



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT  
VICE PRESIDENT ASBURY  
DEPUTY PRESIDENT O'NEILL  
DEPUTY PRESIDENT SLEVIN  
DEPUTY PRESIDENT GRAYSON**

**AM2024/20**

**s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective**

**AM2024/20**

**s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective**

**Gender undervaluation — priority awards review — Health Professionals and Support Services Award 2020**

**Sydney**

**10.00 AM, WEDNESDAY, 22 OCTOBER 2025**

**Continued from 21/10/2025**

PN1357

JUSTICE HATCHER: And so, Ms Campbell, the next witness is Mr Benedetto?

PN1358

MS CAMPBELL: Yes, Dr Benedetto.

PN1359

JUSTICE HATCHER: Dr Benedetto, I'm sorry, yes.

**<ANTONY BENEDETTO, AFFIRMED [10.05 AM]**

**EXAMINATION-IN-CHIEF BY MS CAMPBELL [10.05 AM]**

PN1360

JUSTICE HATCHER: All right, Ms Campbell.

PN1361

MS CAMPBELL: Thank you, Dr Benedetto?---No problem.

PN1362

Could you please, for the expert panel, state your full name?---Yep. My name is Dr Antony Benedetto.

PN1363

And your address, as well, please?---(Address supplied.)

PN1364

Thank you. Have you given a statement in this proceeding on 5 September?---I have.

PN1365

And have you had a chance to review that statement recently?---I have.

PN1366

Are there any changes to that statement that you need to make?---No.

PN1367

I tender that statement.

PN1368

JUSTICE HATCHER: Yes, so the witness statement of Dr Antony Benedetto, dated 5 September 2025, will be marked exhibit 141. HPSS141, I'm sorry.

**EXHIBIT #HPSS141 WITNESS STATEMENT OF ANTONY BENEDETTO, DATED 05/09/2025**

PN1369

Yes.

\*\*\* ANTONY BENEDETTO

XN MS CAMPBELL

PN1370

MS CAMPBELL: Thank you.

PN1371

JUSTICE HATCHER: Mr Lettau.

PN1372

MR LETTAU: Thank you, your Honour.

**CROSS-EXAMINATION BY MR LETTAU**

**[10.06 AM]**

PN1373

Good morning, Dr Benedetto?---Good morning.

PN1374

I wanted to ask you some questions, first, just about some of the roles you describe in the background section of your statement. You seem like you're quite a busy person. So you're currently studying a master's of business administration at University of Sydney?---That's correct.

PN1375

You're working two days per week as a part time clinical dentist at the National Dental Care, Erina?---Yep.

PN1376

Two days per week? And you also work with National Dental Care on the committees?---Yes.

PN1377

So on the clinical advisory committee - and then you also state, you're a board director, as well?---I am, yes.

PN1378

I will come to those in a minute. So just regarding the National Dental Care, they are, you say, one of the largest providers of dental services in Australia, with over 100 practices nationwide. And I wanted to ask you first about your role in the clinical advisory committee. Could you just explain for the Commission what the functions are of this committee?---Yep. So the clinical advisory committee is made up of lead and senior dentists from around Australia. We meet regularly to discuss things that impact our dentists in our practices, with a real clinical focus: so materials - we assist with complaints. We look at what technology might be suitable for investment for the management team. Just how to make sure National Dental Care is a great place to be a dentist.

PN1379

And you say in your statement that you liaise with the NDC's dentists, oral health care therapists and hygienists. And you also say, there's 700 of those nationally. When you say there's 700 providers nationally, do you mean within the NDC network?---That's right.

\*\*\* ANTONY BENEDETTO

XXN MR LETTAU

PN1380

Yes. And when you mentioned before - and you do also mention in the statement - liaising about clinical matters, what does that include?---So just things that affect the dentist at the chairside, so when they're actually working and seeing patients. So, you know, management has lots to do with running the practices, and - and how they work, but - but none of them are dentists. So whether - when we're looking at those things that actually affect how the dentists work chairside, and see patients, and deliver care to those patients, that's where we - we work with the clinical advisory committee to get that done.

PN1381

And what does the committee do? It provides advice to the providers and - - -?---Yes, so we - we meet a number of times a year, and we connect on email, and if there's a question - there might be a question from the management team about - you know, do we think these products are - are worth introducing to our dentists? We would look at it and say, yeah, we think that's a good product, so that's - - -

PN1382

Yes. You also mentioned complaints. What sorts of complaints do - - -?---So if there's patient complaints, and we need to make a decision on whether we give a patient a refund, or whether something needs redoing, or whether we think that that dentist has breached some kind of regulation within - either within National Dental Care or with AHPRA - we might say, okay, we need to report that, or something like that.

PN1383

Sure. So does it have a degree of, like, an oversight role, as well, in that sense?---A little bit. So essentially, the majority of our dentists are independent practitioners, and we don't - we - clinical autonomy is a big factor with us, and we rely on the fact that they have the appropriate skills and registration with AHPRA to be able to practice. So we don't monitor all their filling margins and check all their X-rays. But at the same time, if there are concerns from a staff member or from another dentist, then, yeah, the clinical advisory committee would potentially look into some of their cases and just make sure that they're achieving the sort of results we expect of a National Dental Care dentist, yeah.

PN1384

And just finally, you mentioned liaising - you would liaise with the providers, and you mentioned emails before?---Yep.

PN1385

What other means do you use to liaise with the providers?---Email is the main one. We have a Facebook group. And, you know, we meet at the - we have a dentists' summit every year, where we bring a lot of the lead and senior clinicians together, and we liaise with them there.

\*\*\* ANTONY BENEDETTO

XXN MR LETTAU

PN1386

And it is mostly reactive, as opposed to proactive: like, you receive something through email, and then you respond to it? Or is it a mixture of - - -?---It's a

mixture, because it might be something where - for example, the ADA has recently released guidelines on superannuation, and that's something that the clinical advisory committee will discuss and decide that we need to share that with all our dentists, and make sure they understand this is the approach that we expect in the clinics.

PN1387

Thank you. Now, just moving on to your role as a board director, I just want to make sure I understand correctly, because I was on the NDC website, and I can see, you're on the clinical advisory committee, but when I click the link for the board of directors, I didn't see you on there. But is that - maybe (indistinct)?---(Indistinct) need to look at that.

PN1388

I was just going to say, is that just because that just hasn't been updated?---Yeah, that - yeah. So - - -

PN1389

Yes?---Yep. I've been a board director since 2019.

PN1390

Okay. Not a company director, obviously, but a board director?---No, company director.

PN1391

A company director?---Yeah.

PN1392

So as a director, part of your role is to provide oversight and governance of NDC?---So my role on the board is to provide clinical input at that board level.

PN1393

So you're - - -?---So - - -

PN1394

You're more focused on clinical issues, as opposed to - - -?---That's right.

PN1395

Well, other issues?---Yep.

PN1396

Yes. Do you get briefings on financial matters, as a board member?---So I - I get the monthly board reports.

PN1397

Yes. Those reports would include information about revenue, expenses, cost categories and - - -?---Yes.

\*\*\* ANTONY BENEDETTO

XXN MR LETTAU

PN1398

Such as wages - and those sorts of things. And do you review those and understand (indistinct)?---To the best of my ability as a dentist, when reviewing difficult financial documents, yes.

PN1399

Yes. If I asked you some questions on some of the information, just tell me if you don't know?---Sure.

PN1400

But if you do know of these - because do you know how many dental assistants NDC employs?---I know that we have over 1,000 support staff, about 1,300 support staff. I don't exactly remember how many of those are assistants, but I would imagine close to half of that.

PN1401

Do you know what rates they get paid?---Not exactly, no.

PN1402

Do you know if they get paid award rates?---A lot of them get paid above award rates. Yes.

PN1403

Do you know how much above award rate they get paid?---No.

PN1404

Do you know what the total employees is at - - -?---Total employees?

PN1405

Within NDC as a whole?---Are you - - -

PN1406

So not just in employed (indistinct), but all employees?---So not - including dentists, or not including dentists?

PN1407

Including dentists, yep?---Over 2,000, I would imagine.

PN1408

Do you know roughly how much the average salary is for a dentist within your network?---I know roughly what they produce in terms of what their average patient fees are per hour.

PN1409

Okay. But you don't have an annual salary?---Well, it depends on how many hours they do. So - - -

PN1410

Do you know what the revenue is at the NDC network?---Approximately, yep.

\*\*\* ANTONY BENEDETTO

XXN MR LETTAU

PN1411

Can you say?---I'm not sure if I can say that, actually.

PN1412

MS CAMPBELL: We'd seek confidentiality over the answer to this question as I believe it's likely to be something that's commercially sensitive.

PN1413

JUSTICE HATCHER: Sorry. My attention was momentarily diluted. What was the answer? What was the subject matter of the answer which raises an issue?

PN1414

MS CAMPBELL: Correct me if I'm wrong, but I believe it was the revenue of National Dental Care. Was that the question? So the witness has indicated he could answer the question, but I understand it's confidential, what he's going to say. So we'd seek confidentiality over the answer.

PN1415

JUSTICE HATCHER: Why is it confidential? That is, I mean, if it's - does this business publish annual reports or - - -

PN1416

MS CAMPBELL: It's not a listed company. I don't believe it publishes its annual reports publicly.

PN1417

JUSTICE HATCHER: All right. Is there any objection, Mr Lettau, to - - -

PN1418

MR LETTAU: No.

PN1419

JUSTICE HATCHER: All right. Well, Ms Campbell, if you can forward a minute of the order that you seek to chambers, I will make the order.

PN1420

MS CAMPBELL: We'll do that. Thank you.

PN1421

MR LETTAU: So total revenue?---It's over 300 million at this - - -

PN1422

Do you know what the wages bill is?---No.

PN1423

Do you know what the profit is?---No.

PN1424

Profit margin?---Yeah. It - it varies, but about 12 per cent, I think, it was last financial year. Assume this is all confidential.

\*\*\* ANTONY BENEDETTO

XXN MR LETTAU

PN1425

JUSTICE HATCHER: Ms Campbell, you'll - I mean, I'm not sure where we're dipping in and out of confidentiality, but - - -

PN1426

MS CAMPBELL: Yes. Perhaps we'll frame it so that the answer to that question can also be included, if that's not objected to.

PN1427

MR LETTAU: Not objected. Yes, no.

PN1428

JUSTICE HATCHER: All right.

PN1429

MR LETTAU: I won't ask any more questions about these figures. So it can probably end there on the confidentiality.

PN1430

JUSTICE HATCHER: All right.

PN1431

MR LETTAU: I just wanted to ask you a few more questions about some of the other topics in your statement. First topic is the preferred providers, that answer you give. So you said in your statement at paragraph 44, 'In my experience, private health insurers do not give much consideration to dental practices increasing costs when setting provider arrangement rebates. There is no guarantee that private health insurers would agree to increase the rebate to account for an increase in employment costs'. And then at paragraph 46, you say, 'Dental practices experience significant cost-based increases and may elect to withdraw from participating in the preferred provider arrangements or voucher schemes'. Would you agree that within the NDC network that access to provider arrangements underpins a lot of the patient demand?---Yes.

PN1432

And as well as that, insurers promote dentist locations within their preferred provider network?---They do.

PN1433

So would you agree that there's strong financial incentives for practices to remain - or for practices to remain within provider arrangements?---There is. It generates volume. So it brings patients in.

PN1434

Yes. Can you just for the record - - -?---Yes.

PN1435

Sorry. It doesn't record nods, unfortunately?---Yeah, sure.

\*\*\* ANTONY BENEDETTO

XXN MR LETTAU

PN1436

Would you agree as well that insurers also depend on maintaining the preferred provider arrangements to an extent?---I don't know that.

PN1437

You can't speak to how, for instance, the proposed minimum wage increases impact insurer decisions around preferred provider arrangements?---No. I don't know how an insurer would respond to increased wages for dental assistants, no.

PN1438

Next question is about the voucher schemes. So you've (indistinct) on that as well. You say at paragraph 45, 'In my experience, state governments rarely consider dental practices' concerns with respect to increasing costs with marginal increases seen often unrelated to increased costs'. Have you recently been involved in negotiations or any form of advocacy with state governments about the voucher schemes and increases to dental practice costs?---No. I'm a member of the ADA, and I know the ADA does that, but I haven't been involved personally, no.

PN1439

Your evidence there is based more on your general impressions?---Experience, yeah. So, essentially, we see that they're lucky if they keep up with inflation, never mind costs.

PN1440

The last question just about price sensitivity evidence, you say at paragraph 47, 'In my experience, patients are generally cost sensitive with that sensitivity correlating with socioeconomic status'. That again, that's based on your experience generally?---Yeah and also studies I've read that Australians delay healthcare due to costs in - specifically dental care due to costs.

PN1441

You haven't attached any of those studies?---Yep, apologies for that.

PN1442

Can you name any of them?---Not off the top of my head, no.

PN1443

You haven't done any formal surveys or research yourself in that area?---No.

PN1444

Thank you. No further questions.

PN1445

JUSTICE HATCHER: Ms Schreier-Joffe, do you have any questions?

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE**

**[10.20 AM]**

\*\*\* ANTONY BENEDETTO

XXN MS SCHREIER-JOFFE

PN1446

Yes. Thank you. Morning, Mr Benedetto. You mentioned that the NDC is part of a bigger group and runs a number of dental practices across the country. It's

my understanding that NDC is actually owned by private equity fund, part owned. Is that correct?---It's complicated.

PN1447

So there is no private equity fund involved in - - -?---Private equity are involved.

PN1448

They are involved?---They are involved.

PN1449

And my understanding of the nature of the NDC organisation is that, as you've mentioned, the dentists operate on a commission basis and that the support staff - and you said that there are about 1,000 support staff - are employed by the wider NDC group; is that correct?---Yes.

PN1450

And that would include the dental assistants?---Yes.

PN1451

So it's the wider organisation that is responsible for the salaries and the payments of wages to the support staff including the dental assistants?---That's correct.

PN1452

JUSTICE HATCHER: Does it follow that there's a uniform practice or policy as to how people are paid in NDC?---So the majority of our dentists actually pay us a facilities and services fee to operate the dental practices, and that's - yeah. That's how we divide the patient revenue, essentially.

PN1453

So in terms of dental assistants, who actually employs them?---National Dental Care. So the dentists do not employ the individual.

PN1454

So does National Dental Care pay dental assistants in a uniform fashion across the country?---No. So we - we acquire practices. So we buy practices. We don't set them up from scratch. So, essentially, we take on whatever that practice was already doing and they come under our pay roll system but we don't - we don't necessarily have all dental assistants get paid at this level. It depends on the practice and the person.

PN1455

Right, so once a practice is acquired and is part of the business and there's a necessity to employ a new dental assistant, for example, is there a policy which then dictates what they're going to be paid?---It's a little bit supply and demand. So, you know, if it's in an area where we're struggling to get someone we may have to increase the amount that we're paying.

\*\*\* ANTONY BENEDETTO

XXN MS SCHREIER-JOFFE

PN1456

And where is the decision making about those issues located in the business?---It's sometimes at a practice level. But we have an HR department so it would often be a negotiation between support office and at practice level.

PN1457

Now, obviously there's a number of - I'm trying to understand the dentistry industry. Obviously there's a number of dental businesses across Australia which are like (indistinct). So they have some form of conglomerate of practices, whether it's a single business or a looser network. But is there any process that you can talk about of consolidation in the industry: that is a move away from single location practices in the old model to larger, multi-practice operations?---Yes, there has been over the years some consolidation. It's going slowly and it's still - it's still very - I think the most recent numbers I could remember were like 14 to 15 per cent consolidation so far. So the majority of practices in Australia are still owner-operated, small businesses and it's increasing slowly but it's not rapidly taking over.

PN1458

Yes, thank you.

PN1459

DEPUTY PRESIDENT SLEVIN: Just before - while you have it, the facilities that you buy, are they the physical buildings?---No. No, we buy the business and the physical - we're a good tenant or they're a good tenant and yes, we don't buy - we don't buy physical buildings.

PN1460

Thank you.

PN1461

MS SCHREIER-JOFFE: Thank you. In your statement you state that you still work as a clinician, I think you say two days a week?---Yes.

PN1462

At the (indistinct) practice - how many dental assistants work in the practice?---On any given day probably four or five.

PN1463

And what levels do they occupy in terms of experience?---Varied. So probably the most recent hire we have has about 12 months' experience. We've got one there that has 20 years' experience.

PN1464

And can you describe what the dental assistant does in your practice?---It's a long list. So they assist me chairside, preparing the rooms, cleaning the rooms, bringing patients through. Our assistants help with clinical records as well, which I renew at the end of the day. Making mouthguards, doing sterilisation, making whitening trays, spray on models - it's a very long list.

