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## History repeats ... again

**T**he current hysteria arising from the numbers of boat people arriving in Australian waters is simply a case of history repeating itself. Andrew Bartlett examines the foundation of Australian attitudes to boat people and how quickly the 'key values' of the Labor Government have been abandoned.

In the ten or so years I spent in the Senate, migration policy, and especially asylum-seeker policy, was the area that occupied more of my time than any other. The political and media obsession about a relatively small number of asylum seekers who arrive by boat, and the pathologising of this as some sort of major problem (which it is to the asylum seekers, but certainly not to Australia) was and remains irrational in the literal sense of the word.

It is true that this obsession is shared by some of the general public, but that is continually fed and validated by politicians and media commentators rather than being seen as an area where the provision of some basic facts into the public debate would be beneficial.

This irrational reaction to boat arrivals was literally embedded in the foundations of the Australian nation. Fear and anxiety about the prospect of people flowing down into Australia from the north was a major factor in galvanising the separate British colonies on the island of Australia to come together in a federation, and has been apparent in many decisions made by governments and ministers ever since.

Those who think the current level of distorted and perverted public policy processes is some sort of unprecedented low in Australia's history would benefit from looking into

some of the material that documents decisions and actions by a range of Australian governments from the relatively distant past. Glenn Nicholls' book *Deported* details a series of injustices, some of them deadly, perpetrated by governments that put this fear above all other considerations.

Professor Klaus Neumann is another who has written extensively on the, at best, ambivalent record of governments throughout our history when it comes to attitudes to, and treatment of, refugees. Suffice to say, whilst there are some positive examples, as of course there are in more recent decades, there is no shortage of bad examples.

**F**ear and anxiety about the prospect of people flowing down into Australia from the north was a major factor in galvanising the separate British colonies on the island of Australia to come together in a federation.

Many of those who have followed the toing and froing of political debates and policies on refugees and asylum seekers over the last 20 years or so, especially those who have actively worked for more effective, efficient, reality-based administrative and policy approaches, would be looking on the current situation with a mixture of despair and resignation.

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The glass-half-empty view would be to argue that it is well past time for us as a nation to have lifted our game in this area. Backing up such an attitude is the disappointment that is a result of the rapid backsliding from what seemed like some real progress towards a far more rational policy basis in the early stages of the Rudd Government under the leadership of then Immigration Minister, Senator Chris Evans.

While short of ideal, the new 'immigration detention values', which he outlined in a speech in July 2008, provided a significant step forward not just in terms of a more efficient, more open, less harmful and less expensive policy approach, but also in terms of trying to move public discourse on the issue to a more rational level.

While the specifics of the new policy were, as always, somewhat open to interpretation, the very specific statement by the minister that 'detention in immigration detention centres is only to be used as a last resort and for the shortest practicable time' provided genuine cause for hope.

Even more explicit, and perhaps most welcome, was the very de-

finitive 'key value' that 'children, including juvenile foreign fishers and, where possible, their families, will not be detained in an immigration detention centre (IDC)'. People with any experience of the then only recently concluded Howard era were well aware that giving a detention centre any name other than 'Detention Centre' was all that was needed for a government to publicly assert that people (especially children) weren't being kept in a detention centre. So scepticism wasn't completely absent when these new principles were released.

Sadly, the retreat from this new approach did not take long to appear. It is hard from the outside to know for certain precisely what all the factors were that led to this new approach unravelling so badly. It is hard not to see Kevin Rudd's decision to highlight his personal, and very public, request to the Indonesian President to intervene to prevent a boatload of 255 Tamil refugees from reaching Australia, diverting them instead to the Indonesian port of Merak, as the key moment when the short-term politics of the issue once again poisoned policy implementation. It is probably not a coincidence that this



is also when Prime Minister Rudd in effect took the public management of the issue out of the hands of Minister Chris Evans.

But it is still profoundly dispiriting that it took such a short time for the Rudd and then Gillard governments to walk away so completely from this policy (and so-called 'key value') so that we now have well over 1000 children kept in immigration detention, many of them for prolonged periods of time. The promise has been so completely broken that the government hasn't even bothered to put most of those detained children in places that are not labelled a 'Detention Centre'.

The sense of history repeating is compounded by reports such as that recently released by the Commonwealth Ombudsman into detention conditions on Christmas Island. The similarities with the criticisms and warnings in a range of reports from the Howard era are compelling. Perhaps the most telling indication of how much things have regressed came with the decision by the dormant child refugee advocacy group ChilOut, with a core focus to get children out of immigration detention, to reactivate so that it could once again take up the fight on an issue it had every reason to think had been won.

If one were to take a glass-half-full approach, it is reasonable to argue that while the current situation with boat-borne asylum seekers is bad, and the levels of unnecessary and unjust human suffering appalling, it

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## ChilOut

ChilOut, or Children Out of Detention, was formed in August 2001 by concerned parents and citizens in response to the screening of the ABC's *4 Corners* exposé on the psychological and physiological breakdown six-year-old Shayan Badraie was suffering in the Villawood Immigration Detention Centre. At that time, 856 children were being held in indefinite mandatory detention.

Over the next four years ChilOut, along with a number of other groups, fought to convince the wider Australian public and policymakers that detaining children significantly harmed their development, was detrimental to their health and wellbeing and was not good policy for a civilized, caring society to pursue.

