia more broadly? I know you've got offices interstate as well. Where do you see the shortages are and where do you see government needs to be intervening or acting to either build internal skill capability within Australia or look externally?

**Mr Baum:** I'll take the first part of that, and then the guys who have to find all the highly talented teams day to day can add something. I agree that there is a global shortage in technology and STEM related skill states. I agree that to run a successful fintech at scale you need a broad range of skills. I think the onus is actually on the businesses that are looking to be successful to develop the cultures, the employee engagement frameworks, the environments that actually make you an employer of choice. That's actually part of building a successful business.

So I hear complaints with respect to that, but, if you are creating a great ecosystem of successful financial technology businesses, people will gradually focus on those sectors as being somewhere they're interested in working. We're really at a point where actually what's happened is the economy's structure is changing quite fast because we're in another form of industrial revolution associated with technology and it is still adapting.

We deliberately chose South Australia for the establishment of Tic:Toc. We could have gone anywhere. The benefits we saw were that we could have a much greater opportunity to have employer-of-choice status and we could create an environment where we could access not just the people who are in South Australia today but people who would engage with moving either back to—which is a big piece of it—or to South Australia.

Of course, the benefit for the regional economies associated with businesses like financial technology businesses—we've seen it with Xero out of Wellington in New Zealand—is actually that the internet of things means you can have the business separate to where your traditional large populations are and still be successful. Whilst it wasn't the question, the biggest issue with being outside of Sydney and Melbourne is access to capital because, basically, they're the two centres for access to capital. For all the advantages that we saw in South Australia, was that the one disadvantage. We've solved it, and there are other businesses, so it's not insurmountable; it's just a bigger problem. But, absolutely, clearly, as the needs in these sectors grow, we need to adapt our education programs and our immigration programs to best support that, and then—taking the earlier comments of Senator Bragg with respect to the framework—industry needs to do the job. I think it's actually up to us. Under the principles of building successful businesses, we've got a big job to do here as well, with respect to making sure we're accessing and developing that talent.

**CHAIR:** I might give the call to someone else. Or do you want to keep going? We've got other people with questions.

**Senator McDONALD:** I've got a relevant question, if we could keep going. Last year the winner of the AgriFutures national program was a woman who identified that skilled Australian women who were moving into regional areas were untapped and would be worth about \$1 billion a year if we could re-engage them in the workforce. So you have gone to one of Australia's great states—that being South Australia, as opposed to the other great state, which is Queensland—but I'm really interested in your being at the cutting edge of a new way of doing business. How many employees do you have who are working remotely, and is this something that is the next brave new world? I've got women living on cattle stations in western Queensland who are bankers, doctors and engineers but can't work, so they're completely lost to our economy in that sense.

**Mr Baum:** It's something we grapple with constantly.

**Mr Price:** Without a doubt. It's actually not just a regional discussion; you also brought up the other point that we struggle with and that we'd love to do more in, which is around getting women back into the workplace. They tend to go hand in hand, as you point out. We're starting to move to that. So Sydney offices are opening up. One of the almost founding members of the business works out of Perth, and has done for the last five years, because he was unable to relocate his family to Adelaide, and that was something we wanted to support. It comes with its inherent challenges, but we honestly believe that the benefits in what you can do significantly outweigh the struggles that you have in working from home or working remotely.

**Mr Baum:** And I think that as you scale up it becomes easier too. So a bigger business is more able to offer that flexibility. When you're running a small team, getting to market launch is pretty challenging. But, as you grow, then absolutely it becomes viable.

**Senator McDONALD:** I'm frustrated to hear that, despite being in the brave new world of fintech and disrupting traditional markets, that you've not been able to solve the very human problem of humans working together and remotely. I was hoping you were going to tell me you had screens in every office and everybody was hubbing in from wherever they lived in Australia.

**Mr Baum:** No, we haven't solved that one, Senator.

**Senator SCARR:** No-one has.

**Mr Price:** It is something that we are putting in place. We have made the move within the last three months of starting to think about a Sydney office and what an expansion would look like. And you're exactly right. The conversations are: you need a screen in every room because you need to be able to interact with that capability and in that capacity across distance. Hopefully we can come back to you in a year's time and tell you that we're at least making pretty significant inroads into that.

**Senator McDONALD:** Is there a regulation or legislation in that space that would make a difference to how you consider employing people?

**Mr Price:** That's an excellent question.

**Senator McDONALD:** I'm full of them!

**Mr Baum:** I'll speak on behalf of the board. Obviously the onus with respect to safe workplaces and working from home and the obligation on the corporation to govern that is pretty impractical.

**Senator McDONALD:** Isn't it an outrage that we're such a libellous society—sorry, this is an opinion piece here—that we're now saying that the home space is safe enough to live in but that as an employer it's now become a risk to have an employee in their home environment? It doesn't make sense. Do you think it makes sense?

**Mr Baum:** It's beyond my area of expertise. There are pros and cons. But it is something that is a potential barrier at a board level, given the board's risk appetite and obligations with respect to work health and safety. That has to be evidenced and overcome if you start running large externally working members of your team.

**Senator McDONALD:** I think the risk part is important, because we're considering risk around privacy, risk around data-sharing, risk around changing how we do business or how consumers interact, and yet this is a whole section of our society where we're not considering the risk and how we disrupt that and be a bit more modern.

**Mr Baum:** I would add, just to be practical—sorry. If the person's the right person then naturally we'll do what we need to do to comply with the legislation.

**Senator SCARR:** I have two quick questions. Firstly, congratulations to you all as a team. It's a great story. And thanks for coming all the way from Adelaide to appear. I like to put to people what other people have said in their submissions to get their views. This submission is from the Financial Rights Legal Centre. This is what they say about fintech. I'll give you two quotes to respond to, and this is the first one:

Much of the promise of FinTech is that more tailored products and services will be made available with lower fees or lower loan interest rates for many banking customers. However, the flip side to lower fees and interest rates for some is that costs will increase for others. These 'others' will undoubtedly be Australia's most vulnerable, disadvantaged and financially stressed households.

I'm interested in your response to that.

**Mr Baum:** How long do I have? There are a lot of angles—

**CHAIR:** You've got two minutes.

**Mr Baum:** Thank you. That's tough.

**Senator SCARR:** From my perspective, that's a dark description.

**Mr Baum:** It is a very dark description, but I would purport that the net benefit outweighs the challenge in three respects. Let's start with the customer. It will create for a cohort a much better outcome. It will also facilitate regulation being able to leverage the data to put the mechanisms in place to protect the disadvantaged from getting into the difficult positions they quite often get into in the first place. Thirdly, it provides the tools to the parties that are looking to help those people to increase financial education and to make sure that they have not been inappropriately provided products or discriminated against. Because the support structures can have equal access to that information through those very powerful tools, it's actually empowering them. I'll give you a use case example, just very briefly.

**Senator SCARR:** Yes, please.

**Mr Baum:** A Financial Ombudsman type service could basically put the customers' financial position that persisted at the time the customer took out a loan product, for example, into the technology, and it would facilitate them being able to effectively understand whether the customer was potentially sold a product or service they shouldn't have been based on that information, without having to basically trawl through a bunch of manual documentation, which is very time-consuming work and requires skill and judgement, to help them inform the customer of the next best steps. So the technology is of equal use there.

**Senator SCARR:** Okay, that's good. The second quote I'll give you is in relation to the use of artificial intelligence and algorithmic decision-making:

Algorithmic decision making in the financial services sector has great potential to introduce bias into decision making particularly for marginalised consumers.

**Mr Baum:** If you run a purely black-box algorithmic approach, you can understand the theory. The reality, we believe, is that the form of artificial intelligence that will be adopted by the banking industry is human-in-the-loop. Our product set is called XAI, which is 'explainable artificial intelligence'. Basically, everything that the system does is effectively auditable and reviewable and can be interacted with by a human. That is a critical component of ensuring that we get all the benefits but minimise the bias and potential discrimination as a result of its use.

**Senator SCARR:** Is it true that some fintech players don't have that human element in the loop and that is, perhaps, a shortcoming?

**Mr Baum:** I would prefer not to comment on other business models, because I'm just not informed as to the specific use case examples you'd be talking about.

**Senator SCARR:** That's fine. But from your perspective, for your model, it's important to have that human interaction?

**Mr Baum:** We wouldn't do it, and we wouldn't recommend that products that do it be introduced.

**Senator SCARR:** Thank you.

**CHAIR:** We have one more question from your fellow South Australian.

**Senator MARIELLE SMITH:** I have many more questions, but I'll just narrow it down—just a quick one. We hear a lot about this industry being disruptive and creating new opportunities for consumers. I'm interested in your Tic:Toc home loan product. Who are the people for whom that is opening up access to loans and who might not otherwise have been able to access a loan? Are you introducing your product to new people and helping them into homeownership? Are you servicing people who are already in the sector and applying for home loans but just in an easier way? Where does your fintech disrupt, and who does it benefit?

**Mr Baum:** The primary benefit of the direct business to the customer is predominantly around two things. The first thing is that our technology is highly automated, which reduces cost of origination, which means we can offer an interest rate that is an average of two per cent below the industry norm, which benefits the consumer by reducing their borrowing costs. The significant thing it does is to significantly reduce the time, process, paperwork and effort to actually apply for and obtain a loan. That increases portability and drives competition, which facilitates, in effect, removing one of the barriers to customer fulfilment that have been an advantage to the industry for a long time in the traditional players, and that is that it's darn hard to move. It's a hassle. It's expensive. It's time-consuming. So it's that speed, portability, ease, efficiency and cost.

**CHAIR:** Thank you for your time.

**Proceedings suspended from 12:44 to 13:42**

**LE, Ms Van, Co-Founder and Executive Board Director, Xinja Bank**

**WILSON, Mr Eric, Chief Executive Officer and Founder, Xinja Bank**

*The following evidence was taken in camera but was subsequently made public at the request of the committee—*

**CHAIR:** I declare open this in camera hearing. I must advise witnesses that it is not the intention of the committee to publish or present to parliament all or part of the evidence you're about to give. However, you need to know that it is within the power of the committee to do so and that parliament has the authority to order the production and publication of undisclosed evidence. You should also note that an individual committee member may refer to in camera evidence in a dissenting report to the extent necessary to support the reasoning of the dissent. However, we would try to seek your view on any such proposed disclosure.

I now welcome Xinja Bank. Thank you for time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Ms Le:** As founders of Xinja, we'd like to thank the committee for the opportunity to make a submission to this inquiry and to appear at this hearing. We ask that our views be received as the views of founders in our capacity as founders rather than in our capacities as directors of Xinja Bank which bear accountabilities. This is very much a founders' view in response to the inquiry.

Xinja is one of Australia's newest and fastest-growing genuine neobank startups, having raised over \$200 million in deposits in 30 days with one of Australia's most competitive base interest rates for savings at 2.25 per cent. We're an entirely new Australian startup, founded in 2017 with a young and diverse team of technologists, bankers, former regulators and digital customer experience designers.

Xinja was created from the belief that Australians deserve better and that long-term sustainable profits are entirely consistent with being customer centric, behaving ethically and helping people get out of debt faster. We don't believe in screwing over our customers in order to make money.

We also believe that all Australians should have easy access to opportunities to make good financial choices and to create financial security no matter how much or how little they earn, whether they are working in our cities or our regional areas, whether they want to have a family or not. One day it could be possible that debt refugees and crippling consumer debt could be a thing of the past. One day, possibly, Australians might know what they can afford as well as they know their phone numbers. We believe that as a neobank we have an imperative to use technology and data to create financial opportunities and job opportunities and place them directly in the hands of every Australian with a mobile phone. Our Xinja tech stack encompasses new technologies that will enable us to bring the Netflix of banking to Australians and, in the future, we hope, other parts of the world.

Unlike other new entrants, we've built our entire customer base and technology stack from scratch with no funding or ownership from major banks or any technology infrastructure from parent companies who already have banking licenses and existing integrations into Australia's banking and payment systems. This affords such entrants an advantage in having an existing base to build from, whilst we've created everything from scratch with leading technologies that are used by companies such as Google, Netflix and Amazon.

There are numerous benefits that new independent greenfield neobanks have to offer Australians from better customer experience to more competition in the financial services sector to more accessible products and services to new jobs, especially new jobs in a supportive environment with flexible work—an environment that supports women and technology and innovation. We also create opportunities for investment from Australians and other parts of the world in Australian data technology, and we can create new export markets for Australia if we can first be supported to be competitive in Australia. These benefits can only be realised to the extent that we are able to raise sufficient capital to compete on an even playing field and to be supported to grow from a startup to a profitable scale-up in an industry that has historically had most of the cards stacked against small players. This is in comparison to other markets, such as the UK, which actually fund new competitors from fines levied against misbehaviour from incumbents.

We see that regulation has a key role to play by enabling us to raise funds, by enabling us to build on the bank technology that we've produced and by enabling us to access grants and funding to scale and grow faster. It also enables us to lower the cost of providing these services by reducing barriers to entry, both commercial and regulatory; reducing the barriers to accessing local talent that we otherwise would have had to compete with incumbents and tech companies for; and also reducing the uncertainty that limits the degree to which investors are willing to take risks at various parts of our journey.

We are strong supporters of the national objectives outlined in the inquiry, including the desired outcomes for customers and for the fintech and regtech community, creating jobs and technology investment, and bringing Australia's innovation to other parts of the world. In our submission we've highlighted a number of recommendations that we believe could make a tangible difference. We hope they've been useful for the committee so far, and we welcome any questions that the committee would like us to address.

**CHAIR:** Thank you very much. My main question is: why are we doing this in camera? Did you want to run through why you wanted to do that, and then I have some policy questions.

**Mr Wilson:** I think it was probably just an abundance of caution to start with. Obviously this is the first time as a business we've come in front of an organisation or a committee like this. We have been reasonably direct and fairly straightforward in our submission. To be honest, on reflection, we wouldn't be all that uncomfortable if the proceedings and the paper were made public.

**CHAIR:** The morning session showed a strong focus on competition policy, four pillars and the existing policies of the country to entrench incumbents. Did you want to offer a view about your experience as a challenger?

**Ms Le:** You'll find that in aspects of our submission we talk about the pace at which any new neobank or fintech can deploy new technologies and innovation. We find that there comes a point at which any new part of the financial services ecosystem has to integrate with legacy infrastructure and payment systems, many of which are historically owned, either directly or indirectly, by the major incumbent banks. Examples include access to our BPAY infrastructure—BPAY being primarily owned by our major banks—and access to the national payments platform. Whilst it was intended to be a national platform, access to the platform is priced on a cost-recovery basis to enable, again, the major banks to recover the cost of building that platform.

**CHAIR:** Do you have access to the NPP?

**Ms Le:** Access to the NPP today is not something that we currently have. It's only available via commercial arrangements for which we need to be willing to pay a set price in order to access the NPP. The pricing structure is such that you get discounts, the larger the volume of customers and transactions you get, but when you're a small player you can't access those kinds of volumes. We have this catch 22 where you'd like access to the NPP in order to grow your customer base but the cost of access to the NPP is actually disproportionately punitive to smaller players, compared to the per-transaction price that any CPA might have.

**CHAIR:** What do you think the cost would be for you?

**Mr Wilson:** It's in our submission.

**CHAIR:** Your view is that it's cost-prohibitive at this point?

**Mr Wilson:** Yes, that is our view. The NPP should be a piece of financial infrastructure owned by the government and structured like that, no different to a motorway or a port. Instead, it's owned by a number of the largest competitors in that industry. So I don't think it's a hugely surprising thing to say that when new competitors want to come in and get on the NPP we have to ask very nicely.

**CHAIR:** The four pillars policy is an implicit policy, right? Have there been instances where you have found the apparatus of government has enforced four pillars in a way which has really disadvantaged you?