\*\*\* ANTONY BENEDETTO

XXN MS SCHREIER-JOFFE

PN1465

And the dental assistant who you say you've engaged who's got 12 months or thereabouts experience, do they do all of the tasks you've just described?---No.

PN1466

What don't they do?---The more complicated procedures: so they wouldn't be making mouth guards. I find that - so I was actually working, I didn't have my regular assistant on Friday and Saturday just gone because it was my regular assistant's birthday and she got the weekend off, which is nice. And so this person wasn't doing patient introductions so my regular assistant would come down and get me once the patient's in the chair and brief me on their medical history, why they're there today, a little bit about what dental issue they've had recently, whether they have x-rays due, so give me a patient presentation prior to going up and seeing the patient. Other things that the person with 12 months' experience, when we have - we're doing (indistinct) and all the files weren't measured appropriately. So this is stuff I would have to do rather than my assistant would normally do. So she had set up for the endodontic procedure but not at the level that my usual assistant would have set up.

PN1467

And you just said that she set up for an endodontic procedure. Is that a specialist type dental procedure?---There are endodontic specialists but it is a procedure that lots of general dentists do.

PN1468

So your 12-month dental assistant can do all of the tasks that a general dental assistant can do. What you've said she can't do is set up for more specialised procedures - correct me if I'm wrong - you've said she can't do the record keeping and she can't do, I think you said the - I could use whitening trays, I think?---Sure.

PN1469

Is that correct?---So I think to say that she can do all the things except for a few small procedures doesn't actually explain the difference. I think that - so I also had a surgical wisdom tooth that day, which I don't do a lot of and if that person is working there for 12 months she's maybe seen 10 of those, if she's working with me. I probably only do one or two of a month whereas my regular assistant who's been there about five years has seen many more of those so can definitely help assist me in that much better.

PN1470

Okay. So what I'm understanding is that of course - and you would agree - that anybody with more experience will be quicker, better at whatever they do. That proposition I think is self-evident and those who have less experience and see less of the procedures that you've just talked about - an extraction and endodontic procedure - may not be as quick, may not be as competent and it's a progression?---Yes.

\*\*\* ANTONY BENEDETTO

XXN MS SCHREIER-JOFFE

PN1471

But it doesn't seem to me from what you've said that individual who's got 12 months' experience can't do those things, they're just not as good as someone who

could do them quicker, better, more experienced?---Well, they may not be able to do them if they haven't had the experience. So it depends on if they've done them, so - - -

PN1472

So would you agree with the proposition then based on what you've just said that an inexperienced dental assistant coming into a specialist dental practice who gets trained by a specialist dentist will have the skills quicker?---They will have the skills in those procedures quicker, because they're doing them a lot more, yes.

PN1473

Thank you. So to some extent the nature of the skills of the dental assistant, besides the chair assisting skills and the soft skills like welcoming patients and the like, depends in large by the type of procedures they get exposed to on a daily basis?---So the type and the number - the number of times they're exposed to those procedures.

PN1474

Bear with me for a moment. So in paragraph 18 of your statement - you've got your copy of your statement with you?---Mm-hm.

PN1475

I think you say exactly what we've just been discussing and you would agree with that, a dental assistant usually works with the same dentists, their work will be influenced by the nature of the procedures that the dentist performs. That's really what you've been saying now?---Yes.

PN1476

So based on that, if you have a dental assistant who is working in a busy dental practice with lots of dental - different dental procedures, it is possible that in the first 12 months they're going to get exposed to a number of those very diverse procedures and get experience in doing what you might find or might consider is more complex matters. Is that correct?---They could, yes. There's a chance that could happen.

PN1477

Thank you. In your statement from paragraph 26 you give what you think are the timings of a potential dental assistant's experience and the gaining of that experience. And we just talked a little bit about that process and I noticed in paragraph 28 you say within between two and five years you would expect them to communicate treatment plans to patients, help calm nervous patients, help dentists manage children and introduce patients to the dentist by detailing patient presentations; you see that?---(No audible response.)

PN1478

Are you suggesting that dental assistants with less than two years' experience are not able to do those things?---In my experience, they're not able to do those things as well as someone who has two years' experience.

\*\*\* ANTONY BENEDETTO

XXN MS SCHREIER-JOFFE

PN1479

So not that they're not able to do them at all; they're just not able to do them as well?---Sure.

PN1480

So in your NDC, you have a range of dentists. I'm assuming you have dentists who start out in their careers - they've just come out from university - and you would have individuals such as yourself, who have got many years of experience. Would not the same idea apply to dentists? Or anyone, for that matter?---Well, there - there's lots of procedures that, when a dentist graduates, they - they actually can't do, because they haven't done the training to do it. And - and similar to what - part of what we're discussing is, when they first - when they first come out, and they're doing those procedures, they would be earning less money, because they're doing it slower - much more slowly. And - and the - some of the procedures, they will only get good at once they have been doing it for a number of years.

PN1481

Thank you. Bear with me for one moment. In your practice, and in your experience as a board member in - sorry - National Dental Care, you would agree that dental assistants are an invaluable part of the business?---Absolutely.

PN1482

And you would agree that the dentists would not be able to generate the incomes that they do generate without their assistants?---Absolutely.

PN1483

You would agree that dental assistants, even at the very beginning of their career, add value to the dentists. I understand that they would be learning, but without the dental assistants, they wouldn't manage as well as with even an untrained or very - let's just say, someone three months out of - three months in?---Yes, so having a dental assistant is better than not having one, but - but a lot of dental assistants would take away value if they don't have the necessary training and experience.

PN1484

No further questions.

PN1485

JUSTICE HATCHER: Thank you. Any re-examination, Ms Campbell?

PN1486

MS CAMPBELL: No, please the court, thank you.

PN1487

JUSTICE HATCHER: All right. Thank you very much, Dr Benedetto. You're excused. You can stay or leave as you please?---Thank you.

<THE WITNESS WITHDREW

[10.35 AM]

\*\*\* ANTONY BENEDETTO

XXN MS SCHREIER-JOFFE

PN1488

JUSTICE HATCHER: All right. Is Dr Rakkas ready to give evidence?

PN1489

MR SECK: Yes.

PN1490

JUSTICE HATCHER: All right. Well, let's link Dr Rakkas to the court, please.

**<NOMIKOS RAKKAS, AFFIRMED** [10.36 AM]

**EXAMINATION-IN-CHIEF BY MR SECK** [10.36 AM]

PN1491

MR SECK: Thank you, Your Honour.

PN1492

JUSTICE HATCHER: Mr Seck.

PN1493

MR SECK: Dr Rakkas, my name is Michael Seck. I'm the counsel for the Australian Dental Association. I'm just about to ask you a few questions. Could you please again state your full name for the record?---Sure. It's Nomikos Rakkas.

**CONFIDENTIAL TRANSCRIPT PN 1494**

PN1495

You have prepared a statement, dated 8 September 2025, in these proceedings; is that so?---Yep. That's correct.

PN1496

Do you have a copy of that statement with you?---I do.

PN1497

Have you read that statement recently, Dr Rakkas?---Yes, I did, in preparation. I thought that was a good idea.

PN1498

Did you wish to make any changes to your statement?---No, I think it's true and correct.

PN1499

So let me confirm with you, are the contents of your statement true and correct to the best of your knowledge and belief?---Yes.

PN1500

I tender the witness statement of Dr Nomikos Rakkas, dated 8 September 2025.

\*\*\* NOMIKOS RAKKAS

XN MR SECK

PN1501

JUSTICE HATCHER: All right. The witness statement of Dr Nomikos Rakkas, dated 8 September 2025, will be marked exhibit 142.

**EXHIBIT #HPSS142 WITNESS STATEMENT OF NOMIKOS RAKKAS DATED 08/09/2025**

PN1502

MR SECK: May it please your Honour, no further questions in-chief.

PN1503

JUSTICE HATCHER: All right. Who is cross-examining? Mr Lettau?

PN1504

MR LETTAU: Yes, thank you, your Honour.

**CROSS-EXAMINATION BY MR LETTAU**

**[10.38 AM]**

PN1505

MR LETTAU: Good morning, Dr Rakkas. Can you see and hear me clearly?---I can.

PN1506

So you have been practising as a dentist since 2011?---That's correct.

**CONFIDENTIAL TRANSCRIPT PN 1507**

PN1508

You say in your evidence that you've got a head count of eight in the business; is that still accurate?---Yeah, that's accurate. In fact, it's - I - this morning, I checked it, and it's probably nine, because I just put a new dentist on.

PN1509

Okay. And that number includes you, as well?---Includes me, includes all the dentists, yeah, and dental assistants.

PN1510

Yes. And you say in your statement that two of the dentists - well, you've now got a third one; I won't ask you about the third one at this stage?---Yeah, sure.

PN1511

But two of the dentists are engaged under a services and facilities agreement?---That's correct.

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1512

So in your particular operation of the services and facilities agreement, is it the case that the dentist bills the patient, and then the practice bills the dentist, or it's a share in the - - -?---So the dentist bills the - the dentist bills the patient. We have just a set of, sort of, default or suggested fees. The dentists set their own fees and do their own things in that regards. And then, essentially, the - the facility takes a

cut of 60 per cent of whatever the dentist bills as the service fee for providing dental assistants, for providing the facility, all that sort of things.

PN1513

Yes, and does the practice invoice the dentist, or that - - -?---The practice - as part of the service and facilities agreement, the dentist actually has the practice preparing all the documentation, which they approve, and then we - we do a distribution at the end of the month.

PN1514

So where does the money get paid to, initially?---So the money goes into a trust account initially, which is neither touched by myself or the dentist. And then at the end of the month, once it's all agreed upon, it gets distributed to the dental practice and to the dentist.

PN1515

Okay. So would that mean, if we were looking at your financial statements, which I will do in a minute - - -?---Yep.

PN1516

- - - the fees from these services and facilities agreements would simply be registered as an income line (indistinct)?---So the income line - the income line is the - the income that has been brought in as the practice component. So the dentist component has already been taken out.

PN1517

Yes, which is going to be my next question?---Yep, that's correct. Yep.

PN1518

Which means that the actual earnings of the dentists won't show up anywhere in the financial statements - - -?---That's right. So - but as a rough guide, you could probably say, that's 60 per cent, roughly, of - - -

PN1519

Yes. That was going to be - - -?---Of the turnover, yeah.

PN1520

My next question was going to be - - -?---Yeah.

PN1521

The practice takes - are you saying - the practice takes 60 per cent as the cut - - -?---Yep.

PN1522

- - - and the dentist takes 40 per cent?---That's right.

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1523

Can I ask, just from your own point of view as a dentist, and an owner of a practice, why you chose to adopt the services and facilities agreement model?---I want dentists to have autonomy in - in what they do. Obviously, if you have them

as employees, you - you dictate every bit about what they do. And I try and pick dentists who really value the work that they do. My practice is not a - a churn-through kind of practice where you can, you know, tell them exactly, 'I want you to take 10 minutes to do a clean', and make a profit out of that, because you're doing it quick all day long. I want them to take their time and do good work. And so I pick good providers, who can then dictate their own treatments in their own ways. And so that's the model I decided to take up, because you can attract better dentists doing it that way.

PN1524

Yes. You can also have independence as a contractor, though; would you agree with that?---Look, I've been through a couple of different lawyers about that, and we talked about all the different options, and this option suited the best, when we discussed it, yeah.

PN1525

Are there favourable financial benefits by - - -?---Not really for me. I know, in the past, for example - you know, there was talk about, potentially, payroll implications and things like that, which are always a bit hazy. But that's not an issue for me. I'm - I'm well below the threshold, and it's not a problem. I - I don't consider that being an issue. If I have to pay payroll tax, it's not an issue.

PN1526

Okay. Payroll - do you mean you personally, or the practice?---The practice.

PN1527

Yes?---Yes, that was the only big thing that kind of came up as a note but it wasn't really relevant to me.

PN1528

Because by using the services and facilities agreement, you're not actually - the practice itself isn't actually paying any wages to anyone?---Well - - -

PN1529

They get - - -?---Well, yes, I guess if you look at it that way. I think that's the way they tried to - to pitch it, but again, it didn't make any sense to me and I just want things to be clear and simple for everyone, so, this just made sense for how I was trying to find dentists, more than anything else.

PN1530

Yes. No problem. And you don't draw any other sort of wages or income from the practice, other than - aside from your services?---No, so I - I pay myself as a dentist.

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1531

Yes?---In the same way the other dentists work. So in my role as a dentist, I - I have my own services in the agreement I work under and then I pretty much work on the side as you would know, running a business there's many, many, many hours that go into it.

PN1532

Yes?---And I don't draw anything for that specifically. I just hope that there's enough profits at the end of the day, if I have a good year, to potentially take something out for that kind of work.

PN1533

Yes, you can draw dividends or other drawings for that. Yes?---Yes. Exactly, which hasn't happened all the time.

PN1534

Yes. And then you've got, on top of these dentists you've got seven auxiliary workers. So one practice manager, one oral health therapist and five dental assistants?---Yes.

PN1535

Are they all direct employees?---They're all employees. Yes.

PN1536

And dental assistants, are they full-time, part-time, casual?---I've got one full-time who's my practice manager. All the rest of them are casual, except for – no, even the oral health therapist is casual, actually.

PN1537

So, sorry?---So there's only one – one full-time. And everybody else is casual.

PN1538

Okay. Got it. Yes. And that's – your practice manager is full-time? Yes?---Yes.

PN1539

They're – all dentists are casual? Okay. Thanks. You say in your statement - just bear with me one minute - you say in your statement that your 2025 financial year – this is at paragraph 8, was - based on overall production, that this was the best year you've had in all of the eight years you've been open?---Yes.

PN1540

Now you've provided a profit, sorry - a financial statement, but I just noted that you've provided the 2023 and 2024?---2023 – so this - - -

PN1541

Is there any reason you didn't provide the 2025 one?---Yes, it's not officially prepared yet. So that number I got when I wrote this witness report or whatever you want to call it, I was out and about and didn't have this stuff in front of me. And the easiest thing for me to do is open up my Xero and look at my numbers. And I just clicked on profit and loss and went to Xero for the current financial year that just passed and it just gave me that. But it's not finalised yet, so I didn't want to present you with unfinalised information.

## **CONFIDENTIAL TRANSCRIPT PN 1542**

PN1543

Yes?---I'd like to think I'd do a good job on my businesses growing a little bit.

PN1544

Yes, it's good. So you said in paragraph 8 as well, that the practice does not operate with a high enough profit margin to absorb an increase in wages?---Yes.

PN1545

Now you've already indicated and I assume you did this, that you've informed yourself of the current financial position of the business when you prepared your evidence. Were you aware, when you prepared your evidence that their proposed increases to the minimum rates of pay for dental assistants is an average of 8.5 per cent?---Well, that's pretty close I think to – was it the 10 per cent I calculated on here? Because I just did a rough approximation when I did my witness statement.

PN1546

Which paragraph did you do the 10 per cent?---If you scroll down to - I did a little calculation in there, just roughly - I'll just find it. Yes. So there we go. Is it 32? So kind of talked a little bit about expenses and then said, 'Look, if the things changed, I'd probably wait. I'd go up by another 2 per cent, which is you know, assuming my wages are 20 per cent already, it'd probably go up by another 10 per cent, which is another 2 per cent. So I just kind of averaged it up, considering they'd go up and it'd probably be super as well on top of it and whatever else. So that was just my rough number. But yes, on average, I wasn't - - -

PN1547

All right. I might actually take you to the profit and loss statement and see if you can explain that to me a little bit more clearly, because I – I don't fully understand the rationale?---No. That's okay.

PN1548

Can I take you to the financial statements?---Yes, absolutely.

PN1549

In 2023 to 2024. I might just take you through a few numbers actually that we've just discussed, just so I understand how all of it fits together within the business?---Yes, sure.

PN1550

Can I take you to you - the document you've provided, that actually includes, I think, a tax return?---Return as well.

PN1551

Yes, I just want to look at the financial statements, they're on page – they begin on page 17. Oh, no. I want to take you to page 19 in that?---Nineteen.

PN1552

Just let me know when you've got it?---Yes, no, it is page 5 at the bottom. Yes. It's 19. We're on the same one.

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1553

Okay. Got it. Yes. Sorry, yes, yes, it is page 5 of the bundle. So just starting with income, gross receipts there, that number - that's what you indicated before, primarily are the fees from the dentists' - - -?---Yes.

PN1554

Services and Facilities Agreements that come into the practice's accounts?---That's correct.

