

# GENERAL PURPOSE STANDING COMMITTEE NO. 5

Monday 12 August 2013

Examination of proposed expenditure for the portfolio area

## FAIR TRADING

The Committee met at 12.15 p.m.

### MEMBERS

The Hon. R. L. Brown (Chair)

The Hon. R. H. Colless  
The Hon. A. R. Fazio  
Dr J. Kaye

Mr S. MacDonald  
The Hon. Dr P. R. Phelps  
The Hon. W.W. Secord

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### PRESENT

**The Hon. Anthony Roberts**, *Minister for Fair Trading*

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**CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

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

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

**CHAIR:** I declare the hearing into the inquiry into the budget estimates 2013-2014 open to the public. Before I commence I would like to acknowledge the Gadigal clan of the Eora nation who are the traditional custodians of this land. I also pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginal persons present. I welcome Minister Roberts and accompanying officials to this hearing. The Committee will examine the proposed expenditure of the portfolio of Fair Trading. In accordance with the Legislative Council's *Guidelines for the Broadcast of Proceedings*, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, you must take responsibility for what you publish or the interpretation you place on anything that is said before the Committee. The guidelines are available at the table by the door.

Today's hearing is open to the public and is being webcast live via the Parliament's website. Before we commence I will make some comments about procedural matters. Any messages from advisers or the members' staff seated in the public gallery should be delivered through the Chamber support staff or the Committee clerks. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. The transcript of this hearing will be available on the Parliament's website from tomorrow morning. The House has resolved that answers to questions on notice must be provided within 21 days. I remind everyone to turn off their mobile phones. All witnesses from the department, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a Member of Parliament.

**RODNEY STOWE**, Commissioner, NSW Fair Trading,

**ROBERT VELLAR**, Assistant Commissioner, Policy and Strategy, NSW Fair Trading, and

**BJORN BORG**, Manager, Finance and Accounting, NSW Fair Trading sworn and examined:

**CHAIR:** I declare the proposed expenditure for the portfolio of Fair Trading open for examination. The Committee has agreed that no Government questions will be taken; therefore, the hearing will finish approximately one-third earlier. There is no provision for a Minister to make an opening statement before the Committee commences questions, so we will begin with questions from the Opposition.

**The Hon. AMANDA FAZIO:** Minister, I want to raise a very serious issue with you, one which has been drawn to my attention by people who live in the inner western suburbs of Sydney. In fact, I received a flyer from this person in my letterbox. I hand you a copy of that flyer. I want to know what your response is. It appears to be a flyer from some sort of witchdoctor who claims to be an internationally renowned spiritual healer. The flyer reads:

... international renowned spiritual healer and clairvoyant with the spiritual powers of my ancestral spirits. I can help you bring back your loved ones and banish family problems, depression, substance abuse, impotency and infertility. I can also jinx demonic forces and bring you success in business, exams and job interviews.

It is quite obvious that this person cannot do these things. This appears to be a blatant example of false advertising and misleading consumers. I have also been advised that advertisements for similar people are appearing in the classified sections of local newspapers, including the *Wentworth Courier*. I believe there is the potential for consumers, particularly vulnerable people—namely, people who have recently had bereavement in the family, newly-arrived migrants and others—to be scammed and conned by people like this. What are you doing to stop these so-called witchdoctors from exploiting vulnerable people in the community?

**Mr ANTHONY ROBERTS:** I thank the Hon. Amanda Fazio for bringing this matter to our attention today. One of the great things that Fair Trading does within the marketplace is not just ensuring that the marketplace is open and transparent; we are also spending a great deal of effort, time and resources in pursuing people who prey on our most vulnerable. As the honourable member has stated, in this case, particularly where you have a local population with an ethnicity that may be open to this exploitation—for example, to claim that they could bring back your loved ones and banish family problems is something that one does not joke about. This is something that people particularly at their most vulnerable fall for. We are finding more and more issues and more and more cases of sophisticated scams occurring. We are incredibly active in this area. Through the Chair, can I ask Assistant Commissioner Vellar, formerly of the NSW Police Force, who until recently has restructured our compliance and enforcement, to outline exactly what we are doing here and what we have done in a similar case?

**CHAIR:** Yes.

**Mr VELLAR:** From a compliance and enforcement perspective there has been one case recently brought to us by consumers and some media in respect of a fellow who was claiming to be able to heal cancer victims of their illness. That matter was investigated by our compliance team and that particular fellow, who was a pastor although his name escapes me for the moment, was placed before the Local Court for breaches under the Australian consumer law for being false and misleading in his advertisement and in his dealings with his customers. I can also tell you that late last year NSW Fair Trading commissioned a report to assist small business and that included those businesses that run, for example, clairvoyants. The recommendation from that paper, which was advertised quite widely, was that those businesses should refer to Fair Trading agencies, consumer agencies on their websites.

One matter was brought to my attention late last week that caused us to look at the clairvoyants association. Indeed, when we looked up the clairvoyants association they had in fact complied with our recommendation from our study late last year and our recommendations. Each one of the consumer agencies was on the website. It was quite heartening to see that industry had taken up a recommendation that they advise consumers if there is an issue with any of their members that they go to a consumer agency. But we have certainly been active in this area where claims are made, particularly in this case where claims were made to heal cancer, to put those people before the courts.

**Mr ANTHONY ROBERTS:** That individual is being dealt with by the full force of the law following the substantiation notice. The honourable member has done the correct thing here. We appeal to people always to bring these matters before us because—the honourable member is in no way what I would consider to be a vulnerable person—there are many people out there in our community who would find this attractive. These people run very sophisticated operations. I think the penalty for not being able to substantiate is—Commissioner?