ChilOut has recently decided to revive its network of supporters and recruit new volunteers. The group co-ordinates visitors to children in detention and assists with the welfare needs of detained families and unaccompanied minors.

If you are able to assist ChilOut, please visit their website [www.chilout.org](http://www.chilout.org) to learn more about how you can be involved

# Patenting human genes

**The Patent Amendment (Human Genes and Biological Materials) Bill 2010 has received some criticism but it is merely an attempt to return common sense to the Australian patent system by banning the patenting of material that is naturally occurring or isolated from material that is naturally occurring. Senator Bill Heffernan defends the new Bill and explains the reasons for it.**

Recent criticism of the Patent Amendment (Human Genes and Biological Materials) Bill 2010 is unfounded as this Bill seeks to return common sense to the Australian patent system and apply the law by legislating to ban the patenting of human genes and other biological materials either isolated or naturally occurring.

The Bill will not prevent or reduce investment in the biotech industry. It is very narrow and only seeks to clarify and apply existing patent law.

**I**saac Newton couldn't patent the law of gravity and Albert Einstein couldn't patent the formula  $E=mc^2$ , and neither could Francis Crick and James Watson patent the DNA double helix.

It was a little over two years ago, on 16 October 2008, that I first rose in the Senate to bring this important matter to the Senate's attention. At the time, I questioned the legality of a practice which had allowed Myriad Genetics and its exclusive Australian licensee, Genetic Technologies Limited (GTA), to monopolise human genes BRCA 1 and BRCA 2, genes linked to breast and ovarian cancers. No one invented these genes. Yet, relying on four patents granted by IP Australia, on 8 July 2008 Genetic Technologies attempted to close down all public laboratory genetic breast and ovarian cancer gene testing when it sent a letter threatening to sue each of them for patent infringement. I said then, and I say now, that this 'is a disgrace'.

While the cochlear hearing implant is a wonderful invention, which has

rightly been cited as an example of Australia's contribution to improving world health, it is irrelevant to this Bill and adds weight to the question: do critics of the Bill understand the distinction between discovery and invention?

Here are the facts:

First, for nearly 400 years, patents have been granted for inventions, not for discoveries. No one has patented the discovery of the sun, the moon and the stars. Just as Isaac Newton couldn't patent the law of gravity and Albert Einstein couldn't patent the formula  $E=mc^2$ , neither could Francis Crick and James Watson patent the DNA double helix. A human gene made up of DNA is a product of nature, not an invention.

Secondly, all science agrees that there is no material difference between genes that are naturally occurring or isolated from naturally occurring. Thus, merely removing genes from their natural environment by isolating them does not change what they are; nor does it change their function. Regardless of where they are located, test tube or otherwise, it does not make them inventions.

According to the US Federal Court Judge Sweet, 'many scientists in the fields of molecular biology and genomics have considered this practice a lawyer's tric; and, I might add, a banker's feast contrived at great cost to human health and the public purse.

Thirdly, the US Government agrees with Judge Sweet on the issue of isolation.

In a recent court brief filed by the Department of Justice, the US

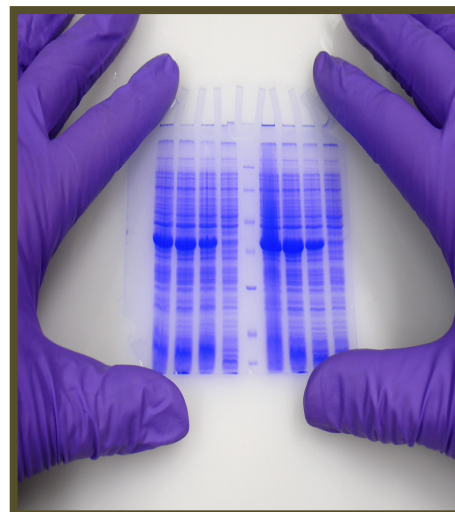
Government conceded that 'the longstanding practice', which had led to the granting of patents for isolated genomic DNA, was wrong. According to the US Government, the human gene BRCA 1, at issue in the case, 'was not invented'.

In Australia, under the passionate direction of a multi-partisan group of Senators, the Senate Community Affairs Reference Committee investigated gene patents and their impact upon Australia's medical and research sector and the Australian healthcare system. The inquiry concluded by strongly rejecting the 'isolation' rationale.

Far from shackling 'Australian scientific research' as claimed, the Patent Amendment Bill 2010 will rejuvenate medical and scientific research in this country by giving Australian scientists and doctors unfettered access to what President Clinton and British Prime Minister Blair called the 'raw fundamental data of the human genome'.

So concerned were they by the patenting of human genes that when

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# Complementary or contradictory

**R**ichard Denniss and Andrew Macintosh debate the efficacy or otherwise of the government's policies designed to complement the operation of a carbon price. They conclude that, instead of seizing the opportunity to develop better and more coherent policies, the government has attempted to hide the flaws in the existing ones by ramping up expectations of what a carbon price can deliver.

Well-designed, complementary policies play an important role in any attempt to drive significant greenhouse-gas emission reductions in Australia. And contrary to popular belief, the policies that are most effective in driving down greenhouse-gas emissions actually raise revenue rather than cost the budget money.