#### **CONFIDENTIAL TRANSCRIPT PN 1555**

PN1556

Okay. I understand. I understand that now. Thank you?---No problem.

#### **CONFIDENTIAL TRANSCRIPT PN 1557**

PN1558

That 200,000, that's for all your auxiliary stuff?---Yes, that's correct.

PN1559

(Indistinct) which includes dental assistants. Okay?---Can I make a little point here, though, just before we go on?

PN1560

Of course?---Yes, no, my little point is just that I like to pride myself on the fact that I've got some extremely low expenses for my business, and there's things that I don't pay for that other practices do.

#### **CONFIDENTIAL TRANSCRIPT PN 1561 TO 1564**

PN1565

I guess a lot of effort from you and your dental assistants, too, I imagine?---And probably from the dentists more than the dental assistants, to be honest. We're constantly leaning up the dental assistant side of things and trying to find more efficient ways to work because that's the expensive part of the business, to try and manage that.

PN1566

Okay. Well, let's go down to the next page?---Sure.

PN1567

On this topic of having a buffer?---Yes.

#### **CONFIDENTIAL TRANSCRIPT PN 1568**

PN1569

I'm sorry? Go on?---No, go on, you're all right.

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1570

And then down the very bottom, total current liabilities, 76,000. So that's pretty good?---Yes. I've paid off all of my loans. Slowly, slowly. I've saved up money before I set my practice up. So I didn't have many loans when I opened.

PN1571

Okay?---And I have that financial buffer because I can't sleep at night if I don't have it there.

## **CONFIDENTIAL TRANSCRIPT PN 1572**

PN1573

But you're focused on growing the business?---Look, I think, in a – from a purely business sense, I think, yes. Most business owners are. But the reality is I'm not, I'm a clinician. And as much as there needs to be a healthy amount of profit to make it worth doing what you do, because our job's very stressful and hard, but the reality is it's all about providing a great level of care and being really proud of the work you do. I live in Darwin, it's a small country town. I know lots and lots of people around here, which is why, like I said earlier, I get help with maintenance and things like that. It's all about my reputation and doing the right thing, and I think I do a good job when I make myself obsolete. You know, I'm not the kind of person who wants to bring people back and make them do more dentistry. So, in fact, if you're unethical, probably doing the wrong things, maybe you can make more money out of dentistry, but that's not the kind of practice I run. I want people to spend less, get better work done, so that's my take on that.

PN1574

Sorry, just bear with me one minute, I'm just checking one thing. Just final question, if you go over the page again?---Sure.

PN1575

You mentioned dividends before?---Yes.

## **CONFIDENTIAL TRANSCRIPT PN 1576**

PN1577

In the most recent year?---I think so, yes. I'd have to double check it, but I'm pretty sure. It wasn't much more than that, if anything.

PN1578

Yes?---Yes.

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1579

Okay?---And again, not probably a lot of money, considering the amount of work I put in behind the scenes on weekends, after hours; all the extra work that goes into maintaining and running the practice. I think that's severely underpaid for the work that goes into that.

PN1580

I'm not at all criticising you or making a judgement of (indistinct) you're doing - - -?---Of course. Just making a point. Yes.

PN1581

Yes. Thank you, no further questions.

PN1582

JUSTICE HATCHER: Dr Rakkas, it's Justice Hatcher here. Can I just ask you a question about paragraph 33 of your witness statement?---Sure.

PN1583

So you say a majority of your dental assistants would fall in Level 5 of the proposed classification structure?---Yes.

PN1584

And just reading that, with the next paragraph, that would be the – apart from the practice manager – the ones who don't hold a Certificate III; is that right?---So as it currently stands, only, I think, two of them have the Certificate III; everybody else doesn't. So realistically, I think the new – and correct me if I'm wrong, because I haven't got the actual new structure in front of me here – but if, you know, if they're more than a few months, or something like that, they would jump to Level 5, I think, under the new structure.

PN1585

Yes. So you're correct. So for those ones who don't have the Certificate III, can you just identify the range of industry experience they have?---Yes. So they - - -

\*\*\* NOMIKOS RAKKAS

XXN MR LETTAU

PN1586

Like, what's the minimum and the maximum?---Sure. And it varies massively. So all of my dental assistants came with no experience, is probably the simplest way of putting it. We used to hire people with experience and people would come in with pre-done certificates without any experience in a dental practice, and I found they just were never any good. So the practical experience is actually the most important element, I find. But it's not always a time thing, you know, like, I've got one person who has been with us for, what, a year or two now – a year and a half, I want to say, and they're not as good as somebody who's been with me for four months, you know. You occasionally get someone who's extremely good and just picks up the role quickly, and they're really good, and we pay them better for it, you know; I jump them up the scales to where I think their skill level is. And then we get other people that take a long time, and the great majority of them take a long time. They might be good enough to work chair-side after a few months, but they can't be left alone. You can't keep them in the sterilization room doing things that's dangerous, if they sterilize something wrong, someone gets a disease or something, you know. You've got to be really, really careful, so all these real requirements make it a real challenge. And, you know, my area and where I live, we've got a lot of low socioeconomic people, so we aren't dealing with a lot of high, educated people anyway. And it's kind of prideful when you get someone young and you try and build their skills, and even if they do move on after a few years, because there's no career progression in dental assisting, but that's the way we operate.

PN1587

So I just want to understand this numerically?---Yes.

PN1588

So of the ones who don't have the Certificate III, how many have less than one year's experience?---I think one just hit a year, so I think there's only one at the moment that has less than one year experience, and they're at about two, three months at the moment.

PN1589

And how many, including the one you've just mentioned, have less than two years' experience?---I'm going to say – you're challenging me off the top of my head – but I think it's two to three of them.

PN1590

Yes. All right. Thank you?---Probably three, thinking about it, actually.

PN1591

Three?---So I think, yes, let's say three.

PN1592

DEPUTY PRESIDENT SLEVIN: Can you tell us what levels they're paid at?---I don't have that in front of me, to be honest, so I couldn't tell you. I'd have to go digging through my files to find out what I've got them at.

PN1593

JUSTICE HATCHER: Yes. Any questions arising from that? No. Do you wish to cross-examine this witness?

PN1594

MS SCHREIER-JOFFE: I do have a few questions, thank you.

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE**

**[10.58 AM]**

PN1595

MS SCHREIER-JOFFE: Dr Rakkas, hello. My name's Shana Schreier-Joffe. I'm going to ask some questions on behalf of the Dental Assistants Professional Association, my apologies. You can hear me okay?---Yes, yes.

\*\*\* NOMIKOS RAKKAS

XXN MS SCHREIER-JOFFE

PN1596

At paragraph 38 of your statement, you say, 'I acknowledge that dental assistants roles have evolved over the years. Dental assistants are now required to do a lot more to ensure patient appointments are filled, reminders are sent.' And you list a fair amount of tasks and duties that are involved in their work on a daily basis. It's in your statement, so I take it you agree with all of that?---Yes, I do.

PN1597

You also say the workload is immense and hard to keep up with, and you agree with all of that?---Yes, I do.

PN1598

And you've just mentioned to - - -

PN1599

JUSTICE HATCHER: I think we can assume he agrees with the contents of his own statement.

PN1600

MS SCHREIER-JOFFE: And you've just mentioned to the expert panel that you have dental assistants with around 12 months of experience; are they doing all of those tasks?---Not everything, no.

PN1601

What are they not doing?---So there's, for example, I probably only have two people in the practice who are quite competent with answering phones, dealing with, you know, putting quotations together, answering questions that patients have. Most of the others are just doing bread and butter, wiping chairs down, doing the really simple tasks, with a couple of allocated more complex tasks per person, which you have to tailor, depending on the person's skill and abilities.

\*\*\* NOMIKOS RAKKAS

XXN MS SCHREIER-JOFFE

PN1602

In your opinion, given what you've said in those two paragraphs, your dental assistants form a crucial part of your business? You wouldn't be able to operate without them?---Of course not. But there's partly – you know, for example, there's a lot of the visit you just need a human being there, you know. And that's – I don't mean to put dental assistants down, but there are elements of their job where you just need someone who hasn't got gloves on, standing behind you, waiting for the next, you know, trigger to go write a clinical note or go grab some wipes and wipe the room down. A lot of their job is bread and butter simple stuff, but their jobs have evolved to become much more complicated otherwise. There is a lot more compliance and other things going on, and you certainly need some really skilled, experienced dental assistants in your practice, and I certainly pay a couple of them more than the Award, quite well. In fact, my practice manager gets well above the Award to do all of the things she does, and she's an exceptional person. But for the most part there are situations where you just need a person there. And if you had to pay everybody much higher than what they were getting paid, so now, currently, as a more low, you know, entry level, kind of, worker, it would make that much, much more difficult. You'd end up having to work out ways to have less manpower around, you know, use more automation or something, to make it work, because I don't think there's scope to have more bodies around.

PN1603

And from what you've said, there is a sweet spot, I would take it, where the dental assistant has sufficient training to be – or experience – to be a very useful, valuable part of your organisation?---Absolutely. Look, they're a key player. Like, you do need them. I can't have no dental assistants and run my practice, that would be impossible. So you certainly need them there, but it is trying to find the right amount. It's a maker or breaker of a practice if you, you

know, have too many of them, and then, you know, you're literally haemorrhaging costs because not every day works well, and you get a lot of cancellations, missed appointments, all that sort of stuff happens. As you know, I'm pretty sure, you know, being you're from the Dental Assistants Association, you probably have some knowledge of how they operate. And so you have some days that go really well and, you know, you feel really productive, and you have other days when it all falls apart, but you've still got wages to pay and bills to pay, and you don't want to send everybody home. So you try and keep the day rolling and keep them busy with whatever you can.

PN1604

And that sweet spot that we've talked about that dental assistants would perform a valuable role, as you've just mentioned, you know, from your experience, given you're training them - I understand you like to take people who don't necessarily have training - given you're training them, how long do you - what's the variant where they - - -?---We've got a basic training process that probably takes about six months to go through the basic things, and then that is just to have you basic chairside assisting, basic steri where we know we can kind of just let you do those very basic tasks autonomously. That's at about six months level, but then you're still not answering phones. You're still not doing all the complex things that come with it, you know, even doing some lab work and other things that come with doing all the dental things that we do. Yeah.

\*\*\* NOMIKOS RAKKAS

XXN MS SCHREIER-JOFFE

PN1605

And when you say at the two-year mark, you would be expecting - and you have experienced it in your practice of a person being able to be a competent dental assistant at that level?---So I guess it depends how you're looking at it. So the way I see it is that, like - and I mention this in my statement. We have - most of my dental assistants, it's not their career. Most of my dental assistants are studying pathology, or they're studying paramedic, or they're doing something else, and this is their side job, but when you're trying to teach somebody who's not fully committed to their role to do really complex things and be that base player in your team, it's a challenge. So I find some people actually hit a point, and they taper. You can use them really, really well for what they do, but they don't want to learn more. They're happy earning the money they earn. They're happy coming in and doing those kind of tasks, but not everyone is the kind of gun that wants to go and do everything, and they're the ones you want to identify and promote to that real key practice manager role you might have in your practice. Whereas the rest of them - you know, unfortunately, you need some pawns on your chessboard is probably a simple way of putting it, and that's how they might stay. So not everyone will excel into those really high levels, and that's not just us training. That's their desire to do it because they're often going to move on to other career paths.

PN1606

In paragraph 30 of your statement, you say, 'In my view, the dental profession would not benefit from a revised classification structure under the Health Professional and Sport Services Award'?---That's correct.

PN1607

So you are aware that the expert panel has made a decision already in these proceedings that dental assistants are undervalued as a result of their gender. You're aware of that?--No. I'm not aware of that. In fact, all of my dental assistants are female, bar one that I just hired which I'm really proud of, but yeah. He's probably not the most manly man, but it's pretty much a woman-dominated field, and that's not because I don't look for men. In fact, I'd love some more balance because I'm the only man in my dental practice. It's that they don't apply for the roles. I put out ads everywhere, and I don't think I've - I think I've only ever had one male apply, and we hired them. So - - -

PN1608

So despite what you say dental assistants do and how much their tasks and job has evolved, you do not agree that there should be any variation in the award to accommodate that?--To accommodate gender, you mean? No. I think it's the same role. I think whether you're male or female, it shouldn't matter. It doesn't matter what race or gender you are. You get the same pay for what you do, and it's always been that way at my practice.

PN1609

Thank you. I have no further questions.

PN1610

MR LETTAU: Your Honour, just one clarifying question that arose in the - - -

PN1611

JUSTICE HATCHER: Sorry. What's that?

PN1612

MR LETTAU: One question to clarify something that arose in the cross-examination there, just a potential inconsistency in the statement, but I just want to clarify with the witness if that would be okay relating to the rates of pay that dental assistants get. I think the witness states in his evidence that no one gets paid above award and then - - -

PN1613

DEPUTY PRESIDENT GRAYSON: I thought he said one person got paid above award, and I think he said something different just then.

\*\*\* NOMIKOS RAKKAS

XXN MS SCHREIER-JOFFE

PN1614

MR LETTAU: Said something different here.

PN1615

DEPUTY PRESIDENT GRAYSON: Yes, that's right.

PN1616

MR LETTAU: Yes. I just want to clarify that with the witness, if that's okay. Is that your - yes.

PN1617

JUSTICE HATCHER: So, Dr Rakkas, you said the practice manager gets paid well above the award. Do any other - - -?---The practice manager gets - - -

PN1618

But do any other dental assistants get paid above the award?---No, no. No, they don't. Sorry. Did I slip and say something a bit hazy there? It's - no. Definitely just the practice manager. Everyone else is on award scales, but in terms of the award scale, it's - you know what I mean how we talked about before the current award kind of says if you can do this skill or that skill, there are some that have been there for less amount of time than someone else, and that's what I meant, and someone a less amount of time - if their skill is better, I move them up to wherever their skillset is according to the award. So they get, you know, rewarded for being better at their job, essentially.

PN1619

Thank you. Any re-examination, Mr Seck?

PN1620

MR SECK: No examination, your Honour.

PN1621

JUSTICE HATCHER: All right. Thank you for your evidence, Dr Rakkas. You're excused, and you're free to disconnect from the call?---Thank you.

<THE WITNESS WITHDREW

[11.07 AM]

PN1622

JUSTICE HATCHER: So, Mr Seck, next witness, 11.30. Is that right?

PN1623

MR SECK: Yes. He's in WA, your Honour.

PN1624

JUSTICE HATCHER: All right. Well, we'll take a short adjournment. Can I just confirm that we'll be able to finish the submissions between 10 and 4 tomorrow?

\*\*\* NOMIKOS RAKKAS

XXN MS SCHREIER-JOFFE

PN1625

MR SECK: I've had a discussion with the fellow counsel, your Honour. I think we anticipate we'll finish on the estimation that no one's going to be more than an hour to an hour and a half. So I think we feel we can promptly be finished it within the timeframe tomorrow.

PN1626

JUSTICE HATCHER: All right. So it is, then, therefore, safe to vacate Friday?

PN1627

MR LETTAU: Yes.

PN1628

JUSTICE HATCHER: All right. Well, parties concede on that basis that the hearing on Friday is vacated. All right. We'll adjourn. You tell us when your witness is available, please.

**SHORT ADJOURNMENT** [11.08 AM]

**RESUMED** [11.35 AM]

**CONFIDENTIAL TRANSCRIPT PN 1629**

PN1630

MR LETTAU: Yes, Your Honour. Thank you.

PN1631

JUSTICE HATCHER: Yes, all right.

**EXHIBIT #HPSS143 COMPANY TAX RETURN FOR GOODLIFE  
DENTAL STUDIO PTY LTD**

PN1632

All right. So can we get the next witness in, please.

PN1633

MR SECK: May it please Your Honour, the next witness is present on Microsoft Teams. I call Dr Vincenzo Figliomeni.

PN1634

THE ASSOCIATE: Dr Figliomeni, this is the associate speaking again. In a moment, before you give your evidence, I'm going to ask you to state your name and address for the record, and then I'll ask you whether you agree with the affirmation I'll read out. When we get to that, if you agree, please say, 'I do'. Please state your full name and address.

PN1635

MR FIGLIOMENI: Vincenzo Figliomeni, (address supplied).

**<VINCENZO FIGLIOMENI, AFFIRMED** [11.36 AM]

**EXAMINATION-IN-CHIEF BY MR SECK** [11.36 AM]

PN1636

JUSTICE HATCHER: Mr Seck.

PN1637

MR SECK: Thank you, Your Honour. Could you please state your full – sorry, Dr Figliomeni, my name's Michael Seck. I'm the counsel for the Australian Dental Association. I'm just going to ask you a few questions. Could you please state your full name?---Vincenzo Figliomeni.