**Mr Wilson:** Certainly for new banking competitors the four pillars itself is probably not something that keeps us awake at night. Our issue here is not the fact that there is a very substantial oligopoly in this market. In many ways, that's actually an advantage for a startup, because it gives us a slow-moving target. Our issue, of course, is the infrastructure around that and the way the markets are set up; indeed, even the way venture capitalists and money that will back us think around it. To give you an example, at one point I was out raising funds overseas and at the same time the regulator, in a perfectly reasonable conversation, was talking with the press about neobanks and saying that, as a number of them came through, they expected a couple of them to go bankrupt and be closed down. That's a really hard conversation to have with an investor whilst your regulator is out there saying, 'Some of these guys are going to go bankrupt.' It's not deliberate; it's just a mindset that is used to managing a market of a particular shape. There are things in the culture of regulation and legislation that need to be changed to allow small innovative banks, certainly, to get up and running.

**CHAIR:** Was it easy to get a banking licence?

**Ms Le:** No.

**Mr Wilson:** It was extraordinarily difficult to get a banking licence, as it should be.

**CHAIR:** Was that the \$6 million you had to spend? Was that for the banking licence, in particular?

**Mr Wilson:** That's correct, and that's probably a relatively conservative estimate. That's probably taking out all of the staffing. I think at one point we had 60 per cent of the staff of our whole business working on getting the licence.

**Ms Le:** We found ourselves in a very interesting catch 22 situation between fundraising and getting the licence, where investors weren't willing to take the risk until we could get the licence but we couldn't get the licence without enough funds to reach the capital requirement. That's a very challenging path to navigate.

**Mr Wilson:** As an ADI now, I don't think we would look for that barrier to be moved. It is a serious responsibility, because I'm now able to go into the market and say, 'Give me \$250,000 of your life savings'. That should be really hard to do and, as importantly, the taxpayer is providing us with a guarantee. So it was hard; it was incredibly difficult and we nearly didn't make it a couple of times. But it should be. We'd like to see it streamlined, we'd like to see it made it easier and we'd like it to be made less expensive, if possible, but the standard shouldn't be lowered. It is a significant obligation that you're taking on.

**Ms Le:** In hindsight, the area that would have helped was more certainty up-front on what the requirements were so that we had the best chance possible to meet them on the first run.

**Senator SCARR:** What's an example of that?

**Ms Le:** An example of that would be the restricted licensing regime. That provided the ability for neobanks to start offering deposit products to a limited set of customers, provided that they were able to prove their systems were fit for purpose, but there wasn't a lot of detail in the public documents around what you have to do in order to be fit for purpose. And when you need independent validation, does 'independent' mean an independent part of our organisation or does it mean someone outside the organisation? It required us to do a lot of going back and forth with the regulators to understand what the full set of requirements that we had to meet were so that we could ration our capital properly, to understand how long it would take and how much it would cost, in order to meet those requirements. Some of that clarity up-front would have enabled us to take investors on that journey. We could have said, 'Here's how much we think it will cost and here's why.'

**Senator SCARR:** What do you think of the ESVCLP—I got it right, finally!—and the way that law has been structured? I read your thing; are you saying that once you become an ADI you lose that?

**Ms Le:** We've been informed by some current and prospective investors that when they invested in us before we got the banking licence we were seen as a technology company for the purposes of that program. But the minute that we got our ADI there was some part of that structure that said we could no longer be treated as a technology company, that we were now a bank, and therefore all the benefits that the investor would have gotten were now no longer available to them, and they were actually asked to divest.

**CHAIR:** What's the legal driver of that?

**Ms Le:** We believe it's the—

**CHAIR:** You might want to take it on notice if you don't know now.

**Ms Le:** Yes, we could come back to you on that. I think it's about the definition of what a technology company is, and there may have been specific exemptions around banking and financial services.

**Senator McDONALD:** I have a question further to the regulation. My understanding in talking to COBA—the Customer Owned Banking Association—is that the regulation that applies across the industry is able to be achieved by the big four but is too expensive to allow them to be profitable. Is that the situation that you'd like to talk about, that that applies as well? It's regulation that applies across the industry but is actually only available to the big four?

**Ms Le:** One of the areas where that impacts us most directly is in keeping up with the pace of change in the regulatory environment. For example, there were recent changes to legislation impacting how credit decisions can be made. When we started on this process, we had a particular regulatory framework and we scaled up our risk and compliance resources to meet those requirements. We didn't have resources available to respond to consultations and submissions on what the impact of the new regulatory changes would be on smaller startups compared to larger institutions. Therefore, we are regulatory takers, in terms of what regulations have come out, without a real opportunity to influence what that outcome might be. That's primarily a function of being small and not being able to participate in that process in the way we normally would. Even participating in this inquiry is something that we, as a startup, had to make tough choices on—how investors expect us to deliver. But being able to shape the regulatory environment is a key part of that, with a small regulatory team.

At a holistic level, the regulations for the entire credit services market in Australia are quite complex. They change for the right reasons. We feel there isn't always due consideration of the relative impact on smaller players

compared to larger ones or enough interest in finding other ways to meet those regulatory outcomes without that cost being disproportionate for smaller players, especially smaller players who want to use technology where regulations demand a more manual based approach. One example of that may be: we want to create digital home loans, but, in some states, transfer of land isn't official until there's a paper form handed over to the land titles office. It will be accepted digitally in some states but not others. That changes the home loan approval process from something that could take minutes to something that can take weeks.

**Senator McDONALD:** Thank you. That's a very good, specific example. The other one I was chasing was around risk profiling of customers. I understand the bigger institutions have been able to absorb the cost of a new credit officer and the IT investment in order to do that, whereas smaller institutions have to bear the penalty of a higher risk margin.

**Ms Le:** Yes, that's right. There's a minimum amount you need to invest in the technology and processes just to be compliant before the investment made to the differentiator will create a better experience.

**Mr Wilson:** The stakeholder group you're discussing there are wedged in a difficult place. You've got the big five or six, with as much money as they need. At the other end you've got ourselves, who are able to automate and digitise that entire process of CCR—so good customer credit checking. Then, effectively in the middle, you have the credit unions, who have much lower margins and really strong community purposes, which means they tend to keep their margins relatively slim. The ability to cope with changing legislation of that type is irritating for us but we can handle it—just. The big four are fine. It's that group in the middle that don't have that new modern technology and probably can't afford to implement it. They're in a very difficult place.

**Senator McDONALD:** Are there any other examples you'd like to raise around specific regulatory differentiation?

**Ms Le:** Open banking is another example. For many organisations to fully realise the benefits of open banking for their customers, they need to receive data from other banks, which requires technology investment in APIs to receive and securely manage that data and ensure that customer consent is preserved. However, the minimum commercial costs of investing in those systems and processes to be accredited as an open banking data recipient can be too high a barrier for some of these smaller players to provide those benefits to their customers. Part of that is because you're working with legacy technology that now needs to be updated, but also part of that is the cost of testing the data. At the moment you can't even run pilots without being accredited first, which is something that, in a normal startup, you'd be able to do; you'd test, you'd try, you'd run pilots at a low cost without worrying about the compliance implications until you have a product that's been proven to be revenue generating, and then you make that investment. Right now, organisations don't have the ability to go through that in the way that a normal startup would.

**Mr Wilson:** At the risk of teaching you to suck eggs, the impact of open banking and CDR is potentially enormous. The outcomes that we are seeing at the moment are probably not potentially enormous. So we have a situation where we're letting the wolf run the flock. For the credit unions, especially smaller neobanks like ourselves, CDR is a huge opportunity for us to allow the transfer of data for consumers to get brilliant visibility of what they could get, what it costs, and to be able to move in the blink of an eye. Yet the four or five biggest initial pilot people or pilot entities in that organisation are the chaps just down the road. We are stifling our ability as an economy to really start to break this oligopoly.

**Senator McDONALD:** Thank you.

**Senator MARIELLE SMITH:** I'm interested in some of the things you mentioned specifically in your submission. I'm interested in some of the other ways that government can support the fintech sector to thrive, beyond the question of assisting regulation and regulatory reform. One of the things you talked about was support to attend festivals such as Money20/20 and the Singapore FinTech Festival. I guess you're saying that because you want our fintechs to be engaging internationally and sharing experience. Can you expand on what you think the benefits of that might be and where the government's role is in facilitating that, as opposed to it being industry led?

**Mr Wilson:** Certainly. One of the things there is the ability to take Australian fintech—not just Xinja, but fintech generally. We actually are pretty good at it; we've got some pretty damn good ideas in this country that can be spread around the world. I was very kindly invited to go to a US trade mission. It sounded fantastic, I was getting all excited and ready to go to Silicon Valley, but I think the price was about \$25,000. So I had to go to my investor, effectively, and say, 'Hi, can you give me \$25,000 out of your wallet because I'm going on a junket over to the US?' We don't have large pools of money as startups. We have to account for every cent. The ability to take it as a tax deduction or to take a percentage as a tax deduction in order for us to grow and scale these businesses

internationally, or just to get good ideas and bring them back. Xinja was the very first player or entity, as we were then, to start talking about neobanking in this country. We were fortunate enough to talk to the regulators as they were thinking about the legislation. The reason for that was that my best mate, who I started university with, started one of them in the UK. So rather than it being ad hoc like that, the ability to actually bring technologies from overseas into the country is really valuable.

**Senator MARIELLE SMITH:** How effective do you think DFAT is in facilitating expansion into new markets for fintechs?

**Ms Le:** We haven't had any direct support from DFAT in a proactive capacity. When we've reached out to ask for information, for example, on what it would involve to create a Xinja branch in another part of the world and who we could talk to, we'd be given contacts. But the kind of connections that would really make a difference for fintechs, especially in the in the early startup stages, are connections to the overseas investor community. We compete domestically for that investor capital pool, but when we're competing with other fintechs and startups in Singapore, for example, it makes a really big difference to be able to say, 'We are here as part of an Australian government backed contingent,' when speaking to the Singaporean investor community around opportunities to collectively invest in technology that could actually benefit both regions and solve problems that have that collective scale. We often hear that, in comparison, fintechs from the UK, Europe and Asia get a different level of government backing that brings them to Australia, and it brings Australian capital funds into those fintechs rather than into Australian fintechs.

**Senator MARIELLE SMITH:** So you'd like to see more like what the UK does, which is much more proactive in terms of bringing their product to overseas markets.

**Mr Wilson:** I don't want to beat DFAT up here; I suspect it's difficult for them to identify which to back, because obviously there are, sadly, some fintechs that do go bankrupt or go out of business or just fade away, so trying to find which ones to back must be difficult. Recently, in the last two or three weeks, we've started to get a lot of media and they've reached out to us and we're starting to work with them now. But to give you a concrete example, when we'd been running less than a year or so—we were probably in our second tiny little cramped office and there were 30 of us all in a single room—the Singaporean government reached out to us. They sent their development bank down to us. They sent one of their equivalents of DFAT down to us. They actually did a tour of Australia and they came to visit us and said: 'So when are you moving to Singapore? When are you thinking about listing on the Singapore stock exchange? There are these options for you in terms of tax relief. There are these options for you in terms of office space.'

**Ms Le:** They even connected us to their digital banks in Singapore. We were able to speak directly to their digital innovation teams on other Singaporean banks. So that was the kind of engagement we had from Singapore's equivalent of DFAT.

**Mr Wilson:** I'm not going to Singapore, just to be clear! It was just to give you a feel.

**Senator MARIELLE SMITH:** It's interesting though, the different approaches that governments are taking towards this issue from the trade perspective.

**Mr Wilson:** Another example around that, in terms of different government behaviour, one of the things that that the UK government did that I think was very smart—they made the same decision that our government made probably three or four years ago about trying to break the oligopoly in the UK. What they started doing was when the Bank of England, the equivalent of APRA, went out and started fining RBS, for example—they fined RBS \$120 million for a breach of compliance for some system. They took \$110 million of that and gave it to the three largest neobanks to fund job creation, to fund new product systems. If you want to ensure compliance, if you want to get the Hayne commission regulation enacted quickly and done, fine them and then give it to the competitors—it's a proven model now.

**Ms Le:** When we responded to the Productivity Commission inquiry into competition in Australia, we noted comments that there is only so much that you can regulate the behaviour of incumbents, and there comes a point where only new entrants and digital competition in the market can start to make a difference. The other area where we see startups being supported by overseas regulators that we don't see here in Australia is, for example, tax exemptions for the first I think million dollars or something of revenue that that particular startup generates. It just gives those startups that runway which is really important in the first few years so that they can reach profitability. Where direct government funding, grants and tax exemptions can be available to startups to get them through that really difficult first few years and get past what we all call the valley of death, that can make all the difference between a startup's survival and its ability to scale and reach new investment and its never getting off the ground.

**Senator MARIELLE SMITH:** One of the other things you talk about in your submission is portability of banking data. What do you see the benefits would be to the consumer in Australia if we had similar arrangements to the UK and Germany in this regard?

**Ms Le:** When people first spoke about being able to easily switch bank accounts, I think in the minds of the everyday Australian they compared it to something like mobile number portability, where when you port your phone number over all your calls just follow you. What happens when you open a new bank account is that all the payment authorisations you previously had for direct debits and everything else don't automatically follow you. Even in a world of NPP, where you have a pay ID, all the direct debits, pavement authorisations, scheduled payments you have to manually transfer all of them over. So whilst you have a relationship between an ID and a bank account, there is no relationship between either of those and all the payment authorisations that you've already set up.

The speed with which customers can access new products and services and get over this friction of having to do your own homework and shop around—we find that many customers, even if they've done their own shopping and have shopped around and they can see that there's this much to save over here, what stops them from being able to access that saving is 'Oh, I have to get on the phone and call my bank,' and that's where it stops. People don't particularly look forward to calling their banks. They don't look forward to having to do manual data entry. They find it difficult to believe that their existing bank can't tell them what all the direct debits are, but it's a function of our legacy payments infrastructure that we can't. So we think the primary benefit to customers is that they don't have to accept the lazy tax whereby they are paying more simply because it's too hard to switch.

**Senator SCARR:** I have one area of questions. First, thanks for the submission. From my perspective, it was one of the most detailed and helpful submissions received, so thanks for spending the time and putting the effort into that. I want to ask you about fundraising. I note that you use the crowdfunding model, and you've got a few suggestions in that regard which I found quite interesting. I want to ask you about the public takeover provisions. As I understand it, if you're an unlisted public company—so you're a company and you've got more than 50 shareholders—then that triggers the application of the takeover provisions. That has caused some issues for you. Could you extrapolate on that please.

**Mr Wilson:** Absolutely. Chapter 6 of the Corporations Act was put in place many moons ago. The crowdfunding regulation was passed about 18 months to two years ago. We were the first out of the blocks—we were the first and largest crowdfund at that point—and then we went again about a year later. Again, it was the second-largest then—there has been one bigger since. We did that because Xinja is both for purpose and for profit. Yes, we've got to make money, but we're also about helping Aussies make more out of their money, and we can't do that without giving them a chance to own a bit of our process. To be blunt, the \$5 million we raised was helpful at the time but it wasn't make-or-break in terms of the funds we raise. We've raised \$65 million. We wanted it because we wanted to keep our promise—basically, we said we'd give people a chance. Because of the interplay with chapter 6 by accident, it's an unintended consequence, I would imagine. Now that we have more than 50 shareholders we're now hit by the takeover regulations, or components of that. That's really frustrating when you're trying to run a small mobile startup. Let me give you some examples. It is extraordinarily normal in a startup for a big investor to come in and take somewhere between 20 and 30 per cent.

**Senator SCARR:** Cornerstone investment.

**Mr Wilson:** Absolutely right—nailed it. Obviously we have to check with APRA, because there's FSSA and there's FIRB et cetera, which is fine—no problem at all with that—but then we have to go to shareholders and we have to say, 'Well, we're being taken over.' They go: 'How are we being taken over? You still own 40 per cent of the business and you've got someone coming in on 25 per cent. How is it a takeover?'—it's a takeover. We then have to organise an extraordinary general meeting to get 50 per cent or more of the people who are available to vote. So we have to send out documentation to them. We have to get our company secretary in our boardroom. It is costly, it's expensive and it takes time.

**Ms Le:** We have to pay for independent advice to provide to shareholders on what are the implications of approving someone putting in all of this capital that would result in them having more than 20 per cent.

**Senator SCARR:** That's in the context where the people who the regulation is trying to protect hold two per cent of the total equity. Two per cent of the total equity is held by those 2,300 or whatever it is shareholders. How big would their maximum holding be?