That said, there is no doubt that some complementary policies are so poorly designed and implemented that it is in neither the environment's nor the taxpayers' interests for them to be maintained.

The Gillard Government has recently scrapped, or wound back, a range of policies designed to help reduce greenhouse gases in order to ensure that the budget returns quickly to surplus. These policies, including the Cleaner Car Rebate, Green Car Innovation Fund, Green Start Program (the replacement to the Green Loan Program, ironically

a carbon price is introduced or redundant. This suggests that the Gillard Government believes that the specific objectives of the policies to be scrapped or wound back are best met by a broad-based carbon price rather than well-targeted complementary measures.

Ideally, this situation could have provided an opportunity for the government to rethink the role of complementary measures and to develop a more coherent suite of policies with the potential to deliver lower-cost abatement as well as potential spillover benefits in the form of knowledge, exports and jobs.

However, in attempting to conceal the design flaws of some of its complementary measures under the imagined need to find budgetary savings, the Gillard Government has instead further muddled the policy waters. Rather than help inform the public that a carbon price has an important, but limited, role to play in driving behaviour change, the government has instead inflated expectations about what a carbon price can achieve as an excuse to avoid scrutiny over the design of its existing complementary measures.

Policies such as the Green Car Innovation Fund were little more than a gift from Australia's taxpayers to the Australian car industry. But what is needed is not simply for



such policies to be abolished in the name of cost-cutting; they need to be replaced with policies that are genuinely transformative of the Australian car industry.

An irony of the decision to make savings at the expense of climate policies is that far greater savings could be made by abolishing the billions of dollars spent each year on contradictory policies that serve to encourage the consumption of fossil fuels.

The greater irony, however, is that while the Prime Minister cited the impending arrival of a carbon price as causing a wide range of climate policies to become redundant, that same carbon price should deliver between \$10 and \$20 billion in additional revenue each year.

Such a new source of revenue could easily fund the Queensland flood reconstruction several times over, unless of course the government is again planning to give every cent of new revenue away in compensation to those it is seeking to tax. §

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named as it was scrapped before it started), and the Solar Homes and Communities Plan, are often called 'complementary policies' as they are designed to complement the operation of a carbon price, as yet undefined.

The explicit rationale provided by the Prime Minister for her decision to wind back, or abolish, funding for these programs is that they will either become more effective after

# Sort of 'Made in Australia'?

**A**ustralians like to buy Australian-made goods as it allows them to feel that they are supporting their country, its products and local jobs. There are also safety aspects to consider. However, as Ben Irvine, points out, there is some confusion about what exactly 'Australian made' means as was demonstrated by a survey conducted recently by The Australia Institute.

The ubiquitous 'Australian Made' kangaroo within a triangle was launched in 1986 by the Hawke Government and is overseen by the not-for-profit organisation Australian Made Campaign Limited (AMCL). The logo is primarily used with one of three claims: Australian Made, Product of Australia or Australian Grown.



Economists and policymakers may debate the implications of buying local but it is clear that many Australians see buying Australian products as helping to support local jobs and the economy while alleviating concerns about quality and safety standards. A recent survey by The Australia Institute shows that many Australian consumers prefer to buy Australian products. Three in four survey respondents said that they either sometimes (44%) or always (30%) try to buy products that are made in Australia. A majority (55%) also said that they would be willing to pay more for a product if it had been made in Australia.

**I**t is clear that many Australians see buying Australian products as helping to support local jobs and the economy while alleviating concerns about quality and safety standards.

But cases of ambiguous country-of-origin-labelling are causing many consumers to be unclear as to how Australian the product they are buying actually is. This is because the 'Made in Australia' claim refers only to the processing of the product rather than to the source of the ingredients. Country-of-origin logos displayed on products must be consistent with the country-of-origin provisions in the new Australian Consumer Law. In order to claim that a product is 'Made in Australia' or 'Australian made', the product must pass two tests: it must be 'substantially transformed in Australia' during the manufacturing process and at least 50 per cent of the costs of production must be incurred in Australia. The more comprehensive label, 'Product of Australia', means all the significant ingredients must originate here and almost all the manufacturing or processing must be done in Australia.

The existing labelling rules for 'Made in Australia' mean that foreign content can be masqueraded as local content when it has been mixed, blended, seasoned, cured or homogenised here. This can effectively mislead customers who reasonably expect that the main ingredient in the 'Australian made' product is Australian. Examples are bacon cured in Australia from foreign ham, Australian crumbing on foreign prawns, Australian batter on foreign fish fillets and blended fruit juices with a high foreign content. AMCL is in the process of amending its Code of Practice so that processes such as these are not considered substantial transformations. The 'Australian made' logo is a certification trademark so any changes require government approval.

The Australia Institute survey dem-

**T**he existing labelling rules for 'Made in Australia' mean that foreign content can be masqueraded as local content as long as it is 'substantially' mixed, blended, seasoned, cured or homogenised here.

onstrates the consumer confusion over what 'Made in Australia' means. Three in four Australians are not certain about the meaning of the term, despite a recent advertising campaign to encourage people to buy locally produced goods from the organisation AMCL. Only a quarter (27%) of respondents answered the question correctly by indicating that a product must be produced or manufactured mostly in Australia in order to be labelled 'Made in Australia'. A higher proportion (34%) said that something must be produced or manufactured entirely in Australia, which is not the case. Other respondents thought that a product must either be made from Australian ingredients or components (13%) or produced by an Australian-owned company (20%). Neither of these factors is relevant in determining which products can be labelled 'Made in Australia'.