**Mr STOWE:** I do not have the exact figure with me but it is a substantial penalty.

**Mr ANTHONY ROBERTS:** It is some hundreds of thousands of dollars. But we will pursue the matter, thank you.

**The Hon. WALT SECORD:** Minister, I am on the public record as praising your tough stand in December 2012 against the Australian Vaccination Network. At the time I thought it was a principled stand and in the Parliament I praised you for that. On 15 December 2012 you issued a media statement saying that the Australian Vaccination Network [AVN] must change its name on the grounds that it was "misleading the public". The AVN is on the record as describing vaccination as "chemical rape".

Section 11 (3) (b) of the Associations Incorporation Act 2009 specifies that they be given a date by which an application for registration of a change of name must be made. That date is to be no less than two months after the date on which a direction is given. You gave them until 21 February 2013 to comply. But, without any fanfare, on your website you have now extended that to 21 March. You have given them an extension. It is now nine months since you came out and said you were going to tackle the Australian Vaccination Network. They are still using the name. They are still misleading the community. You and the O'Farrell Government made a big song and dance about cracking down on the Australian Vaccination Network yet nine months later they are still out there misleading the community. Why are you giving them special treatment? Why do you keep giving them extensions on the use of their current name?

**Mr ANTHONY ROBERTS:** I appreciate your question. Fair Trading has played an active role in pursuing this organisation and demanding that they be truthful in not only their name but also what they espouse. Representations were made requesting that AVN be directed to change its name based on claims that that name was unacceptable. I appreciate the fact that this has been supported by both sides of the House, and I certainly appreciate your comments and the leadership that you have shown in this area. As you stated, in December 2012 a direction to change the name of the association was issued by Fair Trading on the basis that the name was undesirable.

On 21 December 2012 the Associations Incorporation Amendment (Unacceptable Names) Regulation 2012 commenced. That expanded our classifications—so it expanded our classifications in order to tackle this—with respect to unacceptable names to include a name that was likely to mislead the public in relation to the nature, objects or functions of an association. Following this amendment, Fair Trading reissued the direction to change the name of the association on 14 January this year based on both its undesirability and that it was likely to mislead the public. So it was likely to mislead the public in relation to the nature, object and functions of the association.

**The Hon. WALT SECORD:** What were some of the names that they tried to change to?

**Mr ANTHONY ROBERTS:** I will come to that. On 8 February 2013 the association sought an internal review, which is their right, of our decision. That internal review was completed on 19 February. The association put forward some alternative names on 8 March. We responded to the association on 12 March. I was not aware of the names that came to us—

**The Hon. WALT SECORD:** But you have given them two extensions now, as I understand it.

**Mr ANTHONY ROBERTS:** I will come to that. It is not the role of Fair Trading to suggest alternative names to this organisation. I have made it very clear, as I think you and most other people in this House have, that AVN would be a very good acronym for the name "Anti Vaccination Network". That would be a good place for them to start.

**Mr STOWE:** They did make some suggestions. However we did not comment on those. We submitted to them that they had a particular period to provide the information that we required relating to the change. So

we did not make any commentary around those names but rather insisted that they respond within the time frame. As I am sure you will be pointing out, at the eleventh hour we had a request through the Administrative Appeals Tribunal [AAT] that the matter be reviewed. As a consequence of that, the matter has been before that tribunal for some time. I think the Minister can probably update us on that.

**The Hon. WALT SECORD:** Commissioner Stowe, can the Australian Vaccination Network in fact game the system and just keep lodging appeals and lodging new names?

**Mr STOWE:** No, because the matter is now before the Administrative Decisions Tribunal [ADT]. A decision will be made by the ADT—whether it upholds our view that the name has to change or otherwise. Once that is concluded we will know one way or the other which way the matter has proceeded.

**The Hon. WALT SECORD:** Minister, if they game the system and continue to use the loopholes they have found what will you do?

**Mr ANTHONY ROBERTS:** I am as frustrated as you are.

**The Hon. WALT SECORD:** Because this is a nasty organisation.

**Mr ANTHONY ROBERTS:** They are. This organisation puts very young children, old people and the whole community at risk. That is why it has been great to see a whole-of-parliament approach on this issue. Assistant Commissioner Vellar has been dealing with this frustration around the change of name. I think they were given an extension of 21 days.

**Mr VELLAR:** Yes, that is true. The extension referred to was given to them—

**The Hon. WALT SECORD:** There were two extensions.

**Mr VELLAR:** Their business premises are up on the North Coast and the premises were allegedly affected by the storms which hit up there around that period. They wrote to us to say that they had sustained significant damage to their premises and requested additional time, given the natural disaster that had occurred up there. We gave them that additional time. We thought that was fair and reasonable.

**The Hon. WALT SECORD:** Do you think nine months is an acceptable time frame?

**Mr VELLAR:** They were not given nine months.

**The Hon. WALT SECORD:** It has been nine months since the Minister announced that he was going to close them down.

**Mr VELLAR:** They are currently before the tribunal.

**Mr ANTHONY ROBERTS:** We have been incredibly proactive, as much as we can be. You might describe it as gaming the system but we have been quite clear. They must change their name; they are misleading people. We are waiting on the decision by the Administrative Decisions Tribunal [ADT] but on 22 March Judge O'Connor—and this has been a win for consumers—placed conditions on the Australian Vaccination Network [AVN]. Those conditions included that a prominent consumer warning be published on the association's website and Facebook page.

**The Hon. WALT SECORD:** Can I interrupt and draw your attention to the disclaimer. It is in four-point font. You would need a microscope to see it.

**Mr ANTHONY ROBERTS:** It is frustrating.

**The Hon. WALT SECORD:** They are mocking you.

**Mr ANTHONY ROBERTS:** I have the disclaimer here before me and that is right, it is not the clearest.

**The Hon. WALT SECORD:** It is in four-point font. You would need a microscope to see it.

**Mr ANTHONY ROBERTS:** We have certainly taken a whole-of-government approach to this with the Department of Health and Fair Trading in New South Wales. I have written to every other State Minister to warn them.