PN1638

What is your current work address?---(Address supplied), and I do have other minor roles as well.

PN1639

What is your current occupation?---Dentist.

PN1640

You have prepared a witness statement dated 5 September 2025?---Correct.

PN1641

Do you have a copy of the statement with you, Dr Figliomeni?---Yes.

PN1642

Have you read that statement recently?---Yes.

PN1643

Do you wish to make any changes to your statement?---Yes, just some minor amendments. Paragraph 18, it says, 'After three months', is three months, it should not say 'is three months'. And on page 24 – sorry, point 24 – it says, 'In my view, dental assistants core roles have not evolved over the years' - sorry, 'In my view, dental assistants roles have evolved over the years', but the correct wording is, 'In my view, dental assistants core roles have not evolved over the years'.

PN1644

So in paragraph 24 you want to put the word 'core' before the word 'roles'?---Yes.

PN1645

And then put in the word 'not' before the word 'evolved'?---Correct.

PN1646

JUSTICE HATCHER: Say that again. I thought he was saying that their roles have evolved but not the core competencies or is it the other way around?---In essence we're saying that the dental assistants' core roles have not evolved over the years.

\*\*\* VINCENZO FIGLIOMENI

XN MR SECK

PN1647

So, 'In my view, dental assistants roles have evolved over the years but not the core competencies significantly', is that what it should say?---No, 'The core roles have not evolved over the years'.

PN1648

MR SECK: I think the words - - -?---Sorry, the core roles – the roles and competencies are interrelated, but the – you could – either one would be acceptable.

PN1649

VICE PRESIDENT ASBURY: So you're saying, 'The core roles have not evolved'?---Correct.

PN1650

JUSTICE HATCHER: 'Have not', yes. So I think the insertion of the word 'not' after 'but' would be sufficient, Mr Seck.

PN1651

MR SECK: Yes, Your Honour. So, Dr Figliomeni, we're just going to put the word 'not' before the word 'evolved'?---Yes.

PN1652

Beside those changes, Dr Figliomeni, are the contents of your statement true and correct to the best of your knowledge and belief?---Yes.

PN1653

I tender the witness statement of Dr Vincenzo Figliomeni, dated 5 September 2025.

**EXHIBIT #HPSS144 WITNESS STATEMENT OF DR VINCENZO FIGLIOMENI DATED 05/09/2025**

PN1654

May it please, Your Honour. No further questions in chief.

PN1655

JUSTICE HATCHER: All right. Mr Lettau.

**CROSS-EXAMINATION BY MR LETTAU**

**[11.39 AM]**

PN1656

MR LETTAU: Thank you, Your Honour. Good morning, Dr Figliomeni. Can you hear me and see me clearly?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 1657**

PN1658

Which is established in 2017?---Sorry, who am I speaking to?

\*\*\* VINCENZO FIGLIOMENI

XXN MR LETTAU

PN1659

My name's Mr Lettau. Can you see me standing?---Yes.

PN1660

Yes. I wanted to ask you just some questions about your headcount first. You say you have a headcount of eight, including yourself; is that right?---Correct.

PN1661

Now, are you an employee of the practice?---Yes.

PN1662

And you draw a salary as an employee?---Director salary, yes.

PN1663

Could you speak up slightly, I can't quite hear you?---A director salary, yes.

PN1664

A director salary, yes?---Yes.

PN1665

What's your salary?---It varies based on the year and depending on the revenue and the profitability of the practice, if there is a profit.

PN1666

Just to be clear, when you say it's a salary, you're not talking about drawings from the profit, you're talking about (indistinct) salary paid - - -?---No. We're talking about a salary, yes.

PN1667

An actual salary. Okay. And what was the most recent – the 2025 financial year?---The salary, I can't recall exactly, but it's generally kept in line with what my government salary equivalent would be for my role at Perth Children's Hospital.

PN1668

And what is that?---I think it's roughly \$130,000 per year.

PN1669

Is that full time?---Full time.

PN1670

What was this other role you just mentioned, the government role?---At the Perth Children's Hospital.

PN1671

Okay?---So there's – it's on - I think it's a Level 7, from memory, registrar role.

PN1672

Do you draw any other income from the business aside from your salary?---It depends on the performance of the business.

\*\*\* VINCENZO FIGLIOMENI

XXN MR LETTAU

PN1673

So if the business is performing well, you might take drawings from the profits as well, as your salary?---Potentially.

PN1674

Have you taken any in the recent financial year?---Recent financial year - - -

PN1675

Twenty twenty-five, financial year?---Yet to be determined, (indistinct).

PN1676

What about the 2024 financial year?---Twenty twenty-four, I think there was a - sorry, I don't have those - I don't have those in front of me but I think there was a profit drawn, yes - a profit distributed, yes.

PN1677

Do you recall how much that profit was?---No, I don't recall the exact amount of that profit, no.

PN1678

Not the rough amount either?---I think it was sub-\$20,000, if I remember.

PN1679

Sub-\$20,000?---Yes.

PN1680

You've got two other dentists as well, that's right?---Yes.

PN1681

And they're on services and facilities agreements?---Mm-hm.

PN1682

Are they full-time?---No. Both of them together are equivalent to almost full-time, about 80 per cent full-time.

PN1683

When they're combined they're 80 per cent?---Approximately.

PN1684

Do they bill their patients directly and then - then a portion of that is paid to your practice?---We - we process the - the billings on their behalf.

PN1685

Okay?---And we remit an invoice for the services.

PN1686

Right, all right. You have one dentist who's an employee and then what do you pay your other dentist as a salary?---It's - the other dentist (indistinct) salary.

\*\*\* VINCENZO FIGLIOMENI

XXN MR LETTAU

PN1687

You're the one on the salary, okay. Understood. And then you say you have three - well, actually you say you have four dental assistants, with one who was a non - who was a trainee, sorry, at the time of your statement?---One is a trainee.

PN1688

Are they still a trainee?---Yes.

PN1689

You say you pay one of your employees \$1 above award. You actually say you pay at least \$1 above the award. What range do you pay above the award beyond the \$1?---I don't recall exactly but it's roughly around about \$1 above award for each employee, except for the trainee.

PN1690

Whose is at award?---Who is at award, yes.

PN1691

Okay, you say at paragraph 7 of your statement that the practice's profit margin is not high enough to absorb an increase to dental assistant wages proposed by the draft determination for new employees?---Correct.

PN1692

When you prepared your evidence, did you inform yourself of the current financial position of the practice?---That's my day-to-day (indistinct) so that's a balance that I have to do every day and every month.

PN1693

So did you look at financial statements and balance sheets, for example?---Of course.

PN1694

Did you look at any other financial documents?---Such as?

PN1695

I don't know, I'm asking you. Tax returns?---Well, just in the normal course of business you review a collection of documents that relate to the financial performance and management of the business, yes.

PN1696

And you were asked in relation to this proceeding to produce various financial documents from the past two years. Do you recall that?---Yes.

PN1697

Including profit and loss statements from the past two financial years, annual financial statements, balance sheets and lodged tax returns. You haven't produced any of those documents, have you?---No.

PN1698

You could have produced those documents?---No, I could have produced one of those requests.

\*\*\* VINCENZO FIGLIOMENI

XXN MR LETTAU

PN1699

You could have produced profit and loss statements and balance sheets?---No, I could have produced - I don't have last year prepared.

PN1700

You couldn't - you need to explain that to me a bit more clearly. You don't have last year's prepared?---(Indistinct) on the '24/'25 financial year.

PN1701

What about the '24 financial year?---Yes, that's complete.

PN1702

So you could have - - -?---So I didn't provide financials because my profit and loss margins are not very relevant to the setting the minimum or labour rates nationally for dental assistants.

PN1703

Okay, well, you do make assertions in your evidence though about your profit margins and your ability to pay?---On this point, profitability, viability is, you know, interrelated but it's not necessary to be profitable to remain viable. But if we're talking about the assessment of profits, I think it's unnecessary to provide. That's because profits allow us to provide the essential services of dentistry, provide employment, grow our business and productivity, which means that the nation benefits from better health outcomes and allows us to invest in our business, personal, staff education and staff development, which is mutually beneficial.

PN1704

Where you reading from - - -?---(Indistinct response.)

PN1705

Where are you reading from at the moment?---This is my notes.

PN1706

JUSTICE HATCHER: Mr Lettau, I think we're going down the rabbit hole.

PN1707

MR LETTAU: I'm going to just stop here. I've got no further questions.

PN1708

JUSTICE HATCHER: Yes, and we're not attacking the profit motive, just to be clear.

PN1709

MR LETTAU: Yes, no. I've got no further questions, Your Honour.

PN1710

JUSTICE HATCHER: Yes, all right. Thank you. Ms Schreier-Joffe?---I will add one thing, which is a (indistinct), and that is that it took about six years for my business to turn a profit.

\*\*\* VINCENZO FIGLIOMENI

XXN MR LETTAU

PN1711

Yes, all right, thank you.

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE**

**[11.48 AM]**

PN1712

MS SCHREIER-JOFFE: Thank you. Good morning, Mr Figliomeni?---Good morning.

PN1713

My name is Shana Schreier-Joffe. I am representing the Dental Assistants Professional Association. I'm just going to ask you a few questions. You say in your statement that you employ four dental assistants including a trainee. Can you tell us other than the trainee, the level of experience, how many years your - I take it - three dental assistants have?---Yes, so each of those dental assistants have

over 10 years of experience, sometimes more. They actually qualify on all qualification which is no longer even accessible, so yes.

PN1714

And so they've all got over 10 years of experience as you said and do you know what level in the award that they fall under?---They fall under level four.

PN1715

Level four of the current award. And none of the dental - do those dental assistants have any certificate qualifications? You said they were qualified under the old system?---Yes, but they couldn't produce that on request.

PN1716

They could not. So you're taking that they are unqualified dental assistants?---No, they are qualified. I believe that they are qualified and - but they have attempted to request - because it was an old qualification they were not able to obtain the formal certificates anymore. It's just not available to them.

PN1717

Thank you. You use the term in your statement, 'Dental profession'. Can you explain what you mean by the dental profession?---Dental businesses - dental businesses and even government entities too.

PN1718

So are you really referring there to the dentists and the dentists who own businesses or practice in government environments?---The dental profession encompasses everything, everyone that's involved in the running - provision of a dental service that the dentist, auxiliaries and - yes, dentists and (indistinct) or specialists.

PN1719

And so, in your statement when you use the term, 'Dental profession', are you including the dental assistants in that term?---Can you tell me where you are seeing that?

\*\*\* VINCENZO FIGLIOMENI

XXN MS SCHREIER-JOFFE

PN1720

Paragraph 16, for instance, you use that term?---Yes, yes, so I think that's an encompassing term, yes, including dental assistants.

PN1721

So, in paragraph 16 you're stating that you think the current award is sufficient and appropriate for the dental assistants?---Not quite, because then on paragraph 17 I do advocate for - for - well, (indistinct) the - sorry. Let me just read that.

PN1722

JUSTICE HATCHER: Just to clarify, Ms Schreier-Joffe, first thing is that paragraph 16 is directed at the draft determination. It's not a blanket statement about the current structure.

PN1723

MS SCHREIER-JOFFE: My apologies. Perhaps it's my misunderstanding and perhaps I shall ask for some clarification. You go down in paragraph 16 and you say: 'In my view level one should apply for unqualified dental assistants for one year'. Can you explain where that comes from?---That comes from the fact there's a significant amount of supervision that's required for an unqualified dental assistant or trainee. We are – the dentist assumes all the clinical risks for procedures. We are the responsible clinician. We can't pass liability to the assistant or a trainee in any adverse clinical outcomes, and these can be serious. For example, if somebody contracts HIV in a practice, it's not the assistant that's liable. And that (indistinct) reflects the seriousness of the supervision that we are required to provide, and training, to be able to provide a safe (indistinct) supervision, safe and effective.

PN1724

I understand that. Thank you. But what I really want to understand is, you've used the terms 'level 1', 'level 2', 'level 3' in that last paragraph. Those levels, is that something that you are suggesting, or it's coming from somewhere?---No, so they're – they're based on the current award rates. However, my suggestion would be that – my suggestion is that the – so really, what's been proposed with some of these draft determinations, my suggestion is, ultimately, level 1 is anywhere – it should be anywhere up to 12 months.

PN1725

Level 2 can be left as it is, because it creates a floor that is – that reflects the minimum competencies, and that seems to be something that's been lost in all this, is, we're not talking about what they can perform with training, supervision and dedication and investment. We're talking about the minimum competencies that a dental assistant can provide. Acknowledging that there has been an accepted gender undervaluation, and whether or not that's – I'm not here to defend or oppose that, but I would support that the current level 4 be upgraded to a level 5, and the current level 5 be upgraded to a level 6, because that matches increases to where the productivity gains are to offset the increase in cost.

\*\*\* VINCENZO FIGLIOMENI

XXN MS SCHREIER-JOFFE

PN1726

Some of the proposals, from a business perspective – so I, as a business owner, am responsible for implementing and controlling the pay of the award rates. Some of the proposals are so convoluted that it would take administrative burden, a significant administrative burden to maintain and be on top of what's being proposed. The current award right now is quite easy and is quite open-ended, where it creates a fairly appropriate minimum floor. It means that I don't have to continuously monitor how long my staff had been there – three months, 12 months – to make sure that – well, me and my bookkeeper, to make sure that we are maintaining our obligations under the Fair Work Act.

PN1727

JUSTICE HATCHER: So just to be clear, you're talking about the burden of monitoring the length of service or length of industry experience of each employee, are you?---Exactly.

PN1728

All right?---They get pay rises based on various factors, and various factors – there's a lot of ways to remunerate staff, but we're again referring to a minimum rate here, not what – and it's actually quite concerning, how complicated some of these proposals are, so - - -

PN1729

So when you say, 'some of these proposals', I just want to make it clear, what proposals you're actually talking about?---So I'm referring to some of the submissions that I've viewed, which is the draft determination, which is a draft determination. And where it starts to – the draft determination, and there's a proposed classification from the Australian Dental Association and the DAPA.

PN1730

All right. So you don't agree with any of those?---Absolutely.

PN1731

Okay.

PN1732

JUSTICE HATCHER: Mr Figliomeni, can I just ask you – it's Vice President Asbury – you just said it's going to be very difficult, and currently, you don't have to monitor length of service. And my understanding is, your earlier evidence was that you think there should be – a person with one year plus experience should be at level 2. So if your own view is – you can agree or disagree with my proposition. If your own view is accepted, then you are going to have to monitor the length of service of your employees, aren't you?---That is normal, and that is a reasonable burden, a reasonable administrative burden, because they are in their early days of learning the profession, and they need monitoring, and they will be accelerated in their development, in their knowledge.

\*\*\* VINCENZO FIGLIOMENI

XXN MS SCHREIER-JOFFE

PN1733

So it's a reasonable thing to expect. However, to monitor a whole workforce, that's – let's put this example. In the corporate realm, where they might have 20 auxiliaries, I mean, think of the bookkeeping that's required to maintain and to update this – every March, there's going to be staff going up – they've got to go up by this much, and the bookkeeper has got to do that. And July, we know there's going to be an increase, so the bookkeeper has got to do that again. And then, come August, then two of those staff members are one year – you know, over two years, they need an increase. I mean, this is a lot of burden. The current award - -

-

PN1734

Mr Figliomeni, sorry to interrupt you, but that happens now, because of employers having to calculate things like annual leave and sick leave and personal leave entitlements, et cetera. So the proposition I'm putting is, if you have to monitor the first one, two or three years, is that such a significant burden, given that you're doing it anyway, for the purposes of calculating other entitlements?---We're not doing it. This will be an additional burden.

PN1735

Right.

PN1736

DEPUTY PRESIDENT GRAYSON: Mr Figliomeni, it's Deputy President Grayson. I think you gave evidence along the lines that part of the attraction of the current classification was that it was open-ended. Can you tell me what you mean by that?---Open-ended is that we can – we have the flexibility to remunerate our staff based on performance, which – you can see – so I've got some notes regarding that. These are my notes, just to help to convey what I'm trying to explain a bit better.

PN1737

You don't have to have regard to your notes, Mr Figliomeni. I'm just interested in what you meant by that. So as you said it, what were you wanting to convey to the Bench?---Can you ask that question again, please (indistinct)?

