



COMMONWEALTH OF AUSTRALIA

SENATE

Official Committee Hansard

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS LEGISLATION COMMITTEE

**Reference: Television Broadcasting Services (Digital Conversion)
Bill 1998 and Datacasting Charge (Imposition) Bill 1998**

MONDAY, 1 JUNE 1998

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SENATE

**ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE**

Monday, 1 June 1998

Members: Senator Patterson (*Chair*), Senator Schacht (*Deputy Chair*), Senators Allison, Eggleston, Lightfoot and Lundy

Substitute member: Senator Tierney

Participating members: Senators Abetz, Bartlett, Bolkus, Boswell, Bourne, Brown, Calvert, George Campbell, Carr, Colston, Coonan, Cooney, Crane, Faulkner, Ferguson, Harradine, Hogg, Mackay, Margetts, Murphy, Neal, O'Chee and Tierney

Senators in attendance: Senators Bourne, Colston, Eggleston, Lundy, Patterson, Schacht and Tierney

Terms of reference for the inquiry:

Television Broadcasting Services (Digital Conversion) Bill 1998 and Datacasting Charge (Imposition) Bill 1998

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Committee met at 9.03 a.m.

CORKER, Mr John Simon, Manager, Legal, Australian Broadcasting Authority, 201 Sussex Street, Sydney, New South Wales

GORDON-SMITH, Mr Michael Charles, Member, Australian Broadcasting Authority, 201 Sussex Street, Sydney, New South Wales

TANNER, Mr Giles David, General Manager, Australian Broadcasting Authority, PO Box Q500, Queen Victoria Building, New South Wales

CHAIR—I declare open and welcome you to this first public hearing of the Senate Environment, Recreation, Communications and the Arts Legislation Committee on the Television Broadcasting Services (Digital Conversion) Bill 1998 and the Datacasting Charge (Imposition) Bill 1998. The committee prefers that evidence be given in public, but should you at any stage wish to give your evidence, part of your evidence or answers to specific questions in camera you may ask to do so and the committee will consider your request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate.

I call the committee to order and welcome representatives from the Australian Broadcasting Authority to the table. The committee has before it submissions Nos 15 and 15A which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Tanner—No.

CHAIR—Do you wish to make a brief opening statement?

Mr Tanner—No, our short submission gives a run-down on who would be doing the work involved in the ABA's role and also a summary of the ABA's functions under the draft bill.

CHAIR—We will proceed straight to questions then.

Senator SCHACHT—Has Mr Gordon-Smith disappeared?

Mr Tanner—I am afraid I have not—

Senator SCHACHT—Seen him this morning.

Mr Tanner—been able to contact him this morning, so he may be a fog victim. I am really not sure what the story is.

Senator SCHACHT—I see. What is Mr Gordon-Smith's position in the ABA?

Mr Tanner—Mr Gordon-Smith is a member of the ABA. He is a full-time member.

Senator SCHACHT—He is a full-time member of the board itself?

Mr Tanner—Yes, that is correct.

Senator SCHACHT—Without in any way sounding derogatory—I do not want to say anything derogatory of him—you and Mr Corker are full-time employees?

Mr Tanner—That is right.

Senator SCHACHT—So, on policy issues for the ABA, Mr Gordon-Smith is more likely to be able to handle those, or do both of you feel competent to handle, within reason, policy questions that directly relate to the ABA—not government policy?

Mr Tanner—I will have a go. Let us attack it and see.

Senator SCHACHT—Thank you, Mr Tanner; that is very kind of you. Mr Tanner, I have your report of July 1997 called 'Digital terrestrial television broadcasting in Australia', which

is a paper for the minister for communications and the arts and the Department of Communications and the Arts, which was what the government, I believe, worked from to make a decision earlier this year to introduce legislation for the introduction of broadcast digital television in Australia. Thank goodness it is not a lengthy report. It sums up, I think, a specialist group's work. I wonder if you could draw my attention—and I may have missed it—in your July paper to where you recommend that there should be a ban till 2008 on any more free to air commercial television licences issued in Australia?

Mr Tanner—I do not believe, from memory, that that was part of the recommendations, but I do not have the report in front of me.

Senator SCHACHT—I have been through it a couple of times and I cannot find it, although I may have missed it. Would it have been in the specialist's report?

Mr Tanner—No.

Senator SCHACHT—No. So the decision of the government to provide a ban on any more free to air commercial television licences was not in your report either way? You were silent about it?

Mr Tanner—The report simply did not go into that much detail.

Senator SCHACHT—But that decision by the government was an add-on in the package of decisions that was announced earlier this year about digital television?

Mr Tanner—That is my understanding of it.

Senator SCHACHT—Does the ABA now have any view about the ban on introducing any more commercial television licences—free to air, that is—until 2008?

Mr Tanner—At the risk of verballing the board, I believe not.

Senator SCHACHT—You do not have a view about it?

Mr Tanner—No. It is a matter of policy for the government. It is not something that has been—

Senator SCHACHT—Under your act—again, I may have this wrong, and I stand to be corrected—don't you have general advice about availability of when spectrum should become available? For example, I think you have got a report out at the moment in the radio area—

Mr Tanner—Yes.

Senator SCHACHT—recommending further commercial radio licences, AM and FM, be made available in a number of capital cities of Australia.

Mr Tanner—That is quite right. The ABA does have general power to advise and does furnish advice to the minister. It can also have questions referred to it. I understand it did do some work in connection with the ministerial review of the national benefits that were accrued from having more than three commercial television stations in a market, which took place in 1997.

The ABA can have views, but the issue of whether or not there should be any additional commercial television broadcasting licences in markets beyond three is one which has always been reserved, under the legislation, to the minister. It is not a question which the ABA has been invited to form views on, and I do not believe it is a question which the ABA has formed views on.

Senator SCHACHT—The ABA has not formed a view. The minister has not sought your advice about whether there should be a fourth commercial free to air TV licence issued in Australia?

Mr Tanner—Certainly not in connection with the present digital exercise. The ABA did, I believe, do some work—don't ask me for the details; I will have to take that on notice—in connection with the 1997 review which was required by section 215 of the Broadcasting Services Act.

Senator SCHACHT—Was the ABA surprised when, in the package on digital television, in view of the fact that your report of July last year was silent on this issue, the government made a decision to prohibit any more free to air commercial television licences being issued until 2008?

Mr Tanner—I do not really feel confident to comment on their state of mind, but certainly the recommendations made by the ABA last year were in pretty general terms, and I guess no-one really expected that the government's decision would exactly resemble those.

Senator SCHACHT—I would have thought, in view of the review needed and the issues being discussed about the introduction of digital free to air television in Australia, if you had thought that that was even marginally important—whether there should be another commercial licence—you would have made some comment about it.

Mr Tanner—It is a question which to date has been reserved by the law to the minister, and it is something which the ABA has only turned its mind to when it has been invited to.

Senator SCHACHT—And you have already told me that the minister never sought your advice or comment at any stage.

Mr Tanner—In connection with the present exercise, I understand that the ABA was invited to make submissions at the time the minister conducted the review required by section 215, which was a couple of years back.

Senator SCHACHT—Yes. And when was that request lodged by the minister?

Mr Tanner—It would have been in 1997. I am not sure if that was when it was lodged, but the review was—

Senator SCHACHT—Completed.

Mr Tanner—Completed in 1997.

Senator SCHACHT—In 1997. And what did that review of the ABA say?

Mr Tanner—I will have to take that question on notice because I am not sure what questions were in fact asked. Certainly the ABA did not conduct the review; it was asked a specific question in connection with the review. That is my recollection.

CHAIR—Senator Schacht, it is very difficult. I am trying to hear what Mr Tanner is saying and you tend to interrupt him before he has finished. Would you just let him finish his sentence?

Senator SCHACHT—I just want to speed it up.

CHAIR—I know. Mr Tanner, answers nice and short, please. Senator Schacht, it is very difficult for Hansard when you are gabbling over him and so on—

Senator SCHACHT—No, no. Hansard is very good at this. They do this very well. I have nothing but—

CHAIR—It is not how well they do, but—

Senator SCHACHT—I have nothing but commendation for them, the way they handle this.

CHAIR—I am going to make it easier for them. Just let Mr Tanner finish his sentence.

Senator SCHACHT—They can put this in their next award claim to get an increase in salary level.

CHAIR—You didn't let me finish my sentence, so just let Mr Tanner finish his sentence.

Senator TIERNEY—He is a compulsive interrupter.

Senator SCHACHT—No, no; I am not a compulsive interrupter. Mr Tanner is doing extremely well. You will take it on notice, then.

Mr Tanner—Yes.

Senator SCHACHT—You said you will take that question on notice about the—

Mr Tanner—Yes. I will give you information on what our role actually was.

Senator SCHACHT—Would you also take on notice, for the record, and check with the other board members, what level of discussion took place between the minister and the ABA, either formally or informally, in the lead-up to the decision earlier this year to ban any more free to air television licences being issued to 2008?

Mr Tanner—Certainly.

Senator SCHACHT—Okay.

CHAIR—Could I just ask a question about that? You keep asking about free to air. Do you mean free to air analog or free to air—

Senator SCHACHT—Any; whether it is digital or analog. The ban is on any more—it doesn't matter whether it is digital or analog—commercial television licences being issued until 2008.

Mr Tanner—I think it might be on more than three licences in markets being issued before 2008.

Senator SCHACHT—So does that mean—

Mr Tanner—The distinction is that there are some markets in Australia where there are still fewer than three channels. The ABA has recently issued a second commercial television broadcasting licence for parts of remote and regional Western Australia, so there is some planning of a new commercial broadcasting proceeding—or these proceeding anyway.

CHAIR—Don't do it!