The debate about country-of-origin labelling has been heating up recently.

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# 2012: The year of the carbon tax?

**O**pponents of the need to put a price on carbon label Julia Gillard's latest initiative as a 'great big new tax on everything'. Those who advocate a carbon price are not yet sure whether it is a tax or something completely different and the Swiftian argument is obstructing the case for change. Richard Denniss examines the politics behind the debate.

Prime Minister Julia Gillard and Opposition Leader Tony Abbott are engaged in a fight to the political death over the introduction of a carbon tax (or fixed-price emissions trading for those worried about the 'T' word). It is difficult to imagine that either leader will be able to spin their way out of losing the fight they are currently engaged in, no matter how hard they try.

**O**ne of the most confusing elements of the proposed scheme is the difference, if any, between a fixed-price emissions trading scheme and a carbon tax.

The political stakes couldn't be higher but the stakes for the climate are, of course, higher still. Unfortunately, the voluminous coverage of what the proposed scheme means for the 2013 election dwarfs the coverage of what it means for the environment and economy, not to mention the people, of the late 21st century.

While the details of the proposed scheme have yet to be negotiated, let alone legislated, the so-called Multi-Party Climate Change Committee (MPCCC) has released what it calls its agreed architecture, the key features of which include:

- A starting date of July 2012
- A fixed carbon price for the first three to five years of operation before a transition to a flexible price scheme if and when 2020 emission reduction targets can be agreed
- Compensation for households and industry.

One of the most confusing elements of the proposed scheme is the difference, if any, between

a fixed-price emissions trading scheme and a carbon tax. Although opponents of the need to introduce a price on carbon pollution insist on calling the scheme a 'tax', its advocates remain divided as to whether it is or not. Such division is, not surprisingly, making it harder to prosecute the case for change.

So, which is it? While the distinction between taxes, levies, surcharges and fees has been deliberately blurred by politicians from across the spectrum, the distinction between a tax and an emissions trading scheme has previously been relatively clear-cut. A carbon price relies on government setting a fixed price for pollution and then letting the market determine its desired level of pollution while an emissions trading scheme relies on the government setting a quantity of allowable pollution and then letting the market set the price for pollution permits.

The current difficulties with nomenclature are, however, the direct result of some good politics from all involved. Put simply, one of the main reasons that the Rudd Government's Carbon Pollution Reduction Scheme (CPRS) failed was that, while a majority of the Parliament agreed that an emissions trading scheme was required, a majority could not agree on the number of pollution permits that should be auctioned. What the MPCCC is proposing, however, is that the Parliament focus on what it agrees on first, namely the need to introduce a price sooner rather



than later, while postponing what it disagrees on, namely the emissions reduction target for 2020.

The result of this pragmatic approach to policy within the MPCCC is, however, a degree of policy confusion in the broader public. Given the preference among the MPCCC for ultimately implementing an emissions trading scheme in three to five years, there is a determination to refer to it as such in the interim. However, the inability to agree on an emissions reduction target means that the MPCCC must instead mandate a fixed pollution price during the interim period and then sell as many permits as the market demands at that price.

**A** carbon price relies on government setting a fixed price for pollution and then letting the market determine its desired level of pollution, while an emissions trading scheme relies on the government setting a quantity of allowable pollution and then letting the market set the price for pollution permits.



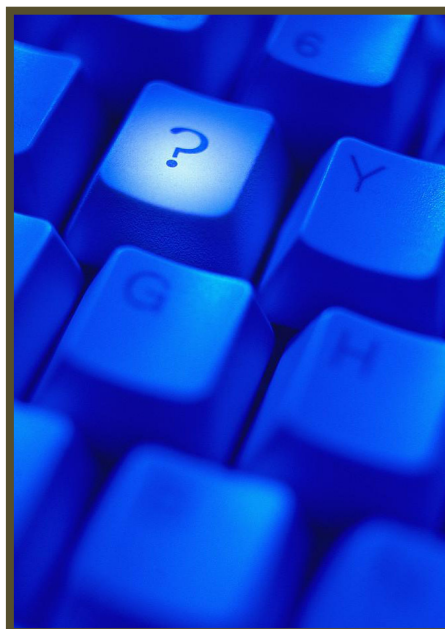
In effect, the MPCCC is proposing to introduce a carbon tax until such time as a majority of Parliament can agree on what constitutes an effective emissions reduction target for 2020 and beyond. Given that Julia Gillard ruled out introducing a carbon tax before the 2010 election, it is likely that choice of words rather than the actual impact of the policy on greenhouse-gas emissions will continue to dominate the public 'debate'.

For those more interested in greenhouse-gas emissions reductions than movements in the fortnightly opinion polls, the big issues that are yet to be resolved are:

- the size of the carbon price
- the breadth of the scheme's coverage
- the design of the compensation package
- the design of the complementary measures that augment the role of the carbon price.