PN1738

I think the evidence that you gave was to the effect that part of what was good about the current classification structure was that it was open-ended. 'Open-ended' were your words, and so I was wondering what you meant by that?---Open-means exactly – open-ended is essentially the flip of minimum. So there's no maximum award rate; there's a minimum award rate, and so it's appropriate. And award rate sets the minimum, where we, as a business, set the maximum, because that depends on a variety of factors, and being open-ended, or having no maximum is appropriate. But having a minimum award is appropriate, because that is what organisations such as Fair Work exist for, to determine what is an appropriate minimum.

\*\*\* VINCENZO FIGLIOMENI

XXN MS SCHREIER-JOFFE

PN1739

Do you understand any of the current proposed draft determinations to be doing anything other than putting in place minimums at various levels?---Yes, but those minimums, in my opinion, aren't necessarily reflective of the work value that is being proposed, and that is (indistinct) more significant than the proposal in the draft determination for a level 5 to be – the pay rate for somebody that has trained longer than three months in the role. That is a significant increase.

PN1740

All right. So you wanted the ability to consider and set rates based upon performance, I think was kind of the first answer you gave to my question?---That's normal, that's a normal part of any business, in running your own business, that performance be remunerated accordingly, because as staff increases their performance, they increase their productivity, they increase their value to the business, and that is usually remunerated accordingly. As a business owner we can then say, 'You're valuable to us, you get a pay rise' or 'You get bonuses', or whatever it might be. There's multiple ways of remunerating a staff member that's not based on the minimum award rate.

PN1741

Thank you.

PN1742

JUSTICE HATCHER: Ms Schreier-Joffe, any further questions?

PN1743

MS SCHREIER-JOFFE: One question arising from that. You mentioned that you have a number of staff members of more than 10 years experience. I take it they're very valuable to you, they perform at a high level?---I have the highest regard for my staff. I see our relationship as mutually beneficial, and I'm sure that they see it that way too. They are loyal staff members. Our longest serving staff member has been in here since the start of our practice eight years ago. So I (indistinct) that I'm doing something right with regards to creating the conditions of employment that are desirable in today's workforce.

PN1744

In regard to those loyal staff of more than 10 years experience, and as you said they are qualified, you also indicated that you pay them at the current Level 4 under the award; that's correct?---No, above, excluding bonuses, excluding other ways of remunerating staff. Yes.

PN1745

Perhaps I can clarify that. In your evidence you say you pay about \$1 more than the award, and I understood that your evidence was you pay those that we just talked about at Level 4. Is that not correct?---Yes, that's correct. They're paid above award. Yeah.

PN1746

Thank you. No further questions.

PN1747

JUSTICE HATCHER: Any re-examination, Mr Seck?

\*\*\* VINCENZO FIGLIOMENI

XXN MS SCHREIER-JOFFE

PN1748

MR SECK: No further questions in re-examination, your Honour.

PN1749

JUSTICE HATCHER: All right. Thanks for your evidence, Dr Figliomeni. You're excused, which means you can disconnect from the call?---Thank you.

<THE WITNESS WITHDREW

[12.04 PM]

PN1750

JUSTICE HATCHER: All right. So we can take the luncheon adjournment now?

PN1751

MR SECK: Yes, your Honour. I think the next witness is scheduled for 1.30.

PN1752

JUSTICE HATCHER: At 1.30?

PN1753

MR SECK: Yes.

PN1754

JUSTICE HATCHER: Yes, all right.

PN1755

MR SECK: Sorry, scheduled for 1.30. Yes.

PN1756

JUSTICE HATCHER: Yes, all right. Thank you.

PN1757

MR SECK: May it please your Honour.

**LUNCHEON ADJOURNMENT** [12.04 PM]

**RESUMED** [1.34 PM]

PN1758

JUSTICE HATCHER: Yes, can we bring in the next witness, please.

PN1759

MR SECK: The next witness is online, Your Honour. I call Dr Matthew Littleton.

**<MATTHEW JOHN TREVITHA LITTLETON, AFFIRMED** [1.34 PM]

**EXAMINATION-IN-CHIEF BY MR SECK** [1.34 PM]

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XN MR SECK

PN1760

MR SECK: My name is Michael Seck. I am the counsel for the Australian Dental Association, Dr Littleton. I'm just going to ask you a few questions?---Yep.

PN1761

Could I ask you to repeat, again, your full name for the record?---Matthew John Trevitha Littleton.

**CONFIDENTIAL TRANSCRIPT PN 1762 TO 1763**

PN1764

And what is your current occupation?---A dentist.

PN1765

Dr Littleton, you have made a statement in these proceedings, dated 4 September 2025?---Yes.

PN1766

Do you have a copy of your statement with you at the moment?---Yes.

PN1767

Have you read that statement recently?---Yes.

PN1768

Do you wish to make any changes to your statement?---No.

PN1769

Are the contents of your statement true and correct to the best of your knowledge and belief?---Yes.

PN1770

I tender the statement of Dr Matthew Littleton, dated 4 September 2025.

PN1771

JUSTICE HATCHER: Yes, that witness statement of Dr Matthew Littleton, dated 4 September 2025, will be marked exhibit HPSS145.

**EXHIBIT #HPSS145 WITNESS STATEMENT OF MATTHEW LITTLETON DATED 04/09/2025**

PN1772

MR SECK: And may it please your Honour, no further questions in-chief.

PN1773

JUSTICE HATCHER: Mr Lettau.

**CROSS-EXAMINATION BY MR LETTAU**

**[1.36 PM]**

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XXN MR LETTAU

PN1774

MR LETTAU: Good afternoon, Dr Littleton. Can you see and hear me clearly?---Yes.

PN1775

So you have been practising as a dentist since 1986?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 1776**

PN1777

So you've done one full financial year?---I don't know. Have we? Yes, we've done one full financial year.

PN1778

Where were you before that?---Rockhampton.

PN1779

Yes, for 33 years?---Yep.

**CONFIDENTIAL TRANSCRIPT PN 1780**

PN1781

Yes?---It's been around since January 2024, I think.

PN1782

Okay, so you actually founded it. I've got a few questions - - -?---I'm sorry. Might be 23. I've - I've - I'm hopeless with numbers like that.

PN1783

You said - - -?---We had - we had a change in building recently.

PN1784

Yes, I - - -?---We moved locations.

PN1785

Okay, understood. But was it that the business name changed at the time, or was the business just moved?---The name changed with the change in building.

PN1786

Aha. Where was the previous building?---Robertson Street, Fortitude Valley.

PN1787

Understood. What - well, I withdraw that. I will have a question about that - Robertson Street - in a minute. A few questions just about the head count at your practice. You say, you have 13 employees, including yourself?---Yes.

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XXN MR LETTAU

PN1788

And just to clarify, are all 13 direct employees, or are some of those contractors or under some other arrangement?---They are all direct employees, except for another dentist in the place, who is a partner in the - in the business.

PN1789

Okay. He's a partner and paid a salary as an employee dentist?---No.

PN1790

No. And do you take a salary?---Occasionally.

PN1791

Okay. Depending on - I withdraw that. How do you take income from the business, personally?---From time to time, as - as dollars are available.

PN1792

Through drawings, under proper - - -?---Yes.

PN1793

And on the equity, as well?---What do you mean?

PN1794

Well, you know, do you - I will withdraw that question. I will come to that in a minute. You have, on top of that, three dental practitioners, three receptionists, one lab tech, and five dental assistants. I did - - -?---Yeah.

PN1795

- - - rattle those off pretty quickly, but is that right?---Yes, at that time, it was right.

PN1796

Okay. Have you had any more dental assistants put on since then? Or left?---No.

PN1797

No. You say in your statement, at paragraph 7:

PN1798

*The practice pays its experienced dental assistants above award rates, and for its inexperienced or underperforming dental assistant [in the singular], the practice pays at the award rates.*

PN1799

So just to confirm - - -?---That would have been - it should have been 'assistants'. There should have been a plural in there.

PN1800

Okay. How many do you pay above the award?---Three.

PN1801

How many - - -?---Four.

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XXN MR LETTAU

PN1802

Three - - -?---Four get paid above the award.

PN1803

Okay. How much above the award do you pay them?---Well, it depends on their value to the place. It - it might be 60 per cent above the award for some; it might be five per cent for others.

PN1804

Okay. Now, when you give some evidence, in your statement - you say, for example, the practice profit margin - this is at paragraph (indistinct):

PN1805

*The practice's profit margin is not (indistinct) to absorb an increase to dental assistant wages proposed by the draft determination for new employees.*

PN1806

?---Yes.

PN1807

When you prepared your evidence, did you read the financial documents of the business in order to understand its financial position?---Yes.

PN1808

Did you read profit and loss statements?---Yes.

PN1809

Did you read any balance sheets?---No.

PN1810

Any lodged tax returns?---No.

PN1811

Any other financial statements?---No.

PN1812

Is there any reason you didn't read those documents?---I don't need to.

PN1813

Do you recall that you were asked to produce financial documents from the past two years, that is, financial year 2024 and financial year 2025 - - -?---Yes.

PN1814

- - - including profit and loss statements, annual financial statements, balance sheets and lodged tax returns? You recall that?---Yes.

PN1815

You only produced one profit and loss statement?---Yes.

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XXN MR LETTAU

PN1816

Why didn't you produce any of the other documents?---Because the financial year 2024 was only recently finalised. There was only six months' training in that. The financial year 2025 has not been finalised.

PN1817

What about the balance sheets? Why didn't you produce those?---I wouldn't consider them relevant. This is a new business that's only been in operation for 18 months.

PN1818

Can I just ask you one question about the Robertson Street practice?---Yep.

### **CONFIDENTIAL TRANSCRIPT PN 1819**

PN1820

It's on page 4?---It reads and raises rent. We had to pay rent on the building.

PN1821

Okay. What's the building used for?---It's a dental practice.

PN1822

Didn't you say you moved?---Yes. While we were in transition, we had to pay rent on Robertson Street until the new premises were completed.

PN1823

Understood. So going forward, you'll no longer need to pay those rents?---We will not need to pay that rent, no, but we will need to pay rent to the new building owners.

PN1824

Understood. In preparing - you were aware when you were proposing your evidence that the average proposed minimum pay increases is about 8.5 per cent for dental assistants?---Yes.

PN1825

Before finalising your evidence, did you calculate what the actual impact would be in terms of the increase in costs to pay dental assistants?---On a dollar per hour basis, yes.

PN1826

You haven't provided any of those calculations in your statement?---No.

PN1827

You could have done that, though, couldn't you?---If I was asked, I would have.

PN1828

No further questions. Thank you, your Honour.

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XXN MR LETTAU

PN1829

JUSTICE HATCHER: Thank you. Do you want to tender the profit and loss statement?

PN1830

MR LETTAU: No, thank you.

PN1831

MS CAMPBELL: No questions for this witness.

PN1832

JUSTICE HATCHER: Any re-examination, Mr Seck?

PN1833

MR SECK: No re-examination. No.

PN1834

JUSTICE HATCHER: All right. Thanks for your evidence, Dr Littleton, you're excused which means you can disconnect from the call?---Thank you.

<THE WITNESS WITHDREW

[1.45 PM]

PN1835

JUSTICE HATCHER: All right. So we have Dr Stanford at 2.30; is that right?

PN1836

MR SECK: 2 o'clock, we've moved him forward to, but we might be able to get him here earlier. We're just making inquiries, your Honour. So - - -

PN1837

JUSTICE HATCHER: All right. Now, do we have a final form of a confidentiality order that's sought?

PN1838

MR SECK: I think it's - - -

PN1839

JUSTICE HATCHER: There's your one, Mr Seck, and then there's Mr Campbell's one.

PN1840

MS CAMPBELL: Your Honour, would you like us to combine them to the one draft and return it?

PN1841

JUSTICE HATCHER: If that's convenient, we can do that.

PN1842

MS CAMPBELL: We'll do that, and we'll send it.

\*\*\* MATTHEW JOHN TREVITHA LITTLETON

XXN MR LETTAU

PN1843

JUSTICE HATCHER: An alternative course with respect to the matter today might be that if we await the transcript, we can identify the paragraph numbers in the transcript as confidential.

PN1844

MS CAMPBELL: We'll do that, your Honour.

PN1845

JUSTICE HATCHER: Yes. All right. Well, we'll adjourn until Dr Stanford's available.

**SHORT ADJOURNMENT**

**[1.46 PM]**

**RESUMED**

**[1.58 PM]**

PN1846

JUSTICE HATCHER: Can we swear in Dr Stanford, please.

PN1847

THE ASSOCIATE: Dr Stanford, this is the associate again. In a moment before you give your evidence I'm going to ask you to state your name and address for the record, and then I will ask you whether you agree with the affirmation I will read out. When we get to that if you agree please say 'I do.' Please state your full name and address.

PN1848

DR STANFORD: My name is James Stanford, (address supplied).

**<JAMES STANFORD, AFFIRMED**

**[1.58 PM]**

**EXAMINATION-IN-CHIEF BY MR LETTAU**

**[1.58 PM]**

PN1849

JUSTICE HATCHER: Mr Lettau.

PN1850

MR LETTAU: Thank you, your Honour. Good evening, I guess, to you, Dr Stanford?---Yes.

PN1851

And good afternoon here. Could you please repeat your full name?---James Stanford.

PN1852

And your professional address?---(Address supplied.)

PN1853

And your occupation?---I'm an economist.

\*\*\* JAMES STANFORD

XN MR LETTAU

PN1854

In addition to your statement filed in these proceedings in November 2024 have you prepared a second statement for use in these proceedings?---Yes, I have.

PN1855

Do you have a copy of that statement with you?---I do.

PN1856

Does the statement consist of five paragraphs?---Yes.

PN1857

With one annexure called annexure JS1?---Yes.

PN1858

And various other attachments. Do you hold the qualifications that you've set out in paragraph 2 of the statement?---Yes, I do.

PN1859

I understand as well that you've attached to your report your CV?---Yes.

PN1860

Are the contents of your report, the opinions expressed in your report, the opinions that you have formed based on your education and your professional experience?---Yes, they are.

PN1861

Are the contents of your report true and correct?---Yes, they are.

PN1862

I tender the statement of Dr James Stanford and its annexure.

**EXHIBIT #HPSS146 WITNESS STATEMENT AND EXPERT  
REPORT OF DR JAMES STANFORD DATED 15/10/2025**

PN1863

JUSTICE HATCHER: Yes, who's cross-examining?

**CROSS-EXAMINATION BY MS CAMPBELL**

**[2.01 PM]**

PN1864

MS CAMPBELL: Dr Stanford, good afternoon and good evening from Sydney Australia. My name is Natalie Campbell and I'll be asking you some questions on behalf of the Dental Business Services Council. Do you have with you a copy of your first report that was tendered in the proceedings earlier?---From last November, I believe, yes, I do.

PN1865

Yes, thank you, Dr Stanford. And do you also have a copy of the supplementary report that has just been tendered?---Yes, I do.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1866

Now, if you have any difficulty in hearing me or if there's any disruption to the technology, please let us know and we'll make sure that that is addressed?---Thank you.

PN1867

In in relation to the supplementary report, you have attested that you have given a report in accordance with the applicable practice note of the Federal Court of Australia. That's correct, isn't it?---Yes.

PN1868

And you have cited all sources that you have referred to in the report?---Yes.

PN1869

Where you have made an assumption or a conclusion in the report, where it's possible to do so you have cited that particular assumption or conclusion?---Yes.

PN1870

You've been asked to answer questions in the report and you've answered those questions to the best of your ability, knowledge and expertise and experience?---Yes.

PN1871

You've included in the report and its subsequent annexures all of the instructions given to you?---Yes.

PN1872

And there are no additional instructions that were not given to you, not recorded?---No.

PN1873

Thank you. If I can take you first, Dr Stanford, to your initial report: for those who are using the initial tab 1 digital hearing book, it's at page 446, is where I'm going to take Dr Stanford. For you I'm referring to paragraph 33 of your first report?---Okay, I have that.

PN1874

I'm sorry. Mine (indistinct) is tab 1 digital hearing book. I hope that's right. Does the expert panel have the hearing book that's 4243 pages? No?

PN1875

JUSTICE HATCHER: No. We have the report as a separate document.

PN1876

MS CAMPBELL: Certainly, but the first report is a separate document? I might just refer to the page numbers of the report and the paragraph numbers. Dr Stanford, if you're not certain what paragraph or page I'm referring to please just let me know. So turning to - this is what's referred to as part 2 of the report at page 12?---Yes.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1877

And it starts at paragraph 33?---Yes.

PN1878

Now, in this report you were being asked to look at industry questions more broadly than you are in your supplementary report where you are focused on the dental industry, is that correct?---Yes.

PN1879

Now, you set out here some of the structural features of the industry's relevant - relevant to the considered modern awards and you note here some of the challenges in coming to conclusions in relation to those industries. At paragraph - I'm sorry, I'll let you answer?---Sorry, I was just saying yes.