**Mr Wilson:** We had everybody invest in that sort of retail fund, everything from 200 bucks all the way up to about \$10,000 was the top of that. Once they get past \$10,000 they move into sophisticated investment territory, as defined by ASIC.

**Ms Le:** It's tricky to be able to say to these investors, who want to take a big investment, that our acceptance of their funding is conditional on a vote of all the other thousands of shareholders and we can't give them certainty on when that investment can happen. Whereas, if we hadn't gone down the crowdfunding route, it would have been a more straightforward process.

**Senator SCARR:** The basic principle from a corporations law perspective and why those thresholds are there is to give equality of opportunity to all of the shareholders. If someone makes an offer or gets in a position where they get that cornerstone investment, the philosophy underlining the regulation is that the minority shareholders aren't substantially disadvantaged. How do you respond to the argument that that's why the law's there; why shouldn't it apply to you in this situation?

**Ms Le:** We actually believe there's a technicality in the definition that says this provision only applies when someone is issued equity that results in them having more than 20 per cent. The takeover provisions were meant to really think about a situation where existing shareholders are selling their equity to someone else that would result in that person getting 20 per cent. The technicality is that in a takeover you're buying shares that already exist, whereas in our situation we are issuing new shares that don't already exist to a new shareholder. We think that we're caught by the technical legal definition around the issue of shares, which was meant to be a takeover of shares that already exist versus a new issue of shares that would result in more than 20 per cent.

**Senator SCARR:** That issue about new shares and old shares has been kicking around corporations law for—I'm a lawyer by background—

**Ms Le:** So you can appreciate the—

**Senator SCARR:** Yes, I do. We are running out of time, but if you've got any more information on that that you'd like to provide on notice, I'd certainly be interested to know. The crowdfunding rules are there to make it easier for people to raise funds and for smaller investors to be exposed to these opportunities. So if it's being frustrated it would be good to have some information on that.

**Mr Wilson:** It's actually even more serious than that—I'm sorry; I'll hurry. There's actually a disadvantage to smaller shareholders as well, because in chapter 6 we are only allowed to raise crowdfunding money when we're smaller than \$20 million. So you get the crowdfunders coming in at the beginning at high risk. Now we're at a stage where we're a little less risk and there's more certainty, and we would like to go back and do another crowdfund, but we're not allowed to because we are too big. So only then the big funds managers can come in, and they take the best spot. It doesn't seem fair.

**Senator SCARR:** Okay. Gotcha.

**Ms Le:** That's why we said that in the UK they were able to raise more than 25 million through crowdfunding, even though their assets were at about the 60 mark. But we no longer have the opportunity to crowdfund, so those Australians who invested in us early now miss out on being able to continue to invest.

**Senator SCARR:** That's very useful. Thank you.

**CHAIR:** Thank you very much.

**PRAGNELL, Dr Bradley, Principal, 34 South 45 North Consulting**

**WHITE, Mr Andy, Chief Executive Officer, Australian Payments Network**

*Evidence from Dr Pragnell was taken via teleconference—*

[14:24]

**CHAIR:** Welcome. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. We might start with the Australian Payments Network. Would you like to make an opening statement?

**Mr White:** Yes. Thank you to the committee for the opportunity to be here today. As outlined in our submission, Australian Payments Network is the industry association self-regulatory body for the Australian payments industry. We also provide support to the Australian Payments Council, the payments industry strategic coordination body. We have over 130 members, including financial institutions, retailers, neobanks and technology companies such as PayPal and Google. As the payments landscape evolves so does our membership. Recent new members include Xinja, Volt and Judo Banks; quest, Adyen, Pin Payments and Rambus Global.

Our vision is convenience and secure payments for all. To achieve this our role includes promoting competition and choice, effective self-regulation and leading industry collaboration. Put simply: we bring together a diverse range of stakeholders to deliver payment system improvements that meet the changing needs of consumers and businesses.

As highlighted in our submission, the way in which we all pay for goods and services has changed dramatically over recent years. Australian consumers are now able to choose from a range of convenient and secure digital payments options. Australia has a world-class payment system with among the highest uptake of digital payments globally. This change has been consumer led, enabled by technological innovation—both by fintechs and by incumbents in the payment sector.

Opportunities for fintechs to provide complementary services to existing payment systems are growing and are being taken. Payments is a network business and relies on collaboration between participants. It's, therefore, encouraging to see such collaboration between incumbents and fintechs resulting in more jobs, as well as consumer and merchant choices in the ways people make and take payments. Promoting competition and innovation in payments is not our sole focus. Our role is also to deliver efficiencies and control systemic risk to ensure Australians do not lose confidence in the payment system. Australian consumers expect convenience and security and new financial technology must, and usually does, deliver both. That's why as the payments self-regulatory body working in a co-regulatory environment with the Reserve Bank we manage and develop regulations, procedures, policies and standards governing payments in Australia. Our work involves developing Australian Payments Network's rules and contributing to national and international standards as new technologies emerge to ensure Australian consumers' sensitive information is protected and that they can pay with confidence.

In order to encourage innovation in emerging payment methods it is our view that regulation should be agnostic to channel technology and the payment system. It's also our view that there needs to be a balance between hard regulation and self-regulation.

To ensure that my instruction is comprehensive, I should note that I'm also a member of the banking advisory committee on the Consumer Data Right and deputy chair of the Emerging Payments Association in Asia. Thank you again for the opportunity to appear. I look forward to your questions.

**CHAIR:** Dr Pragnell, do you have an opening statement?

**Dr Pragnell:** Yes, I do. Thank you very much. I would like to thank the committee and the chair for this opportunity to appear, and in particular for accommodating me being in Ottawa, Canada, at this time. To provide some background, I am currently an independent consultant with 25 years experience in Australian financial services policy. Between 2008 and 2016 I was head of industry policy with what is now AusPayNet, where I provided policy leadership on what would become the New Payments Platform. Prior to this I held senior positions with ASFA and CPA Australia. Currently, I'm consulting on faster payment implementation in Canada and Pakistan, as well as being a lead contributor on a recently released Emerging Payments Association Asia report on open banking in the Asia-Pacific. Please note that any views or opinions I express today are personal and should not be taken to represent the views of any organisations I've been affiliated with, either past or present.

I believe there is an opportunity for Australia in respect of fintech and regtech. Our embrace of technology, our proximity to Asia and our strong financial and regulatory performance provide us with competitive advantages in developing a vibrant fintech and regtech sector. As part of this, Australia has performed well in adopting standards and enhancing infrastructure. The New Payments Platform stands as testament to our ability to

collaborate and to produce something that is unique and creates value in the marketplace. Other similar developments, such as SuperStream, further demonstrate the ability for the public and private sectors to collaborate to develop new offerings and create efficiencies. Australia's open banking reform, while taking somewhat longer than originally envisaged, is seen as a model for other jurisdictions. I can report that here in Canada there is significant interest in the Australian approach to open banking, with its focus on the right of consumers to control their data.

Despite our strong performance to date, there remain risks for Australia that need to be carefully considered by policymakers, regulators and industry. First, the current pace and responsiveness of regulatory reform leave much to be desired. As I mentioned in my submission, there are a number of longstanding issues that remain unresolved, and we need to work out ways in which we can improve the pipeline of regulatory reforms to ensure that there is confidence and certainty for investors, fintechs, regtechs and industry participants.

Second, our financial infrastructure and standards, which are well developed by world standards, require our ongoing commitment to further attention to support competition and innovation.

Third, there remains a need to develop a coherent strategy to foster a dynamic ecosystem for fintechs and regtechs. Overall, we have one of the most innovative and dynamic financial systems in the world. Remaining in that position and succeeding in the 2020s will require exceptional focus and collaboration between policymakers and industry participants. This inquiry, I believe, will be a significant milestone in crafting that future. Thank you.

**CHAIR:** I might kick off. The NPP is the child of the strategic review a decade ago. Has the NPP achieved what the review sought in 2012?

**Mr White:** I think that review was a bit more broad-ranging than just the NPP. It had a few things in it. I'll list three. It suggested that there needed to be an underpinning network for payments in Australia, and that's the COIN, which exists now. It suggested that the way in which direct-entry payments were processed needed to be sped up. That has happened; it's now settled five times every day. And it suggested that real-time infrastructure needed to be built, and that became the NPP.

I'm aware that the NPP will appear before this committee tomorrow. I'll probably leave the detailed questions for them to answer, but I'll just reflect on relativities. If I look at our real-time payment infrastructure compared to elsewhere in the world: as Dr Pragnell hinted at in his opening remarks, the technology on which it's been built is more data rich than any other technology elsewhere. If you look at the UK real-time payments architecture, that's currently being redesigned to mirror ours. So I think we definitely got that bit right. If you look at the volumes on NPP compared to anywhere else at the same stage in its existence, two years in, those volumes outstrip Swish in Sweden and they outstrip real-time payment initiatives in Singapore and the UK. So I think it's going well as a starting point.

As the Governor of the Reserve Bank said at our summit just before the end of the year, that all adds up to reasons to be positive in terms of increasingly digitised payments for Australia. As I said in my opening remarks, we are among the most digital nations on earth for our payment processing, with increasingly speedy payments—that's the real-time payment benefit—and the ability to send greater data with those payments, which is the point about being data rich as well.

**CHAIR:** There's a reason I asked you that. I want to quote from what the Reserve Bank said in May 2019: The slow and uneven roll-out of NPP services has been disappointing and the Bank will continue to push participants to prioritise their development of NPP services.

They went on to say that, effectively, by the end of 2019 they wanted to see what your answers were, and then they flagged the prospect of an access regime if the issues they'd identified within the NPP weren't resolved. How do you respond to that?

**Mr White:** Subsequent to those remarks, the RBA was asked to do a review of both access and functionality of the NPP, which it completed. The NPP has now formally responded to the recommendations that came out of that review and met those recommendations. They include, for example, on the functionality side, laying out a road map of future functionality in which releases will be mandatory. They also include a sanctions power if those time lines aren't met. I think that's what has changed since those remarks—a clear review by the RBA and a clear response by the NPP.

**CHAIR:** What's your view about an access regime?

**Mr White:** As I said earlier, we would leave that to the NPP to respond to when they meet tomorrow.

**CHAIR:** Do you have a view on an access regime or are you leaving it all to them?

**Mr White:** That was an idea ahead of that access and functionality review.

**CHAIR:** It's been put to us in this review by a number of participants. A number of fintech organisations have said that they have the frustration, for various reasons, of not having direct access to the NPP. So they've proposed that one way forward would be to have an access regime which, from time to time, the Commonwealth deploys on significant infrastructure. I just want to know whether you have a view.

**Mr White:** My view would be that where those kind of access regimes have been applied in the past has been because there is a view that there is a market failure. When you look at NPP's growth, as I referred to earlier, and you actually look at some of what's driving that growth in terms of the connectivity that participants have to it, you have over 60 financial institutions who went live on day one with NPP and you have a number of fintechs who connected to NPP indirectly through other financial institutions. That, to me, does not look like market failure.

**CHAIR:** Okay. I also wanted to ask you about the ePayments Code. This committee is looking at a whole range of disconnected issues, frankly. Maybe we should have an access regime! Effectively, the issue that's come up is a retail consumer issue around the digital data capture, or screen scraping. The regulator, ASIC, maintains an ePayments Code. My question is: I understand ASIC does conduct regulation but is that the right place for that particular code to be?

**Mr White:** Sorry, I want to understand the question better. Can you link that back to screen scraping?

**CHAIR:** The question is: the ePayments Code sits with ASIC. Is that the best place for it to sit?

**Mr White:** In terms of its creation, it's very clear that it is a conduct issue, therefore it fits quite well with the remainder of—

**CHAIR:** ASIC's mandate.

**Mr White:** ASIC's mandate but also the remainder of other payment regulations. I referred earlier to our belief that there should be a blend between hard regulation and self-regulation. We think that works pretty well. When I think about the hard regulation, or harder regulation, a lot of that sits with the RBA, but that is pretty limited to where, as the RBA said in their submission, self-regulation is deemed to be not working, and therefore that's quite unusual. The other element would be the ePayments Code. We think the ePayments Code plays a pretty important role, and we're very supportive of the review that ASIC are doing of that ePayments Code to make sure it remains fit for purpose as payments change.

**CHAIR:** Will you put in a submission for that?

**Mr White:** Absolutely, and we'll work very closely with ASIC on that in terms of key issues.

**CHAIR:** Who's running that review? Is it one of the commissioners?

**Mr White:** It is, I believe so.

**CHAIR:** Which one?

**Mr White:** I'd have to take that on notice I'm afraid.

**Senator MARIELLE SMITH:** Mr White, I'm interested in the work you referenced in terms of improving guidelines for accessibility in pin entry on touch-screen terminals, particularly as it relates to assisting people with vision or other forms of impairment. Can you detail what you're doing in that space?

**Mr White:** We published those guidelines just before Christmas last year on the international day of disability. They're a world first in terms of prescribing guidelines for the way those sorts of solutions should work. We are very much focused on a particular issue. What we did as background was talk to the community of people living with disability in Australia—as you'd know, there are over four million Australians who live with disability—to understand their major issues in dealing with the payments sector. The one that absolutely stood out was the move from tactile keypads on point-of-sale machines to use of glass. That's an obvious issue, when you think about it. With the tactile keypad you know where the number five is, and that provides certainty. With glass you don't know. What we did was work with those groups. We also worked both with financial institutions and the vendors that support them, some of which are quite small and innovating in this space, to understand the technology and how it can work and better suit those people. We drafted those guidelines and workshopped them in pretty substantive workshops with different stakeholder groups. We had over 200 comments back on the draft, and that led us to a final version of the guidelines that all sets of that ecosystem were comfortable with, moving forward.

**Senator MARIELLE SMITH:** Dr Pragnell, in your submission you note the current uncertainty that surrounds the open banking regime. Do you have any views on what may be causing the delays and what needs to be rectified before it's implemented?

**Dr Pragnell:** From my observation, from looking at overseas deployments and also at where we are in Australia, having multiple regulators—and this is something that a few other commentators have identified—is something which is proving to be quite challenging. You have the ACCC, Data61 and the Office of the Australian Information Commissioner all playing a role in this regime. Looking at other deployments where generally you've had a very clear lead regulator, that seems to provide more of a smooth pathway. I think that's something to think a bit about.

I also think that open banking in Australia overall is very well thought through, and I think Scott Farrell's report was an excellent foundation for our open banking regime. What we have sought to implement is pretty significant and pretty major. I think it is proving to be a little bit more challenging to implement than originally thought, and, as such, we are having the deadline pushed back. I think we will get there.

I also think it is a rapidly evolving area. There is a lot of experimentation happening in different jurisdictions. No-one has really cracked it 100 per cent; no-one knows exactly how to do it properly. I think that where we've done it, in terms of trying to make sure that it's not just a technology solution and not just about the deployment of APIs but also about having a legal and regulatory regime around that, was probably the best part of what we thought through and was definitely an important contribution of Scott Farrell's report, in terms of giving it that sound foundation.

**Mr White:** Can I add to that. As I mentioned earlier, I sit on the banking advisory committee for the consumer data right. In the discussions we have there, what we're conscious of, particularly because we're talking about a consumer data right, is that although the first phase is financial services this is a much wider opportunity. Therefore you want to get the first phase right rather than right now, and, therefore, allowing enough time to appropriately test it is really important. This is all on the public record. If you look at the minutes of that advisory committee, there was broad agreement from both data holders—from the banks and from data recipients, or what would largely get called fintech—that more testing was required, particularly that more testing was required around the ACCC's ongoing role in providing the register of data holders and data recipients and providing the security layer that goes with that. That's a very new role for the ACCC, and, therefore, to test that appropriately has taken longer than the original time line allowed for.

**Senator MARIELLE SMITH:** I will just come back to NPP. Dr Pragnell, you obviously commend this initiative, but you talk about it being a work in progress and needing changes in governance, access and functionality. I think this committee has heard a lot about issues of access to the NPP. We've heard a bit about functionality. But I'm interested in your perspectives and comments on aspects of the governance.