Senator SCHACHT—Look, I have heard his answer. I know what—

CHAIR—I know, but I would like to hear the end of what Mr Tanner has to say. And I will stop you doing it. Let him finish his sentence. Thank you.

Senator SCHACHT—He's finished.

CHAIR—Question. He has finished now but he hadn't when you interrupted him. Off you go.

Senator SCHACHT—You are just slow hearing, I think. Not bad hearing, Madam Chair—slow hearing.

Under the draft legislation that is before us, before 2008, could the minister issue a single commercial television licence free to air in the market of Sydney by itself, Melbourne by itself, or any of the capital cities individually?

Mr Tanner—You are talking about in the event the bill becomes law as it is?

Senator SCHACHT—If the bill as it is becomes law.

Mr Tanner—My understanding is no. That would be a fourth commercial broadcasting licence in any of those markets.

Senator SCHACHT—So it is only in some regional areas in unique circumstances that a new licence could be issued?

Mr Tanner—Yes. That would be an ABA decision—not a ministerial decision.

Senator SCHACHT—Right. So—

Mr Tanner—The ABA is only prevented from issuing more than three licences in markets.

Senator SCHACHT—Markets; okay. Can I also refer you, Mr Tanner, or Mr Corker, to your paper of July of this year when you put a suggested timetable in the report.

You call it attachment 1 on page 5. It says, 'Indicative timetable for DTTB implementation'—and, for the aficionados, 'DTTB' is shorthand for the introduction of digital television in Australia—and you say in the timetable 'Legislative principles announced in March-April 1998', and then you say, 'Legislative amendments tabled in October 1998.' Then you go through, and the deadline for introduction or the beginning of digital television is, basically, as the timetable says here, late 2000 or 1 January 2001. This is what the minister announced, is it not?

Mr Tanner—The minister certainly has the key date 2001.

Senator SCHACHT—No, just the date factually. The minister announced what date to begin the first transmissions of digital television.

Mr Tanner—Yes, 1 January 2001.

Senator SCHACHT—So 2001, which is in line with your indicative planning here which says, 'First services on air, metropolitan, end of 1999.' Maybe he has gone even a bit later than you have suggested: is that correct?

Mr Tanner—Sorry?

Senator SCHACHT—I just want to get the timetable you have suggested because one of the arguments that is arising in some quarters is in regard to the timetable for the beginning of the first transmission, in regard to the time for television networks, consumers, et cetera, to get proper planning so that people can manufacture the receivers, put the transmitting equipment into place, et cetera. What is a reasonable time scale? It says here first services will be on air at the end of next year. Is that correct?

Mr Tanner—Yes, that is my recollection. I think the distinction is that the ABA did not envisage that would be a fire-up right across licensing areas to make equivalent coverage. I think the timetable which the ABA set out presupposes a more gradual firing up of digital transmitters.

Senator SCHACHT—But it does say metropolitan centres, so that is initially all the capital cities of Australia?

Mr Tanner—Yes.

Senator SCHACHT—And that is at the end of 1999, in effect a year earlier than the minister has now formally announced it will start. The first firing up under his plan is 1 January 2001.

Mr Tanner—That is right, the distinction being that the ABA was not thinking in terms of equivalent coverage but merely in terms, perhaps, of the main channel firing up. That is my recollection, anyway.

Senator SCHACHT—Okay. It is not a matter of controversy to me—I do not blame him for this—that the minister set the date 1 January 2001. In the timetable, to get your deadline, you suggested that the legislation did not have to be tabled in the parliament until October of this year. Is that correct?

Mr Tanner—You have the report.

Senator SCHACHT—It is in the submission here, isn't it? You say, 'Legislative amendments tabled October 1998.' This is the package we have before us now.

Mr Tanner—I actually do not have the October submission in front of me so—

Senator SCHACHT—Not the October submission; the July submission 1997.

Mr Tanner—July submission 1997—I do not have that submission in front of me; I am sorry.

Senator SCHACHT—Can the secretariat take a photocopy of that page 5 and give it to Mr Tanner, Mr Corker and Mr Gordon-Smith if he comes out of the fog? Just give Mr Tanner a copy now so he can have it in front of him. I do not want it to look like I am trying to ambush him. This is not in the submission; you did not attach it to your submission to this inquiry, but that paper is the only public discussion paper released by the government on which it based all its decisions on the introduction of digital television. It is the policy paper. It is the only one this committee can have before it because the minister never issued—other than his press statement and the actual legislation—any other paper.

Let's be blunt about this: from July last year to early this year, which was around March when the minister made his statement on digital television—and I will just double-check the date for you; it was 24 March—your document was the only one that was publicly available to the Australian public for any discussion or debate about the introduction of digital television. That is correct, is it not?

Mr Tanner—That is true.

Senator SCHACHT—So therefore that paper is very central to the discussion we have here today, and I am now questioning that indicative planning table. You recommended a certain indicative plan or timetable which stated that digital transmission in metropolitan areas could start a year earlier than the minister actually announced. Secondly, you said that, to achieve that, you did not have to have the legislation tabled in the parliament until October of this year, whereas the minister has gone berserk in today's *Melbourne Age*—that may be a bit strong on my part, but certainly he put out a very strong comment—saying that the Senate could make it difficult for stations to be ready to broadcast by 2001 if we did not carry the legislation in this session—that is, in the next month. Did the minister seek any advice from you on the timetable?

Mr Tanner—No, not to my knowledge anyway. The key thing which is different about the minister's start-up date is, as I said before, that it actually is a start-up date for equivalent coverage. The significance of that is that it makes the planning job that the ABA must complete for the fire-up date considerably larger. It brings forward, if you like, the entire planning job.

It is certainly arguable that making the 2001 date a date for firing up everywhere to get equivalent coverage, or at least for having the planning done to enable that to happen, makes

it very urgent that the ABA gets its marching orders very early if it is to do all that planning in good time for the equipment to be ordered. I do think that is a significant change which has occurred between the ABA's recommendations and the announcement.

Senator TIERNEY—And the timing also, as Senator Schacht said. Surely, if the parliament is prorogued in the next few months—and he talks about October—you may not get legislation until March next year, which I assume would create a problem.

Mr Tanner—In order for us to have the planning done in time for a January 2001 fire-up, or at least to have implementation plans for firing up, we really need to subtract a good 12 or 18 months. We are talking in terms of 18 months, to bring that 18 months forward to give the licensees and the ABC and SBS time to get their equipment. It is a fairly short and intensive process of planning which is envisaged which has to take place between when we set the standard, or choose the standard, hopefully in the middle of this year, and about the middle of next year perhaps.

Senator TIERNEY—The sooner the better, I take it.

Mr Tanner—Exactly, and that really does flow from the standards the bill sets for what will be occurring in 2001.

CHAIR—Was the later date only for a limited start-up of digital; was that just for the major metropolitan areas?

Mr Tanner—That is certainly my understanding. I think some of the commercial broadcasters, for example, have been very keen to get started as soon as they could. But getting started presumably means firing up on VHF from Gore Hill in Sydney and from the main transmission sites in some other places rather than immediately replicating coverage of the analog network.

CHAIR—Do you see that as a problem? Do you see it better for the overall coverage to start up, or is there an advantage in starting it in a staggered way that means that bugs can be got out of the system?

Mr Tanner—I do not see it as a problem; I just see it as a different way of proceeding. I think it is probably fair to say that the ABA timetable of last year, which was only a proposal to government intended to get government thinking and focused on the questions, did envisage a slightly more gradualist migration. But that was just an option. It does not mean that there is a technical or policy problem with the option the government has chosen.

CHAIR—Thank you. Senator Tierney, have you got any more questions? Senator Schacht.

Senator SCHACHT—What you announced in your indicative timetable was for metropolitan markets, right?

Mr Tanner—I am not sure if—

Senator SCHACHT—That is what it says.

Mr Tanner—Okay.

Senator SCHACHT—And when it says metropolitan markets, that makes up 80 per cent of the viewers of Australia?

Mr Tanner—Somewhat less than that. I think—

Senator SCHACHT—Seventy-five per cent, 70 per cent of Australians live in the metropolitan television markets?

Mr Tanner—I think it is a little bit under 70, but around there, yes.

Senator SCHACHT—Around that. Well over two-thirds would be, under your own indicative planning, eligible to receive transmission a year earlier than the minister's decision?

Mr Tanner—Probably not quite that. A number of metropolitan viewers only get services because of smaller translator transmitters. If we are talking about firing up the main transmitter, it might be a somewhat smaller figure than that.

Senator SCHACHT—Okay. That is the main transmitter?

Mr Tanner—Yes.

Senator SCHACHT—Do you have any information then of how many translators would have to be adjusted as well by the television stations to get to the 70 per cent metropolitan market?

Mr Tanner—In the metropolitan areas?

Senator SCHACHT—Yes.

Mr Tanner—I would have to take that question on notice. I would also make the comment that the number of translators needed to get equivalent coverage may differ from the number of translators currently used by the analog network—so it may be that we do not know the answer yet.

Senator SCHACHT—Okay. But you are saying that, on your understanding of the minister's announcement, by 1 January 2001 all people in Australia at present receiving analog television—metropolitan and regional—if they choose to purchase a HDTV receiver, no matter where they are, will receive the signal?

Mr Tanner—My understanding is that that was the target proposed in the bill for metropolitan. I think it was certainly foreseen that for regional there would be an implementation process that would take time up to that—

Senator SCHACHT—The bill does not automatically guarantee that if I am a viewer in remote Australia, for example, or at Kimba, in the mid-north of Eyre Peninsula of South Australia that presently gets on relay GVS4 and ABC, I will, on 1 January 2001, under this bill, be guaranteed of receiving a digital signal if I purchase a digital receiver?