PN1880

Thank you. You identify that there is a lack of comprehensive data relating to labour market and financial indicators for these industries generally. Would you say that that's true of the dental industry?---Yes.

PN1881

You also indicate here that because workers covered or reliant on modern awards work in a variety of industries and occupational categories, and because consistent data conforming to those categories is not available from accessible sources, it's necessary to begin by using aggregated or aggregating partial data from various sources to compile high-level portraits?---Yes.

PN1882

Would you accept that what you have done in your supplementary report is follow that same process and create a high-level portrait of the dental industry?---Not precisely. First of all, the first report was addressing a wide range of occupations all covered under the HPSS award that was under review, whereas the second report did zero in on one specific occupation, dental assistants. So it did not involve the same process of aggregation across the whole group of occupations as my first report did. But it is certainly the case that the lack of consistent and comprehensive data on the dental services industry did mean that my analysis of the impact on dental assistants, one particular occupation, was nevertheless still approximate and subject to uncertainty regarding the nature of that data on dental services in general and dental assistants in particular.

PN1883

Thank you. Now, you make a structural point - and this is again going to all of the awards - sorry, all of the industries and the modern awards that were under review at that first stage, not specific to the dental industry. But you make a point about the fact that these assessments for this first report related largely to facilities that were operating in the private or not-for-profit and charity sector of the economy but which were in that case supported by extensive government fiscal supports?---Yes, that was true. That was true of many, not all but many of the industries covered in my first report.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1884

Not all - and would you accept that the dental industry is in a somewhat different category to some of those industries where there was more public funding available?---Yes, I would.

PN1885

When you looked at - and this is at paragraph 38 - this statement specific to workers under the HPSS award which as you've identified covers more industries than just those in the dental industry. Again in this situation other workers covered under the HPSS award are in industries where there is potentially some consumer funding and some public funding, is that correct?---Yes.

PN1886

Then at the last line of paragraph 38, you make a comment about the private health insurance system in Australia. And the comment that you make there is that this is in some sense, although part of the private sector there is a relationship to public funds because of the Medicare - the private health rebate that is provided by the Australian government. Can you clarify what you meant by that sentence?---Australian government policy has encouraged people to take up private health insurance including through that rebate program, which is mentioned there, as well as through income tax sur tax, which is imposed on individuals who do not take out private health insurance. So I think it's fair to say that the overall system of private health insurance kind of operating parallel to the Medicare system is subsidised by public policy both through the rebate and through the penalty that's imposed on people who don't take out private insurance.

PN1887

Elsewhere in your report when you've talked about private funding, is that - have you factored in that public policy element or a public cost in that sense or have you kept those two streams separate?---Elsewhere in my first report, do you mean, Ms Campbell?

PN1888

I guess in the first report or in the second report?---Yes.

PN1889

You talk about - when you talk about private funds, has this factor been considered or is this really siloed to the first report?---I have not considered the role of public subsidies in the second report on dental assistants for various reasons. I think in the case of dental services, the importance of private health insurances, you know, is less important than it is in other healthcare services. Although, there is a role for private health insurance covering some dental services. So I did not address this issue of the indirect public subsidy for dental services delivered through the subsidy for private health insurance in the second report. I did not cover that.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1890

Thank you. Sticking with the first report, you refer to a youthful source at a general level, and, again, this is talking about all of the industries being the IBISWorld reports?---Yes.

PN1891

And you agree that that's the case?---I referred to several IBISWorld reports in that first report, and it is a good source of industrywide data for that purpose.

PN1892

Now, in the first report, you were required to undertake an assessment of attempting to estimate how many employees were what's been referred to as award-reliant employees. What's your understanding of an employee being award reliant?---My understanding is that it is a person in an industry or occupation that is covered by the award in the sense that the award establishes a minimum rate of pay and that their personal pay is, indeed, set directly according to the parameters of the occupational pay scales contained in the award. In other words, somebody who's been paid at the rate - at the minimum rate specified for their position in the award. That's how I would understand the term award reliant.

PN1893

And in the table that follows paragraph 54, you had to make some estimations about an implied number that were paid according to the award or - and in this case, the Health Professional Services Award. You had estimated workers covered by the award in paragraph 2021 - sorry, in the year 2021 in the second-last line of the table. I understand that that was an amount from the Fair Work Commission and that that's where that estimate came from. Is that correct?---So just to clarify, are you looking at table 4 in my first report?

PN1894

Yes, I'm sorry. It's at the top of page 19?---And which line again are you looking at on the table?

PN1895

The second-bottom row. So estimates of workers covered by an award?---Yes. HPSS for 2021, and that did come from an information note published by the Fair Work Commission that is cited in that - cited in my bibliography to that first report.

PN1896

I understand here that this calculation related to award-covered employees?---Yes.

PN1897

When we say award-covered employees, just to short circuit it, that's employees that the award covers, but maybe paid at the award rate or above the award rate. Is that how you understand that term?---Yes. That is how I understand it.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1898

And this figure is, really, the maximum number of employees that the award can apply to. It doesn't give us a sense of who in that group is paid in accordance with the award?---Yes. That's right.

PN1899

Now, at 56, you set out at this general level that there is uncertainty concerning award coverage and award reliance and what the breakdown is and that there needs to be some caution around these figures?---Yes.

PN1900

Is that true of your estimate in the supplementary report?---Yes.

PN1901

Now, Dr Stanford, there is a 2025 September Arna Richardson report that you have relied upon. This is also an IBIS report. I understand that everybody in the hearing room has a copy of that report, but please let me know if that's wrong.

PN1902

JUSTICE HATCHER: Sorry. Is this exhibit 136?

PN1903

MS CAMPBELL: It is exhibit 136. Dr Stanford, have you been provided with a copy of the IBIS report for the purpose of the hearing today or the Arna Richardson report?---Yes, I have.

PN1904

And it says, 'September 2025 Report'?---Yes.

PN1905

Now, I understand that when you were completing the draft of your statement, this 2025 September report was provided to you after the first draft of your report that

you provided to the ACTU. Is that correct?---Yes. The full report was provided to me. I had been able to access short excerpts from the report on the IBISWorld public website, but because it's a subscription service, and since I'm no longer employed in Australia and I don't have access through a university library or another source, I could not, when I was doing my first draft, access the full report. So then the full report was provided to me by the ACTU team as I was refining and finalising my report.

PN1906

So I take it to say that the first report was largely a completed draft; is that correct?---Incomplete, did you say?

PN1907

Or the first draft - so it was largely a completed draft, the first report?

PN1908

DEPUTY PRESIDENT GRAYSON: Do mean the first draft of the supplementary report?

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1909

MS CAMPBELL: Sorry, the first draft report. Yes. The first draft report was largely completed, and then you were provided with the full copy of the IBIS report, and you took that into account?---Yes. I think that's fair. It wasn't a final draft. I was preparing this report on quite short notice. I received my instructions on October 7, I believe, and basically had about one week to prepare it. So I wouldn't say it was almost complete, but it was a fulsome draft, that first draft.

PN1910

And then once you were sent the full copy of the 2025 Arna Richardson report, you were able to rely upon it, and you incorporated it at that stage into what became your final report of your own?---Yes. And I did receive some additional information notes as well as part of my supplementary instruction letters from the ACTU team.

PN1911

Yes. I understand you've got some further notes about - and this is at attachment D at 557 to 558 of your report. You don't need to follow along, but in case anybody else is following along. That related to evidence concerning people in the - or dental assistants who were paid at above award rates. There was some evidence around that?---Yes.

PN1912

And then you looked at that evidence, and I'm assuming you incorporated that into some changes in the draft?---Yes.

PN1913

And the purpose of that was to factor in costs for award covered dental assistants who are paid at rates that are above the award?---Yes. That was useful for refining my analysis that was contained in the initial draft about the potential indirect impacts of an award wage increase in this occupation. In cases of

individuals who were paid above the award and then for a variety of reasons, could end up receiving higher wages indirectly because of a change in the award rate, either because the award rate leapfrogged what they were being paid, and then it was necessary that they be raised, or, perhaps, because the employers were paying a certain increment above the award in order to elicit stronger retention or recruitment and, therefore, adjusted their wages accordingly in line with the award, even though they wouldn't be legally required to.

PN1914

I understand that that's what gave you what was ultimately concluded as your high case once you factored those amounts in. That's correct?---Yes, that's right. Well, that did not come directly from that information, but it did inform my thinking on why high case would make sense.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1915

And the high case factored in the flow on consequences of an increase to the Award, that could happen to Award covered but not Award reliant employees; is that correct?---Exactly. And it was a very simplistic approach to the high case in whereby I simply doubled the reported estimate of Award reliant workers, as a share of total dental assistant employment which I had obtained from the stage 1 report from the initial review. I just doubled it for the high case, as what I considered a conservative estimate of the number of dental assistants who would receive a wage increase indirectly, as a result of the draft determination.

PN1916

So just so I can step through what you've just explained to the Commission, and please correct me – sorry, to the expert panel – and please correct me if I get this wrong: you looked at Award reliant employees under the HPSS Award and took a percentage, and then you assumed that the dental assistant cohort would meet that Award reliant cohort, that those two figures would be the same. Is that where you got the Award reliant figure from?---No. I got the initial Award reliant figure, which is the share of workers who would get a direct wage increase, from the Cortis et al report, which was the stage 1 research report that was used in the initial review.

PN1917

And that's the 33.5 per cent figure, if I remember it correctly?---Yes. And that's a figure that applies directly to dental assistants, not to the whole HPSS covered cohort.

PN1918

Yes. And then you doubled that figure?---Yes.

PN1919

What was the reason for selecting a doubling; was there any rationale behind that?---None other than to say that the precise number of people who are going to receive a wage increase indirectly is unknowable, because obviously it depends on the judgements and responses of employers and workers in the future. And in my judgement, saying it was twice as many as the people who were directly covered,

or directly reliant on the Award, excuse me, seemed like a very ample cushion, to take into account these potential indirect effects.

PN1920

Did you also consider the indirect effects on non-Award covered employees in the dental sector? So, for example, the indirect effects on receptionist wages or practice management wages?---No, I did not – I did not build those in.

PN1921

Do you accept that in the same way that an employer might determine to increase non-Award reliant wages, as a result of the Award increase, they may also need to adjust and look at the wages of other employees working in the same workplace because of the increase?---That is potentially true, depending on what the criteria determining the compensation of those other workers is. They may be covered by a different Award, or they may be covered by an enterprise agreement, in rare cases, or they may just be operating under individual contracts. So it's certainly true that for wage comparator purposes, employers who were giving wage increases to dental assistants might look at adjustments to wages for other employees in their practices.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1922

You gave an allocation – we're now in the supplementary report, and I can take you to the paragraph, it's 43 – you allocated some additional wage costs, I believe it was at 15 per cent?---Yes. What I was doing in that paragraph was trying to come up with an estimate of total labour compensation costs for all workers, not just dental assistants, in the dental services sector, as a proportion of total revenue or total operating costs in the sector. And in order to go from wages and salaries, and in this case, practitioner's income as well, to total compensation, you do need to adjust for non-wage compensation, and that was where I provided a 15 per cent markup to reflect superannuation contributions, first and foremost. And any other fringe benefit costs or other incidental employment related expenses that aren't captured in wages.

PN1923

Did you also include annual leave liabilities and long service leave liabilities in that 15 per cent?---No, I didn't.

PN1924

Now, you may have seen, in some of the documents that you were sent, some of the evidence that's now been tendered in the proceeding, there's another compensation related issue – or compensation related costs – at the moment, known as payroll tax; was that something that you factored in, in your overall costs?---Well, the 15 per cent number was chosen to be higher than the superannuation minimum, and to allow an extra cushion for incidental costs. And I would have been thinking about payroll taxes at the state level, along with any other potential incidental costs. So it was not a precise measurement, certainly.

PN1925

And did you also consider work related insurance costs, so for example, WorkCover, would that have been factored into the 15 per cent?---Again, not explicitly – not explicitly.

PN1926

Going back over all of these various costs, and I appreciate you might not have a sense of how much each of these things add up to, but would you accept that perhaps 15 per cent is somewhat towards the lower end of what these things have to cover?---Potentially. I think that's a fair statement, yes. I did not explicitly model all of those non-wage costs, and so, you know, a more detailed analysis – and, of course, it would have to be state specific, since the payroll taxes and the worker's compensation rates et cetera, are all state specific. So that would have been a bigger research undertaking, and what I did here, for shorthand, was just apply a simple markup. But I certainly accept the point that a more careful analysis could have come up with a different number, potentially a higher number.

PN1927

Now, just give me one moment, I just have to find one of your tables in the report, in the supplementary report. Now, if I could take you to – it's paragraph 41, and it's table 3 that we're having a look at. Just getting to the bottom here of where you have calculated - - -

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1928

JUSTICE HATCHER: Sorry, which page are we on?

PN1929

MS CAMPBELL: I'm sorry, it's page 19.

PN1930

JUSTICE HATCHER: Thank you.

PN1931

MS CAMPBELL: Of the report. Table 3, yes. So this, I understand, Dr Stanford, was the table where you calculated your figure as to Award covered employees. I understand that you've used the Cortis report, which suggests that Award reliant employees are 33 per cent. In this table you refer to the share of Award covered DAs in the total industry employment, I understand that DAs there is the dental assistants?---Yes.

PN1932

The shorthand for dental assistants. It seems to me here that what you've looked at here is total industry employments as the denominator, but the actual issue here is not the total industry employments, which includes, for example, dentists, hygienists, other employees that are not dental assistants, but the denominator there really ought to have been dental assistants employment; would you agree with that?---Not for what I say that I'm measuring in that table. What I say I'm measuring in that table is the impact of the provisional wage increases on total dental services compensation. And what I'm trying to get at here is what impact would the provisional wage increase have on the overall compensation costs in the

industry, not just for the dental assistants. If the question I was trying to answer is what impact will this have on total compensation of dental assistants, then you're right. The share of Award reliant workers, as a share of dental assistant employment would have been the right denominator. But I think for the question that I state in this table, and that I think is relevant for the impact of the proposed wage increases on the economics of the overall industry, I think this is the more appropriate question, and I think my methodology was appropriate.

PN1933

And so, in factoring that, you included dental income as a wage cost, as it were. So the income of dentists, I should say, to make it clearer?---Yes, that - there's some extensive discussion in the supplementary report. I didn't call it 'wage cost'; I call it 'employment compensation'.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1934

(Indistinct) yes?---And I think that's reasonable, because self-employment is a form of employment. I think there's, you know, a conceptual issue as to whether, if you're in a sole practice or a partnership, the money that the dentist receives - is it employment compensation, or is it profits from the business? And this is why, in economic and labour market statistics, for example, there's a category called 'mixed income', because in reality, it's a mixture of both. But in terms of measuring the impact on total compensation costs, including the payment of dentists, which is, by my estimates, a majority of total compensation in the industry, I think it's reasonable to consider it a form of employment compensation. I also note, in the report, that it's a bit of a moot point, because from the impact - from the perspective of the impact of the proposed wage increases on total operating costs in the industry, it doesn't matter whether you call dentists' income employment income or whether you call it profits, as a - as a portion - you know, profits reflecting the inclusion of the cost of the dentists themselves. At the end of the day, the impact on total operating costs, and therefore potentially on the prices of dental services, is the same. So in this case, I've considered it as a - as a form of employment compensation. If it wasn't, if it was treated purely as profits, then the impact on employment costs, excluding dentists' income, would be larger, but the impact on total operating costs in the industry as a whole wouldn't be - wouldn't differ from what I've presented here.

PN1935

So your ultimate conclusion is that regardless of how either income or wages are ultimately described, they don't make a difference to the outcome of this conclusion?---To the - to the outcome of my conclusion regarding the impact of the wage increases - the proposed wage increases - on overall operating costs in dental services.

PN1936

Yes?---Yes, that's right.

PN1937

Now, at paragraph 54 of the second report - I will just take you to the page number. So this is at page 24?---Yes?