**Dr Pragnell:** In terms of governance and NPP, I'd like to echo a lot of what I think Mr White has already said. NPP has responded quite well to the report that the RBA released earlier around access and functionality, and I think they are making some significant changes to that. Adrian Lovney is appearing tomorrow and he's probably better placed to answer those questions specifically. One of the things that NPP does is that it's not just a club of big banks. I think NPP's governance is probably reasonably robust in terms of having participation from smaller participants and also the involvement of the RBA and the independent chair and independent directors. Their governance is evolving and is reforming, and NPPA is definitely looking at making changes in terms of how you become a member and how you acquire shares. But, again, I would defer to Mr Lovney to provide better, more detailed information on that tomorrow. They're definitely moving in the right direction.

**Senator McDONALD:** Mr White, you've talked about the ePayments Code. But are you across the voluntary code of conduct that was discussed earlier by representatives from Zip?

**Mr White:** Only in broad terms.

**Senator McDONALD:** Do you have any comment on how you think that'll work as a code of conduct? The ePayments Code is enforceable under ASIC. Will the voluntary code of conduct do that job around payments?

**Mr White:** That, as I understand it, is specifically about buy-now pay-later, so the structure of that is not clear to me. Obviously, if I compare it to the Australian Payments Network, effectively our regulations are enforced because they're a contract between all the parties involved, so they're enforceable regulations. It's not clear to me how that would work. The other question there is that it is obviously subject to the RBA's current review on retail payment regulation and the question there around surcharging of BNPL as well.

**CHAIR:** Dr Pragnell, I just want to get you view on Australia's competitive dynamics on the record. We've heard a lot about the market power and market share of the four large banks, especially in relation to the development of new products, whether it be buy-now pay-later or whether it be the evolution of digital data capture. A lot of the evidence that has been received by this committee has been fairly negative. You've got a

unique perspective as a global person. What's your view on the current market dynamics in Australia—in particular, in banking?

**Dr Pragnell:** Australia's not unique, in the sense of having a reasonably concentrated banking market. Canada, where I am at the moment, has quite a similar context with the largest five or six banks, which control a vast majority of the market. The UK has become increasingly concentrated, and even the United States has become more concentrated. So Australia's not an island in that context. I guess what we really need to think about is whether we are creating the frameworks and whether we are providing the opportunities for new entrants and fintechs to be able to effectively take advantage of what new technology offers to help meet the demands of what consumers are wanting. Open banking is, I think, fundamentally critical for that—getting open banking right, getting digital identity right, and implementing new faster payment regimes and other issues like consent management.

I think, as we roll up this bundle of infrastructure enhancements, it's really going to create the framework around which all competitors—small, large, established and new—are going to be able to take advantage of it. I think that's fundamentally where you want to get to so that there are no implicit barriers to entry or they are very minimal, as much as possible. That's something we're working on, and it is a bit of a work in progress. Conversely, from the fintech and regtech community, there is a learning curve they have to go on as well. This is people's money we're talking about; it's not just a cool new app that does cool new things.

I've been very impressed with the quality of the presentations today and in Melbourne from the fintech community and I think that they understand that. But this has been a very recent thing. I think that, between the maturity of the fintech marketplace and the opening up of infrastructure to these new entrants, eventually we will find that middle ground that will give us the sweet spot where we will definitely be able to deliver better solutions for end users. It's still a bit of a work in progress. I don't think we should beat ourselves up too much about it. I think we also need to recognise that the infrastructure is going to need to be supported and funded somehow.

**Mr White:** Just quickly, the recency point is a good one. If you think of APRA's change to its licensing regulations and capital requirements to allow restricted ADI licenses, you'll have seen quite a few come straight through that pathway. I rattled off Xinja, Volt, Judo earlier. You've got—

**CHAIR:** Most of them have been very negative about it, I have to say.

**Mr White:** About the restricted ADI license?

**CHAIR:** No, about the process. It almost destroyed them getting a license. In fact, I think that has been almost the consistent feedback.

**Mr White:** The point I was going to make is if you look at that access to infrastructure point, they have access to NPP and they have access to other payment streams, so that bit is working. I do think you need to give it a bit of time in terms of seeing the combination of that with the consumer data right to really form a judgement.

**CHAIR:** One of the things that Dr Pragnell put in his submission was that he lamented the inability to deliver this Johnson framework from a decade ago, which the Labor Party commissioned, to their credit. I guess I'm interested in how we avoid that happening again. We're always going to be an outward-looking economy in this space. We actually have to keep up with the Joneses.

**Mr White:** We do. I think the point there, though, is that when you look at the Australian financial services sector—as I mentioned in my opening remarks—in payments terms, we're actually doing relatively well when we compare ourselves globally. And that is a key part of what we do; we do look elsewhere. With things like the consumer data right, there's no doubt that our solution to that is better than what you're currently seeing in the UK and Europe. Certainly, thinking about that as a whole-of-economy and whole-of-digital-economy thing rather than just open banking is a substantial improvement. That's probably a benefit of being a fast follower rather than being a leader in that space. I think similarly, as I said earlier, in terms of our real-time payment rails, they're now the ones that are looked to by other countries in terms of the way they work and operate.

**CHAIR:** We've come a long way. My last question is to you, Dr Pragnell, in relation to the issue you mentioned on the issuance of digital currency. Another of the witnesses this morning mentioned that the RBA, the central bank, should consider issuing digital currency. To use one of Senator Scarr's lines: this is all new to me as well. What information would you like to give us on that?

**Dr Pragnell:** I think the central bank digital currency discussion is a very interesting one, and I think it's worthwhile for the RBA to look at this. But I also think we need ask ourselves: is it just a solution looking for a bit of a problem? I think the traditional fiat currency system that we have has been pretty robust. We want to do as much as possible to improve and renovate that and make that as open, flexible and responsive as possible. We want to keep renovating that existing system as much as possible and make it work for new entrants, incumbents

and, most importantly, end users. Central bank digital currencies are definitely a much better idea than private digital currencies. I think there was a lot of negativity around the Facebook development of Libra, and I think that the potential for a private digital currency of that magnitude is pretty frightening. I think that scared a lot of people, including the central banks, and I think that's probably why we're getting their own interest in this, because you don't want this to be privatised in such a way that you're giving a very large organisation control over money. I think it's a worthwhile effort by them, but I still think we need to renovate the existing system. I think that is definitely where greater value is going to be delivered for the economy and for end users.

**CHAIR:** Mr White?

**Mr White:** I broadly agree. I think it's very sensible for the RBA to look at it. It's even more sensible when you look at the central bank working group on this led by the Bank for International Settlements, which includes North America, Canada, Europe, Asia and Japan central banks. So it's very sensible for them to look at it and for us to take some learnings from it. I think being clear on what problem you're trying to solve is really key. I particularly think that in Australia, given how digitised we are, it's not like you're replacing something that is not digital with something that is digital. So you've got to be clear on what value you are adding by having a central bank digital currency rather than a digital payment of another sort.

**CHAIR:** Thank you very much for your time.

**Proceedings suspended from 14:57 to 15:19**

**MacRAE, Mr Drew, Policy and Advocacy Officer, Financial Rights Legal Centre**

**CHAIR:** I welcome the Financial Rights Legal Centre. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make a brief opening statement?

**Mr MacRae:** Yes, I would. Thank you for this opportunity to speak about fintech and the regtech industry. As you would be aware, the Financial Rights Legal Centre is a community legal centre that specialises in helping consumers understand and enforce their financial rights, especially low-income and otherwise marginalised or vulnerable consumers. I won't repeat our submission regarding some of the reforms we think are required—including, but not limited to, banning the practice of screen scraping—but I will seek to pre-emptively answer three questions that I think arise from our submission.

First, does Financial Rights support the development of an effective, sustainable and innovative fintech and regtech sector? The answer to that is an emphatic yes, where the sector prioritises the consumer interest. All Australian consumers have not just an interest in fintech products and the services that the sector can provide but also a keen interest in privacy protections, transparency, safety and security when they do so. We wish to see a fintech sector that develops cases and services that solve genuine problems for consumers, not ones that create problems to be solved. We want a fintech sector that builds privacy protections into its services from the beginning and a sector that takes pride in embedding the highest levels of security and creating a safe data environment. We want to see a sector that supports strong consumer protections. We wish to see a fintech sector that does not base its business model on the exploitation and sale of sensitive consumer data to third parties and a sector that does not inappropriately price discriminate, disadvantage nor exploit the most profitable of demographics: the financially vulnerable. We want a fintech sector that doesn't exploit behavioural biases for profit—be it through the use of dark patterns, other tricks or regulatory arbitrage—and we want a strong fintech sector that maintains consumer confidence by meeting the highest of ethical standards.

Secondly, does Financial Rights support an expansive regulatory regime at the expense of innovation and business development? The answer to that is no. However, a simple, principled and strong regulatory regime is essential to the success of the sector. If Australian consumers are to have any confidence in the fintech sector and be willing to take up its offerings, then Australians need to know that they will be safe and secure when they engage with the sector. Yes, Australians are famous early adopters of technology, but we have also witnessed a growing array of tech scandals too—scandals that have made us all the more aware of the dangers of using new technologies and all the more wary of engaging in new online business models. It is therefore in the interests of every fintech and regtech firm in Australia to work within a regulatory environment that promotes strong safety and security and provides effective consumer protections. Otherwise, the first data-breach scandal that emerges from the CDR, the consumer data right, will end up tainting the entire sector. That is a risk that we all have a common interest in avoiding.

Finally, what role does personal responsibility play when it comes to Australians signing up to new fintech services? This is a common question I'm asked regarding problems and issues that arise for financial services and fintech consumers. People are more than happy, the argument goes, to hand over their passwords to allow themselves to be screen scraped to obtain credit. They're more than happy to sign up to a new app that may onsell their data to a third party if they can do so for free. This thinking, however, does not take into account the fact that many of the people we speak to, the financially vulnerable, actually find themselves with very little agency or choice in the matter. The people that we speak to every day are struggling. They find it difficult to obtain credit and will hand over their banking passwords to do so. Most, if not all, have no idea what the consequences of doing so are. Personal responsibility has its limits when the real world provides you with little choice. And with that, I say thank you, and I'm happy to answer any of your questions.

**Senator MARIELLE SMITH:** Thank you for your detailed submission and for your presentation. It's good to have consumer advocates presenting and participating in this inquiry, because we've heard a lot from industry. It's good to have the balanced perspective. The royal commission revealed some plainly revolting behaviour on behalf of our banks, and one of the things, broadly, the fintech sector would say is that they represent an opportunity for consumers to get away from bad bank behaviour. They promote more competition, and they're disruptors in the sector. What would you say to that?

**Mr MacRae:** I think that, from a consumer's perspective, competition is always a good thing where it's within a framework that protects consumers—a strong regulatory framework. The banks—who, as we have seen in the royal commission, have produced some really poor behaviour—have worked within a regulatory framework that has, in part, failed, and the government has acted responsibly to implement all 76 recommendations of the Hayne report.

When it comes to the fintech sector, though, it's a new sector, and of course it sits outside a lot of the regulatory framework. It's new. It's new technology. So, yes, there is a strong potential for fintechs to come in and disrupt the model. I think that's good. Innovation is not necessarily, by itself, good, but there hopefully will be good use cases and products that will force the traditional sector to improve their practices but also provide people with choices.

However, we have found in the past that when a new sector develops—I'm thinking, off the top of my head, of a lot of the fringe financial services sector organisations known as debt management firms—it tends to work outside of the norms of the sector. I guess our concern is that we want to ensure that, when the fintech and regtech sectors do come in, they meet high standards of ethical behaviour and follow the law. Currently, there are very few laws that apply specifically to the nature of the fintech sector, and we'd like to see reforms, as outlined in our submission, to apply to that sector.

**Senator MARIELLE SMITH:** The submission notes that throughout history financiers have engaged in risk based pricing, which can lead to price discrimination for low-income households. Can you explain further why you believe developments in fintech and AI exacerbate this issue?

**Mr MacRae:** Yes. The fundamental issue is that, yes, risk based pricing has always happened, but what is new about what is happening out there is the volume of data that is available. CDR will be able to facilitate the capturing of movement of huge amounts of data that can be used for algorithmic purposes to provide certain services. So what happens is that, with all this huge amount of data that companies will be able to have on individuals, they will be able to define the risks at a more granular level. Currently, there are these pools of people that they can identify—young people and people who live in certain areas—to be able to risk-price. With the data that is now available, it can go down to the individual, and that means being able to risk-price for individuals. That can lead to specific problems with people not being able to obtain credit.

A good example is that currently in the credit sphere there are a wide range of credit products that you can get. There is a financially vulnerable cohort who can only access a certain amount of credit, but the granularity of data now allows certain offerings to be provided to specific people in specific circumstances. So, while some people with a mortgage who have an income will be able to get a really good rate on a credit rate, those who have been identified to be, for want of a better word, struggling will be able to access credit but at a higher rate. So that is one example of the granularity of risk-pricing.

**Senator MARIELLE SMITH:** One of the areas I'm really interested in when it comes to fintechs is that there are a lot of businesses offering products which can offer genuine opportunities for consumers and genuine conveniences, and that's all well and good for people who can afford the technology we hold in our hands to access that, but there's a not-insignificant section in our community who either can't afford that technology or aren't able to navigate it. My grandfather has a phone but not a smartphone. It's probably one step beyond him. Where do older people, vulnerable people and people with lower incomes, who cannot access the new technologies designed to make this sector better for consumers, sit in the fintech revolution? Have you done any work looking at members of those communities, particularly as we see the number of ATMs and the use of cash decline in the economy and payments on the rise?

**Mr MacRae:** We have found that there are becoming 'digital haves' and 'digital have-nots'. Even those who do have access to technology find themselves in difficult circumstances. I'm thinking of people in rural or remote communities who don't have access to a wide range of ATMs or digital services and are forced to go to the only ATM in town, which charges them quite a lot. This came up during the royal commission. Palm Island is an example. Yes, there are a lot of people who are not able to access, for example, technologies to receive their bills electronically. They're either charged for a paper bill, in some circumstances, or end up not being able to receive bills, and they may fall behind. So, yes, there are a lot of benefits that the fintech sector and fintech products will be able to provide for most Australians, who are on smartphones, but, yes, unfortunately there will be some losers in this situation.

**Senator MARIELLE SMITH:** Your submission discusses how buy now, pay later providers aren't regulated by the National Consumer Credit Protection Act and its accompanying consumer protections because they don't charge interest on their loans, and you want to see this changed. Could you explain why you think this is necessary, because it's been put to us today by fintechs in this space that they don't engage in the same type of business model as other lenders of credit and therefore shouldn't be subjected to these provisions.

**Mr MacRae:** Yes, well, we disagree. It is a slightly different model but it is a form of credit in the general understanding of what credit is. We would want them to be regulated under the National Credit Code. We're not arguing that they need to have the maximum amount of regulations that are applied there. What we are arguing for is a scalable form of regulation to ensure that when people use the service they're able to pay it back. We've already seen too many people who've found themselves in trouble. The people who we see who use by now, pay

later services use them as a bit of a last resort credit option, because there's not much they need to do. They don't have to do the same responsible lending checks they do when they obtain a credit card.

**Senator MARIELLE SMITH:** Are the people who come to see you for help mostly coming to you for buy now, pay later? What are the issues you're seeing? Do you have any tracking or trends on how that might have changed over time?

**Mr MacRae:** Yes. The truth is that the people who come to use our service don't tend to come to us with a specific problem with buy now, pay later services. They're not calling to say, 'I've got a problem with X, Y, Z.' They come to us with debt problems—it's a late bill or they've got a problem with a credit card—and then, when we ask further questions, they always seem to have payday loans or consumer leases and, increasingly, buy now, pay later services. When we dig into that we find the truth is that a lot of people are very protective of it. They don't want to mention it because it is their last resort, and they've been using it and have generally had no problems with it. They don't want to tell us about it because they don't want to lose the option.