Mr Tanner—Not on 1 January 2001.

Senator SCHACHT—Therefore, even under the minister's plan, he has not guaranteed a comprehensive coverage to all Australians. What is the difference between his decision and your recommendation? You do not guarantee that at the beginning of 2000 everybody in Australia gets digital television, and neither does the minister a year later.

Mr Tanner—That is true but my understanding—

Senator SCHACHT—It is true. What is the difference between your indicative planning timetable of who gets it and his legislative timetable?

Mr Tanner—From memory I do not believe our indicative plan assumes that all the planning of translators right across the country would be done by that time.

Senator SCHACHT—We now agree, Mr Tanner, that it does not matter whether it is your plan or the minister's legislation carried as is; there are still going to be significant areas of Australia on 1 January 2001 which, even if they had a digital receiver, would not receive a digital signal. Is that correct?

Mr Tanner—Yes.

Senator SCHACHT—Yes. So what is the point of this rush by the government to bring it in by 2001?

Mr Tanner—The law does not require it to occur by 2001.

Senator SCHACHT—Okay. Let me—

Mr Tanner—It requires certain steps to be taken by 2001. There are different steps in metropolitan and regional areas.

Senator SCHACHT—The point I am making about your indicative timetable is that in fact it is not that much different at all from the minister's. And yet you say in yours the legislation could have been introduced in October of this year and still have been able to be dealt with and give people planning for those areas that you suggest would be coming on air a year earlier than proposed by the minister.

Mr Tanner—No. I do think that the difference lies in the amount of planning that the ABA and industry are expected to do before 2001. I do not believe that the ABA timetable assumed that all planning would be complete by 2001.

Had it done so, we would have wanted an earlier date on which we got our marching orders, if you like, than October this year—at least some later time.

Senator SCHACHT—Mr Tanner, give me the difference between the planning required to do what you want to do in your indicative timetable and that for the minister's timetable that gives you an extra year to do it but it still does not have a comprehensive coverage.

Mr Tanner—My understanding is the difference is not about firing up; it is about planning. My understanding of the recommendations to the minister was that the ABA made no particular assumptions about how much of the planning for the digital network would have been done by 1999.

Senator SCHACHT—How could you put to us or put to the public in July last year an indicative plan when you now say you do not know how much of that planning would be achieved?

Mr Tanner—I am really not quite sure of the point you are making. It seems to me the ABA was envisaging a somewhat more gradualist roll-out in the sense that it was not assuming all planning would be done by 2001.

Senator SCHACHT—We both agree that neither the minister's plan nor your plan would guarantee full digital broadcasting to all consumers by 2001. You can see that under his legislation. Your indicative plan, the year earlier, certainly did not do that. You just talked about 'metropolitan markets' which is about 70 per cent of Australians. What area of planning would you not be able to achieve for the minister's 'not full coverage' compared with your 'not full coverage'?

Mr Tanner—My understanding of the digital amendments is that the ABA would have to have completed spectrum plans for the whole country quite early on in order to be able to perform its functions which include negotiating implementation plans with the regional broadcasters. That is an enormously larger job than doing the most urgent parts of the planning, which are the parts of the planning where broadcasters are most willing to fire up.

Senator SCHACHT—You have an extra year the minister has given you compared with your own timetable. You are saying that in that extra year you will not be able to complete the planning for regionals and give them enough advice?

Mr Tanner—I am not sure what you are putting to me.

Senator SCHACHT—You are saying that by 2001 you still want them to have planning in place so that, for the regionals or the non-metropolitan areas not ready to go, you want to at least put your plans before them. The minister has given you an extra year compared with your own plan. Can you not do that planning in that extra year?

Mr Tanner—As I see it you have got to subtract a good slab of time. You have got to have your plan ready a year or a year and a half in advance to allow people to get the equipment they have to get to give them some sort of certainty about what they are getting into. We would need to do that planning quite urgently.

Senator SCHACHT—Mr Tanner, on the broadcasting side, once you and the various committees that the minister has established to advise on those standards, issues, et cetera—which I will come back to in a moment—have set a standard for the equipment and the planning you would give for the metropolitan stations, would there not be the same standard for regional digital television? It is only the matter of capacity to put more transmitters up and more translators. The same equipment will be used in the studio, I would imagine?

Mr Tanner—Yes, I expect we will have the same standard Australia-wide.

Senator SCHACHT—If you do not, let us go back and start again with smoke signals or something. You will have the same standard?

Mr Tanner—Yes.

Senator SCHACHT—You will have the same standards in the studios for the cameras, the same standard for the transmitters and translators wherever they may be and the same standard for the receivers Australia-wide. What is the planning difficulty that you will run into in non-metropolitan Australia that would make it more difficult or blow out your own time line or the minister's time line?

Mr Tanner—The problem is the enormous number of transmitters that have to be planned and channels that have to be found to cover the entire country. You only need a certain number of transmitters to serve all metropolitan areas. It is not a very large number. I have taken that question on notice but it is not a large number. But to serve the entire country you are talking about thousands of transmitters and thousands of channels. It is very large job.

Senator SCHACHT—But it is not a treasure hunt, is it? It is not a magical mystery tour; you are going off to find unknown—

Mr Tanner—We have plenty of spectrum.

Senator SCHACHT—If you have plenty of spectrum, what is the difficulty of planning to allocate it? If you know exactly what everybody presently has in spectrum in the VHF range for analog television, what is the difficulty of knowing almost immediately where you can provide appropriate spectrum for simulcast in digital for regional television?

Mr Tanner—There is a planning task to be done to find the channels. This is a problem that we have in planning, that basically the planning function performed by electrical engineers is something of a black box. The fact is that to plan channels does take time. This would be a large job for a team of engineers. It will be a substantial job of work that will take us a considerable amount of time.

Senator SCHACHT—Have you got a copy of the ABA July 1997 paper in front of you?

Mr Tanner—It has just been taken away from me.

Senator SCHACHT—Can you point out to me, Mr Tanner or Mr Corker, where in your submission of July 1997 you give systematic detail of the difficulty of finding spectrum for regional television in Australia?

Mr Tanner—I am not aware that that is covered in the report, but I do not have the report in front of me.

Senator SCHACHT—You have said that you are not aware that it is in the report and, from what I can see of it, I do not think it is either. If this is such an important issue for the ABA, why was it not in your July discussion paper?

Mr Tanner—The ABA had not burdened itself with the expectation that it would finish a plan for the entire country by a certain date. That is not built into the recommendations the ABA has made. As I said earlier, that represents a different approach—not a wrong approach, but a different approach.

Senator SCHACHT—Did the minister seek your advice, after you put this paper out, about the difficulty of finding spectrum for regional Australia in view of the fact that it is in his timetable for one year later, on 1 July 2001?

Mr Tanner—I am not quite sure about your choice of words there. I am not saying that there is a problem doing it; I am saying that it represents a substantial job which will take time, that is all. Yes, there was some informal consultation between the ABA and the department during the framing of the bill.

Senator SCHACHT—Who were you consulting with in the department? When DoCA turns up we can ask them.

Mr Tanner—The drafting team, basically.

Senator SCHACHT—The drafting team is headed by whom, from recollection?

Mr Tanner—Mr Colin Lyons.

Senator SCHACHT—When Mr Lyons turns up, we can ask him. In view of the fact that you say that this is a major job, you mean it is not beyond your technical competence, it is a just a major piece of work. Is that correct?

Mr Tanner—That's right.

Senator SCHACHT—When you told DoCA, Mr Lyons, that this was a major job of work, did you indicate how long it would take you to do this major job of spectrum allocation in non-metropolitan Australia?

Mr Tanner—No, we did not, because it is a job we were still scoping as we proceeded. However, had we felt that the job was impossible we would have signalled that long and loud. We did not.

Senator SCHACHT—Would you be able to do the job in the time scale that the minister has got by employing more engineers for a period on short-time contracts?

Mr Tanner—I do not believe it would be necessary to do that as we have the resources. We may have to move them off other work, that is all.

Senator SCHACHT—If you have the resources to do the work, what is the delay in doing it?

Mr Tanner—I do not understand the question. It is a large job. We have not been given the job yet.

Senator SCHACHT—Again, that is another problem the government has got. In some of these areas we still do not have information about the time scale of what you say is a major piece of work. It is not difficult work, just time consuming. Is that a better way to describe it?

Mr Tanner—That is a fair enough description.

Senator SCHACHT—Okay. If it is time consuming, did you put to Mr Lyons or DoCA that you would need extra resources or time to do this time consuming job?

Mr Tanner—There was not a lot of discussion of that; we did indicate that resources would have to be diverted from other work to do this.

Senator SCHACHT—But you did not say to them, ‘If you give us a deadline of January 2001 or earlier, we cannot perform it’?

Mr Tanner—No.

Senator SCHACHT—So Mr Lyons may say he was not given a caution or warning by the ABA that you could not meet the deadline of 2001. Is that correct??

Mr Tanner—That would be a fair account.

Senator SCHACHT—In that case you can meet the deadline of 2001.

Mr Tanner—I am confident we can.

Senator SCHACHT—Therefore, there is not much difference in the planning arrangements in your indicative plan and the minister’s, is there?

Mr Tanner—The ‘therefore’ just does not follow. I do not believe that the ABA had the same planning task in mind when it put forward its indicative plan.

Senator SCHACHT—Will you take on notice and come back to me, as far as you can work out, what the difference is in work needed to meet your timetable, as described in this document, compared with the timetable needed by the minister? The minister gives you an extra year but you think it needs a more comprehensive planning arrangement even though, like yours, a year later, it cannot guarantee that every consumer in Australia who buys a digital television receiver will actually receive a signal?

Mr Tanner—I will take that on notice.