**The Hon. WALT SECORD:** Minister, I believe that you want to do the right thing, but they are gaming the system. They are mocking you. It has been nine months and they have put up a disclaimer in four-point font on their website.

**Mr ANTHONY ROBERTS:** I understand your frustration. I can tell you that I am incredibly frustrated and the medical profession is incredibly frustrated. We have been able to act as a Parliament because we have had people such as you and other people from both sides of politics saying that this is an important community issue. This has escalated from a group of strange individuals causing a large amount of damage on the North Coast to having a large amount of support from both sides of government federally. We have now had pressure put on the Chiropractors Association to come clean and say that some of their members are providing information that is incorrect. I think it is sending a very clear message.

As a State and a Commonwealth we are leading the way now. This problem is not just in New South Wales or Australia. They have had issues in New Zealand. They have got issues in the United States. Look at their claim that they have this American-style freedom of speech. There are people on these websites that talk about the royal family being a class of alien lizards. There are contrail conspiracy theorists. The bottom line is that vaccinations save lives and they will continue to save lives. By continuing to exist and sprouting their misinformation the AVN and its members will continue to put lives at risk.

**The Hon. WALT SECORD:** Commissioner Stowe, when will the ADT final decision be made?

**Mr STOWE:** We are waiting for that to be handed down. The matter has been heard.

**The Hon. WALT SECORD:** Minister, are you aware that anti-fluoride campaigners are engaging in activity similar to the Australian Vaccination Network on the North Coast?

**Mr ANTHONY ROBERTS:** I am aware that the AVN is almost a consortium or a mixture or, dare I say, a collective of people with interesting ideas on issues in life. As I said, many of them believe that contrails are our governments poisoning the water supply and so forth. Your saying that the anti-fluoride movement is heavily involved in this organisation does not surprise me. There are some people out there who will continue to push myths and falsehoods and cause great risk to the general public. But thank you for letting me know that.

**The Hon. AMANDA FAZIO:** Minister, can you give an assurance that your anti-scalping legislation will not disadvantage consumers who legitimately want to resell their tickets? They might buy tickets to an event and their family circumstances change or somebody needs to go into hospital for an operation and they want to sell those tickets. Given the price of tickets, it is not unreasonable for consumers to want to do that.

**Mr ANTHONY ROBERTS:** Like everyone here today, we all understand the pressures on family budgets. As representatives of the people of New South Wales, we are keen to keep downward pressure on those increasing costs of living. Former Minister for Fair Trading Virginia Judd said in a media release on 30 June 2010:

People expect and deserve fair access to tickets for popular events at the stated ticket price.

Scalpers can restrict supply and unfairly inflate prices, sometimes by hundreds of dollars, and their activities hurt legitimate businesses as well as individuals.

**The Hon. WALT SECORD:** But most people selling tickets on Gumtree are actually distressed sellers. I know someone who got Elton John tickets because there was a death in the family. Most people who onsell tickets are distressed sellers and not scalpers. In fact, scalpers make up a very small chunk of the market.

**Mr ANTHONY ROBERTS:** With respect to that, yes, there may be many distressed sellers, but we are seeing an increase in professional sellers. You just have to go onto any site to try to purchase tickets. They are sold out almost immediately and then you see them being sold elsewhere in great numbers.

**The Hon. WALT SECORD:** I have seen materials that about 93 per cent of tickets are allocated before they go on sale. The Justin Bieber concert was sold out in 15 minutes.

**Mr ANTHONY ROBERTS:** Did you get a ticket?

**The Hon. WALT SECORD:** No, I missed out.

**The Hon. AMANDA FAZIO:** Did you get a ticket?

**Mr ANTHONY ROBERTS:** No, I would have to go into the secondary market and I do not support it.

**The Hon. WALT SECORD:** The fact is that there is a very limited supply of tickets. It is not scalping. You seem to be targeting something that is going to affect distressed sellers who have family commitments or personal crises and are trying to sell their tickets. I think your legislation will have an unintended consequence.

**Mr ANTHONY ROBERTS:** I can understand your concern, but I make it clear that Minister Annesley and I are putting together some—

**The Hon. WALT SECORD:** Is Minister Annesley driving this?

**Mr ANTHONY ROBERTS:** From a sporting code point of view, NSW Fair Trading is certainly leading this piece of reform and consumer protection. Arguably, there is significant detriment at times within the marketplace. I will refer to some of the comments of the supporters. There is great support for these reforms. On one side you have this Government, major sporting organisations and consumers supporting this. The people that are not supporting this seem to be the professional scalpers and certain online auction houses that of course take their 10 per cent off the clip.

Let me make this quite clear: This legislation will drive reforms and changes that will greater protect consumers. Quite often the issue you have with selling on the secondary marketplace is the amount of fraud that occurs. People set aside a certain amount of money each week so they can go and watch their team play in the grand final. Sometimes, because of the organised secondary marketplace and scalping, those tickets are unavailable and so the families go online. They buy tickets at an inflated price to go and see their team play, they get there and find that their tickets are fake. They are not just out of a large amount of money, there also is not that protection placed there.

**Dr JOHN KAYE:** Just on that point, do you have an ideological position opposed to secondary marketplaces in general?

**Mr ANTHONY ROBERTS:** No.

**Dr JOHN KAYE:** Just the particular secondary marketplace for tickets to cultural, sporting, entertainment or other such events?

**Mr ANTHONY ROBERTS:** If I want to sell a motor vehicle—and I have got to say you could probably go on some of these auction sites and find tickets that are worth more than some of the motor vehicles being sold on the sites—there is a certain amount of information that needs to be provided. Wherever fraud occurs there needs to be a level of consumer protection. That is all we are saying, Dr Kaye.