And then there are other people who tell us about other problems that they've experienced. Some of them have been solved over the years. For example, we had somebody who wasn't able to get into their account once they were locked out for missing a few payments. They couldn't get in and they couldn't figure out how much they owed. It was very difficult for them. The provider has since changed its practices. These issues pop up every now and then, and we're constantly trying to speak with them to try and figure things out. As I understand it, they've got a draft code of practice out. I haven't read that closely. As I understand it, it does address a few of the issues but I don't think it covers everything that we would want it to and I don't think, from the consumer movement's perspective, it goes far enough in terms of the regulation in responsible lending requirements that we would hope to see in this space.

**Senator MARIELLE SMITH:** On the issue of screen scraping: this is a very divisive issue, we have found. There seem to be three views: two black-and-white approaches—one that it's bad and offers no discernible benefit to consumers, and another that it's excellent and offers immeasurable benefits to consumers—and something in the middle, which is that it's not great but it's being used by good businesses and it's probably okay until we have open banking and the CDR. You take a very hardline approach on screen scraping. Can you tell me why, and do you see any room in the other positions that have been presented to this committee?

**Mr MacRae:** I would say that screen scraping exists because the CDR doesn't exist and hasn't existed up to this point. The CDR is there to basically make screen scraping redundant, and that's what it should be—redundant. I have sympathy for the sector that has developed and used this technology over a long period, because, frankly, there was no other framework to work within; the consumer data right will now provide one. But, now that we have it, we should get rid of it because—

**CHAIR:** Now that we have what?

**Mr MacRae:** Now that we have the consumer data right.

**CHAIR:** But we don't. It's not up and running.

**Mr MacRae:** It will supposedly come in July.

**CHAIR:** Maybe.

**Mr MacRae:** Maybe.

**Senator MARIELLE SMITH:** Do you think, in the interim, until the CDR is operating and is effectively in place, there is a space for screen scraping that is safe, reasonable and delivering consumer outcomes?

**Mr MacRae:** From our perspective, we've always held the view that it shouldn't be available. Think about it: it's going against every piece of advice that government and industry have ever given—'Don't hand your passwords over to anybody.' Here we have this weird moral hazard where we're supporting a case for handing over your passwords, where you lose your rights under the ePayments Code and that information could be breached. As we've outlined in our submission, we've seen a couple of very dodgy cases where passwords have been used repeatedly after the initial use. From our perspective, there really is no justification for it to be legal.

**Senator MARIELLE SMITH:** Another issue we've been talking about today is consumer consent for sharing their data. There are genuine benefits for the consumer in sharing data in certain circumstances, but there's this question about what constitutes informed or genuine consent. I am interested in your perspective on that, because we have had issues historically where consent is provided on page 12 of a PDS or something in size eight font—not really genuine consent—and on this conversation around how you communicate risks and what you're subscribing to, to groups like millennials as opposed to older generations. Do you have a contribution to make on that?

**Mr MacRae:** Yes. I would point to the recent ASIC report on disclosure, basically pointing out that disclosure as a form of regulation does not work to reach the outcomes we want. Consent processes are essentially a process of disclosure where you are being told what you're agreeing to. As you pointed out, most people don't know what they're agreeing to. We've all done it; we've all ticked that box just to get through—nobody ever reads the iTunes terms and conditions!

**Unidentified speaker:** We don't question it.

**Mr MacRae:** We just get through it. We trust that it's going to be the case. The CDR is developing. The ACCC are currently developing a set of rules. Data61 are trying to create a framework where it does make it easier for people to consent to certain uses. I am yet to see how that's going to work.

One of the key things we also need to understand is that, again, there is going to be a power imbalance. If you are somebody who is after—I don't know—a new payday loan day deal you're just going to consent to what you're going to consent to to be able to get what you want. I think under the consent rules and structures it would be great to have some recognition that sometimes people don't have the agency or power in certain circumstances.

**CHAIR:** I wanted to ask you about some of the similar areas the deputy chair has covered. On this digital data capture or screen scraping issue—I should also say one of the problems about running an inquiry into this area is there is a complete lack of consumer advocates—

**Mr MacRae:** This is true. I've been a very lonely voice sometimes.

**CHAIR:** In everything we do in this area we're trying to weigh innovation and new ideas against consumer protection rights. Ninety-nine per cent of the submissions come from the people that have the new ideas, whether they're the incumbents or their people with the new ideas, so we really welcome your input into this inquiry. To put it on the table, we've spent a lot of time on this digital data capture issue. Did you read the transcript from the other day?

**Mr MacRae:** I haven't had a chance to. I've been in royal commission meetings.

**CHAIR:** You've been busy. We all lived through it so I remember it well. It's a complicated issue. The Dun and Bradstreet people, who are now called illion, basically said that this digital data capture is something that they've been using widely for a long time. It's an established part of the financial system in Australia. I'll read you what they said because you didn't bore yourself reading the transcript: 'Banning DDC—digital data capture—would cause untold damage to the fintech industry and to their clients. Millions of Australian consumers rely on fintech applications that utilise DDC for budgeting, investing, accounting and creating a streamlined digital lending experience. DDC is essential to the core value and utility of these applications to business and consumers.' We put your submission to them and their view was it was much more complicated than the way that you had set it out. So if they're right, and it is a systemic part of the way that people do business in Australia to offer services to consumers, then it doesn't sound like something we could easily turn off tomorrow, as you've suggested in your submission.

**Mr MacRae:** What I would ask is: is illion planning to become a part of the CDR—become an accredited party? Did they raise that? One presumes so because I believe that most credit bureaus over in the UK have become accredited in the open banking system over there.

**CHAIR:** Well, maybe.

**Mr MacRae:** I assume that they will. If they do then they don't really need to screen scrape anymore, or DDC, or whatever data capture they do. Once it's there they can use the CDR system and use the APIs. I understand the position that they are in because, as I mentioned, they haven't had the opportunity to have an API system that allows them to do it. But once they do then they should be able to. Do we want to talk about transition periods? I'm more than open to talking about it, but from what I've—

**CHAIR:** Just to understand, because this is quite an important point. I read your submission which says it should be banned. What I'm trying to understand is are you talking about a transition? You're not talking about turning it off tomorrow?

**Mr MacRae:** I would love to turn it off tomorrow because of all the issues that we've seen. But I understand that's highly unlikely. I'm just being pragmatic I guess in hoping to see it turn off at some point and if that involves a recommendation to transition into that then I think we'd be willing to see it. But the truth is they're currently taking people's passwords; people are breaching the ePayments Code and the contracts that they have. It's a real problem, and it is exactly the opposite to the advice that this government and every other government has ever provided.

**CHAIR:** Your view is that there should be a transition.

**Mr MacRae:** No, what I'm saying is that I'd like it turned off today. I'm suggesting that, if there is a transition, I would be willing to accept it.

**CHAIR:** Fine. The next question is: what is the consumer detriment that has been widely displayed—I understand your point about going against the rules or the policies of the ePayments Code. When we asked the regulator, there didn't appear to be systemic problems—

**Mr MacRae:** With financial counsellors and lawyers in our office, we get some of the reports that a place like illion produces that outline your spending, income et cetera. That is used for responsible lending purposes. We come across many errors in those reports—some are immaterial and some are material that could lead to problems.

**CHAIR:** But how many people have come to you and said, 'I've been screen scraped and I have had this X, Y, Z life'?

**Mr MacRae:** Nobody would come to you because they wouldn't know that it's happened. They don't understand the process that they've gone through. I mean, they are made aware of it but they're not actually aware of any problems within it. It's only when we look through it that we realise there are problems that may arise.

**CHAIR:** Surely you understand from our perspective that it's a difficult thing to fix if you can't identify—

**Mr MacRae:** No, there are clear consumer harms here. It's just that the consumers are not aware of the harms being done to them.

**CHAIR:** I understand that, but even the regulator says that they look at the ePayments Code with a view to facilitating this sort of digital data capture in the interim. If someone can present us with systemic consumer detriment then we can look at what can be done in response to that, but it doesn't appear to me to be—

**Mr MacRae:** We've provided a number of case studies and we've outlined some of the issues. The case studies are not the only ones there. They're representative of the issues that we see. One that we are definitely aware of is when somebody has been screen scraped and they've gone into their account to find out if their bank account has gotten low—this is the payday lender—they're subsequently sent advertising saying, 'Hey, do you need a payday loan,' and, voila, they get one. For that person, at that point, that doesn't seem to be a harm, but, in the long run, as they go into a debt spiral, it is a harm to them, and they'll eventually realise.

**CHAIR:** This committee has heard evidence that buy-now pay-later and digital data capture, or screen scraping, are two pathways that new entrants can use to provide competition in the financial sector. After we had the Hayne royal commission, which showed that the incumbents are doing quite a poor job, I would have thought that more competition and new people with new ideas would be a good thing for consumers.

**Mr MacRae:** I don't know. There are 80 banks out there already. How many more do we need to actually increase competition? But I take your point: they have a different take on things. I see that there was a successful launch recently of one neobank and I say more power to them, but I would say that they need to do so in a framework that ensures consumers are protected. That's all. It should be pretty simple.

**CHAIR:** You do realise that, if we hobble these new ideas, then we're going to be left with—

**Mr MacRae:** If hobbling them means people will be exploited in the process—I'm not saying that they will, but there is a potential for people to fall into hardship and some problems, like there are no privacy protections or their data isn't stored appropriately. As a fintech, I would want to have the highest of standards. I would want to meet security levels to ensure that people will come to us, because once there is a problem nobody will go to them.

**CHAIR:** No-one is saying that any sort of wrongdoing should be welcomed or facilitated. My point is, have you thought about the consequences of innovation being slowed down or stopped because, as we've seen in this inquiry, so many of the new ideas, whether it's buy now pay later, whether it's digital data capture to facilitate different and new ideas, are coming not from the traditional large four banks; they're coming from other sources. When I read your submission played back to you, I almost feel that you would prefer to have the big four run the show, rather than have some of these new ideas.

**Mr MacRae:** Not at all. As a fintech company, I would have thought that I would want to have consumer confidence in my product. As soon as there is a problem with my competitor, that tanks my entire sector, then I have a problem as a fintech company. I will not be able to innovate because nobody will be willing to use my product. That is competition working there. That is where the failure is if something goes wrong.

**Senator SCARR:** Just along that, if you get a chance to read the transcript of today, I actually put to a number of the fintech representatives quotes from your submission as. Senator Bragg said, it's very useful to get a submission from consumer advocates. There are a number of paragraphs in this submission which I put to the

fintech providers. To be frank, they certainly didn't agree with a lot of the characterisations. You might well say, 'They would say that, wouldn't they?' But I think there was a deeper message that I received from them, insofar as many of them genuinely see themselves as providing competition against the current oligopoly. They see it as a public good. I'll read this paragraph to you from your submission, the Financial Rights Legal Centre & Consumer Action Law Centre:

Much of the promise of FinTech is that more tailored products and services will be made available with lower fees or lower loan interest rates for many banking customers. However, the flip side to lower fees and interest rates for some is that costs will increase for others. These 'others' will undoubtedly be Australia's most vulnerable, disadvantaged and financially stressed households.

In relation to that paragraph, considering the evidence that I've heard that there's an issue with the big four banks controlling so much of the market and obstacles being placed in the path of new entrants, isn't there a genuine case that new entrants who are doing things ethically can genuinely provide lower loan interest rates and lower fees than some of the entrenched institutions and thereby provide a better product to consumers, without someone else suffering to the same extent? That seems to be the characterisation in this paragraph—that it's a zero-sum game: one person's success has to be someone else's loss.

**Mr MacRae:** I guess that what we were trying to put forward there is that when the world does shift into more of an online fintech landscape, I understand that they have lower overheads and administrative costs and so they can possibly provide lower credit points. Once people shift and the market shifts because of that, what will occur is that there will be risk segmentation, where certain cohorts will be able to get a really great mortgage percentage and others will have a higher one because they have been identified as people who are a bit more risky. That's inevitable.

**Senator SCARR:** They're not necessarily going to get a higher charge than they would under the current system, are they?

**Mr MacRae:** If competition is going to work, then clearly the traditional banks, the big four, will have to lower to be able to compete. If competition is properly working, the whole thing will balance out. Hopefully where they will decrease—once that playing field becomes a bit more even—I'm not saying it will ever become completely even, but once competition is working in that area there will be this effect. I'm not saying that that effect will solely be occurring in the fintech area. It will be occurring across the board in traditional banking and in fintech.

**Senator SCARR:** With due respect, what's the evidence for that, apart from your view as to how the market is going to operate? From a basic economics point of view you would say that if there are more suppliers costs are going to come down and there were going to be more options for consumers. People are going to sharpen their pencils, to use the financial lingo, in order to attract customers. I would have thought that there have been examples of monopolies and duopolies which have been broken up, so there are more service providers and that means that everyone has to compete. There is more competition, so there are better outcomes for consumers.

**Mr MacRae:** I guess what we're basing it on is our past experience in working in the financial services sector and seeing some of the more fringy players, not the fintech area but other fringy financial services players and the impact that happened there. It's also happening over in the US and other markets already. We're basing these practices, the higher risks segmentation, the price discrimination, on experiences that are already occurring in the US and elsewhere. Of course we can't base our predictions on anything but the things that we've seen. Obviously there hasn't been a huge fintech sector here already, but it seems to us that that is the direction it's going to go, in very similar ways to those that are happening overseas.

**Senator SCARR:** Coming back to the screen scraping as an example, there are competing views in relation to screen scraping. Your view is consistent with the view of some of the big banks with respect to screen scraping. I'm just stating that as an observation. The smaller fintech players are saying that perhaps bigger players are seeking to put obstacles in their way to prevent competition with respect to their clients. Let me give you an example. We had Tic:Toc here earlier today—I think it was Tic:Toc—and I suggest you read the transcript of their testimony. They said, 'We give you the option: you can allow us to screen scrape'—for want of a better term—'and we can turn around your loan request in an hour.' They had very conservative loan cover ratios, in terms of the ratios in the submission, so it was quite prudent lending. 'Or we can do it the old way, when you send us copies of your bank statements; it's physical et cetera et cetera; and then it's two weeks.' From their perspective, they're using that technology as a means to enhance options and make it easier for a consumer to move away from a large financial institution to a more innovative, small institution.

**Mr MacRae:** So I would say again, they're using the technology that's the only technology available, which is screen scraping. Once CDR is available, they don't need to use it.

**Senator SCARR:** In relation to that observation, they say that there needs to be a transition period. They're quite adamant with respect to the need for a transition period to maximise the ability for the smaller fintech sector.

**Mr MacRae:** I don't quite understand why they would need a transition period. If they're accredited, they can go straight into doing it. If they've been part of the process—this has been coming for three years—they should be able to move straight over to it. But I want to address the issue that, weirdly enough, we align with the position of the banks. We sometimes align with groups that we tend to disagree with. This just happens to be one of them. We haven't really discussed very closely with them. We are not here to defend the traditional banking sector.

**Senator SCARR:** I accept that.

**Mr MacRae:** We have spent all week fighting them on the implementation of the royal commission.

**Senator SCARR:** Thanks for making the submission. It's very useful for us as a committee to have the benefit of the submission. But I did want to put that to you. I've been putting things to previous witnesses out of your report, so I did want to give you a chance to respond.

**Senator MARIELLE SMITH:** I'm interested in what your engagement is with the fintech sector. Is that a two-way conversation? How do you discuss these issues? Have you talked about consumer rights and risks?

**Mr MacRae:** Our organisation is pretty small and under-resourced. It's basically me and another policy officer.

**CHAIR:** Is this your day job?

**Mr MacRae:** This is my day job, yes. We're one of the few organisations that do have a policy person who can deal with these issues. It's literally a handful. There are about seven of us in the industry. So we haven't had a huge amount of time to be able to speak to them. Where I have spoken to the fintech sector has been through the consumer data right workshops and other meetings. I'm usually the only consumer rep in the room. The scenario is usually that you have lots of fintech people and lots of bank people, and there's me in the centre trying to figure out what's going on. Usually they're fighting with each other, and because they don't usually know who I am they're speaking about some of the things that they want to do. I outlined some of the issues that I heard about them trying to figure out the loopholes and exemptions and other ways to get around some rules. It has caused me some concern.