Senator SCHACHT—The legislation, under your plan, will be introduced in October 1998. When were you anticipating that that legislation would be dealt with and concluded by the parliament? If it was introduced in October 1998, when were you anticipating it would be carried by the parliament under your indicative plan?

Mr Tanner—I do not have the plan in front of me.

Senator SCHACHT—Hasn’t Mr Tanner got this yet? This is your own document. Can someone give him a copy?

Mr Tanner—Sorry, that is not the one. It is the report to the minister.

Senator SCHACHT—This is the white paper.

Mr Tanner—I have that one here.

Senator SCHACHT—What I want is this one.

Mr Tanner—Yes, I have had it taken away from me again.

Senator SCHACHT—You haven’t got that yet?

Mr Tanner—It was given to me and then it was taken away again. It was one of your copies.

Senator SCHACHT—Have we gone off to get another copy of this one?

CHAIR—I suggest that it might have been appropriate for you to bring as much of the material as possible.

Senator SCHACHT—It is probably in the fog with Mr Gordon-Smith.

Mr Tanner—There is quite a lot of material we have brought. But, yes, that is true. I really was not sure in which direction you were going to ask us questions. I am sorry about that.

CHAIR—How would you know, Mr Tanner?

Senator SCHACHT—You could have assumed that the July 1997 document, the last public document on digital television, would be discussed. It does say here that the legislative amendment is to be tabled in October 1998. Before that it says, 'System decision announced June 1998'. Can you explain what you mean as a 'system decision announced'?

Mr Tanner—My understanding of that would be that it refers to the choice between the European or American standard.

Senator SCHACHT—Does that decision have to be made before the legislation is carried?

Mr Tanner—No, but it does have to be made before the detailed planning is done.

Senator SCHACHT—As you understand the legislation, is the debate between the European and the American system for digital television purely an administrative decision by the minister, or is it some form of disallowable regulation?

Mr Tanner—From memory, it is a regulation.

Mr Corker—Yes, it is. It would be a disallowable regulation.

Senator SCHACHT—So the legislation can be carried without the decision being made over which system because the parliament, if it wanted to, can disallow the decision at a later stage?

Mr Tanner—Correct. The choice of system is really a planning decision. It is a prerequisite to detailed planning. It could be made before or after the legislation.

Senator SCHACHT—Mr Tanner, I have no argument with the government's structure on this. However, I think it would have been useful for us, while we are discussing legislation, to have known what system you were recommending. And you are right, you have it in your indicative timetable. One of the things a number of the committee members may wish to take up is the issue of industry development. Once you know which system you are using you may have a more discrete judgment about the caveats you put on either system for Australian industry development, Australian manufacturing and so on. Did you have in mind that the system would be announced before the legislation was debated in the parliament?

Mr Tanner—No. As I say, it is a decision which has to be taken in any case or would have been taken in any case. While I accept the point you are making, that it may be of some interest to the legislators to understand the implications of that choice, I think that is not something that we foresaw in our report. We saw it as a technical planning decision, if you like.

Senator SCHACHT—The minister in his announcement I think recommended three or four different working parties to advise various things on the implementation of digital television—not an unknown structure of involvement of the industry, consumers, et cetera, in the public

interest, and I do not think people have too much argument about that in itself. But on the committee that is looking at this issue of the system is the ABA represented?

Mr Tanner—It is.

Senator SCHACHT—Can you tell us, from your recollection, who else is on that committee with you?

Mr Tanner—No, I could not give you a detailed account. I assume it includes DoCA, the national broadcasters, the commercial broadcasters and some others, but I do not have the list.

Senator SCHACHT—Okay. It is not your committee, so we will ask DoCA when it turns up, or someone else, to give us the list.

Mr Tanner—Unfortunately, Mr Greeney, who is our representative on the committee, is not available today as he is in—

Senator SCHACHT—Is he lost in the fog too?

Mr Tanner—No, he is not. He is actually, along with several of the other engineering people involved in this, in Singapore for a conference on digital.

Senator SCHACHT—Yes. We discovered that last week, I think, Madam Chair. In the past, when we adopted television in Australia and then the colour television system, was that an ABA decision, a recommendation to the government, or was an approach similar to this adopted, whereby a ministerial committee was established to make recommendations to the minister?

Mr Tanner—It would have been perhaps a better question for Mr Knowles than for me because it is before my time—

Senator SCHACHT—Mr who?

Mr Tanner—Colin Knowles. There was no ABA at that time. The planning of broadcasting was done by the minister for communications at the time.

Senator SCHACHT—In what is now DoCA?

Mr Tanner—Yes.

Senator SCHACHT—I see. In your own discussion paper, and in the specialist document that this is taken from, when we go to the system choice on page 3 it just simply says that we have to make a choice between the US or European system and that any decision in this regard would be based on the system's capability to meet the broad objectives of high definition, the availability of consumer equipment and the capability of the system to achieve the spectrum objectives mentioned above. In relation to spectrum allocation, whichever system we choose that is not an issue—is that correct?

Mr Tanner—I understand that the choice of system may somewhat affect the planning and may somewhat affect the number of channels you need and where you need translators, so it is a prerequisite decision for us to do detailed planning.

Senator SCHACHT—Okay. The government has announced—and it is in your report—that seven megahertz of capacity be made available to each of the free to air television stations for high definition television. At the fringes, for example, could one system do HDTV with only six megahertz? Is that the sort of issue we are looking at for that committee?

Mr Tanner—That would be one. However, I understand the number of megahertz is not really the issue, in that both systems will work extremely well with the seven megahertz.

Senator SCHACHT—Would both systems work well when HDTV is not being used but just straight digital broadcasting—that the seven megahertz would roughly be broken up, at known technology at the moment, into four standard digital signals?

Mr Tanner—I would put that somewhat differently. I prefer to think of it in terms of a number of bits. Once you have your seven megahertz you can put out a stream of digits at about, very roughly, 20 million per second. You can encrypt a conventional television signal quite satisfactorily with as little as four megabits per second, though you might choose to have six for certain types of things. What that means is that if you have control of that transmitter pouring out 20 million bits of information per second, you have the option of using it to encode—and this is the estimate the ABA has always used—from three to six standard quality television signals, if it is in standard quality mode, if you like.

Senator SCHACHT—If it was standard quality digital, you would go from three to six. Will you ensure that the receiver can receive three to six different signals? That is a standards issue, isn't it?

Mr Tanner—Yes, that is also a standards issue. That is a different standards issue, though.

Senator SCHACHT—It is a different standards issue, but will that issue be on the same committee that is dealing with the decision on systems, on the standards issue of what is going to be the capacity of the receiver?

Mr Tanner—The issue of the availability and likely cost of receivers is going to be a relevant one—

Senator SCHACHT—Forget the cost just at the moment. What I want to make sure of is that, if you say that technically it is possible to receive up to six standard digital signals in seven megahertz, the receiver has the capacity to take the six different signals, no matter who is using them, that are available from out of that seven megahertz.

Mr Tanner—That is assumed.

Senator SCHACHT—That is assumed, is it?

Mr Tanner—Yes.

Senator SCHACHT—That the receiver will have that discretion?

Mr Tanner—Yes.

Senator SCHACHT—Why I am raising this is that I do not want to see that we accidentally lock off the use, that we accidentally only have receivers that can take four separate digital signals rather than six; that if you are going to have two static stories, talking heads, going off, then two more dramatic movement ones and then a couple in between, that means the community has a broader range of broadcasting services available to it, if it chooses to license accordingly, and we have not stopped ourselves by making a technical decision to lock it away.

Mr Tanner—Both the American and the European standards are designed to give you the options of simulcasting conventional quality pictures or having various levels of enhancement up to full high definition television, and I am assuming that, world wide, receivers are going to be built basically to exploit that potentiality. It would be very odd if they were not.

Senator SCHACHT—Yes, I agree. However, if you were an existing licence holder, you may well argue to have a standard that actually reduces the number of channels available because, in the long run, that means less competition free to air.

Mr Tanner—Yes.

Senator SCHACHT—And monopoly rent seekers always try to reduce the opportunities for others to join the system, don't they—whatever area it may be?

Mr Tanner—As a general rule, yes, I think business can sometimes attempt to foreclose competition. That is true.

Senator SCHACHT—Yes—foreclose. The ABA is fully aware that that may well be the bottom line for some of the people who are going to be represented on that committee dealing with systems and standards?

Mr Tanner—It is something that we would be aware of, yes.

Senator SCHACHT—On that committee doing the systems, you are not sure whether that is the same committee that is going to be dealing with standards for the receivers?

Mr Tanner—No, I am not.

Senator SCHACHT—That is a DoCA question, okay. On the committee you are on about the system, does each of the free to air television stations, the whole five of them, get a rep or is there one from FACTS, on behalf of them all, one from ABC and one from SBS?

Mr Tanner—I will take that on notice and give you a complete run-down on the committee. I understand also from the confidential briefing that you will be receiving information on the criteria that committee is using for its recommendation.

Senator SCHACHT—Have you received the terms of reference yet of that committee that you are on?

Mr Tanner—I do not have a copy of the terms of reference, although I think the general statements in the ABA's report capture the spirit.

Senator SCHACHT—No, the terms of reference—

CHAIR—What briefing are you referring to?

Senator SCHACHT—Last week's briefing, are you?

Mr Tanner—I recall that one of the questions on notice—

CHAIR—That was not a confidential briefing. I just want to clarify this for the *Hansard*. You were talking about the briefing we had the other—

Mr Tanner—Yes.

CHAIR—That was the private committee hearing. It was not a confidential briefing because staff were invited. I just wanted to make sure that somebody did not think there was some other briefing that people were not involved in.

Mr Tanner—I see, yes.