While the details of these design features are yet to be negotiated by the MPCCC, the broad parameters are beginning to shape up; a carbon price of around \$25 a tonne, industry compensation that is lower than that provided under the CPRS, and a more streamlined and, hopefully, more integrated approach to complementary measures. The big unknowns are whether the scope of the scheme will be broad enough to include petrol and how the household compensation scheme will be structured.

A high carbon price combined with low levels of polluter assistance will set Australia up to achieve relatively ambitious emission reduction targets over the next decade while leaving enough money to help insulate the most vulnerable groups from the inevitable adjustments. A low carbon price with generous compensation to polluters, however, will virtually rule out ambitious emission reduction targets and reduce the funds available to those most in need.



Over the coming months, the big questions will be what constitutes the definitions of 'a high carbon price', 'vulnerable groups' and 'struggling industry'. And the big answers will be coming from representatives of the most finely balanced Parliament in Australia's history. §

Sort of 'Made in Australia?' from Page 5

AMCL and other country-of-origin label groups such as OZcompliance and AusBuy, are all calling for a tightening of the Australian Consumer Law to clamp down on misleading product labelling.

In 2009, the Greens, Senator Nick Xenophon and Senator Barnaby Joyce introduced a private member's bill seeking amendments to food labelling standards ([www.truthinlabelling.com.au](http://www.truthinlabelling.com.au)), which would require manufacturers to provide more accurate detail on labels about imported content. It is worth noting that some products, which qualify for the 'Product of Australia' claim, could suffer from this kind of reform, for example Australian cheese where the rennet

necessary for production must be obtained from overseas.

The Council of Australian Governments (COAG) and the Australia and New Zealand Food Regulation Ministerial Council (Ministerial Council) agreed to undertake a comprehensive review of food labelling law and policy. The review panel, headed by Dr Neal Blewett AC, released its final report on 28 January 2011 ([www.foodlabellingreview.gov.au](http://www.foodlabellingreview.gov.au)) with 61 recommendations for reshaping Australia's food regulations. With regard to country of origin, the Panel 'favours the development of an unambiguous and consumer-friendly Australian-origin claim based on the ingoing weight of the various components of the food, excluding water'. However, many such as Senator Xe-

nophon, AMCL and the Greens are insisting that the recommendations be extended further for consistency.

The Australia Institute's evidence of the common misunderstanding of country-of-origin claims gives credibility to calls for reform. There is clearly room for improvement in helping consumers make informed choices. §

**C**ases of ambiguous country-of-origin labelling are causing many consumers to be unclear as to how Australian the product they are buying actually is, because the 'Made in Australia' claim refers only to the processing of the product rather than to the source of the ingredients.



# High stakes

**T**he states are caught on the horns of a dilemma over the question of gambling because most of them would not be able to balance their budgets without the revenue it brings them. David Baker asks, however, if they ever factor in the negative social, health and economic costs of gambling when they are doing their sums.

The political will to address the negative social, health and economic aspects of gambling, and pokies in particular, was ratcheted up last year with the election of the Independent member for Denison, Andrew Wilkie. He made his support of a minority Labor Government contingent upon its reaching an agreement with the states on the implementation of a mandatory pre-commitment scheme (requiring poker-machine gamblers to set a spending limit), otherwise legislating for such technology in pokies by 2014. His presence in the lower house has added weight to the existing pokies campaign of upper-house member and fellow Independent Nick Xenophon.

**W**ithout the revenue from gambling, many of the predicted state budget operating surpluses would have been deficits.

However, with state governments the beneficiaries of a reliable revenue stream from gambling taxes on 'player loss', there is likely to be considerable resistance in agreeing to significant pokies reform. On average across the country, gambling tax revenue represents 10 per cent of the revenue base for state and territory governments; put another way, gambling generates one in every ten dollars the states have to spend.

Some states are more dependent on tax revenue from gambling than others as illustrated in Table 1.

Western Australia is the least dependent on gambling revenue while, in Victoria, gamblers contributed \$1.65 billion to the state budget in the financial year 2008–09. The Northern Territory Government has the highest proportion of overall tax revenue coming from gambling, but, according to the Productivity Commission, this is most likely due to 'the "export" of gambling services to non-state residents—through tourism and online wagering'. Overall, gambling taxes contributed more than \$5 billion to state and territory coffers in 2008–09.

Without this revenue, many of the predicted state budget operating surpluses would have been deficits.

In Victoria, the forecast operating surplus of \$828 million would have been an operating deficit of almost as much (\$821 million). The anticipated New South Wales budget surplus of \$268 million would have been a deficit of \$1,384 million. South Australia would have been expecting a deficit of more than \$900 million without gambling revenue, and in Tasmania a budgeted surplus of \$105.7 million would have been a more modest \$11.7 million. Yet for Western Australia, its predicted budget surplus of \$2.1 billion would have been reduced by less than one per cent.



While defining problem gambling is difficult and has been described as 'abstract' and 'complex', in 2010 the Productivity Commission was sufficiently confident to report that between 0.5 and one per cent of gamblers suffer 'significant problems' and a further 1.4 to 2.1 per cent are at moderate risk and thus vulnerable to problem gambling. This small percentage of gamblers accounts for an average 42 per cent of gambling-machine spending—the most popular form of gambling amongst people identified as problem gamblers.