**Dr JOHN KAYE:** Am I correct in saying that the number of consumer complaints that the Office of Fair Trading received in 2012 was about 44,000?

**Mr STOWE:** Total complaints, correct.

**Dr JOHN KAYE:** Of those 44,000, how many related to the onselling or resale of tickets for sporting, cultural, entertainment or other events?

**Mr ANTHONY ROBERTS:** Look, it is funny: I am not sure that some of these are not questions that some of the online sellers have posed, but I will answer them. I would hate to lob The Greens in with professional scalpers and multinational secondary market ticket auctions.



**Dr JOHN KAYE:** Minister, it would be an extraordinary extrapolation for you to say that because I wanted to know.

**Mr ANTHONY ROBERTS:** No, not at all. They are just very similar questions.

**Dr JOHN KAYE:** It would be as extraordinary as my putting you in with some of the sporting codes. Can we just have an answer to the question, rather than a debate about the question?

**Mr ANTHONY ROBERTS:** Yes, certainly. So far in 2013 there have been 128 complaints to this area.

**Dr JOHN KAYE:** No, I am sorry. My question is with respect to 2012.

**Mr ANTHONY ROBERTS:** I am happy to take that on notice.

**Dr JOHN KAYE:** How many complaints have you had in this area in 2013?

**Mr ANTHONY ROBERTS:** One hundred and twenty-eight complaints.

**Dr JOHN KAYE:** And you would have had about 22,000 or 24,000 total complaints so far? Is that correct?

**Mr ANTHONY ROBERTS:** The majority of consumers—

**Mr STOWE:** Close to that.

**Mr ANTHONY ROBERTS:** Close to that.

**Dr JOHN KAYE:** Mr Stowe?

**Mr STOWE:** Fairly close to that, yes.

**Dr JOHN KAYE:** About 24,000 complaints. So, it is less than 0.4 per cent of your total complaint base.

**Mr ANTHONY ROBERTS:** Are you saying we do nothing about it?

**Dr JOHN KAYE:** No. I am just interested in why.

**Mr ANTHONY ROBERTS:** I am wondering where you are going. We do nothing about it then?

**Dr JOHN KAYE:** No, no. Am I correct in saying it is less than 0.4 per cent of your complaint base?

**Mr ANTHONY ROBERTS:** So you say to the mother who lost \$2,000 because she could not get her concert tickets for One Direction because they were fraudulent, that somehow she does not matter?

**The Hon. WALT SECORD:** He did not say that.

**Dr JOHN KAYE:** I did not say that, Minister.

**Mr ANTHONY ROBERTS:** That is what you are saying,

**Dr JOHN KAYE:** It would be an extraordinary proposition to put that into my mouth. I am just trying to work out why this Government has put so much energy into this particular issue. You could equally say that of the remaining 99.8 per cent of complaints, we could pick out individual cases in those where there was an equal amount of injustice being performed. It is just interesting that this Government suddenly has put a massive amount of effort into an area where you are actually getting a relatively small number of complaints.

**Mr ANTHONY ROBERTS:** I have just been passed a note that in fact there were fewer complaints about ABN or synthetic drugs or superstitions or sceptics.

**Dr JOHN KAYE:** What was that—super?

**Mr ANTHONY ROBERTS:** No, no; what I am saying is that we do not go anymore on the number of complaints, necessarily. We look at the detriment in the marketplace and what we try to do now is think a bit ahead of the game to ensure that consumers are protected, they are safe, and that the marketplace is transparent and open. For us, the important thing with these 128 complaints, I make it quite clear, is that the majority of consumers who are affected by ticket scalping do not contact Fair Trading, particularly for sports. They tend to contact the sporting code or the event provider. That means our Fair Trading data, I would suggest, does not necessarily reflect the detriment in the marketplace.

But we know that the issue exists. In fact, former Minister Judge knew this existed on 30 June. What we have tried to do is move in a way forward, Dr Kaye, to enable consumers to be protected while at the same time acknowledging that a secondary market will exist. But that secondary market should not be abused by people who effectively are trying to game, as some would say, the system.

**Dr JOHN KAYE:** Minister, let me go somewhere else for a minute.

**Mr ANTHONY ROBERTS:** That is all right. You take me wherever you want.

**Dr JOHN KAYE:** I will take you down to a tattoo parlour, Minister.

**Mr ANTHONY ROBERTS:** Oh.

**Dr JOHN KAYE:** Let us talk about tattooing and body art. Minister, I am aware and I think you are aware as well that we passed legislation which put the Office of Fair Trading in charge of licensing tattoo parlours. That legislation came into action in February 2013. As I understand it—correct me if I am wrong—all tattoo parlours in New South Wales have to be licensed under Fair Trading by 1 October 2013; otherwise, they are committing an offence. Is that correct?

**Mr ANTHONY ROBERTS:** That is correct.

**Dr JOHN KAYE:** Minister, can you tell me, as of 8 August, how many tattoo parlours had actually obtained licences?

**Mr ANTHONY ROBERTS:** As of 9 August?

**Dr JOHN KAYE:** My date is 8 August, but whatever data you have there, Minister, is fine.

**Mr ANTHONY ROBERTS:** As at 9 August, 23 tattooist licences and three operator licences had been issued.

**Dr JOHN KAYE:** To be clear, the tattooist licences relate to the individual tattooist, but there are three parlour operators who are currently licensed. How many applications have you received for operator licences?

**Mr ANTHONY ROBERTS:** One hundred and thirty-three, from memory.

**Dr JOHN KAYE:** One hundred and thirty-three applications and only three have been granted so far.

**Mr ANTHONY ROBERTS:** That is what the figures suggest, yes.

**Dr JOHN KAYE:** We are now in August. Are you concerned that we are going to end up in a situation in New South Wales where most of the tattoo parlours have to go out of operation?