I haven't had much to do with FinTech Australia. I read a lot of their submissions. Again, we are under-resourced and there is lots of work happening in law reform in the financial services sector. This is a topic that is about the future. With the royal commission, we've basically had to put all our resources into fixing problems now, and very few of us in the consumer movement can even have the time to think about what the problems are in the future. We've decided to do that because we see a lot of poor people calling us worried about data. We've discovered some problems, so we decided to put some effort into providing a submission to this inquiry and other inquiries around the CDR. We will continue doing so where we can.

**Senator MARIELLE SMITH:** Do you undertake financial literacy? Is that part of the work you do?

**Mr MacRae:** Our organisation is not funded to do that, but sometimes we get funding to do a project from Ecstra or its predecessor, Financial Literacy Australia, to do a small financial literacy project. One I can think of is one that we did around payday loans recently. It's very rare that we are able to do it, because we're not funded to do it.

**Senator MARIELLE SMITH:** You may not be able to answer this, but I'm curious about whether you think that financial literacy is keeping up with the range of products and offerings on the market as it is innovating and changing so quickly. For instance, payday lenders now look quite different and glossier. Do you think it's keeping up with that, or are there gaps?

**Mr MacRae:** No, not at all. On the weekend, I walked past a poster for a new buy now, pay later service called Bundll, which had a bear with sunglasses, basically saying, 'You can put this on buy now, pay later,' and it had photos of the types of things you can put on. One was a roll of toilet paper and one was a hamburger. My thought, when I saw that, was that most people will think that's really cool; it's got a cool bear in cool sunglasses. There is nobody out there providing financial literacy information about the problems inherent in buy now, pay later, and debt more generally, that would enable people to have a bit more understanding of the problems that may arise when you're using a buy now, pay later service to buy essential goods like toilet paper.

**Senator MARIELLE SMITH:** I'm interested in the people you assist. Obviously, low-income and vulnerable people come to you a lot due to the nature of the services you provide. Do you have any further breakdowns of the people you think are being affected in this space? Are you seeing younger people, older people, people from

the city, people from the regions? Is there any more information you can give us in terms of where the vulnerabilities in our community lie?

**Mr MacRae:** Yes. A lot of the new fintech products, like buy now, pay later services, definitely lean towards younger people. That is a cohort that doesn't tend to look for help through our services but is increasingly doing so. We have found that there have been significant issues or problems arising from the use or misuse of buy now, pay later services in Indigenous communities. The younger crowd and Indigenous communities are the two that come to mind. They have had problems with buy now, pay later services. You don't tend to have older people using these services, but that may change over time. They're pretty new.

**CHAIR:** Do you want to put anything else you have on notice, Senator? It's just that you have a lot of questions—

**Senator MARIELLE SMITH:** I do, always, yes.

**CHAIR:** but you've had the most time.

**Senator MARIELLE SMITH:** Yes. I do have a lot of questions.

**CHAIR:** We might put some of them on notice.

**Senator MARIELLE SMITH:** Yes. I just had one around AI, but I can submit that through the committee, can't I, so that's fine.

**Mr MacRae:** Yes, sure, I'm happy to take anything on notice.

**CHAIR:** In your evidence—I also want to get you to take some on notice—you mentioned loopholes.

**Mr MacRae:** Yes.

**CHAIR:** One man's loophole could be another—I should use gender neutral language.

**Senator McDONALD:** You should indeed.

**Mr MacRae:** Opportunity?

**CHAIR:** One woman's loophole could be another woman's innovation.

**Senator MARIELLE SMITH:** That's not neutral!

**Senator McDONALD:** That's not neutral!

**CHAIR:** At least I've balanced it out! I said 'man' before and now I've said 'woman'. The buy now, pay later people didn't emerge within conventional regulation. Is that the sort of thing you have in mind when you say 'loophole'?

**Mr MacRae:** No. The first thing that comes to mind when you mention 'loophole' in this space is that, under the consumer data right, there is an opportunity to access the consumer data right data—the huge amounts of financial personal data that you can access via the CDR—without being accredited. I outlined some of the ways that that could happen. Certainly, speaking to one fintech operator, they were looking to help others. They're a third-party-support fintech and they were going to suggest to others that they don't need to be accredited to be able to access it; there are these other ways because of a loophole.

**CHAIR:** Okay. So it's something quite particular.

**Mr MacRae:** Yes. So, that was something quite particular. But, if you're speaking more generally about loopholes available within the regulatory regime that allow innovation to occur, yes, it happens all the time. A lot of the debt management firms are exploiting loopholes. Cigno exploit one part of the small amount credit contracts regime to be able to do what they do and be outside of the regulations.

**CHAIR:** That's very useful, thank you. Finally, who funds your organisation?

**Mr MacRae:** We have a whole range of funders. Our insurance law service, for example, is funded by the AGD. Part of our service, the National Debt Helpline, is funded out of state bodies like the department of fair trading.

**CHAIR:** But who funds all your policy work?

**Mr MacRae:** It's through New South Wales.

**CHAIR:** The state government?

**Mr MacRae:** The state government.

**CHAIR:** So the state government of New South Wales is effectively funding you to be here today?

**Mr MacRae:** That's drawing a bit of a long bow.

**CHAIR:** I'm just trying to understand who your funders are.

**Mr MacRae:** As I mentioned, state and federal.

**CHAIR:** So it's public funding?

**Mr MacRae:** Yes. In the past, I was first hired on some funding that we received under the Victorian fire services levy insurance monitor. I was hired for two years, and then we had some other funding from ASIC enforceable undertakings. Now that ASIC enforceable undertakings are not so popular anymore after the royal commission, it's likely that our policy capacity will have to decrease.

**Senator SCARR:** There are probably some big fines coming.

**Mr MacRae:** Unfortunately, those are not going to go to anything in the community sector. We would love them to, but they're not going to.

**CHAIR:** But all your funding is public funding, is it?

**Mr MacRae:** Yes, I guess, if you count ASIC enforceable undertakings as public. I'm not sure if that is technically correct, because it comes from industry but via ASIC. We don't have any industry funding, certainly. Yes, we are reliant on government funding, generally. But, as I mentioned, my position has generally been funded out of those two things. We do have another policy position where we draw upon other funds that we receive, but not federal funds as I understand it.

**CHAIR:** Thanks for your time. You've been very generous.

**BELL, Mr Robert, Chief Executive Officer, 86 400**

[16:12]

**CHAIR:** Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Would you like to make an opening statement?

**Mr Bell:** A very brief one, to allow maximum time for questions. 86 400 is a brand-new digital bank built on the latest technology over the last two years, launched late last year. We believe we're the first new bank to use the latest technology to bring a bank to life in Australia. We've been built on the principle that we want to help Australians take control of their money, so all the features we deliver are very different to what you would see in a traditional bank. We help people see a full picture of their financial world. We help them get better deals. We help them see expenses coming up, and we help them negotiate better deals. So we do a bunch of things that are very different to a traditional bank. We're based in Sydney, just up the road. We've got 90 people. Half our team are technologists, developers and engineers. We are very technology led, although we have some seasoned bankers like me in the team also. I really appreciate the opportunity to join today, because this topic—technology and finance coming together—is obviously something that we're very passionate about, from me right down to every single member of the team. So I appreciate the time.

**Senator SCARR:** You were here for the testimony of the previous witness.

**Mr Bell:** Yes.

**Senator SCARR:** I've put to a number of the witnesses some quotes from the submission that was made by the Financial Rights Legal Centre and the concerns they've raised—firstly, in relation to screen scraping. Could you provide your views with respect to that practice.

**Mr Bell:** Yes, I'd like to. I think probably the best way to do that is to describe how we use it to the benefit of the customers that we have. 86 400 customers have the ability to aggregate their accounts, so they're able, through screen scraping, to see all their accounts from other banks in the 86 400 app. So they log onto the 86 400 app and they connect their accounts, and what that does is that it gives them a snapshot of their whole financial world. They can see all their transaction accounts, their credit cards and their home loans all in one place, and that's really powerful. It does a couple of really important things for our customers. The first is just seeing all their financials in one place. The second is that we help them forecast upcoming bills using that data. We take that data—we've got very clever algorithms—and we give them indications: 'Next week you're going to have your Netflix bill. The week after you've got your telco bill and your Stan subscription.' What we've seen is customers saving an enormous amount of money. For the first time, a bank has actually helped surface what upcoming expenses are. People are going, 'Hey, I don't need that gym membership; I haven't used it in 12 months,' or, 'I don't need Stan and Netflix and Foxtel,' for example. So people are saving real money. We estimate that \$2.7 billion a year is spent on unused subscriptions.

The other way we're using the data is we're uncovering fees and charges that the big banks charge their customers. When you go to your big bank to find these things, they're very hidden. We sift through that data and provide that data back to our customers and say, 'Hey, did you realise you just got charged \$10 in an unpaid/overdraft/account fee?' Based on the data we've gathered so far, our customers are spending at least \$80 to \$90 at another bank in fees that they don't need to be paying. So we're using the data in ways that really help customers.

We are very comfortable with the security. We are a regulated bank. You have to go through our app. Our provider is Yodlee, who's been in the business for 15 years. They've never had a data incident. We are very comfortable with the security protocols; we've been through all our testing.

I would argue that the loudest voices on this, in terms of anti-screen scraping, are those who have the most to lose from it—that is, the big banks—because they don't want customers to see their data. They really don't want us uncovering fees and charges and presenting the data back to a customer in a way that they can understand. They don't want us to surface the fact that their interest rate on their loan is 40 basis points higher than it should be. They don't want us to surface the fact that they should be earning at least one per cent more on their savings account than they are. These are things you can understand, commercially, that the big banks don't want us to be doing. We've recently seen quite loud voices saying it's not safe and it's not secure. If a big bank wanted to turn off screen scraping, they could do it tomorrow. They could put two-factor identification in, and it wouldn't work. The reason they don't is that there are millions of customers who use this service and find it very useful.

I'm probably jumping too far ahead. I heard that the CDR is going to be the solution here. I've heard a lot of commentary saying—

**Senator SCARR:** That was going to be my next question: whether the CDR, when it starts, means that there is no practical reason why screen scraping needs to continue to be permitted.

**Mr Bell:** For context, 86 400 is one of the 10 early participants in the CDR. We have dedicated disproportionate resources to the testing. We are upfront; we are really big supporters of the CDR and of open banking. It is absolutely the right way to go. But what we are seeing is that most people don't understand what the CDR and open banking are going to deliver on day one. There are a couple of things that concern us; they're kind of normal concerns but it's going to take time. First of all, the dates keep moving. From what we can see from close in, working with and testing with big banks, we suspect the dates will keep moving out. The reason is that, if you're a big bank, you don't have a lot of reason to get behind this and do this. You've got to provide data that you always thought you owned to any of your customers who want it. So there's not a lot of motivation to do this from a big bank point of view.

The second thing that people don't understand is that what's going to be delivered on day one is a very limited dataset. It's quite possible that we'll get to the point where we go, 'Tick; open banking is live,' but the data available will not have a lot of use on day one.

**Senator SCARR:** Can you give us a practical example?

**Mr Bell:** Absolutely. Once you dig into deep detail of the rules, there is optional data and mandatory data. People might be surprised to learn that things like account numbers, BSBs, PayID, biller codes and interest rates are all optional data points that banks can provide in open banking. I would suggest that the big four banks will provide only the mandatory datapoints and so the initial dataset that we get on day one will be a very, very poor cousin chair to what we currently get from screen scraping. So, for us, we'd love to move to open banking, but we will only be able to do that over time when that dataset becomes at least equal to what we can get from screen scraping.

The other thing is that when we are talking about going live in the first instance it's just the four large banks. We currently provide this service to our customers and we can look at over 100 banks, so obviously we have to keep screen scraping going until every single bank in Australia has open banking and has a richness of data that's useful. So I would say that people are being a little bit cute in saying, 'When open banking arrives, screen scraping stops,' because the reality is that we are looking at at least a two-, three- or four-year transition period. It takes that long.

There is a really good example in the marketplace already in the New Payments Platform, which we are big supporters of. We went live with real-time payments from day one because the technology was there. There was great work done by the Reserve Bank and industry to get the New Payments Platform up, but no-one suggested turning off any other payment methods just because NPP had arrived. In fact, that would have been a disaster because, right now, the majority of our payments out of 86 400 are all real-time through NPP because we have it enabled but payments coming into 86 400 are only about 50 per cent by NPP. That's because the penetration of NPP across all banks and their devices is quite patchy. At bank A, for example, you might be able to make a real-time payment through internet banking but not on the phone. At bank B, you might be able to do it on the phone but not through internet banking. NPP is great technology and great progress, but it will just take time until it becomes universally used and universally useful.

**Senator SCARR:** I have just one more question because of the time. I'll read this extract from the Financial Rights Legal Centre's submission in relation to algorithmic decision-making:

Algorithmic decision making in the financial services sector has great potential to introduce bias into decision making particularly for marginalised consumers.

As I interpret it, the thinking is that the most vulnerable in our society could be worse off after more fintechs start to rise and the use of artificial intelligence, algorithmic decision-making, applies because there are certain in-built biases in the technology that could operate against their best interests. How would you respond to that?

**Mr Bell:** If I look at our own mortgage process at the moment, we use technology to do exactly that. We actually take a 12-month banking history of a customer. We take a snapshot of their income and every single line of their expenses. We automatically categorise it into 26 different categories of expenses. So we actually believe we have a more accurate picture of an individual than anyone else in the marketplace does. So in terms of responsible lending, which has been a big focus, I think correctly, in the Australian market lately we are meeting our responsible lending obligations better than anyone else because we know what you actually spent and not what you told us you spent. We actually know what you spent over the last year. We also know what you earned and not what you told us you earned. So we would not be able to lend to someone who couldn't afford it based on that history, whereas in traditional lending you can forget to tell me about all your expenses and a bank would

give you a loan. That's when people get into trouble. It's because they actually can't afford the loan. So I think there is a great propensity here for technology to make better credit decisions. And generally better credit decisions are better for people as well. Banks actually have no interest in lending money to people who can't afford it. It's not in anyone's interest to do that.

**Senator SCARR:** Thank you very much.

**Senator McDONALD:** I have three teenage children, Mr Bell, so I probably wouldn't be your ideal customer at the moment. I want to ask you about screen scraping and a submission from the Financial Rights Legal Centre, where they say:

Screen scraping has been banned in the UK and the EU under the Payment Services Directive 2 (PSD2). There is currently a 6 month transition ending 14 March 2020.

Are you aware of that?

**Mr Bell:** Yes.

**Senator McDONALD:** How are they managing? We've talked about the issue of not having a full set of data in Australia. How are they managing there?

**Mr Bell:** You have to take the context of open banking in Europe and in the UK. It's many more years progressed than we are. They have a significantly better dataset, and there has been a stronger push to make it available widely. As I said, in three or four years time, when we have confidence that we can get the minimum data that we have now through open banking, we wouldn't object to that. But, right now, that doesn't look likely anywhere in the future.

**Senator McDONALD:** I understand.

**Mr Bell:** Yes, that's the kind of challenge. The other thing that I think is kind of lost in here is that 86 400 is a brand new bank. It's app based. Whether people want to use our aggregation service is entirely optional. It's their choice. One of the things that we've made really clear in our app is that, if you decide not to use it at any point in time, with one click all your data is deleted; we won't have it. We have an absolute responsibility to use that data in a way that actually helps the customers. If we don't, they won't give us access to it.

**Senator McDONALD:** You are a disruptive bank. You have a new model. What about your employment? Does this mean that you are able to employ people in a disruptive manner, such as geographically or online? Is that something that's possible in your model?

**Mr Bell:** We've taken the view that, when you're building a brand-new bank, it makes sense to all be literally in one room. Every day, we get approached by people who say, 'We get cheaper developers in this country or somewhere else.' We've just found that there's nothing better than having our team of 90 in one office, on whiteboards, solving problems every day. We've got 26 engineers and developers. If you look at the ratio of technical resources in our bank compared to any other, it's just the polar opposite.