CHAIR—So you are talking about the private hearing of the committee to which all senators and staff were invited last week?

Mr Tanner—That is right.

Senator SCHACHT—Mr Tanner, you are on the committee that is looking at the debate about systems?

Mr Tanner—Yes.

Senator SCHACHT—What other committees that the minister has established is the ABA directly represented on? The minister announced four committees to deal with the implementation of various aspects of the introduction of digital television. Are you represented on every one of those committees that the minister established?

Mr Tanner—We would be represented on the DTTB and planning and steering committee.

Senator SCHACHT—Is that the one we have just been talking about? Is that the systems one?

Mr Tanner—Yes. I am a little confused, because this is a new committee which is being set up under the announcement, whereas that work is actually proceeding, or maybe it is just going to take it over.

Senator SCHACHT—When is DoCA coming along?

CHAIR—They are coming on 15 June.

Senator SCHACHT—This is no fault of our planning, but some of these questions are a bit unfair to the ABA, because I am asking questions that relate more to DoCA providing the information.

Mr Tanner—That is actually true. It is probably better, rather than me having to try to piece it together.

Senator SCHACHT—Yes.

Mr Tanner—The difficulty really is that you are asking about committees that are being set up and the processes are being convened. The ABA is already participating in the groups that it has convened up till now to run digital planning and there may be a bit of a handover of some of these jobs.

Senator SCHACHT—That might be useful to take on notice. You are already convening some committees or working parties under your own steam or powers.

Mr Tanner—Yes.

Senator SCHACHT—Can you provide us with a list of those that you were convening.

Mr Tanner—Certainly, or those that we participate in.

Senator SCHACHT—First of all, the ones you convene which are now perhaps overtaken by the ones the minister has announced in his decision of 24 March.

Mr Tanner—Yes. I will take that on notice.

Senator SCHACHT—And also point out the difference, because, even with those, you may still have other committees or working parties continuing on digital. We will get the structure, that is, what the minister has operating which is responsible to him and your own. We can try and get a picture of who is doing what in the great scheme of things.

Mr Tanner—Yes. We will take that on notice.

CHAIR—I have a question about the actual legislation itself. One of my concerns is that the technology is changing so rapidly all the time. We had that private hearing and then I read an article that there is a fellow in Texas who is trying to develop a system whereby—and I suppose it is a long way off—they read off where you are looking.

A light is projected on to the disk and reflected back out through the pupil onto the text you are looking at. The concentration of information is at the point where you are looking and the rest is not as detailed. You can compress the signal down 10 times. I would love to ask the man who invented it what happens if three people are watching television at the same time. I do not know how that would work. Obviously, people are working assiduously to compress the signal down, and this was 10 times, which is quite significant.

Do you think the legislation is tight enough to ensure that the developments that might occur in 10 years—as we are moving towards the final date for getting rid of analog and bringing

in digital totally—are sufficient so as not to give the free to airs unfair advantage in being able to use excess capacity? I know it is written in there, but the problem is that, as it becomes more available, would not the argument be that we ought to be able to use it because it is there and we have now got the technology to compress it?

Do you think that the legislation is sufficiently tight to mean you could only have high definition television or where there is something looking at different angles? I have forgotten the technical terminology.

Mr Tanner—You mean multiple camera angles for the one program, yes.

CHAIR—Yes. It is augmenting an existing program and is a different camera angle. You are still presenting the same program, but you are augmenting it with different angles, et cetera. Is it tight enough so that people cannot skate on the circumference of the truth by putting in another image where it is very difficult to define under the act whether it is augmenting that or really stretching the friendship and putting some other information down? Do you understand what I am saying?

Mr Tanner—You are asking whether there is going to be a grey area at the edge of what is an enhanced signal?

CHAIR—Yes.

Mr Tanner—I am not sure if the legislation actually uses the term ‘enhanced signal’. Obviously, there is going to have to be in the end some sort of adjudication at times on what is in and what is out, as the legislation prohibits multi-channelling in general, and simply allows a group of exceptions where it is basically one integrated program but uses different screens. There are clearly going to be issues of interpretation at the edge of that.

Mr Corker—The phrase ‘multi-channelling’ is whether the program is treated as incidental and directly linked to a program. Incidental and directly linked seems to be the test.

CHAIR—What is it?

Mr Corker—The programming must be incidental and directly linked. Multi-channelling would be permitted if the second channel or whatever is incidental and directly linked, a famous example being the different camera angle of the football final. Those words are quite broad and, therefore, I suppose at the edges they are going to be subject to interpretation, and I understand the ABA will have an adjudicatory role.

CHAIR—What I am asking you is: do you think that definition is strong enough and tight enough to give you a role? You and I seem to think that we know what that means, but it has to last for a certain length of time. Are there any things that you could imagine—and people will stretch it out as far as they can—that the legislation does not cover?

Mr Tanner—There are several issues because incidental and directly linked only goes to the issue of multiple channels of television. There is also datacasting from which broadcasting has been generally prohibited. I guess there are issues there, too, about what is and what is not datacasting.

CHAIR—My simple interpretation—and I am not an expert on the bill—in relation to free to air is that ABC and SBS can broadcast high definition television but if they do not broadcast high definition television, then they are not to use the extra capacity, other than multi-channelling for enhancing the original signal, whether it be different cameras or captioning for the deaf.

I do not think you are the people to ask whether you can actually have an audio channel where it can be described for the blind as well, which is what the Association for the Blind want. You are not the people to ask about that. That is what I interpret it as. Is that what you interpret?

Mr Tanner—Yes. My understanding is that the broadcasters with their conversion channels would. The core idea is that you only get to retransmit your existing service, which is a single stream of audiovisual entertainment, and you can do that at conventional quality or you can do that at HDTV, but you cannot do others.

However, they do acknowledge that you can go a little wider if the second, third or whatever channel is carrying programming which is merely incidentally or directly linked to the main program. Those words are general words and, therefore, they are going to create questions in the end. Clearly, if you are running *Seinfeld* on your main channel, it is not going to be incidental and directly linked to run some other program which is totally different, that is, the news or something on a second channel. On the other hand, the different camera angles at the football seemed to be clearly in.

CHAIR—What happens if I want to run something about *Seinfeld*'s life?

Mr Tanner—There is going to be a question of interpretation there and whether that is incidental and directly linked.

CHAIR—Is it tight enough?

Mr Corker—There is a power there at the moment to determine by way of regulation whether or not something is incidental and directly linked. So, if it were a proposed program about *Seinfeld*'s life, presumably that could be by regulation said to be incidental and directly linked to the simulcast signal.

Mr Tanner—Or ruled out.

Mr Corker—Or not.

Senator SCHACHT—That is a disallowable instrument.

Mr Corker—Yes, the flexibility is there.

Senator TIERNEY—The link could be to a datacast service if it has more detail on *Seinfeld*'s life or whatever rather than another channel broadcasting it.

Mr Tanner—If the more detail was not commercial television broadcasting, it could be carried on the datacasting channel, because that is the other use which is going to be legal under this scheme. They could use the leftover bit rate to carry datacasting which has various limits on it.

Senator TIERNEY—That was my question: are you more likely to link into that than another broadcast channel?

Senator SCHACHT—On the same question, if you were using a different camera to put the capacity of watching a football match, and you were choosing some different camera angles, there would still be the one signal coming over. If it was not HDTV, you might be using another couple of megahertz of capacity, so you might have your remote control and go to camera B, C or D or whatever, but it would all still be on the same signal at the same time.

Mr Tanner—That is right.

Senator SCHACHT—If you were watching further about the life of *Seinfeld*, you could not put that over the top of the same signal because it would all be jumbled. If you had the

program on *Seinfeld* and someone said that, if you wanted to get more information about the background of *Seinfeld*, go to channel 9B or 9C, run simultaneously, that would be a different story altogether. Is that not correct?

Mr Tanner—Basically, when you have a transmitter which is putting out simply noughts and ones, you have a very wide range of options about what you can do with those things at once.

Senator SCHACHT—I know that. I am saying that, unless they are going to divide the screen down the middle, which would be in this stage chaotic, having the episode of *Seinfeld* on half the screen and on the other half of the screen the story about *Seinfeld*'s love life and who the actor was would not work.

Mr Tanner—It would be like an Andy Warhol movie.

Senator SCHACHT—Yes, that is right. That would not occur. That would be obviously a separate transmission or, if it was done, it would have the same signal. It would destroy the signal for the viewer.

Mr Tanner—Presumably it would be a different channel. I think the intention of the amendment is to allow some multi-channelling but only incidental and part—

Senator SCHACHT—You say you use some of the multi-channel capacity for extra camera angles for sporting events. When I am viewing, I see that in my main picture, if I have a HDTV or a digital receiver. It is not on a separate channel. The enhancement is on the first channel providing this extra capacity of choice. Is that not correct?

Mr Tanner—I believe it could be either. There may be seen to be some benefit in having a corner of your screen carrying a bit of information and you may, of course, want to allow people to sit behind a goal.

Senator TIERNEY—I am just trying to clarify this. That is the case in UK or it is coming into the UK. You could have that different angle in a corner or you could have information on *Seinfeld* or the football players or anything. You are coming in like a datacast service in the corner of the main picture of the screen.

Mr Tanner—If you have used one of those really good videoconferencing facilities, you will know that you have a range of choices in which you can have the other participants in other sites up on corners of the big screen or you can switch from channel to channel if you prefer. There is no reason you could not do all those things with the digital signal, depending on what the set is able to do.