The question of how states and territories balance the social, health and economic costs of potentially addictive consumption with a dependency on the revenue generated from gambling, along with tobacco and alcohol, is an important one.

**Table1: Gambling tax as a percentage of tax revenue (2008–09)**

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State/territory	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	ALL
Proportion of total revenue	9%	14%	11%	13%	3%	12%	16%	6%	10%
Value (\$m)	1,652	1,649	922	407	180	94	73	50	5,207

Source: ABS, *Taxation Revenue, Australia 2008–09*, Cat. No. 5506.0.



# More hot air?

**T**here is substantial opposition on the part of Australians to the approximately \$750 million a year they pay in ATM fees. Instead of bringing down prices, the 2009 reforms have meant that owning an ATM is now even more profitable than it used to be. Josh Fear examines the consequences of high ATM fees for average Australians based on a survey conducted by The Australia Institute.

Each and every day millions of Australians pay financial institutions to access their own money. Some pay more while others pay less, depending on the way they do it. Sometimes, as with EFTPOS transactions, the price consumers pay for their own money is largely invisible, being factored into the prices of goods and services. In other cases, the cost of using your own money is embedded in bank fees, or else in forgone interest from transaction accounts with negligible rates of interest.

One of the most expensive ways for Australians to access their own money is by using a third-party automatic teller machine—that is, an ATM not provided by their own bank. In most cases, third-party ATMs charge \$2 for every transaction, including checking one's account balance. In other words, \$2 is the price consumers pay every time they are disloyal to their bank.

If they first check their account balance and then withdraw cash,

consumers are charged ATM fees twice in the one transaction. In this situation, the cost of a balance enquiry is effectively \$4. This 'double-whammy', in essence, penalises financially responsible behaviour.

A recent report from The Australia Institute, *The Price of Disloyalty: Why competition has failed to lower ATM fees*, shows that Australians are still paying around \$750 million a year in ATM fees. Despite reforms in 2009 designed to lower prices and bring competition to the sector, third-party ATM fees typically remain at \$2 or higher. In the words of the Reserve Bank of Australia (RBA), the \$2 fee has become a 'benchmark'.

Our survey research indicates that there is substantial public opposition to ATM fees. The great majority of Australians (82%) believe it is unfair for banks to charge \$2 to use their ATMs. Survey findings also corroborate the RBA's claim that consumers have changed their behaviour in order to avoid paying third-party ATM fees now that they are more aware that such fees exist.

In the year following the 2009 reforms, the use of third-party ATMs fell 18 per cent, delivering consumers savings of some \$120 million. Virtually all these savings were the direct result of consumers deliberately avoiding foreign ATMs, even though behaviour change was never an explicit objective of the RBA's reforms. But there is only so much that consumers can do when 'market forces' continue to let them down.

The increased transparency of ATM fees may have led to another form of behaviour change, which is

not necessarily in the best interests of consumers. Two in three survey respondents (66%) reported paying for purchases with a credit card to avoid ATM fees, but a substantial minority (18%) do so without paying off their credit card in full. These people then end up paying high rates of interest on their purchases, effectively negating any savings they might have made on ATM fees and, in the process, delivering additional revenue to credit-card providers. The perception that using credit cards can help reduce ATM fees may therefore serve to exacerbate the problems with personal debt that many Australians experience.

**I**nstead of bringing down prices, the 2009 reforms to the ATM system have actually meant that owning an ATM is now even more profitable than it was prior to the reforms.

Survey results also show that young people bear a disproportionate burden of ATM fees. One in four survey respondents (26%) reported paying an ATM fee of \$2 at least once in the past week, but some 40% of those aged between 18 and 24 years had done so. People under the age of 25 typically earn less than those who have been in the workforce for longer, meaning that ATM fees would constitute a much higher proportion of income for younger people than for other ATM users. Given that the use of third-party ATMs declines with age, it is possible that children with a bank account are also paying a higher-than-average share of ATM fees. Similarly, people on low incomes



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is not hugely worse than at some other periods of our history. And there are still some positive signs and advances from the last few years that should both be acknowledged and defended.

The scrapping of the iniquitous, harm-inducing, family-destroying Temporary Protection Visa by Minister Chris Evans was very positive and very important. This position has been maintained, and there is no sign of this very important and positive decision being reversed (and no reason to think that will change).



Very recently, the new Immigration Minister Chris Bowen reintroduced legislation, which had lapsed under the previous Parliament, to bring in a formal process for assessing the complementary protection needs of an asylum seeker. That is, where people don't fit into the precise and somewhat confined criteria outlined in the Refugee Convention but would still face serious dangers along the lines described in other human rights conventions if they were to be returned to their country of origin. Whilst this Bill simply brings in a far more efficient, transparent, consistent and speedy process for assessing wider humanitarian risks for asylum seekers, it will nonetheless provide an obvious target for an Ab-

bott-led Opposition, which is clearly looking for every chance to run a 'soft-on-illegal immigration' line, no matter how inaccurate or dishonest their attacks might be.

Another recent government announcement also gives cause for hope that the tide may be slowly turning back in a sensible direction. This is the new policy that overtly and strongly supports multiculturalism as a fundamental and positive underpinning of Australian society. Whilst it is too early to judge how strongly this will be promoted and implemented, the opportunity it presents is real and important.