**Mr ANTHONY ROBERTS:** Look, that is probably an issue where we are not working through the licences. The police are working through the licences. Is that correct?

**Mr VELLAR:** That is correct. We cannot issue a licence unless we have the express authority from the police after they have done their background checks, be it an operator or an artist. So long as the applicants have lodged their application by 1 October then they will not be prosecuted for operating without one.

**Dr JOHN KAYE:** Let me get that clear: If I am an operator of a tattoo parlour, all I have to do is lodge a licence application by 1 October.

**Mr VELLAR:** You will not be prosecuted, if you do that, post that date.

**Dr JOHN KAYE:** Ever?

**Mr VELLAR:** No.

**Dr JOHN KAYE:** Until the licence application is rejected.

**Mr VELLAR:** Until it is dealt with and, if so, rejected.

**Dr JOHN KAYE:** Thank you for that. You are saying that the hold-up for those 130 that have lodged but have not yet been granted a licence is with the police.

**Mr VELLAR:** The police have to deal with the applications. I am not sure whether I would describe it as a hold-up yet. They have until 1 October.

**Dr JOHN KAYE:** None of those licences is sitting with Fair Trading. They have all been passed to the police?

**Mr VELLAR:** When the applications come in, they are referred to the NSW Police. That is correct, yes.

**Dr JOHN KAYE:** Then you wait and you get something back from the NSW Police.

**Mr VELLAR:** That is correct.

**Dr JOHN KAYE:** In the case of those three that have been accepted, you get back a tick from the NSW Police and you issue the licence.

**Mr VELLAR:** That is correct.

**Dr JOHN KAYE:** Do you do any further processing of the licence or the application?

**Mr VELLAR:** No, we do not. It is on the authority of the police.

**Dr JOHN KAYE:** So you are just a shopfront for the police in this particular instance.

**Mr VELLAR:** We accept the applications and then issue the licence.

**Dr JOHN KAYE:** You accept the application, you send it to the police, the police say yea or nay, and if they say yea, you issue the licence. You do not do any further checking or have any further role in the matter.

**Mr VELLAR:** I think there is an inquiry as to whether or not they have ever been disqualified from holding a licence under Commissioner Stowe or under the Director General of Finance and Services. One of the exclusions from getting a licence is that you have not been disqualified under any other Act that we administer.

**Dr JOHN KAYE:** It appears, reasonably, that we are going to hit the crunch at some stage. Minister, you would be aware of recent public information about the starter tattoo kits, the tattoo kits for do-it-yourself tattooing, and you would be aware of the suggestion that not only are there a number of inappropriate tattoos that people come to regret—the nature of a tattoo being somewhat permanent—and then pay a large amount of money to get removed—

**The Hon. Dr PETER PHELPS:** Speaking from experience?

**Dr JOHN KAYE:** No, actually.

**The Hon. Dr PETER PHELPS:** A big heart with Lee on it.

**CHAIR:** Order!

**Dr JOHN KAYE:** You would be aware also of the concerns about the spread of blood-borne viruses. Are you taking any steps to address the issue of do-it-yourself tattoo kits?

**Mr ANTHONY ROBERTS:** Can I say that apart from fighting organised crime in licensing tattooists and tattoo parlours particularly, one of the benefits, having recently visited tattoo artists in the member for Charlestown's electorate, is they are welcoming this.

**Dr JOHN KAYE:** He would like an "I Like Barry" tattoo, I think.

**Mr ANTHONY ROBERTS:** They welcome this and they welcome these changes because they are professionals.

**The Hon. Dr PETER PHELPS:** They are legit.

**Mr ANTHONY ROBERTS:** They are legit and these are incredibly talented people.

**Dr JOHN KAYE:** Where is this, Minister?

**The Hon. Dr PETER PHELPS:** Charlestown, up near Newcastle.

**Mr ANTHONY ROBERTS:** In Cardiff. I can give you the address because I went there and I visited them.

**Dr JOHN KAYE:** Are they one of the three operators who currently hold a license?

**Mr ANTHONY ROBERTS:** I would say that they would have their application in.

**Dr JOHN KAYE:** They are one of the 130?

**Mr ANTHONY ROBERTS:** They were keen to see this licensing come in and they raised the same issue you did. That is that for far too long we have had, not even body artists, but these backyard people who have got themselves a gun on the Internet. One does not even need to go that heavy—one can do it with a pin and a bit of ink. And I have to say, these individuals spend a great deal of time fixing up, as you said, permanent pieces of semi-art on their body. We are working closely with Health, and Health is playing a major role in this because the use of non-professionals to apply body art brings with it the risk of blood-borne diseases. In this case, as the gentleman who ran this body art shop said to me, "You can have a bad tattoo from a backyard person removed, but it is a bit harder to remove something permanent—a blood-borne disease.

**Dr JOHN KAYE:** Minister, if one goes to Gumtree—I know that we have had a discussion about Gumtree before—if you go to Gumtree and look for tattoo kits in the Sydney region, they can be purchased for as low as \$90. There is a suggestion that one can buy them for \$15, although I was not able to find one for \$15. There is a suggestion one can buy kits for \$90. Are you taking any steps to regulate the sale of do-it-yourself tattoo kits?

**Mr ANTHONY ROBERTS:** The position of Fair Trading in this area is involved with the licensing of tattoo parlours and operators. With respect to these kits that can be purchased on line, that is probably something better directed, at this stage, to the Minister for Health. However, I am happy to look into that, to see what powers we may have.