Senator SCHACHT—The other way round to put it is this, if we are using the *Seinfeld* example: a *Seinfeld* episode is going out on the main channel, whether it is fully HDTV or just a straight digital signal. An enhancement would not say, 'And when this program ends, turn to one of the other channels—9B, 9C—and you will see a story about the making of *Seinfeld*, history and background.' That would be clearly a separate multi-channelling signal. It is a different format; it is a different story. In my view you would be then using a multi-channel. They would still be going on with something else, but would have got some of people to watch Channel 9, or whatever station the program on *Seinfeld* is on, and then when that has ended trapped them to get them going to watch another channel with a background about making *Seinfeld*. That would not be enhancing.

Mr Tanner—I would have thought it would be hard to argue that with 'incidental'. It may be directly linked but I doubt that it is incidental. As I say, the words do admit of interpretation. There will have to be those judgments calls at the edge and there is a regulation

making power if it is felt that we need a more black-letter law approach to spelling out the boundary.

CHAIR—Would it be of assistance for what is really meant by it to be spelled out in an explanatory memorandum for interpretation? Would you use an explanatory memorandum?

Mr Tanner—We would do so. They are certainly admissible.

CHAIR—Would it be appropriate for the minister to spell out, in a more colloquial way, which is not possible in the legislation, what is really meant by ‘incidental’ to try to give you some guidance as to how you would apply that?

Mr Tanner—I might take that question on notice, if that is all right?

CHAIR—I would appreciate that if it is appropriate for him to have that additional explanatory memorandum tightened up. I think that if we do not ask enough of the ‘what if’ questions, somebody will come up with some very smart solution that we have not thought of and that is not covered by legislation. Really, we are saying you are going to get in the legislation the opportunity to transmit a signal by high definition television, and we will give you some extra things that you can do to augment it, if it is related to the program. I think we all, in the spirit of it, understand what that means. But they will be pushed to the limit, I believe. All of us would test the limits of things. The tighter it can be, in the sense of making it easier for you to interpret and apply, I think the better it will be. Could you have a look and see whether there is anyway in which you think an explanatory memorandum can assist with strengthening that?

Mr Tanner—Sure.

Senator SCHACHT—An explanatory memorandum on page 24 has a subheading ‘Enhanced programming and prohibition of multi-channelling’. Is that the area that Madam Chair was talking about? The description it gives there is the one that you should have a look at.

CHAIR—Just see whether that is sufficient and, if it is, answer back on notice and say ‘yes’. If not, make any suggestions about the way in which that could be improved. Just make it absolutely clear, because I think we all know what we are talking about. It needs to be absolutely clear.

Senator SCHACHT—Have these issues of definition which are going to be under regulation been referred to any of the committees the minister has established to assist in the implementation of digital television? I am not sure that I could pick that out myself.

Mr Tanner—This one, according to the explanatory memorandum, would be referred to the ministerial review to determine the scope of regulations. There is a review process in place.

Senator SCHACHT—Are you represented on that committee?

Mr Tanner—Apparently, yes.

Senator SCHACHT—Okay, fine.

Mr Corker—Senator, just noting the 31 December 2005 review group, the terms of reference seem to include whether the simulcast requirement introduced by the bill should be amended or appealed and the content of any regulations be made in connection.

Senator SCHACHT—That is simulcast. That is the review for 2005. On page 24 of the explanatory memorandum, after the two dot points in the middle of the page, it says:
Subject to the Ministerial review to be conducted to determine the scope of these regulations . . .

This is a bit back to front, because we do not have DoCA here first to help us. Which committee is that? It goes on:

. . . it is envisaged that this condition would allow commercial television broadcasting licensees to transmit multi-view programming and other incidental video material directly linked to the analog simulcast.

I think the chair's question is a very fundamental one. It is about what that actually means in the nitty-gritty. Can someone drive the *Queen Mary* through it, in finding that suddenly the existing commercials who have the access to the megahertz signals are suddenly doing lots of other things that are not what we described here, such as just adding an extra camera angle for the football or the cricket, but are actually going off into some other programming like the history of *Seinfeld* or something?

Mr Tanner—I understand the concern and, of course, it is a real one whenever you have a general injunction which admits of interpretation. If there is a specific question of whether the ABA will be represented on a committee which is advising the minister on the making of that review and the making of any regulations, I think the quickest bit is to put that to the department when they come on, because I have not got all the committees and all their tasks mapped out in my head.

Senator SCHACHT—Join the gang, Mr Tanner. We have all got committees washing around.

CHAIR—Last year, when I was watching the morning news on a TV channel in America, they had the weather across the bottom, the road report in another section, the headlines were going across in written form and a talking head was going on in the other area. Is that news? It is all news but they have got four messages coming across on one channel. I do not know whether the legislation covers this. We do not have that on our analog television. Sometimes you will have a thing at the bottom.

Mr Tanner—Yes, we have crawlers. I am not sure that that is enormously different from what we have now.

Senator SCHACHT—Was that an analog or digital signal?

CHAIR—Analog. It had a lot of information going on at the same time.

Senator SCHACHT—And all run by the one station?

CHAIR—Yes. If a talking head is doing the weather, and then there is a whole lot of other information about the weather—

Mr Tanner—There is really nothing to prevent you doing that using analog and that would be considered to be the one service. It is the same situation, I would have thought, as when we have a crawler going across the screen during the cricket or something like that.

CHAIR—Have you ever had a problem where you have had to regulate with analog? Are there any rules about analog and what you can do?

Mr Tanner—It is not clear why you would limit what they can stick on a screen. If they feel that their viewers are going to want to have multiple bits of information marching across the screen at the same time as the image, then that is what they can choose to put on their piece of audiovisual entertainment.

CHAIR—But, with analog, you cannot then flick across and highlight the corner. For example, with analog, if I have a talking head in the corner while the football is going on,

I cannot flick across to see what is on channel 9B, and then enlarge that because I decide that I would rather watch the alternate picture than the main picture.

Mr Tanner—If you had that potential to switch from the temperature logo or something to a bigger screen which showed the weather, there would be a question as to whether that is incidental.

CHAIR—That is what I am asking: do you know whether legislation covers that? If you can do more than what you can do on analog, then it is a different situation. It would seem to me that it can only be augmented if you cannot then shift off and enlarge the other bit of information because that is what you would prefer to be watching. So you are actually multi-channelling two different things. Senator Schacht might prefer to watch the ball and I might prefer to watch the football. Then you have got two distinctly different things because—

Mr Tanner—No. There is a real question of interpretation there. All you have in the draft legislation is a very general rule which creates, I suppose, questions of interpretation. You have a path that you can go down, which is a lot of regulations that are much more prescription. If you do not have regulations, then you will have the enforcement agency—presumably the ABA—making judgment calls. It will be making them in either case but it would have to do them on the more general rules if you did not have regulations.

CHAIR—Let me ask you the question on notice. Let us say you have high definition television where they are not using all the channel, because they are doing something that moves more slowly, say, bowls or something—I am trying to think of something that does not use as much information—and there is an additional view from the camera. Say some people choose to watch the alternate view, because you can switch to the other channel to do that because they are multi-channelling. Let us say I am a TV company and I have come to you and said, 'This is what I want to do.' Given this legislation, would they be able to do it and do you think that is right?

Mr Tanner—The test is there—

Mr Corker—If it is incidental, and directly linked to the program that is broadcast simultaneously, then it would be allowable. That is the limit that is set.

Mr Tanner—That is the policy in the law. We will allow it if it is incidental and directly linked.

CHAIR—But it is being broadcast simultaneously. Say I can then switch to it alone. Do you see that as being different?

Mr Tanner—I think that is one of the things which is intended by this. It is to allow you—

CHAIR—What is intended: that you are allowed to switch over and have a look at another picture and make it bigger?

Mr Tanner—That is right; but it has to be incidental and directly linked. I go back to this: the whole point of having different angles on, say, a sports match is that you can pick the angle that you want. It gives you that feeling of control. You can switch to behind the goals, if they are kicking for them, and you can go back to the middle of the ground.

CHAIR—Can I actually then broadcast a similar mark from a match a week ago? That is the sort of thing I am asking about. I want you to tell me whether the legislation covers that. It is incidental: I am comparing Joe Blow marking today and Joe Blow marking—or a try, if we want to put it in New South Wales terms.

Mr Tanner—I have to ask whether that is incidental, once again.

Mr Corker—Or whether it is directly linked, because it is so historical in time.

Mr Tanner—Once you are off screening a different program, there is a definitional question there: you are quite right. There is a power to make regulations and a requirement to review, so that these issues have to be addressed and the government, if you like, can be a lot more prescriptive. But, in the end, when you come up with any rule, no matter how prescriptive, you have to make a line call. Someone is going to have to make a line call on whether it is in or whether it is out.

Senator SCHACHT—The issue that we are going to be dealing with is what penalty the ABA will impose if someone does break the prescription and the definition, and it is not incidental. Have you given consideration in your work so far of what would be in the regulation as a penalty? If someone breaks it and uses it, what do you do to them?

Mr Tanner—I will defer to John.

Mr Corker—It is a licence condition that you comply with that, and so it falls into line with all the other licence conditions on the broadcasting service licence. What follows from that is that you have then got a scaled enforcement regime—

Senator SCHACHT—Of penalties, which range—

Mr Corker—Of issuing a notice to comply within a period of time and then perhaps going right through to prosecution.

Mr Tanner—Right up to suspension, revocation or prosecution.

Senator SCHACHT—Would you be looking at saying to those within that range, ‘You have breached the provision. You can only now broadcast either fully-fledged HDTV, taking the whole seven megahertz—or, if it is not a simulcast in normal standard digital, you get nothing else,’ as the only way to stop them from pushing the envelope out?

Mr Tanner—We certainly have the power to make additional conditions on licences. There would have to be a preliminary question, I guess, whether that is an *intra vires* condition, given that the law permits certain things.