Multiculturalism of course is about far more than the treatment of and attitudes towards asylum seekers. It is certainly more than possible that asylum seekers will still be treated as being fundamentally outside the multiculturalism framework of government.

But the decision of the government to wax 'loud and proud' on an issue that it had been relatively quiet about since Kevin Rudd was first elected, does provide advocates of compassion and reason with an opportunity. The federal government's decision to go on to the front foot on this issue, at least in the early stages since the multiculturalism policy has been released, could also indicate that we might finally have seen the new low-water mark in debauched debate below which one of the major parties will still not go. The flagrant hate-mongering by a number of senior Coalition frontbenchers aimed at inflaming attitudes and increasing false beliefs about asylum seekers and Australian Muslims has reached new depths in recent times, the most extreme examples produced by Senator Corey Bernardi, Tony Abbott's own Parliamentary Secretary.

The Labor Government's decision to stand up against this, and to put

## CHANGE OF ADDRESS

**The Australia Institute has a new address. In early March, the Institute moved from its location in Manuka to the campus of the University of Canberra in Bruce, ACT.**

**The new physical address is:**

**Level B, Building 23  
University Drive South  
University of Canberra  
ACT 2601**

**The mailing address is:**

**PO Box 5096  
University of Canberra  
BRUCE ACT 2617**

**Phone: 02 6206 8700  
Fax : 02 6206 8708**

**Email addresses remain the same.**

forward its own positive alternative, provides an opportunity which, I believe, justice activists and advocates should make the most of. Effective advocacy does not just involve highlighting the failures and broken commitments of government; it also involves recognising positive decisions and actions, and applying pressure to maintain and build on such commitments. We owe it to those who cannot speak for themselves, the many who at this very moment are being hidden away and harmed, to use every opportunity to continue to push for progress, as well as to defend against regressiveness. §

*Andrew Bartlett is a Research Fellow with the Migration Law Program at the ANU. He was Senator and immigration spokesperson for the Australian Democrats from 1997–2008, and Greens candidate in the seat of Brisbane at the 2010 federal election.*

**E**ffective advocacy does not just involve highlighting the failures and broken commitments of government; it also involves recognising positive decisions and actions, and applying pressure to maintain and build on such commitments.



are likely to pay more in ATM fees as a proportion of their incomes than people who are financially better off.

Instead of bringing down prices, the 2009 reforms to the ATM system have actually meant that owning an ATM is now even more profitable than it was prior to the reforms. Independent operators can now expect to generate twice as much revenue from the same number of transactions because of the removal of interchange fees imposed by financial institutions on ATM operators.

The sudden jump in the profitability of ATM ownership has meant that the number of ATMs has increased, rents for ATM sites have risen, and opportunities to invest in individual ATMs have even emerged. To date, the benefits of reform have accrued exclusively to ATM owners, and particularly to owners that can attract many 'foreign' users. In fact, the provision of ATMs is such a lucrative market that investors can now 'buy' their own ATM and busi-

nesses that facilitate this have been listed on the stock exchange.

So why have the reforms failed? Partly because ATM fees are not yet transparent enough to foster real price competition. Information about the cost of using an ATM is 'embedded' in the transaction rather than being apparent before the transaction is started. Unlike motorists, who can see the price of unleaded petrol as they approach a service station, ATM users cannot know the cost of using an ATM in advance. In the mind of someone seeking to shop around on price, information about the cost of using a third-party ATM simply comes too late to be of practical use.

This is why the government should require that ATM owners display the cost of foreign-bank transactions prominently on the outside of their machines. Potential users could then see at a glance what they will be charged if they use that ATM.

**O**ne of the most expensive ways for Australians to access their own money is by using a third-party automatic teller machine.

Another explanation for ATM fees remaining so high is that the recent reforms were intended to ensure that ATM owners had sufficient financial incentive to maintain and add to the existing ATM stock. This has undoubtedly happened: the typical fee of \$2 is well in excess of the cost of providing the service. But there is a fundamental tension between the RBA's desire to increase the number of ATMs avail-

able to consumers and its stated commitment to price competition.

A third factor contributing to ATM fees is that many machines continue to enjoy what might be called a local monopoly. Even if prices were fully transparent to consumers (which they are not), in many cases there is only one ATM in a given location. The nearest alternative ATM may be within walking distance, in the next suburb, or even hundreds of kilometres away. The farther away an alternative ATM is, the less any competitive pressures can be expected to apply. And even if a cheaper ATM is 'just around the corner', consumers may not necessarily be aware that this is the case.

Although free withdrawals are widely available at ATMs in other countries, Australian consumers continue to get a raw deal. The RBA argues that market forces will eventually force prices down, but we have been waiting almost two years for this to take place. It is time for the government to seriously consider imposing price controls on the ATM system, particularly where ATM owners enjoy a local monopoly.

Moreover, fees for balance enquiries should be abolished entirely as they serve to discourage responsible financial behaviour by effectively doubling the cost for cardholders who wish to know how much money is in their account before withdrawing cash. If the major banks are serious about the importance of financial literacy, they will support such a change. Or is their talk about social responsibility just more hot air? §

High stakes from Page 8

Indeed, although supporting gambling taxes, the Henry Tax Review recommended that:

Governments should consider the allocation of responsibilities for the regulation and taxation of gambling, with a view to minimising conflicts in policy-making between revenue-raising and addressing problem gambling.