**Dr JOHN KAYE:** Thank you for doing that, I appreciate that undertaking and I would like to hear where that goes to. But are you not concerned that we will soon end up in a situation where people wishing to get a tattoo will find it extremely difficult to do so and will resort to do-it-yourself tattooing? The processing system means that 130 of the 133 applicants have not yet got their licenses. Presumably some of them have been waiting for some time and presumably the checks will stop them getting their licenses for some time and that may drive an underground market.

**Mr ANTHONY ROBERTS:** Anyone who applies a tattoo for gain—be it a bottle of bundy rum or \$500—who is a backyard operator, faces fines if they are not licensed.

**Dr JOHN KAYE:** But not for selling the equipment to do it to yourself or to do it to your mates? That is a real problem here. It is still legal in New South Wales to sell the equipment to do it to yourself or to do it to your mates.

**Mr ANTHONY ROBERTS:** I am open to suggestions but if I have a license and I am purchasing these products, where are they from?

**Dr JOHN KAYE:** As I said, one can get them on Gumtree.

**Mr ANTHONY ROBERTS:** Are they from an Australian company?

**Dr JOHN KAYE:** I have no idea. It is on Gumtree.

**Mr ANTHONY ROBERTS:** That is half the problem—there is not enough information there when it comes to purchasing them.

**Dr JOHN KAYE:** The point is that people can purchase these do-it-yourself kits and people will do so. The licensing regime is very slow. We may well hit a crisis point where there are few tattoo parlours licensed and, whether you approve of it or not, there is a massive market for tattoos. I would like to know how you are going to stop that market for tattoos being satisfied by people doing it to themselves?

**Mr ANTHONY ROBERTS:** I suppose I need to make this clearer, through the Chair, to Dr John Kaye. Dr Kaye seems to be worried that, through this licensing, there is suddenly going to be a huge reduction of supply of tattoos in New South Wales, which would cause a huge market failure to the extent that everyone would turn to their local backyard operators. I assure you again, as we stated, as long as people have their license application in on time, they can still operate.

**Dr JOHN KAYE:** My concern is not backyard operators, which is bad and they are worthy of concern. My far greater concern is people doing it to themselves and their friends, and becoming the equivalent of a needle-sharing episode.

**The Hon. Dr PETER PHELPS:** But that has happened for years.

**Dr JOHN KAYE:** The point is, the licensing regime may reduce the number of tattoo parlours available and hence the underlying demand to be met by self-tattooing.

**Mr ANTHONY ROBERTS:** This very much came about through fire bombings and shootings where there was an increased role of organised crime throughout this industry. This is about ensuring, from a Fair Trading and policing perspective, that the industry is free to operate transparently, openly and honestly, as well as providing levels of protection. One of the great things that will come out of this licensing is that those professional body artists will have a trade, a profession. When one speaks to some of them, it is something that they can go to a bank with and say, "This is the business I want to set up; I have a skill." They will have a license, whereas before they were not able to show that.

**Dr JOHN KAYE:** I am surprised by you saying that, Minister, because a minute ago Mr Vellar told me that Fair Trading was not much more than a shopfront—it was done by the Police. Are you saying there is a skills test associated with tattoo licenses?

**Mr ANTHONY ROBERTS:** No. I do not know whether you are keen to take up a role in this area yourself at a later stage, but you can get a license and if you are no good, I can tell you, you will not last long. However, if you are a good person in the industry and you are licensed, that goes a long way—

**Dr JOHN KAYE:** But you just contradicted your previous statement where you said that having a license made it bankable. Can I ask you another question? You said that you went to a tattoo parlour in Cardiff. Can you tell me which one and the address?

**Mr ANTHONY ROBERTS:** Impact Tattoos—I can supply you with the address and the names of the people. It was in the local newspaper up there. Dr Kaye, if you are ever thinking of getting a tattoo I thoroughly recommend that you visit these people because they are professionals and they are very good. Otherwise, you can buy a kit on Gumtree, but I do not recommend that anyone should use a product that they have purchased on Gumtree, to do it to themselves or to someone else.

**Dr JOHN KAYE:** Can I change the topic and go to the review of strata and community schemes law—the review of the laws around strata titles? Can you give me a brief update on that? Many of us, me included, have made submissions.

**Mr ANTHONY ROBERTS:** Thank you for that. I am trying to assist you. You wanted where we are up to?

**Dr JOHN KAYE:** Yes.

**Mr ANTHONY ROBERTS:** Your submissions—a number of them—were part of 1,900 written submissions and more than 1,200 on-line survey responses. Those submissions came from a broad cross-section of stakeholders, including owners, managing agents, tenants and developers. Submissions expressed strong support for maintaining many of the basic principles of the current framework, in particular the democratic self-management of schemes by their owners. The main theme that came through in the submissions was the call for changes to make it easier for owners to run their schemes and resolve disputes. We will be releasing, in the coming weeks, a position paper that will set out the Government's package of reforms in this area and we hope that the new strata and community laws will be commenced in mid 2014.

**The Hon. AMANDA FAZIO:** I want to go back to the issue of ticketing. You talked about statements made by the former Minister, Virginia Judge, in 2010. Also in 2010, the Commonwealth Consumer Affairs Advisory Council reviewed ticket on-selling and its impact on consumers. Its research showed that most on-selling is being done by legitimate fans offloading tickets that are no longer wanted who are not doing it as a business. As a result, that council recommended to the Federal Treasury that there is no need to bring in laws to regulate the on-selling market, as they felt the current laws were adequate. What has changed since then in New South Wales, apart from pressure being applied from the Minister, Mr Graham Annesley, and large sporting organisations?

**Mr ANTHONY ROBERTS:** The brief that was based upon a report released in 2010 I must say was not unanimously supported across the industry, by me or this Government. Commissioner Stowe played a role in that. I will ask Commissioner Stowe to outline what he saw as flaws in that report.