PN1938

So this is when you're coming to your conclusion. So:

PN1939

*The provisional reclassification of most DAs described in the panel's initial decision would result in a one-time increase in the weighted average wages of DAs.*

PN1940

Now, just going to the weighting and how that was worked out, ultimately, the figure is a 7.8 per cent weighted average increase?---Yes.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1941

You haven't - or I am unable to ascertain how it is that the weighting was applied to that figure. Could you explain that?---Certainly. Earlier in the report - I will take you to pages 7 and 8 of the initial report, or paragraph - starting at paragraph 9. After I've described what the wage increases would be for each of those reclassifications in the draft determination, then I say that the overall impact of these changes on average wages for dental assistants depends on how many fit into each category. And then, in paragraph 10, I repeat evidence that was considered in the initial review. This also comes from the Cortis et al stage 1 report that broke down dental assistant employment according to their highest educational qualifications. And this data was cited in the initial decision of the panel. And there you see, in my table 1, on page 7, the breakdown across the different levels of education. Then I note that the panel itself said, this is kind of problematic, because, you know, there's people with bachelor's degrees and advanced diplomas in that list, which aren't required to work as a dental assistant. And a couple of possible explanations for that are, people misunderstood what their job was when they replied to the survey; or another explanation was, these are people who had a bachelor's degree in some other field, not related to what they were doing. Then what I did was, I made some assumptions, based on that initial starting distribution of dental assistants across different levels of qualification, regarding where they would fit into the wage categories that were considered in the initial decision. So the one that was mappable directly was the 30 per cent of dental assistants who had less than a Certificate III. Most of those would fit into the - into level 5, which is where you've - where you don't have a Certificate III. But I also ascribed one-sixth of that amount to level 1, being people who have no certification and are just starting. Then, for levels 6 and 7 - level 6 is a Cert III; level 7 is the Cert IV - I took the rest of them and - and divided it by half. Again, that's just a very arbitrary division, but it assumes that 35 per cent of the dental assistants would qualify for level 7, 35 per cent would qualify for level 6, and then 25 per cent in level 5, and 5 per cent in level 1. And with those weightings, I could convert the specific wage increments that would result from the reclassification in the initial decision into a weighted average wage increase. I did note - and - and I think it's worth considering - that the weighted average wage increase is not very sensitive to those assumptions about the distribution of dental assistants across those categories, because with the exception of the - the lowest category, level 1, where there was no wage increase arising from the initial decision, the wage increases

for each of the others are quite similar, at least in a broad order of magnitude. So, you know, whether my 35:35:25:5 assumption was modified to, you know, even something significantly different wouldn't make very much difference to the estimated weighted average wage increase for all dental assistants arising from the decision.

PN1942

In coming to that conclusion about the weighting, did you - - -?---Yes.

PN1943

Were you able to ascertain any data about dental assistants' time in the job?---No.

PN1944

So that weighting is purely based on the assessments relating to certificates?---Yes.

PN1945

Now, in the first report, it's - I'm just going to find the page number of this for you, but it's paragraph 74 - you make some general commentary about key structural features that will affect response costs for employment. This is at page 25 of your first report?---Yes.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1946

So just listing them here, you talk about the share of labour costs in the total industry. Now, that is covered in part in the supplementary report for the dental industry, isn't it?---Yes.

PN1947

And I understand that your assessment is that it's a high labour cost industry by comparison to other industries?---Dental assistants?

PN1948

Well, or the dental industry?---Or dental services?

PN1949

Dental services, yes?---Yeah, I - I don't think I said that in the second report, but I do think it's true. I estimated that total employment costs, including the dentists' income, whatever you call it, amounted to over 50 per cent of total costs in the industry. So that would make it a high labour cost industry, yes.

PN1950

Another factor is the - this is at (c) - the flexibility to utilise factor inputs in response to changes in relative factor prices?---Yes?

PN1951

Is that something that you gave specific consideration to in the supplementary report?---Yes, I did. When I was answering the question in my letter of instruction about the impact of the proposed wage increases on employment of DAs, I did raise the issue of the possibility of substituting away from labour for some other factor input in dental assistant services, and I noted that that seemed

unlikely. Given the nature of the services that dental assistants perform I think it would be very difficult to substitute capital and machinery for the work that they do.

PN1952

In the supplementary report you refer to automation. Is that what you are getting at there - - -?---Yes.

PN1953

- - - that it's a difficult industry to automate?---Yes.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1954

There has been some evidence about the possibility of automation or the use of different tools or AI generative technology. Is that something that you see could be factored into the assessment of the flexibility of utilised factor input?---Well, the technical possibilities of automation or other technological innovations that reduced the need for direct labour input in some of those different functions is indeed what we're talking about when we talk about factor flexibility. So, you know, to the extent that AI could be used to replace what a dental assistant does then that would be relevant to the analysis of the impact of on average 7.8 per cent wage increase on dental assistant employment. I'm not an expert on dental technology, but my initial judgment would be I don't see how AI in particular, and automation in general is going to replace, is going to be able to replace the services that the dental assistants offer, and if it was possible I don't think that the wage increase of the order magnitude being considered here would be the key factor in determining whether those technologies went ahead.

PN1955

JUSTICE HATCHER: Presumably, Dr Stanford, there was some capacity to substitute the labour of dental assistants for some form of automation, as has been suggested to you. That would operate to further diminish the labour cost of the wage increase?---It would reduce the labour cost impact, but it would also potentially have an impact on employment levels, and I think it was in relation to the employment level question I was asked, but I was addressing this issue of factor flexibility. But you're right, it potentially would reduce the impact on final compensation costs of the wage increase. Whether it reduced overall operating costs would depend on the balance of the savings on the labour cost side versus the investment and additional costs that would be required to invest in that new machinery.

PN1956

Thank you.

PN1957

MS CAMPBELL: Thank you. The next factor that you consider is the ability to pass on costs to consumers?---Yes.

PN1958

As we discussed earlier there are aspects of the work, or income in the dental industry that are privately funded. That's correct, isn't it?---Yes.

PN1959

Are you also aware that there are arrangements within the dental industry that result in some fixed prices where costs cannot be passed on to consumers?---I would be aware of arrangements like that between dental practitioners and private insurance companies. Is that what you're referring to? Yes.

PN1960

I believe that the IBIS report that I took you to earlier addresses some of these. They're known as private health arrangements?---Yes.

PN1961

And just to short circuit taking you to this, what results is that a private health insurer will fund on a fixed fee basis an aspect of the dental work?---Yes.

PN1962

Those arrangements are negotiated on a yearly basis between dentists and private health insurers?---Yes.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1963

In that situation there is not, at least for the annual basis, a capacity to pass on a cost to that particular consumer?---Yes, I accept that.

PN1964

Did you give any - - -

PN1965

JUSTICE HATCHER: Sorry, Ms Campbell, what's the page reference in the IBIS report, please?

PN1966

MS CAMPBELL: Yes. The IBIS report, sorry. It's in a couple of places, but where I have been sort of referring to is at page 8. So it's the paragraph that says:

PN1967

*Many of the larger dental practices operate under preferred provider agreements with the major health insurance fund.*

PN1968

It explains in the second sentence that they can come at the cost of financial economy in setting patient fees.

PN1969

JUSTICE HATCHER: Thank you.

PN1970

THE WITNESS: I will also note just in reference to that, Ms Campbell, that the IBIS report also points out that the larger dental practices account for a very small

share of the total industry. So that's another fact to keep in mind around the relationship. But my guess is, again I'm not certain of this, but my guess is that probably private insurance firms also have these schedules for practitioners who are billing their services to the insurance companies, and you could get a similar effect experience that way as well.

PN1971

MS CAMPBELL: So that's a fee schedule example. Would that be another circumstance where consumer oncost is not – or passing the cost on to consumers is not an available option?---At least not immediately.

PN1972

Now, your conclusions, Dr Stanford, have been made really at an industry level, but you have not looked at particular practice type and the type of work that they would be conducting, have you?---No.

PN1973

So there may be some practices where they have more of these fixed fee arrangements?---Certainly.

PN1974

And that would reduce the ability of that particular practice to pass on the cost to consumers?---At least immediately.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1975

There's also an aspect of the industry that involves Commonwealth funded dental care. Did you consider that at all in your estimations?---Not explicitly, no.

PN1976

This is also covered in the IBIS report. I will just find a reference for you, sorry. So for example there are private dental services who provide what is essentially a public health service that is funded by the Commonwealth Government for certain parts of the general population. Did you consider that aspect of the services required in your report?---Not explicitly, no.

PN1977

JUSTICE HATCHER: Is that referenced in the IBIS report?

PN1978

MS CAMPBELL: I'm sorry. At page 7 is a good example, and it's the third bullet point. So this covers the Commonwealth – page 7 of the document, apologies. And if you would like to go to this as well, Dr Stanford, you can, but I can also read it for you.

PN1979

*Government assistance is limited to the child benefit schedule and the Federation Funding Agreement for adult public dental services.*

PN1980

Now, we've heard some evidence in this proceeding that the government funding is somewhat limited and does not necessarily keep in step with costs. Would this be another example where costs cannot be passed on to the consumer?---Well, perhaps, in the immediate sense, again, just as we were saying in relation to private insurance arrangements. But again, both private insurers and the government, while they're setting these fee schedules, have to consider the costs of – you know, what are considered normal benchmark costs of providing the service, and that is what informs their fee schedules or the contracts that they enter with the practices.

PN1981

So ultimately, I think it's reasonable to expect that, certainly for the government-funded portion of the services, and ultimately for private health insurance coverage as well, if an adjustment to the labour expenses for dental assistants is implemented as a shift in the minimum compensation required for this type of work, then that will have to be reflected, ultimately, in their benchmarks of what is a reasonable fee to provide practices, under either their private insurance, or, in this case, under publicly funded dental services. So the impact of higher wages would not be felt immediately on those, certainly, but I think it's reasonable to assume that they ultimately would be reflected in higher fee schedules.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1982

There's also a State Government system, which is similar. I'm just now at page 30 of the IBIS report. This is what's referred to as a voucher system. That gives some adults access to public dental services, and it's restricted to people with healthcare cards or single parents, the elderly, disabled, and unemployed. So this is at page 30 of the IBIS report. Now, here, again, I gather this is not an immediate ability to pass on costs to consumers?---Yes, I agree with you.

PN1983

And it may be that it would take some time for those arrangements to reflect any additional costs?---Yes.

PN1984

Now, some of the effects are this, is that there may be certain groups of consumers who are privately paying, or paying from their own pocket, that will have to shoulder the additional costs, if they are passed on, because they cannot be passed on immediately in some of these set price situations. Would you agree with that, that the costs can move around?---I would agree that the private consumers, particularly who are paying for dental services out of their own pockets, will experience any price adjustments resulting from the wage increases faster than other payment arrangements would.

PN1985

I don't believe that you would see a significant amount of cost subsidisation, in the sense that dental practices would charge more, above and beyond the actual increase in costs, to those private consumers, in order to offset the fact that they can't charge immediately higher prices to private insurers or to government, in the case of the publicly funded services.

PN1986

Dental services is an extremely competitive industry; a large number of very small practices. And I think a practice that tried to offset the inability to increase prices on work that was funded by either private insurers or the public by increasing the amount, the extra amount that they were charging out-of-pocket private customers, would lose those private customers to other practices. So I wouldn't expect a cost subsidisation of the sort that I think you were suggesting.

PN1987

So just returning to your list of factors, the cost increase in those circumstances can't easily be passed on to consumers. I understand you to be saying that's because of the highly competitive nature of the industry?---In a competitive industry, you would expect prices to be flexible in relation to the true cost of producing it. So in that case, something that affected a cost parameter in the whole industry, like dental assistant wages, should be passed on in the form of higher cost to final consumers, in a highly competitive case. In the case of the regulated arrangements, or arrangements that were tied to contracts with fixed terms, such as we were discussing earlier, with private health insurers, then there would be a lag in the ability to pass on higher costs.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1988

And how is it that you envisage that that lag will be funded?---Dental practices, if they have to pay costs for dental assistants immediately, and cannot negotiate adjustments in fee schedules with private insurers or government funders, for some time would bear the difference, in the form of reduced margins on the business.

PN1989

And in some cases, I understand that that reduced margin may relate to profit, or it may relate to a dentist's wages. Is that how you would treat that amount?---The dentist's compensation. I don't call it 'dentist's wages', but the dentist's compensation, yes. And as we discussed earlier, it's a fuzzy line between dentist's compensation and the profits of the practices, especially in the case of very small practices.

PN1990

Now, the IBIS report says that the industry is 60 per cent privately funded. Do you recall seeing that in the report? I can quickly take you to that. Sorry, perhaps I'll say it's substantially privately funded?---Yes.

PN1991

But there is a substantial cost that is subject to within these private health arrangements, and also State Government and Federal Government arrangements?---Yes.

PN1992

Is it possible to quantify the effect of this lag on the industry as a whole?---I think it's impossible to quantify precisely. You could estimate it, on the basis of assumptions about the lag time with which private insurance fee schedules and

government funding adjusted to the increase in the benchmark minimum compensation for dental assistants. So what you could do is take the estimate of the impact of the wage increases on total operating costs of the industry, and then assume that a proportion of that can be recouped from individual consumers paying out of pocket, in line with the proportion of total revenue that comes that way.

PN1993

If I recall from the IBISWorld report, I think they said about 20 per cent of the industry's revenue came from private health insurance. And so on that part, you could make an assumption about what sort of lag it would take for those contracts, which I think are renegotiated annually, to be adjusted, and then, whatever the share was on government funding, and make an assumption about the time lag on that. And in that way, you could get perhaps a dynamic estimate of how, over a period of some years, depending on how fast the fee arrangements were renegotiated – one year, two years, whatever – in the interim, what would be the impact on the net income of the providers. So that would be how you might go about trying to estimate the impact, but I don't think it's a precise estimate.

PN1994

Thank you.

\*\*\* JAMES STANFORD

XXN MS CAMPBELL

PN1995

JUSTICE HATCHER: Presumably, the assessment would be highly dependent upon whether the wage increases are operative in one tranche or staggered over a period of time, Dr Stanford?---Well, of course. No, I was assuming – I was understanding the question being if the wage increases were introduced immediately, and the fee arrangements with private insurers and government would lag, what would the impact be in the intervening period until the fee arrangement's caught up. So if the wage increases were phased in or deferred, then, obviously, the impact on margins in the industry would be diluted accordingly.

PN1996

Thank you. I have no further questions for you, Dr Stanford. My colleague Michael Seck is going to ask you some questions, though. So just hold on the line, please.

**CROSS-EXAMINATION BY MR SECK**

**[3.01 PM]**

PN1997

Dr Stanford, my name's Michael Seck. I'm the counsel appearing for the Australian Dental Association. I just wish to ask you some questions about your reports. I think you said earlier on in answer to a question asked by Ms Campbell that you accept that the conclusions you've expressed in your supplementary report are necessarily at an aggregate level. Do you recall giving that answer?---Yes.

PN1998

And so what your report doesn't take into account is that there might be differential impacts upon different segments of the dental industry. Do we accept that?---I certainly do, yes.

PN1999

And those who might be impacted by the proposed variations to the wage rates of dental assistants set out in the draft determination might be different depending upon the location of the practice. Would you accept that?---I don't follow the connection to the location unless there was systematic variation in wage rates and costs components across locations.

PN2000

Well, let's deal with it a different way?---Okay.

PN2001

I think you say at paragraph 24 of your supplementary report, Dr Stanford, that the dental industry is highly fragmented, comprising of a large number of small proprietors?---Yes.

PN2002

You've identified at paragraph 24 that there are 21,000 distinctive firms operating in industry around 2025, yes?---Yes. I'll just note that that is simply citing information from that same IBISWorld report that we were discussing. Yep.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2003

And if you go to the IBISWorld report, if I can invite you to go to page 8 of that report - - -?---Okay.

PN2004

You'll see under the heading about a quarter down the page, 'Rising Industry Participation', the third bullet point, you would also accept that based on the Australian Institute of Health and welfare data that 27 per cent operate as sole private practices?---Yes. I see that.

PN2005

And if I can invite you to go to page 19 of the report?---Sorry, sir. Of the IBIS report?

PN2006

Of the IBIS report. I apologise, Mr Stanford?---Yes, okay, okay. Yes.

PN2007

If you go under the heading in the first column which talks about concentration and the second bullet point in the left-hand column, you'll see it says in the last sentence of the second bullet point, 'Around 93 per cent of the enterprises earn less than \$2 million in annual revenue', you see that?---Yes.

PN2008

And that would suggest to you, obviously, a significant proportion of the dental industry is either sole proprietors or small businesses. Do you accept that?---Yes, certainly.

PN2009

And there's also a reference in the IBIS report, and I think you might have been referring to this earlier on, to at least at the other end of the market spectrum, large corporate dental practices who might be owned by - or have shares owned by private equity or large superannuation funds?---Yes. The IBIS report indicated that there was some expansion in this type of business within the industry, but it was still a small share.