**Senator McDONALD:** I was thinking more about regional Australia than offshore, just to be clear.

**Mr Bell:** Not at this stage. We have a contact centre. There's no reason that it couldn't be in the future. At the moment it's a very small team. Actually, I sit there and the call centre sits there. But we have set that up so that can be changed. For example, we're looking at weekend coverage. People could actually do that from their home. They could do it remotely. So we have put that technology in place, but at this point in time we're just in the one place.

**Senator MARIELLE SMITH:** I'm interested in one of the things you just said to Senator McDonald. You said that in one click the data can be deleted. What does that click look like?

**Mr Bell:** It's a little rubbish bin box.

**Senator MARIELLE SMITH:** Is it easy to navigate?

**Mr Bell:** It's very easy to navigate, yes.

**Senator MARIELLE SMITH:** This is the challenge we have.

**CHAIR:** If only *Hansard* were so easy to delete!

**Senator MARIELLE SMITH:** There's probably only one of us at this table who's concerned about that! It's one of these issues which have been raised about consumer consent, what that looks like and what is genuine engagement with the consumer about the risks they're taking and what they're participating in. I just think that's a useful point. Some fintechs, I think, take this very seriously and are very keen to make sure that their customer is very engaged in how their data is being used, what it's being used for and how to get rid of it. Obviously, we're hearing evidence from other parts of the community that that's not the case.

**Mr Bell:** I think one of the basic principles we work from at the start—and I think this is where the Consumer Data Right came from—is that this is people's data. This is my data. This is your data. It's not the bank's data. They don't own it, and they shouldn't own it. It is your data, so we feel strongly that you should be able to request that that data be delivered to you in a format that's useful, and you should be able to request that it be deleted. That's why we made it really easy to connect accounts and really easy to delete them: to give people that confidence that it's their choice. I think that's a really important thing, because it'll take time to build confidence.

I think the other reason is that screen scraping plays an important role in just getting people used to using data. If you wait until every single bank in Australia comes on board with a limited dataset and open banking, no-one will use it for years. You've got to transition this over a sensible amount of time.

**Senator MARIELLE SMITH:** Can I just bring you to the R&D tax incentive. That's something raised in your submission—in particular, the uncertainty around whether claims will be accepted by the ATO and also the issue of clawbacks. For the purposes of our evidence, can you expand on your views on the R&D tax incentive—where you think it needs to be improved to foster innovation.

**Mr Bell:** It would probably be a better question to take on notice for my CFO. The challenge is that money is really tight in a startup, and you do some calculations on what R&D inputs might be and you need to plan for that. The reality is that it's some time afterwards that you work out whether that was real or not. So the benefit of those incentives is hard to bank and plan for. You almost have to plan for the fact that maybe you won't get them, and therefore you haven't really got the benefit. So, without jumping into technical details, I think the point we were trying to make was that any clarity at the front, or any extra things at the front to help understand what the outcome would be, will help fintechs, even ones smaller than us. We were very well funded in the first instance, so we're a little bit more privileged relative to some of the two- or three-man shops that are starting.

**Senator MARIELLE SMITH:** Thank you.

**CHAIR:** Finally, I just want to get your sense of how competitive this market is. We've heard a lot of evidence that there are various things that the major four incumbents do to try and stop competition. If you have a lived experience of that, maybe you could tell us some things.

**Mr Bell:** I think the encouraging thing is that there is no doubt that Australians are willing and eager to try a new bank, and so, providing we get the message to them, provided we deliver the right experience and a very different experience which is about taking control of money, we will do really well. And we're already seeing lots of customers join us.

**CHAIR:** How many?

**Mr Bell:** We haven't published the number of customers anywhere at this point.

**CHAIR:** Don't tell, then!

**Mr Bell:** So I won't cover that at the moment.

**CHAIR:** You should keep it a secret.

**Mr Bell:** But is it tough? Absolutely, it's tough—for example, screen scraping. When a big bank writes to your customers once a week or once a day and says, 'You've breached your terms and conditions because you've used screen scraping,' that can really only be seen, I think, as anticompetitive. The good thing is, though, that Australians are pretty sensible, our customers are pretty sensible, and they just see that for what it is, so it hasn't had an impact on us.

**CHAIR:** Sorry, has that happened to your business or were you talking about another business?

**Mr Bell:** No, our business.

**CHAIR:** So one of the major banks wrote to your customers?

**Mr Bell:** One of the major banks writes every day, every week, to anyone who screen scrapes and says, 'Hey, this is dangerous.'

**Senator MARIELLE SMITH:** Presumably, not one of the banks who are themselves screen scraping.

**CHAIR:** No, but that's a good point, because we're reliably informed that in fact all the majors use screen scraping to mesh their systems together internally and then to talk to one another.

**Mr Bell:** There's no doubt, if you look across the major banks, that a number of them—not all of them, but a number of them—use screen scraping for things like getting information for credit decisions. They've invested in screen-scraping businesses through their fintech arms. I think you just need to step back and look at the interests of the parties and their view on this.

**CHAIR:** It's an interesting case study, and we won't have too many more opportunities to have someone like you in the dock—not that you're in the dock!

**Mr Bell:** In the dock! Where am I going after the dock, Senator!

**CHAIR:** I don't think we've jailed anyone since 1986! The thing is, if one of the majors has written to your customers to try and scare them, do you have any data or evidence as to how many of your customers may have followed the advice from the major bank?

**Mr Bell:** We're not seeing any change in behaviour.

**CHAIR:** So it doesn't work?

**Mr Bell:** It doesn't work.

**CHAIR:** That's very interesting, isn't it?

**Mr Bell:** You've got to understand that when people use our service they're seeing something entirely different. We're giving them value, and they like it, so they want to use it. If you can genuinely provide a great product, a great service, a great experience, then people will use it. That's why we're seeing lots of people use it and, I think, why it's going to become more and more popular, and it's why I believe, if we get the open banking and CDR right, in the long term it'll be absolutely fantastic for competition.

**CHAIR:** Have you had any formal correspondence with the large bank that has been trying to scare your customers?

**Mr Bell:** We would rather just spend our time and energy getting on with acquiring new customers and giving them a great experience. Poking the bear is not something that we generally do.

**CHAIR:** What institution are you a member of? Are you a member of any industry bodies?

**Mr Bell:** We're a member of FinTech Australia. We are not a member of the Australian Banking Association.

**CHAIR:** Why?

**Mr Bell:** We find it really hard to be saying that we want to change banking in Australia, that we want to create a different experience and that we want to do things differently and then, for example, be contributing to campaigns that try to say that everything's okay in banking in Australia. It's clearly not. It's very difficult to be a disrupter and an agitator and then participate in things that really want to keep banking exactly the same as they are and always have been.

**CHAIR:** You clearly have the need to respond to some of these attacks on your business model. What is your response to this? Do you set up your own policy organisation? What's the go-forward for you on these issues?

**Mr Bell:** We're obviously active, in terms of submissions and these opportunities. But, in terms of defending ourselves against attack, we actually don't think it's having an impact at the moment, so we keep on doing our business. Australians are not stupid; Australians actually are smart. If we give them the right product and if we give them the right service then they'll keep using us; we'll be successful.

**CHAIR:** How long did it take to get a licence?

**Mr Bell:** It took us two years to get a full banking licence.

**CHAIR:** Was that a good experience?

**Mr Bell:** It was a long experience.

**CHAIR:** Yes. That sounds good!

**Mr Bell:** It was a very detailed experience. It was very, very thorough, and I think that's actually correct, because managing money is serious and you've got the government's guarantee. Could it be improved? I think that absolutely the process could be improved. But probably the biggest challenge we had was that we had limited resources in APRA. People kept on changing around or they couldn't look at documents for two months or three months or four months. The other one we had to spend a lot of time on was explaining technology. Obviously the reference point for the regulator is the big four banks, so the reference point had always been: 'You're not doing it the same way as the big four banks are.' Therefore, it just took a lot longer to explain. But, we have a really good dialogue and the supervision has been really good since we've started. There is area for improvement, but you'd expect it to be a difficult process.

**CHAIR:** Thanks for coming in.

**BOWER, Ms Michelle, Executive Officer, Gateway Network Governance Body**

**McCLELLAND, Ms Jan, AM, Chair of the board, Gateway Network Governance Body**

[16:39]

**CHAIR:** I now call representatives from the Gateway Network Governance Body. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Do you have an opening statement?

**Ms McClelland:** Yes.

**Ms Bower:** We do. The GNGB would firstly like to thank the committee for the opportunity to discuss our submission further. We feel very privileged. The submission that we provided is focused on the issues outlined in the committee's issues paper around open super and the CDR. The GNGB is the industry-owned governance body for the Superannuation Transaction Network, so we are existing data infrastructure within superannuation transmitting transactions between funds and employers via a series of gateways. Our submission is based on our experience during the design, development, implement and ongoing governance activities across this infrastructure. We are not a policy body and we do not seek to influence policy on whether or not open super should go ahead. We are merely focused on the implementation considerations of any open super framework, in addition to the benefits of considering the re-use of existing infrastructure should the committee seek to drive an open super solution forward.

Our submission is focused on five themes. The first theme is around a clear definition of what 'open super' means and the benefits that it will deliver to superannuation members, as well as to the consumer. There is also the theme of a wide stakeholder engagement. Due to the complexities of the superannuation environment and the end-to-end parties across the value chain, it is essential that wide stakeholder engagement provide many benefits by being done upfront. We're also recommending that clear data standards are set for the delivery of data out of any open super environment, and the STN is being recommended as the access point for an open super data environment. We also see ongoing governance of infrastructure such as an open super framework to be essential. That will ensure keeping barriers of entry to the market low whilst maintaining the appropriate protections around data and information security.

**CHAIR:** If the committee doesn't mind, I might kick off, which will be novel for the day. I have a couple of simple questions. Effectively, you provide the gateways for the large super funds—the pooled funds?

**Ms Bower:** We're the governance body, so we don't actually own any of the technology.

**CHAIR:** You set the standards; is that right?

**Ms Bower:** Correct.

**CHAIR:** What I'd be interested in working out is how exactly we could set rules for open super that would work for what is already in existence. So what I was hoping to do not right now but through the exchange of correspondence—through the committee, of course—was work out how we would draw upon your existing infrastructure to facilitate people choosing a different fund, on the same principle that we apply to the banks, recognising that super is more complicated than banking? Can you provide us with the detail of how to do that?

**Ms Bower:** Sure. There are a number of options, in terms of a solution and what this could look like, and there is work to do around the pros and cons of each of those. What I can talk to a little bit is how technically it works today and how that might apply to an open super environment. Today the superannuation funds are individually all integrated with a gateway operator who delivers data to them.

**CHAIR:** These are all the pool funds; is that right? Does this include the corporate funds, or is it just the—

**Ms Bower:** All the APRA regulated funds.

**CHAIR:** All the APRA funds.

**Ms Bower:** Yes.

**CHAIR:** They're all in your system.

**Ms Bower:** Yes, all of them.

**CHAIR:** Well done.

**Ms Bower:** And we're about to, in March 2021, implement SMSFs into that network as well. They are a whole different ball game. All the APRA funds are connected to a gateway operator, and they deliver rollovers and contribution data to and from those superannuation funds and to their employers and between each other for rollovers. The mechanism by which that is done is via web services based transport messaging. So, technically,

the pipes are open, if you like, between super funds and employers and between each other, and the data itself is in an XBRL file. The gateway operators are pretty agnostic to what the data inside those messages includes, and they could be adapted to include additional data for open super if required.

**CHAIR:** So we could do it tomorrow?

**Ms Bower:** There would be configuration required both at the superannuation fund end, to get the right data into the network, and also, depending on who the authorised data recipients were at the other end, how they wanted to see the data.

**CHAIR:** But it's achievable?

**Ms Bower:** It is achievable.

**CHAIR:** That's good to hear. I imagine 10 years ago it wasn't achievable. Can you remind me who funds you? How does it all work?

**Ms Bower:** Eighty-five per cent of our funding comes via the APRA levy, so the funds effectively pay for that via the APRA levy. Fifteen per cent of our funding comes via the operators themselves, so the gateways pay a governance fee to participate.

**CHAIR:** So APRA funds you?

**Ms Bower:** It's the APRA levy. They collect that from the superannuation funds.

**CHAIR:** So APRA collects a charge from the super funds and sends it to you?

**Ms Bower:** The charge is a lot bigger than what they send to us, but we get a portion of that, and—

**CHAIR:** I'm sorry to hear that!

**Ms McClelland:** It's administered by the ATO in the way of a grant.

**Senator MARIELLE SMITH:** I'm interested in whether you have investigated the use of blockchain and DLT being rolled out in your organisation to improve transaction efficiencies.

**Ms Bower:** We've been up and running for about three years now, and in that time blockchain has been looked at in terms of the pros and cons. We've found a couple of things. Firstly, blockchain is very useful when multiple people are trying to access the same data at the same time, which is not necessarily the case here. It's a data transfer mechanism as opposed to pure data access. That's the other point. The gateway operators don't actually store any of the data. In an open super environment, the storage would stay with the superannuation funds themselves.

The other thing about blockchain is the timeliness of the information. That's also very helpful when there is a critical time requirement to access that data. It can be delivered once, and then everybody has access to it very quickly. Again, the superannuation transactions—it is a near real-time messaging framework but it's often attached to member registry processing and payment processing time frames.

**Senator MARIELLE SMITH:** You'd obviously be following the rollout of open banking pretty closely, given the potential implications of that process for open super. What have you seen within that engagement process that you would like to see if we walk down this other path? Are there any concerns in that process that you've observed which raise alarm bells you want to put on record?

**Ms Bower:** I did also note the ACCC's submission to this committee around their willingness to do a wide stakeholder engagement process prior to putting up a design and option models for any other open data regime, which we would fully support. I think probably a learning from the open banking situation is that it's often more complex than people think it's going to be. I know the witness before us was quite keen to see it done a lot more quickly. Probably what I would say to that is that we operate in a very complex environment. It's not as simple as picking up the data and sending it somewhere else. That needs to be considered in any road map of design and delivery process.

**Senator SCARR:** Can I take you to appendix A of your submission? In the third paragraph—not the orange paragraphs—under 'Issue 1', I'm just trying to get my head around the point you're making there. It says:

The inference from the Productivity Commission report is that consumer data on an individual superannuation transaction and/or account level is what may add value ... We note however, that Finder feedback quoted in the Senate Committee's Issue Paper infers the benefits of CDR in superannuation are to be found via greater transparency of consistent reporting ... This differs, we believe, from the intent of Recommendation 13 of the Productivity Commission Inquiry Report and this ambiguity may act as a roadblock to innovation.

I was just keen for you to further explain that and how it is that, in your view, the way I read that, there appears to be a disconnect between the intention under recommendation 13 of the Productivity Commission's report and what was stated in the issues paper.

**Ms Bower:** It's less about what was stated in the issues paper; it's more about the Finder report that was referred to.

**Senator SCARR:** In the issues paper?

**Ms Bower:** Yes.

**Senator SCARR:** Right.

**Ms Bower:** What we see—this also happens with the press a lot—is that the term 'open super' is often attributed to a number of things that potentially were not the original intention of it. We understand the CDR to relate to an individual's data that belongs to them—their transactions and, potentially, the details of the specific product that they are invested in. The complexity with superannuation is that currently there are a number of places where data is required to be sent. So the superannuation funds have an obligation to provide APRA with a lot of product-level data. That is increasing as APRA have been very open about it. In addition to that, a lot of the transaction data that goes through in terms of superannuation and payroll is also collected by the ATO at the moment. You have a number of buckets of data requirements and obligations. In an open super environment, it's really important to be clear about what we're trying to share and what the outcomes of sharing that particular data are. That will help to drive what the solution should look like.

**Senator SCARR:** What are we trying to share under the open superannuation framework? It's the individual customer data as opposed to broader comparative figures?