While it's probably a sure bet that the state and territory governments will continue to rely on gambling revenue, the odds are longer on

how enthusiastic they will be in acting on Recommendation No. 78, considering the policy contradiction.

Increasing resources to address problem gambling might be good policy in one context, but in another policy context it equates to spending money to reduce government revenue. How much political sway the Independent Andrew Wilkie ends up having over reform of gambling in Australia is another bet altogether. §





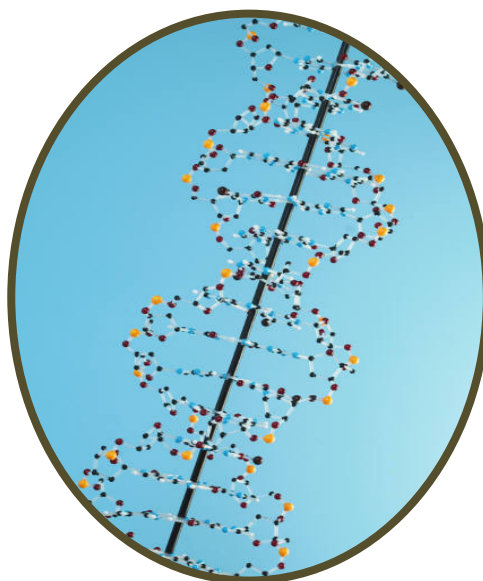
the human genome was decoded, they announced that 'raw fundamental data on the human genome ... should be made freely available to scientists everywhere'.

During the Australian Senate's two-year investigation, calls for legislative action to stop the patenting of genes came from respected industry bodies such as the Cancer Council Australia, the Australian Medical Association, the Royal Australasian College of Surgeons and the Human Genetics Society of Australasia. Both Westmead Hospital and the Peter MacCallum Cancer Centre had been threatened with legal action over the provision of a genetic test for breast and ovarian cancers.

It's all very well for some people to claim that the Bill will be 'enormously detrimental' to Australia's biotechnology industry, but the accusation is totally misinformed and unfounded.

Drawing on the comparative precedent, the US Government doesn't think a similar approach will harm

the US biotechnology industry. As opposed to jeopardising Australia's research capabilities, the Bill will reduce research costs by stopping the private taxation of the raw fundamental data of the human genome.



It will promote, not stifle, research by removing the threat of patent infringement on those researchers

who seek to use this data for the betterment of healthcare.

The passage of this Bill will refocus and strengthen Australia's inventive scientific and medical minds by permitting the use of this data in ways that are truly inventive, such as in new diagnostics, treatments and, hopefully, cures.

There are many supporters of the Bill, including eminent Australian doctors, scientists and medical organisations. Professor Ian Frazer, one of the inventors of Gardasil, the cervical cancer vaccine, is one of many who have joined the scientific chorus crying out for patent-law reform.

It is what the Australian medical community desperately called for, and precisely what the Bill does. But, more importantly, this Bill will advance affordable wellbeing and provide long-term benefits for the human race regardless of social, economic and racial backgrounds. §

*Senator the Hon. Bill Heffernan, Liberal Senator for NSW: Opinion Piece, The Australian, 21 December 2010.*

## Institute Out and About

- Executive Director Richard Denniss was invited to New Zealand in February to deliver the keynote address at a conference in Hampden examining economic growth and indicators of progress. While in Hampden, Richard also participated in a high-profile debate opposite the Labour Party and enjoyed a traditional Haangi dinner.
- Richard provided evidence to the Senate Economics Committee inquiry into the flood levy bill in March.
- Deputy Director Josh Fear discussed 'The politics of achieving better work/life balance' at the University of South Australia's Centre for Work + Life Seminar Series in Adelaide in March.
- Richard will participate in a panel discussion at the National Sustainable Food Summit in Melbourne in April. The panel will consider the topic: 'Should food be treated purely as a tradeable commodity, left to market forces, or as a fundamental human need and essential to stable societies?'

## Institute in the media

- The Institute's research paper *The price of disloyalty: Why competition has failed to lower ATM fees* generated substantial high-profile media coverage including ABC Radio National Breakfast, Sky News Business Channel, ABC 2 Breakfast, Channel 7 Sunrise and all the major daily newspapers.
- Richard was invited to provide his view on the Multi-Party Climate Change Committee's announcement of a framework for a price on carbon on the ABC's PM program.
- *The Canberra Times* has recently agreed to give Richard a regular, fortnightly column.

## New publications

R Denniss and A Macintosh, *Complementary or contradictory: An analysis of the design of climate policies in Australia*, Policy Brief 22, February 2011.

J Fear, *The price of disloyalty: Why competition has failed to lower ATM fees*, Policy Brief 23, February 2011.

## Opinion pieces

R Denniss, 'Power to the people, simply', *The Canberra Times*, 11 December 2011.

R Denniss, 'High profits not high taxes driving shoppers online', 12 January 2011.

R Denniss, 'GST \$1000 threshold: retailers share in more trouble than Harvey's image', *Crikey*, 20 January 2011.

J Fear, 'Rebuilding Australia's retail industry', 20 January 2011.

J Fear, 'Owning an ATM is money in the bank', *The Punch*, 17 February 2011.