Senator SCHACHT—I would like you to take that on notice and comment on how you would put a penalty regime in, because there is no use in hitting them with a wet lettuce afterwards, if they think they can get away with it and if they keep taking you down to the Federal Court to delay your decision while they get another six months at it.

Mr Tanner—I would underline the point that John has already made, that in fact the ABA does have a very wide and very flexible scheme of sanctions that it can use. It certainly has a power to put in extra conditions. I guess my immediate query with that particular proposal is whether that would be a legal condition, given what the law allows; but you could perhaps put other conditions, if not that one—and perhaps you could put that one.

Senator SCHACHT—That is what I would like you to take on notice. With people breaking the incidental broadcast rule, it is a new area of broadcasting, and so what would be suitable penalties and a regulatory regime that is sensitive and flexible, without the lawyers making a killing with costs, et cetera, and with you having to be in the Federal Court every second day? Can you give us some thoughts about how the regulations could be structured to provide timely regulation and penalty if people transgress?

The main issue is not only the content but also the use of the seven megahertz. With the incidental, could someone say that they have a standard digital signal going out but that they are going to use all the other megahertz of the signal to provide the enhancing, even if it is

probably quite useless enhancing, as a way of stopping anybody else having use of that part of the spectrum during the same period? They are not into HDTV; they are using a standard digital television and then they use the rest of the signal to provide enhancing, to stop anybody else using the signal at the same time.

Mr Tanner—I am not quite sure what you mean by ‘enhancing’ in that context, but basically they will have complete control over what they do with the entire stream of data, subject only to the rules here.

Senator SCHACHT—That is what I am coming to.

Mr Tanner—In other words, by not on-selling it to someone who might want to use it for datacasting or something, they are not committing any crime.

Senator SCHACHT—No. First of all, if it is not being used for HDTV—if it is correct that seven megahertz is needed for a full HDTV signal for Rugby League, the AFL football, the cricket or whatever—and they have got a standard digital signal that may take a news service, some current affairs and a bit of action with a couple of megahertz of the seven, can they technically say, ‘We are going to provide some of the enhancing of the little square up on the corner that Senator Patterson has mentioned’ and then claim that the remaining five megahertz are used for enhancing standard digital—so that, if the government chooses to say, ‘When you are not using HDTV, some of that megahertz goes back into the pot to be used by other broadcasters’, they can then say, ‘You can’t, because we are using it all for enhancement’?

Mr Tanner—In this scenario, are they not complying with the requirement on them to transmit HDTV?

Senator SCHACHT—No. That is right. When they start off in 2001, everyone accepts that there is not enough programming content to fill up 24 hours or even 12 hours per day for HDTV, and that there is going to be a gradual increase in the hours of HDTV. When they are not using HDTV and the seven megahertz, they might be using two megahertz for standard digital simulcast with analog.

Mr Tanner—I think we are conflating two things here. We should not think of the seven megahertz as something that is divided up into a certain number of megahertz per service. Rather, the whole lot is used to produce your 20 million bits per second, and so now think about how you subdivide your 20 million bits.

Senator SCHACHT—My old structured mind is using that description. But, if you are using only three megabits out of the 20 megabits in the seven megahertz, and you have got spare capacity, the government can say, ‘Right, we can use that to give to some other broadcaster for some other use.’

Mr Tanner—The government has not said that, at the moment, so—

Senator SCHACHT—No; but the parliament might carry legislation that way.

Mr Tanner—Sure.

Senator SCHACHT—What I want to get to is this: even if we said that, they might say, ‘Okay, we will get around that by saying that the whole of the seven megahertz, the whole of the 20 megabits, is used for enhancement of a standard digital signal, and therefore it is not available to you.’ They could get around the policy intent of government/parliament.

Mr Tanner—The question is very hypothetical, because my understanding is that that is not what the draft legislation is seeking to do. My understanding is that the draft legislation

would give them complete freedom not to use at all, or to do whatever they pleased with, the unneeded portion of their digital capacity—

Senator SCHACHT—That is what I was getting at.

Mr Tanner—Subject only to certain requirements which are in legislation, including the requirement to proceed to HDTV in accordance with certain hurdles.

CHAIR—Mr Corker, were you going to say something?

Mr Corker—Yes. Senator Schacht, am I correct in thinking that your question is directed to the market in spare transmission capacity for datacasting, and whether one player could, within their own seven megahertz, control the spare transmission capacity to such an extent that no-one else could access it?

Senator SCHACHT—Yes.

Mr Corker—The response to that is that it depends on the amount of spectrum that is generally available for datacasting. Presumably, other people with seven megahertz channels will also have spare transmission capacity from time to time. In setting the charge for use of that transmission capacity, the legislation requires that the ACA provide a report to the minister and, in doing that, it has to have regard to competitive neutrality principles in formulating those proposals. The legislation envisages some sort of market situation existing for that spare transmission capacity.

Mr Tanner—It does not make it mandatory to use that spare capacity in any particular way.

Senator SCHACHT—The legislation may be deficient in this area: I am not sure. But there is a big argument from various players or interest groups about the free to air channels in the commercial sector getting allocated seven megahertz for HDTV—which we in the Labor Party support, because we think HDTV take-up is very important in the long term. They all say that in the start-up period there will be hours of the day in which there will not be HDTV material broadcast, and so the channels will not need the full seven megahertz. The real question is this: under this legislation, when they are not using it for full HDTV, who controls the allocation of the remaining 20 megabits or seven megahertz available? Is it you people, or the ACA, or the television stations?

Mr Tanner—It is the television station, clearly.

Senator SCHACHT—So they can then sublicense and sell it off to somebody else?

Mr Tanner—Subject only to these rules; they could sublicense to a datacaster, for example.

Senator SCHACHT—Yes: they can sublicense to a datacaster.

Mr Tanner—Perhaps ‘subcontract’ would be a better word.

Senator SCHACHT—They can sell it off to a datacaster and charge them for it, and yet the government has provided the seven megahertz to them free?

Mr Tanner—No; because there is, as John said, a recoupment scheme. It has only been supplied free to the extent that it is to be used for retransmission of their existing signal, either in conventional or HDTV mode. To the extent that they use residual capacity for datacasting, there is a fee scheme with the ACA determining what an appropriate charge would be.

CHAIR—I think that in DoCA’s submission they talk about that.

Mr Tanner—It certainly envisages that they can, at their own discretion, sell off or themselves use that additional capacity; but there is, if they do that, a fee scheme envisaged, for which the ACA would set charges.

Senator SCHACHT—Okay; there is a fee scheme, and it is yet to be determined how that fee scheme would be arrived at. It is not an auction?

Mr Tanner—No, it would not be done by auction. The ACA is the body with the experience, I guess, in selling off spectrum for a whole range of uses: it is the expert body.

Senator SCHACHT—Yes, but that is an auction system. We will ask them when they turn up, but do you mean to say that the ACA—a group of bureaucrats sitting down here in the wonders of Canberra—are going to set a fee and say, ‘We’ll have a stab in the dark at this. We think this is worth \$5 million per year’—or \$25 million per year, per hour or whatever—and that then becomes the fee?

Mr Tanner—It certainly requires a bureaucratic decision on what the fee is. That will be made by the ACA.

Senator SCHACHT—Is that a disallowable instrument, under the legislation?

Mr Corker—Yes, it is. That is the purpose of the second bill, the Datacasting Charge (Imposition) Bill 1998.

Senator SCHACHT—So the fee that the ACA sets is a disallowable instrument. If the ACA sets the fee for datacasting for channels 9, 10 and 7 at \$100,000 per hour, or whatever it may be, can the parliament disagree with that?

Mr Corker—That is correct.

Senator SCHACHT—This is an issue for DoCA, I suppose. Would it be fairer to say that you will auction those off, and by auction we might get a higher price?

Mr Corker—There are two different possible pricing mechanisms there. One is a pricing mechanism based on usage, and one might be on the basis of sale or access to the channel, in the first instance.

Mr Tanner—I think the scheme does envisage that, once conversion has been catered for, additional UHF and VHF capacity can be made available by auction to datacasters.

Senator SCHACHT—Once what happens? I did not hear you properly.

Mr Tanner—The ABA has to find sufficient UHF and VHF spectrum to convert existing services and give equivalent coverage. As that is taken care of, additional spectrum is to be identified, and that can be made available under this scheme to be auctioned off for datacasting use. So there is another way in which datacasting capacity is coming on to the market.

Senator SCHACHT—Does the regulation envisage, and do you understand it thus, that it is up to the television station itself to determine when they are going to make available spare capacity for datacasting?

Mr Tanner—Yes.

Senator SCHACHT—Is there any overview that they are making a welter of it by actually freezing the access to it for competitive and commercial reasons?

Mr Tanner—No; except that the scheme does make provision for putting onto the market additional capacity exclusively for datacasting.

Senator SCHACHT—Separate from each of the broadcasters getting seven megahertz, there is other spectrum capacity available to put datacasting on digital—separate from five times seven, with 35 megahertz?

Mr Tanner—Yes.

Senator SCHACHT—In your experience as the administrator of the allocation of licences, how much extra at the moment, with simulcast going on until 2008, would be available to put out to datacasting?

Mr Tanner—It is hard to be precise because, for a start, we do not yet know what the exact spectrum requirements of conversion are going to be—that depends on a range of things, including the standard that we chose—but even as we sit here there are some parts of VHF and UHF which we know are unlikely to be suitable for conversion, such as channels which are only six megahertz. Channel 27 is an example. We know there is likely to be some capacity, but my understanding is that there is likely to be somewhat more than that as well.

Senator SCHACHT—Are 10 megahertz available in bits and pieces across the spectrum for datacasting?

Mr Tanner—The very preliminary work we have done suggests that there would be more than that, but I really would not want to be specific.