PN2010

So that would suggest that there is a high level of diversity of dental practices in different locations. Would you agree with that?---Perhaps I'm confused by the term 'location'. I'm thinking geographic location.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2011

Yes, geographic. I'm meaning geographic location?---Right. Well, again, if there's differences between geographic location according to the structure of these businesses, then, yes, there would be if it's correlated with location. I suppose you could - it would be reasonable to assume, you know, most of these larger firms that the IBIS report refers to are probably located in the cities whereas in rural and regional areas, it would be even a larger dependence on independent practices. So in that regard, there's probably a geographic dimension to this corporate structure in the industry.

PN2012

JUSTICE HATCHER: You were talking about effect of the wage increases, were you?

PN2013

MR SECK: Yes, I was, beforehand.

PN2014

JUSTICE HATCHER: So, Dr Stanford, can I put it this way that the effects of the wage increases might be different to a practice in a major city with a hot labour market, to put it that way, as compared to a smaller town where there might be less jobs around and a greater tendency to pay the award rate?---Okay. Could you just rephrase that? I'm sorry. Yes.

PN2015

Yes. The effect on businesses, or the effect on the cost on businesses of the wage increases, might be different as compared, for example, to a practice which is operating in a major city with a fairly hot or healthy labour market and where there might be a shortage of workers compared to, say, a practice in a country town where there's less jobs available, and practitioners have a greater capacity to pay the award wage and no more?---I see. Thank you. Certainly, the incidents of award reliant staff is a crucial indicator of the final cost impact of the proposed

wage increases, and if there's a geographic - a systematic geographical pattern to that award reliance, such as you've suggested in rural and regional areas, then, certainly, the impact on final costs would be experienced more significantly in those rural and regional areas because of their greater award reliance. Yes.

PN2016

Thank you.

PN2017

MR SECK: And would you accept as a general proposition, Dr Stanford, that the less profitable the dental practice might be, the more likely the practice would be paying employees based on the award as opposed to above the award?---I would be cautious about making that assumption. I think there's many factors that would determine how profitable a practice is and the relationship between the profitability of the practice and the level of pay. I think it's complex. I think I could also contemplate a situation where the practice is paying higher wages. Above award wages were, in fact, the less profitable, and so I think it would be difficult to make an assumption like that.

PN2018

Dealing with the question of geography, can I invite you to go to page 17 of the IBIS report, Dr Stanford, which deals with a geographical breakdown of the dental industry?---Yes.

PN2019

And you'll see halfway down the page, there's a heading which says, 'Where are industry businesses located'?---Yes.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2020

And the proposition that sits underneath that is that socioeconomic and demographic variables underpin the industry's geographical spread. Do you see that?---Just let me - which bullet point would that be? I'm sorry. Yes. I found it. The fourth bullet, yes.

PN2021

So you'll see the first column of page 17, Dr Stanford, has the proposition at the top, or, sorry, about halfway down the page, but under the heading, 'Where are industry businesses located'?---Yes.

PN2022

It says as a very general proposition, 'Socioeconomic and demographic variables underpin the industry's geographic spread'. Do you see that?---Yes, I see that.

PN2023

And underneath that, there's a heading right at the bottom which says, 'Significant discrepancies exist between urban and rural areas'. Do you see that?---Yes.

PN2024

And do you accept the proposition which is in the bullet point underneath that heading that there's a significant uneven distribution between urban and rural

dentist service practices is an issue in the industry with many Australians living in remote and very remote areas facing accessibility barriers to dental care?---Yes, I do.

PN2025

And if you go to the next proposition, that dental practitioners – and I'm just summarising here – tend to be attracted to large cities and therefore there's a shortage of dental services in rural and regional areas?---Yes, I see that. And I suspect that's true, yes.

PN2026

And to pick up the proposition that was put to you earlier, would you accept, therefore, that there's likely to be less jobs available in rural areas?---Not necessarily, no. It depends which rural area and the state of the regional economy there. There are some rural areas with very strong labour markets, and shortages of staff.

PN2027

JUSTICE HATCHER: I suppose it might be the case, in some areas, that if there's a shortage of dentists and dentist practices, they might have less competition and a greater capacity to pass on costs?---That would be one potential relationship, and of course, then that depends on the capacity of the regional market to absorb those costs. So I think it is difficult to make strong assumptions about the relationship between geographic location, the nature of the costs, the level of wages and the level of profits in the practices. But I certainly accept what this report is saying: that there's less accessible dental services in rural and regional areas, certainly.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2028

MR SECK: Would you also accept as a general proposition – and I know it's going to vary from area to area, Dr Stanford – that generally speaking, the socioeconomic status of people who live in remote and regional areas is generally going to be lower than metropolitan areas?---Yes.

PN2029

And therefore, any capacity to pay for any price increases in dental services might be less in regional and remote areas?---Yes, that's reasonable.

PN2030

Do you also accept that – well, if you go to page 18 of the IBIS report, Dr Stanford?---Yes.

PN2031

You'll see in the second bullet point there's a reference to private dental practices providing government funded dental care?---Yes, I see that.

PN2032

And the general proposition there seems to be that government funded dental care is provided in particular regions more commonly than other regions; would you accept that as a proposition?---Other than what I'm reading before me, I don't have

any knowledge on which to base that, but this is certainly what the IBIS report says.

PN2033

So that would tend to suggest that particular areas which might have people who are more likely to access government funded schemes like children or elderly people or people from the First Nations status are likely to be living in particular regions, compared to the general population?---Yes, that seems reasonable, and correlates to what we've just discussed about, on average, populations in regional and rural areas will have lower socioeconomic conditions than those in urban areas.

PN2034

And I would suggest also there's a difference between different states, from that bullet point, that there's going to be variation between more popular states such as Queensland, New South Wales and Victoria compared to other states and territories?---Yes.

PN2035

And would you also accept as a general proposition there's going to be variances, depending on whether or not it's closer to the heart of the city, as opposed to outer metropolitan areas of major capitals?---Again, sir, I don't have any knowledge on which to base that. I don't know about the distribution of dental services within a metropolitan area.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2036

When you read the IBIS report, Dr Stanford, there was a reference to larger corporate dental practices who might be able to provide a more diverse menu of dental services to patients; do you recall reading that in the material?---Yes, I do.

PN2037

And those elective, more diverse range of services, can often be more profitable and lucrative compared to more basic preventative care; do you recall that proposition?---I don't recall it, but you could refer me, and I think it is certainly reasonable to assume that.

PN2038

And making that assumption, Dr Stanford, would you expect that large corporate dental practices might have the capacity to absorb wage increases more because they can cross-subsidise those increases in wages by, in effect, using the revenue stream for more lucrative services than smaller dental businesses?---I don't know if I would use the term 'cross-subsidisation' in that case. Cross-subsidisation implies taking revenue from one stream of business and using it to reduce the price on other streams of business. I would accept the proposition that if you've got a mix of business that includes a higher proportion of those higher margin activities, then your ability to absorb or pass on the higher wage costs for staff would be enhanced. Certainly, I'd accept that. I don't think I would call that cross-subsidisation, strictly speaking.

PN2039

I may have used the wrong term, and I apologise for that, Dr Stanford. Can I go to the issue of Award reliance, and Ms Campbell asked you a few questions on this issue?---Yes.

PN2040

You used the Cortis report as a basis for the proposition that approximately one third of dental assistants are Award reliant. Do you recall accepting that proposition?---Yes.

PN2041

Am I right in saying that the evidence doesn't reveal the types of businesses which are more likely to be paying employees or dental assistants based on the Award, relative to other types of dental practices?---You're correct, it does not do that.

PN2042

And so, what we don't know, based on the data, is the potential impact of any wage increase on dental practices across a diverse range of characteristics?---That is correct.

\*\*\*

JAMES STANFORD

XXN MR SECK

PN2043

You said beforehand you didn't necessarily accept the proposition that small or less profitable dental practices are more likely to have Award reliant dental assistance; do you recall that proposition being put to you?---If I remember correctly, it was the less profitable part. I was questioning whether a business that paid above Award wages would be more profitable or less profitable. On the smaller scale of business, that's another dimension, and I don't have any information as to the incidence of Award reliance across different sizes of companies.

PN2044

Now, can I ask you about the price elasticity of dental services - - -

PN2045

JUSTICE HATCHER: Sorry, the what?

PN2046

MR SECK: Price elasticity.

PN2047

JUSTICE HATCHER: Thank you.

PN2048

MR SECK: Pardon me, Your Honour. In terms of any increase in dental prices, does your research indicate the likely effect on patients if there is an increase in dental fees passed on as a result of any wage increases?---I did not address that empirically in my report, and it would be a considerable undertaking to try and do that. I did address this in summation in my conclusion, where again, in response to the question of the likely impact of the provisional wage adjustments on employment of dental assistants, I did address this issue of could higher prices for

dental services resulting from these new wage benchmarks for dental assistants lead to a reduction in consumer demand for dental services, and thereby, a reduction in employment of dental assistants. And what I argued there was that the scale of impact of the provisional wage increases on total costs in the industry, which were less than 1 per cent were not large enough to meaningfully affect consumer behaviour. Now, that's a different question. That's a question about the order of magnitude of the changes rather than the price elasticity per se. You could still have a significant price elasticity in this industry and if the order of magnitude of the cost changes and subsequent price changes was larger, you might see an impact. So the basis for my judgment there was about scale, not about the value of the price elasticity per se.

PN2049

Can I take you to page 7 IBIS report, Dr Stanford, and ask you to go to the second bullet point about halfway down the page, which starts with the sentence industry, 'The industry's reliance', do you see that?---Yes, I see that.

PN2050

You'll see the proposition which is set out there, which says:

PN2051

*The industry's reliance on private fees leaves it more susceptible to changes in consumer expenditure patterns that arise from fluctuations in household income.*

\*\*\* JAMES STANFORD

XXN MR SECK

PN2052

Do you accept that as a as a general proposition?---Yes.

PN2053

And you also accept the next proposition:

PN2054

*The current cost of living crisis is dampening demand for some Australians who are opting to defer routine dental services because of their cost.*

PN2055

?---Yes, I read that. Yes.

PN2056

And so do you accept that as an economic proposition that if, given the current economic circumstances that particular segments of the community might be facing that if there is an increase in prices of dental fees, a response might be to defer or avoid incurring voluntary dental problems?---Yes. The wording of that statement is quite broad. So 'dampening demand for some Australians', that is certainly true. On the other hand, the same report points out that revenue in the whole industry and activity in the whole industry is growing. So the current cost of living crisis is certainly a factor. Now, the cost of living crisis is changing in Australia as inflation comes down and wage growth picks up. And the overall revenue projections within this report show that the industry is nevertheless

growing. But the claim that, you know, high costs are dampening demand from some customers is certainly true.

PN2057

You didn't seek to measure that potential impact, did you, Dr Stanford?---No.

PN2058

Right. You were asked some specific questions about the impact of the draft determination on amongst other things, employment growth in the national economy. Do you recall that?---Yes.

PN2059

In measuring the impact of any wage increase or proposed wage increase, one thing you would need to take into account is the impact on consumer behaviour in response to any potential price increases. Would you agree with that?---Yes.

PN2060

And if there is a potential reduction in members of the community seeking preventative dental care, you would agree as a general proposition that may have an impact on the oral health of that cohort?---Yes, certainly.

PN2061

In terms of your background, Dr Stanford, I gather your expertise is in labour economics and not health economics, would that be correct?---Yes.

PN2062

As part of your report, one of the - - -

\*\*\* JAMES STANFORD

XXN MR SECK

PN2063

JUSTICE HATCHER: Sorry, did you just disqualify him from his last answer? He agreed with you, and then you disqualified him.

PN2064

MR SECK: No, no. Well, I was going to - - -?---I was - I was contemplating - I was contemplating stating that my mother always told me I should go to the dentist. So, I certainly - I accept the proposition that not seeing the dentist is bad for your oral health.

PN2065

One of the documents to which you made reference in your expert report, Dr Stanford is – sorry, I'll find – it's a document which has been created by the Australian Institute of Health and Welfare?---Yes.

PN2066

You understand that's a government - an Australian Commonwealth Government Organisation, correct?---Yes.

PN2067

And they published a report which is entitled Oral Health and Dental Care in Australia? Yes?---Yes.

PN2068

And you referred to that in your report in various locations?---I - I did consult this report in the course of my research. I'm not sure what I actually cited from it, but I did consult the report.

PN2069

And when you said you consulted the report, you looked at it for particular purposes to find - - -?---Yes. I was looking for information on employment levels and costs and so on.

PN2070

Did you also note from the report that it refers to the impact of oral healthcare on the general health of the community?---I noted that the website, the version of this report that I looked at was on an interactive website. So you clicked on different sections in order to see those sections. And I did notice a very comprehensive list of topics related to oral health and its overall impact on well-being. But I did not review those documents in detail.

PN2071

Hopefully you've been provided a copy of a document as a PDF document, Dr Stanford and I have. So can I invite you to go to that document? I just want to take to you some general propositions. Tell me when you have it and hopefully the Bench will also have it?---Yes, I have it.

PN2072

JUSTICE HATCHER: Are these going to be labour market propositions?

\*\*\* JAMES STANFORD

XXN MR SECK

PN2073

MR SECK: They're more economic propositions, generally. But they won't - it will flow on. Do you accept that - go to page 4. You'll see there's an introduction?---Yes.

PN2074

It doesn't have pagination on the document, regrettably?---Right.

PN2075

Dr Stanford, but it's page 4 of the PDF?---Page 4 of the PDF. I have it.

PN2076

And you'll see under the - in the second paragraph, 'Oral health refers', et cetera. I want to take you to the second sentence which says:

PN2077

*Poor oral health, mainly tooth decay, gum disease and tooth loss affects many Australians and adults and contributes 4.5 per cent of all burden, that non-fatal burden disease places on the community.*

PN2078

Do you see that?---I do.

PN2079

And would you agree that to the extent that there is an impact of more the general health of the community, it does potentially have impact upon health costs that might be incurred?---Sir, I think I'm beyond my area of expertise and beyond the scope of what I was asked to address in this research. So I'm cautious about making a judgment one way or the other on that statement.

PN2080

Would you accept then that when one is looking at the question about the impact of the draft determination on the national economy, one factor which might be relevant is whether or not there might be an increase in health costs or hospitalisation costs as a result of a decline in oral health care?---What I considered was the impact of the order of magnitude of changes in operating costs in dental services from this provisional determination on overall demand for dental care services. And my judgment was that the order of magnitude was too small to have a meaningful impact. I didn't follow that through to what would the impact then be on people's oral health and their general health.

PN2081

No further questions.

PN2082

JUSTICE HATCHER: Thank you. Any re-examination?

PN2083

MR LETTAU: No, no, Your Honour. Thank you.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2084

JUSTICE HATCHER: All right. Thank you for your evidence, Dr Stanford. You're excused which means you can disconnect from the call?---Thank you very much and good luck with your deliberations.

PN2085

Thank you.

<THE WITNESS WITHDREW

[3.29 PM]

PN2086

JUSTICE HATCHER: Mr Seck, going back to the confidentiality order. So obviously there's references to the confidential parts of the reports in the transcript from yesterday which the parties should now have. So can I invite you to perhaps look at the transcript overnight and adjust?

PN2087

MR SECK: We shall do that Your Honour, so we'll do it by reference to paragraph numbers and exhibit numbers.

PN2088

JUSTICE HATCHER: Yes, because we need to publish the transcript at some stage. So we'll need to redact it if that's necessary. But obviously, Ms Campbell,

as to this morning, we don't have the transcript yet, but can I invite you to do the same task?

PN2089

MS CAMPBELL: Yes.

PN2090

JUSTICE HATCHER: Okay. Thank you.

PN2091

MS CAMPBELL: I don't know whether this will happen, but to the extent that the figures are referred to in submissions tomorrow, whether made in documents or orally, we'll just make – we'll seek the same confidentiality order. But we can do that after the end of the transcript tomorrow.

PN2092

JUSTICE HATCHER: Well, if you're going to do that, can you try to do it in one discrete section so we don't have to - - -

PN2093

MS CAMPBELL: Yes. Thank you. It may not be necessary for that to happen, but I just raise it.

PN2094

JUSTICE HATCHER: Yes, all right.

\*\*\* JAMES STANFORD

XXN MR SECK

PN2095

MR SECK: Your Honour, I think - I'm going to, obviously, end the evidentiary part of the case. The parties have had discussions about the order in which to proceed tomorrow. It's proposed that the employer groups will go first, and then the unions will respond. I assume there will be the union and then DAPA. We expect that we will be done before 4 pm tomorrow.

PN2096

JUSTICE HATCHER: Yes, all right. Okay. Well, if there's nothing further, we will now adjourn, and resume at 10 am tomorrow.

**ADJOURNED UNTIL THURSDAY, 23 OCTOBER 2025**

**[3.30 PM]**

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