**Mr STOWE:** The report was to the ministerial council initiated by the Commonwealth Minister for the consumer affairs area. He was the Assistant Treasurer at the time. It took into account some information that NSW Fair Trading had been able to elicit. We actually ran, as directed by Minister Virginia Judge, an online survey, which listed some 300 responses from people who were concerned about ticket scalping. As the Minister says, it was not unanimously approved by the ministerial council, which subsequently was provided with a copy of the report by the Commonwealth Minister. As I say, a significant amount of research was done in New South Wales, which indicated that this was a live and present concern for consumers in this State.

**The Hon. WALT SECORD:** *Choice* magazine says that surcharges on tickets are a bigger issue than what you are concentrating on. *Choice* gives the example of the Elton John concert last November. Tickets cost \$119.90 with a \$2.64 credit card fee, a \$9.50 handling fee plus a charge also for printing the ticket at home, and also, a transaction fee is incurred for parking on site. What are you doing about transparency for all these hidden fees?

**Mr ANTHONY ROBERTS:** I share every consumer's frustration with hidden surcharges when purchasing a ticket.

**The Hon. WALT SECORD:** *Choice* says you should be concentrating on this.

**Mr ANTHONY ROBERTS:** I will refer to what *Choice* said only this morning. Those surcharge matters are for the Commonwealth. We in New South Wales actively push and continue to drive and offer our assistance where we can for the Commonwealth to make sure that what we all would consider to be

unreasonable surcharges are dealt with. Another possible unreasonable surcharge would be the 10-odd per cent secondary market charges on every ticket sale.

**The Hon. WALT SECORD:** Minister, you may have misunderstood my question. What do you think should be done or what are you doing about this?

**Mr ANTHONY ROBERTS:** We are actively working and will continue to work with the Commonwealth. We can only do so much with what we have in New South Wales. I plead: If anyone from the Commonwealth reads or is watching this, as a nation we need to become more active. *Choice* contacted us this morning on this issue saying:

*CHOICE* has appreciated the opportunity to be involved in the NSW Government's consultations on ticket scalping because we believe it is a problem that impacts NSW consumers.

We support the principle of reducing the scalping that sees some consumers charged exorbitant prices for access to premium events.

Again, we can clearly see the winners and losers. You raise that issue and it is a very important issue. With the Lions rugby tour the Australia Rugby Union highlighted a case where a ticket was on sale for \$100. The same ticket was later on sale through an online ticket reseller for more than \$700. In this instance the sporting codes and the event providers do not receive any more than the original \$100. The scalper, quite often professional scalpers—

**The Hon. WALT SECORD:** The question was about surcharges; you are returning to scalping.

**Mr ANTHONY ROBERTS:** This is larger. The scalper gets seven times the original listed price. The ticket reseller received around \$70.

**The Hon. WALT SECORD:** Minister, you misunderstood the question, which was about surcharges.

**Mr ANTHONY ROBERTS:** And fans being ripped off. The fan has to fork out an additional \$600.

**The Hon. WALT SECORD:** If you are not going to answer our questions, we will ask a different question.

**Mr ANTHONY ROBERTS:** That is all right. I am trying to answer them.

**The Hon. AMANDA FAZIO:** I return to the issue of tattoo guns. On 18 July 2013 your department was quoted in an article saying:

The Minister does not intend to change laws related to tattoo guns and online sales.

We have discussed already and asked many questions about the problems surrounding the use of tattoo guns purchased online, including the illegal tattooing of minors and the potential for transmission of blood-borne diseases. Given that you could solve all of those problems by banning tattoo guns being sold online, why will you not introduce such a ban?

**Mr ANTHONY ROBERTS:** I have said to Dr Kaye on that issue that we will go away and consider that. I understand exactly where you are coming from. We will consider that. I know Dr Phelps would want another product banned by Fair Trading.

**The Hon. Dr PETER PHELPS:** I just think if we are going to do that, why do we not ban bongos and that will stop marijuana use in Australia as well.

**Mr ANTHONY ROBERTS:** Put that on the list.

**Dr JOHN KAYE:** Actually, they are banned.

**The Hon. Dr PETER PHELPS:** Really? I can go to any tobacconist in New South Wales and I am pretty sure I can buy either a bong or a pipe.

**The Hon. AMANDA FAZIO:** If you do not mind, I am seeking an answer from the Minister.

**CHAIR:** Order! The Minister should be allowed to complete his answer.

**Mr ANTHONY ROBERTS:** I will tell you what I can do. We will consider this. Under section 109 of the Australian consumer law I can apply an interim ban. If you were to get Minister Bradbury to agree that the Commonwealth apply a permanent ban, I will be more than happy to apply an interim ban short term. If Minister Bradbury comes out, he can apply the ban.

**The Hon. AMANDA FAZIO:** Minister, will you please raise the issue of a ban on the online sale of tattoo guns at your next ministerial council meeting when you meet with your colleagues nationally?

**Mr ANTHONY ROBERTS:** I am more than happy to do that. I understand the importance.

**Dr JOHN KAYE:** I return to the ticket sales issue. Are you planning on introducing legislation?

**Mr ANTHONY ROBERTS:** Yes we are.

**Dr JOHN KAYE:** When will we see that legislation?

**The Hon. Dr PETER PHELPS:** Point of order: Surely that would be a Cabinet matter? It is outside the committee's reference.

**CHAIR:** Order! There is no point of order. The Minister can answer the question or defer it if he wishes.

**The Hon. Dr PETER PHELPS:** Are you sure that it has gone through Cabinet?

**The Hon. AMANDA FAZIO:** You would not know.

**Dr JOHN KAYE:** My recollection—we can check *Hansard*—is that I asked a question of Minister Roberts. If I wanted a comical answer, I would have asked the question of Mr Phelps.