**Ms Bower:** I believe so.

**Senator SCARR:** Thanks.

**CHAIR:** Thank you very much.

**FUGGLE, Mr William, Partner, Baker McKenzie**

**JEEVARATNAM, Ms Shemira, Junior Associate, Baker McKenzie**

**LAWRENCE, Mr Adrian, Partner, Baker McKenzie**

**SANDERSON, Mr Guy, Partner, Baker McKenzie**

**WHALE, Ms Caitlin, Special Counsel, Technology and Commercial Team, Baker McKenzie**

*Evidence from Mr Lawrence was taken via teleconference—*

[17:00]

**CHAIR:** Welcome. Thank you for your time. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Have you got an opening statement?

**Mr Fuggle:** We can give a brief opening statement—more of an introduction of ourselves rather than anything else. We're all from Baker McKenzie, as you're aware, which is a very large international law firm with large offices here in Sydney. We do a lot in the fintech space both in Australia and internationally. Perhaps part of the contribution we can make is that we have discussed with our colleagues in other jurisdictions how things are regulated or some of the initiatives which are being done. We're very happy to talk about the local, domestic Australian situation, but, to the extent that sensible comparisons can be made, we'd be happy to touch on those as well.

**Senator SCARR:** I turn to page 2 of your submission. I will read out the paragraph so it's in the transcript:

Providing the right regulatory conditions to encourage, grow and supervise new and competitive financial sector businesses is therefore a measure that could be taken in order to establish the right ecosystem for other FinTech and RegTech companies ...

Based on your experience with the Australian context and perhaps informed by the position of some leading overseas jurisdictions, how could our regulatory conditions be enhanced? What regulatory roadblocks could potentially be removed to help encourage, grow and supervise the fintech sector?

**Mr Sanderson:** One of the measures that we've seen successful in, for example, Singapore and which is related to a bit of an issue identified by our clients in Australia is the splintering of regulators to whom they are responsible. In Australia the regulatory landscape has grown up organically rather than in an organised, top-down way. We've got ASIC, AUSTRAC, the ATO in respect of certain R&D benefits, the RBA, the ACCC and APRA—a whole range of regulators, each of which have got different priorities. For example, the RBA might want to reduce processing costs, whereas ASIC might want to enhance consumer protection and increase costs for business. You've not necessarily got all of the regulators pulling in the same direction. That's one of the ways in which Australia and Japan are similar—to our knowledge.

**Senator SCARR:** Let's just park the discussion there and deal with that particular issue. To amalgamate all the different regulatory bodies et cetera would obviously be a major task. Is there another reform that could be achieved to help them better align their respective goals or purposes, or for them to have more frequent discussions to provide some sort of single point of contact for someone who is, say, setting up a new fin-tech business?

**Mr Sanderson:** A single point of contact would be a helpful thing. I think this is the second part of what I am coming to. I absolutely agree that it would be very difficult now to unwind where all the regulatory responsibilities are. There are two aspects to this: one is the structure of regulators, the other is their attitude. Some regulators here are more active. AUSTRAC can be quite proactive in what it does. Whereas some are more reactionary. ASIC, for example, is more reactionary than others. Where we've seen successful regulators, like MAS in Singapore, they are very proactive. They not only have a single point of contact for a fin-tech company across the various laws and regulations with which they have to comply, but they are also proactive.

We hear through our Singapore office, for example, that the MAS may get directly in touch with a bank or other financial institution and say, 'Are you aware that if you have your regional cybersecurity head in Singapore then we will contribute 50 per cent of their salary and other costs'. So they are actively there trying to develop a fin-tech ecosystem in Singapore. They provide active marketing assistance to fin-tech and reg-tech companies there, to market not just in Singapore but also in the region. They've set up an API exchange to try and get a common set of APIs so that small players can more easily sell their products and software to institutions, big banks and others as well. So I don't think it's necessary to suddenly form one super regulator in Australia. But I think having some overlay where there is a single point of contact who is also very proactive in developing an ecosystem, helping a fin-tech or reg-tech company navigate the maze of different regulators, would certainly be a way of encouraging that kind of system.

**Senator SCARR:** We've had evidence from some players in the sector around the issue of regulatory uncertainty. They might be considering doing something, they'll go to Baker McKenzie or another major international law firm to get advice. It's not necessarily clear. Then it's hard for them to get a definitive answer from a regulator, and that then causes them concern, especially if they're going to invest a lot of capital and they've got to make a decision. Have you had experience of that sort of issue in terms of the Australian market?

**Mr Sanderson:** I certainly have with some of my fin-tech clients, yes. Especially in a new and developing area. 'Buy now, pay later' is one you see a lot of in the news but that is a good example in relation to its interaction with credit laws, for example. Three or four years ago it would have been quite hazy. The regulators weren't really up to speed with the product. They weren't sure how it fitted in, and so that made it difficult for players in that space to work out what they should be doing. In our experience, with the best will in the world—clients want to comply with laws and regulations—it's not always clear what they need to do to do that. Did anyone want to add something else?

**Mr Fuggle:** Yes. There are two aspects to it. There is uncertainty, but there's also certainly. Sometimes you have certainty that there are major problems in doing things. So I would say that the certainty of major problems is even more of a killer than the uncertainty. For example, with financial product characterisation, very often under Australian law it's actually pretty clear that you will end up being characterised as a derivative or an interest in a managed investment scheme, and those can be very heavily regulated areas. Or you might be characterised as carrying on a bank business, although that's a problem we have encountered less frequently in practice. What happens is that you can sometimes end up with a very clear problem—so it's not just uncertainty; you can have a very clear problem—and those are things which really have not been addressed. What you'll find, for example, is that if you are engaged in an activity that looks like a derivative or an MIS, or maybe, even worse still, operating a financial market, all of those are superheavily regulated things. If you wanted to operate a financial market you'd be regulated in the same way as ASX. To jump through the regulatory hurdles to achieve that, you're probably looking at a spend of \$2 million to \$10 million. For a startup, that's just not going to happen. So those organisations are much more likely to go to Switzerland or Singapore, who have turned their minds specifically to managing the answers to those questions. They're much more likely to take their business to those jurisdictions.

**Senator SCARR:** What are some examples of how Singapore and Switzerland manage those particular issues? Clearly, in the Australian context it takes the regulator time to respond, time to consider public submissions and time to formulate policy, and at the same time the technology is moving so quickly that it's difficult for the regulator to catch up with the technology. How do other jurisdictions deal with that issue?

**Mr Fuggle:** The end result of how they deal with it is that they typically generate some regulation around a particular area. Probably the most contentious area, if you wanted to jump into the middle of it, would be digital assets, cryptocurrencies, tokens, token exchanges. Switzerland, in particular, have jumped right into the middle of that. They really crunched the intellectual process to think of what the risks are, what needs to be managed and how you can do it in a way that is still manageable for entrants but provides appropriate protection for the public and allows the regulators to do things in a way which is sensible. They have jumped in and made specific regulations for those types of businesses.

Another example is that, more broadly, a lot of jurisdictions have what they call regulatory sandpits. We've got a regulatory sandpit. It is basically saying that you can carry on regulated activities but without having to be fully licensed. But you usually can do it only in a very small-scale way, typically to get proof of concept or things like that. Our sandpit is particularly restrictive in terms of the scale that you can go to, whereas other jurisdictions have been not necessarily expansive but more expansive than us; in particular, for example, Singapore. They've also tied other sorts of things to it, like grants and giving themselves benchmarks in how quickly they can achieve things for the entrants.

There seems to be a lack of preparedness to really crunch the overall intellectual framework around some of these things. I agree that they are new and fast moving, but that's all the more reason to think about the intellectual framework and actually crunch those issues as quickly as you can. We've been sitting back and waiting to see what the US or the UK does. Once they do something, I think our regulators feel more comfortable, whereas I would suggest that we need to think about dealing with those intellectual frameworks ourselves, not just sitting back and waiting for the US or the UK to do something.

**Ms Jeevaratnam:** On the flexibility and adaptability point: we've seen the Japanese regulators have a lot of interaction with the self-regulating organisations. We've seen the JFSA authorising, for example, a cryptoasset self-regulated organisation to create some operating rules. I think that's a helpful way of approaching flexibility and adaptability to new technical expertise.

**Senator SCARR:** That's a good example. Thank you.

**Senator MARIELLE SMITH:** Have you had any experience assisting your clients navigate the R&D tax incentive? It's more of an accounting function, but is that something that you've had experience with?

**Mr Fuggle:** I haven't personally, no.

**Mr Sanderson:** No.

**Senator MARIELLE SMITH:** Do you have any views on the R&D tax incentive?

**Mr Sanderson:** Only that it's complicated. I think the issue is that some of our clients don't find it reliable. They might be undertaking the expenditure up front without having the certainty that what the outcome will be in terms of getting the incentive.

**Senator MARIELLE SMITH:** I appreciate the evidence you've given us on benchmarking and what different jurisdictions are doing that is working and that isn't. One of the areas I'm interested in is how the trade arm of government helps facilitate expansion of fintechs into new and global markets. The UK government obviously does this very well, and the Singaporean government I understand is also very effective in it. I've heard some gentle criticism of DFAT and their outreach and proactivity in supporting fintechs in Australia to reach into those markets. Have you seen any evidence of that or do you have anything you'd like to contribute on benchmarking with respect to that trade element?

**Mr Fuggle:** I guess what I would say in relation to that, in addition in the fintech space, I've done a fair bit of cross-border work generally and I have seen various state and federal bodies who have assisted with cross-border trade in particular and been quite active, and you do see them. But I have to say I have not actually seen them active at all with my fintech clients. It might just be that my particular slice of clients haven't really engaged with government entities in that regard, but it might just be notable that I haven't seen them, when I have seen them in other areas.

**Senator MARIELLE SMITH:** Thank you.

**CHAIR:** Thanks for your submission. It's a good one, actually. A lot of them are very long.

**Senator MARIELLE SMITH:** Just for the record, we do appreciate the detail that other submitters have put into their submissions.

**CHAIR:** Of course we do, but sometimes it's easier just to get to the nub of the issue. On the venture capital side, we introduced a set of vehicles in our National Innovation and Science Agenda in 2016, including the ESVCLP. Have you had any experience with that structure?

**Mr Fuggle:** Yes, we've done quite a bit of work in that area.

**CHAIR:** How's it going?

**Mr Fuggle:** There's certainly a material amount of activity. We've got several clients who have set up early stage venture capital limited partnerships, or ESVCLP, over the last couple of years. Generally, they seem to be a pretty effective structure that people seem to be comfortable with.

**CHAIR:** Are there any changes you think we should be considering? Are there any tweaks or anything we can do to help? No is a good answer. There's no problem with saying no.

**Mr Fuggle:** I kind of like the structure, and I think so do our clients. I think the real issue is not really around the structure. The real issue with venture capital in Australia is around developing deeper pools and deeper access to the money. The structure is good, and that's obviously part of that process.

**CHAIR:** We have an enormous pool of funds in the compulsory superannuation schemes—

**Mr Fuggle:** Absolutely.

**CHAIR:** for better or worse. Do you have any views about how we could, without using extreme measures such as directed investment, use super to incentivise into these areas?

**Mr Fuggle:** It's one of those areas which so far have been very slowly growing organically. Typically, the way those sorts of things grow is you have a fund which has been around for a while and has built up sufficient track record that it can show a decent past performance—so gradually those funds will build in size. I guess the question is: why haven't they built more quickly and why does it seem that they build very slowly at the very small end of the market—the venture capital space—and are so large in the big part of town with investing in the ASX top 50 and things like that? It does seem to me that there needs to be something happening there, whether it's as simple as an education campaign. I suspect it's more than that, but, somehow or other, we need to get messages out there that super funds can and should sensibly invest into a broader range of investments.

**CHAIR:** I'd be grateful if you could take that back and maybe have a think about it, because we're looking for ideas. I'd be grateful for any further thoughts you could provide us.

**Mr Fuggle:** A very simple way to do it, if you wanted to get very quick runs on the board, is have a look at what they do with the significant investor visa program. They actually mandate that a certain proportion has to go into early stage venture capital. That might be a bit too extreme, but what you could do is simply encourage. At the moment, I feel that most self-managed superannuation funds in particular would have a perception that they should invest in very conservative assets. So you could really sort of have some messaging coming from the regulators—which is, essentially, in the case of self-regulated, the ATO—saying that it's okay to invest into these things.

**CHAIR:** Can you give us that in writing, so we have a bit more—

**Mr Fuggle:** Yes, sure. We'll give it a bit more thought, and ask around some of our clients.

**CHAIR:** I think it would be useful; we'd appreciate that. The other thing was in relation to data policy coordination. As you identify, there are many different agencies doing many different things. Is there a good model you think we should import from another jurisdiction, as Senator Scarr canvassed in his question? What is the best model? If you don't know, feel free to take it on notice. It may be a good one to take back and float with the partners. I'm happy to have more people's views.

**Ms Whale:** There's obviously something that's generated over time. The multiple entities and new entities being brought out to try to do specific things have resulted in 'many cooks' in the way data policy is handled. But I don't think we have an immediate point of reference for international experience to reflect on that.

**CHAIR:** We'd be grateful for any thoughts. Finally, just on your idea on this data sharing and release, effectively this is what we've tried to do with the introduction of the CDR regime. Do you have any advice for us on how we should be running that?

**Ms Whale:** In terms of the CDR regime, or the data sharing and release arrangements?

**CHAIR:** More around the open banking and the CDR.

**Ms Whale:** We've had quite a few queries from clients, and we've been working with a number of them in relation to some of the uncertainties that will remain in relation to the ecosystem and particularly the role that data aggregators might play as intermediaries—

**CHAIR:** For example?

**Ms Whale:** People who do, effectively, screen scraping and who compile large quantities of data and that have, as their customers, a number of people who are fintechs and would be data recipients under the current regime.

**CHAIR:** For example, illion put a submission to this inquiry. Have you seen that?

**Ms Whale:** No, I haven't.

**CHAIR:** That is formerly Dun & Bradstreet. They said that they thought there should be a separate licence regime or a separate part of the system for organisations like that. Is that what you mean?

**Ms Whale:** Yes—

**CHAIR:** Okay. Good.

**Ms Whale:** It's a similar issue. I think, looking at the experience that's overseas in the UK and the US, there have been similar issues. Part of the role that these entities can play is in terms of reducing the onus on fintech companies to achieve the same level as accreditation as the full level accreditation under the CDR regime. I think there have been some discussions that we've been having with clients and with the regulator about the role that intermediaries might play, and whether that can be considered. There is a consultation that has been put out by the ACCC specifically in relation to that issue. That's one that we are interested to see develop.

**Mr Lawrence:** It's really a question of where the regulatory burden appropriately sits. I think there is a sense in which the complexity of the CDR regime being proposed around fintech—there's a question mark as to whether some of that burden would appropriately sit on, for example, intermediaries to take the lion's share of that load in terms of dealing with that data and making sure the ecosystem is appropriately protected, effectively allowing for participants to be prepared. That naturally comes with a requirement to obtain full accreditation.

**Mr Fuggle:** Coming back to the very first question about a plethora of regulators and how you can get better bang for your buck out of those, and the idea of having someone coordinating it as a concierge type service: the other thing that has played on my mind is the KPIs of the regulators. What I mean by 'KPI' is the things that affect the individuals sitting in those regulators; they get paid somehow or other. They probably get paid by reference to how the KPIs for the organisation play out. I don't think the regulators have a KPI regime that is tweaked to encourage them to promote things like fintech. I feel like their KPI regimes are arguably a bit too conservative.

They're probably tweaked to be conservative to avoid anything going wrong, basically saying, 'Just hunker down and make yourself a small target.'

**CHAIR:** It's funny you say that, because it's been a consistent theme of today's hearing.

**Senator SCARR:** So a manifestation of that, for example, could be in relation to the comment you made earlier about Australian regulators sitting back and waiting for an overseas regulator to do something. If we sit and watch and say, 'How did that go?' 'That went ok, so now we will move and copy what the overseas regulator did because no-one can criticise us for that,' is that an example?

**Mr Fuggle:** That's it. You know the old saying: 'No-one ever got fired for buying IBM.'

**Senator SCARR:** Not even in Queensland, where there was absolute disaster!

**CHAIR:** Thank you very much for your appearance today. On behalf of the committee, I'd like to thank all witnesses who have appeared. The committee asks that any answers to questions on notice be returned by 6 March.

**Committee adjourned at 17:28**