**CHAIR:** Order! The Minister should be allowed to answer the question.

**Mr ANTHONY ROBERTS:** Thank you. The matter is yet to go before Cabinet, but I would hope that we would have some legislation before the House this year.

**Dr JOHN KAYE:** Will your plans for that legislation have active measures within it to not prohibit the genuine resale of a distressed ticket?

**Mr ANTHONY ROBERTS:** Why would we do that?

**Dr JOHN KAYE:** Sorry?

**Mr ANTHONY ROBERTS:** Why would you have that?

**Dr JOHN KAYE:** Why would or would you not?

**Mr ANTHONY ROBERTS:** Yes, why would you?

**Dr JOHN KAYE:** Minister, somehow I must have been at a different budget estimates hearing. I would have thought that the problem we have is that if somebody buys a ticket and then their mother-in-law dies or they get sick, or they decide they do not want to go, or they suddenly decide they do not like Justin Bieber, they have a legitimate reason for wanting to onsell it. Surely we should allow them to onsell that ticket?

**Mr ANTHONY ROBERTS:** This will be good legislation. I am not going to comment—

**Dr JOHN KAYE:** I remain concerned Minister. I would like you to address my concerns regarding people who genuinely find themselves holding a ticket they no longer can use or want. Many of us have been in that situation.



**Mr SCOT MacDONALD:** Point of order: This question has been asked probably five or six times. I think the answer has been very consistent. What point is there in repeatedly asking it?

**CHAIR:** Order! There is no point of order. The Minister should be allowed to answer the question. If the Minister has given his answer, I am sure that will be the end of it.

**Mr ANTHONY ROBERTS:** I will try to be of assistance. Certainly some of the proposals before us will be to enable those organisations, be it Justin Bieber and his management through to the NRL, to have the ability to protect their IP and to have their terms and conditions adhered to on those tickets.

**Dr JOHN KAYE:** Minister, I hope you have understood me. I am referring to someone who has bought a ticket and then genuinely finds they cannot use it and wishes to resell it.

**Mr ANTHONY ROBERTS:** Yes.

**Dr JOHN KAYE:** Will you protect those people?

**Mr ANTHONY ROBERTS:** Yes, of course.

**Dr JOHN KAYE:** Have you given any consideration to a Strata Ombudsman?

**Mr ANTHONY ROBERTS:** Yes.

**Dr JOHN KAYE:** Would you like to take us into your confidence on that consideration?

**Mr ANTHONY ROBERTS:** No. It is a very good idea. It is a very good concept.

**Dr JOHN KAYE:** One issue that is raised with me regularly by constituents who live in a strata title building is their desire to put a solar panel on the roof, but they come up against the company and find it impossible to do so. A resident of a house can put a solar panel on the roof to contribute to a reduction in carbon emissions or because they wish to reduce their electricity bill.

**Mr ANTHONY ROBERTS:** Or cash in on a lucrative government scheme.

**The Hon. AMANDA FAZIO:** Ask Andrew Stoner about that.

**The Hon. WALT SECORD:** Like the Deputy Premier did.

**The Hon. Dr PETER PHELPS:** Does he live in a strata title apartment?

**Mr ANTHONY ROBERTS:** No.

**Dr JOHN KAYE:** Minister, what steps are you taking to resolve this conflict?

**Mr ANTHONY ROBERTS:** Anyone who has lived in a strata building will know that there are always issues, and that will occur more and more as more people move into strata and community title living. It is some 50 per cent by 2030, is it?

**Mr VELLAR:** Yes.

**Mr ANTHONY ROBERTS:** Fifty per cent of people living in Sydney will be in strata and community title. Very much a part of this legislation is to ensure that we have a level of empowerment. As I keep saying, strata is the fourth level of government—Federal, State, local and strata. For us it is that devolution of power. For us it is empowering these new vertical villages to make their own decisions. The issue, I think, with solar panels is that if there are 200 units in a strata block 200 solar panels will not fit on the roof that is owned by the body corporate. Again people have to remember that to live in a strata they own the air space and not the windows and walls. They own that space inside those windows and walls. Again a large amount of the input into our inquiry is how we can empower people to live a little easier with each other to make some of those decisions a little easier.

**Dr JOHN KAYE:** Your answer raises an important question, which is how roof space is allocated. As you put it, it is a vertical village and the amount of roof space per dwelling will be relatively small. Does that mean nobody can use the roof space? Surely there are ways in which the laws can be written to empower people to use the roof space sensibly.

**Mr ANTHONY ROBERTS:** I will not pre-empt anything that is coming before us but we will see, for example, the roof space is common property so it is about empowering the body corporate to say, "As the owners of this property we think we can get a general savings for the vertical village by installing them." Of course, once it is agreed to do that I am not saying that it would go ahead straightaway. I would always recommend people use authorised solar panel installers. You also have to look at local council and ensure that that application meets their criteria.

**Dr JOHN KAYE:** Will you approach townhouse strata separately?

**Mr ANTHONY ROBERTS:** No need. There will always be changes. You might have 12 townhouses and 1,200 units in some areas. Some might be pretty standard 12 strata and across the river at Lane Cove there will be community titles as well as strata titles at Breakfast Point, which becomes a little bit more complex. It is actually creating legislation with the laws. Again it is about empowering these local communities, making sure that the laws, we hope, will be able to be applied well from community to community.

**Dr JOHN KAYE:** I refer to ticket sales. What will you do to protect ticketholders to whom I referred earlier, those consumers who purchased tickets and for whatever reason do not want to use them and want to resell them. What protections will you build into your legislation for those consumers?

**CHAIR:** We are out of time so you might care to take that question on notice.

(The witnesses withdrew)

The Committee proceeded to deliberate.

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