Senator SCHACHT—Just come back one point then. Even allowing for the use of all the spectrum to simulcast at 2008, there is now available at least 10 megahertz that could be allocated elsewhere for any purpose a government so chose, including another commercial broadcaster, another national broadcaster or X number of channels for datacasting?

Mr Tanner—There is additional capacity, yes.

Senator SCHACHT—Of at least 10 megahertz?

Mr Tanner—I believe so, yes.

Senator SCHACHT—Less than 20 megahertz or more than 20 megahertz?

Mr Tanner—I would not like to give explicit figures, as I said. In terms of the certainty where we would find capacity, I would start out by saying that there is one six-megahertz channel we are pretty certain will not be needed and will not be useful for conversion Australia wide. There may be another one on VHF, depending on certainly decisions that are made about how we convert on VHF, and there is likely to be additional capacity once the plans are drawn up in particular areas. I would not like to go on record about exactly how much, but there certainly is some redundancy on the VHF and UHF bands as far as we know.

Senator SCHACHT—That can be used during this period of simulcast where five of the free to air channels are using existing analog to get that part of the spectrum—

Mr Tanner—I would be happy to take that on notice.

Senator SCHACHT—In particular, is the spectrum available in pieces that would be big enough, up to six or seven megahertz, to provide another free to air channel across Australia?

Mr Tanner—I am assuming that, yes.

CHAIR—I have a couple of questions I want to ask on notice.

Senator LUNDY—I have a couple on this issue, too.

CHAIR—We are running short of time.

Senator LUNDY—I have not had the opportunity to ask any of my questions yet.

CHAIR—I will ask my questions first, then you can ask yours and then we will move on to the next witnesses. The ABC, in its submission, expressed concern that the legislation enables the ABA to interfere in its affairs through the approval process for the implementation plans. How do you propose to deal with that perception of interference? Are you aware that that is what the ABC have said?

Mr Tanner—I have not studied their submission, so I do not have a pat answer to that.

CHAIR—Could you look at what they have said and then reply to us on notice?

Mr Tanner—Yes.

CHAIR—The ABC's submission also recommends an amendment to subclause 17(2) on policy objectives and to 17(2)(m) on consultation to require the ABA to consult with the ABC. I would also like your response to that suggestion. Are you planning a public education campaign to inform the public about what they can expect from the major television broadcasters in relation to digital television in the simulcast period?

Mr Tanner—We have not yet considered what publicity we might give to the process.

CHAIR—Are you likely to give publicity to the process?

Mr Tanner—I certainly expect we will give some publicity to the process. It is going to be a good news story, we think.

CHAIR—Thank you.

Senator LUNDY—Going back to the point you made about the additional spectrum that is potentially available to be auctioned off for datacasting, to what degree is that part of the spectrum contingent upon the five times seven megahertz not being fully utilised, or is it over and above that?

Mr Tanner—It is over and above that. We are assuming conversion.

Senator LUNDY—Sorry, what was that last comment?

Mr Tanner—We are assuming that we will use as much spectrum as it takes Australia-wide to ensure equivalent coverage, because that is mandated in the objectives in the bill.

Senator LUNDY—Do you have any estimations of the spectrum over and above the five times seven megahertz that will be required to achieve that?

Mr Tanner—On the indications I have seen there are likely to be up to several channels available in several areas. That is really contingent on certain choices that have not yet been made. All I could really say for certain at this stage is that there are a couple of channels that are not seven megahertz channels. So they are already fairly obviously marked as not being suitable for conversion, channel 27 UHF being the best example.

Certainly, there does appear to be redundancy at this stage. Subject to us doing the planning, there does seem to be some redundancy in the VHF and UHF spectrum that we have, which would enable us to make additional capacity available for datacasting or, if it were felt appropriate by all of government, to perhaps return some UHF spectrum for other uses.

Senator LUNDY—Concerning that redundancy that has been identified and allowed for, is there any reason why that can only be specifically used for datacasting, or would it be possible to use it for other services such as all digital services?

Mr Tanner—Under digital it can be used for putting out streams of noughts and ones, and you can do what you please with those. Technologically, there is very little limitation on what you can do with it. You could certainly use it for television rather than for other types of data if you wished. It is just digital data.

Senator LUNDY—In responding to questions earlier, there was a lot of comment about the actual nature of the product when we are talking about providing related services and what the actual definition of the related services are that could fall within the scope of the legislation. To what degree have you consulted with the production corporations that actually

supply content to the broadcasters, apart from the broadcasters and their in-house produced content?

Mr Tanner—The ABA has not consulted on that aspect of the bill. The ABA has merely, to this stage, been consulted about the content of the bill. That is not something we have yet done.

Senator LUNDY—So you are relying on the advice essentially of the broadcasters as to the nature of the content that this legislation is going to cover?

Mr Tanner—No. I think this is a line of question that perhaps you would be better off following with the department than with us. The remarks I have made about what would be clearly in are simply a bystander's remarks about the type of services that I have heard described as clearly intended to come within the definition. It has not been the ABA's role to date to thrash out what that rule is or how it would be enforced. I am providing you with comments on it. However, that is a line of questioning you may wish to pursue with the department which has drafted the legislation.

Senator LUNDY—You have not got any broadly based studies on the future construct of actual content?

Mr Tanner—It would be odd if we had. The ABA has not been given any role yet. It is a bystander. It made certain recommendations to the government last year but that aspect of the scheme, that is, the prohibition on multiple simulcasting of channels, except in certain cases, is not something which was in the ABA's recommendations, it is a new idea. The ABA has not done any relevant consultation or research on this at this stage.

Senator LUNDY—Do you think there is going to be a need for that in the future, for you to explore the nature of the content and how content is constructed for broadcast purposes?

Mr Tanner—In general terms, yes, a lot of thought is going to have to be given as we proceed through this about what is possible and what these laws mean, given what is possible. Yes, I would agree with that, but the bill does provide for certain review points and does give the minister the power to make regulations.

Mr Gordon-Smith—Might I remark on that? In general, it would be fair to say that what content providers made was driven by the perceived needs of the users rather than the other way around. If the situation is that in Europe and the US television goes to a digital format and there is a change in screen technology and screen shape, then the buyers of programming will be looking for programming that fits their needs. The content providers here, as elsewhere, will be driven simply to convert to whatever the new technology is.

Senator LUNDY—So what you are implying is that the delivery capabilities in the countries that we source a lot of our content from can actually be a guiding factor in the nature of the technology and legislation we require here?

Mr Gordon-Smith—Yes. Analogously, when colour television came along, people wanted programs in colour. Whoever is providing those programs needs to bear that in mind, and that is going to make a change not only to the details of the technology that they are providing, but also in flow-on areas like make-up and costuming and so on where the considerations will be different.

The same thing will be true here in a transition to digital format. There are likely to be changes not just to the technology that is producing it but also to the background stuff.

Senator LUNDY—Just going further on the issue of the actual content providers, there is a whole range of new technology services that utilise a television per se, like the unit in the

actual households, but currently do not fall under the definition of being a broadcast service, such as Web TV. Have you had any consultations or advice from the proponents of Web TV, for example, on how that could possibly fall under the auspices of this legislation?

Mr Tanner—Informally only. The ABA, partly because of its on-line investigation role, is in contact with the on-line industry, but it certainly has not undertaken any formal negotiations or consultations.

Senator LUNDY—Have they made submissions to the ABA at all about the impact of this legislation on their potential services and proposals?

Mr Tanner—No, not on that subject, not specifically.

Senator LUNDY—What have they made representations to you on?

Mr Tanner—The ABA has been in contact with a potential data service provider, that is also in contact with the minister, that is interested in securing datacasting opportunities on the broadcasting services bands. But certainly there has not been consultation on the content of the legislation and it would be odd at this stage to be pursuing that consultation with the ABA as well.

Senator LUNDY—Except under the interpretation of the application of this act.

In terms of the provision of such services, and you have just mentioned yourself that datacasting may well be one of the services provided by an online provider, what assessment have you made to date of the relationships between the various on-line content providers which typically are a conglomerate, a partnership of perhaps a broadcaster, but certainly a range of other content providers, and how that falls under the current definitions of the legislation of associated services and multi-channelling?

Mr Tanner—The key question here is not associated services; the key question is the rule that the draft legislation places that limit the content of datacasting. There are certainly services available such as synchronous, the available radio services on the Internet, that would appear to fall within the definition of broadcasting in the Broadcasting Services Act, but if you look at the bill it is proposing to exclude from datacasting services those services that would come within the definition of broadcasting. That is the live issue in the bill.

Senator LUNDY—Can you say that again?

Mr Tanner—There is a definition of datacasting in the bill which actually excludes a broadcasting service.

Senator LUNDY—You have mentioned additional spectrum that might be available for auctioning off for datacasting services, and you have seven megahertz allocated to a given broadcaster. If there is a relationship between the supplier of datacasting services supplying or bidding on the available spectrum and the broadcaster who has already allocated seven megahertz, what sorts of rules apply to the use of that additional spectrum in a way that would be classified as multi-channelling? Those linkages would be brought about by a subsequent purchase of additional spectrum, perhaps by a different corporate entity, but one that has close association with a network.

Mr Tanner—The problem with that scenario is that multi-channelling—presumably you mean broadcasting multi-channelling, either subscription or commercial free to air broadcasting—is not permitted in the definition of a datacasting service in the proposed bill.

Senator LUNDY—But if the additional spectrum is purchased through the auction for datacasting services, then that could be linked back to the original seven megahertz which does

not provide for multi-channelling and you would have a situation where you have got virtual multi-channelling.

Mr Tanner—But the definition of datacasting would not permit the multi-channelling on the datacast channel.

Senator LUNDY—So you have excluded—

CHAIR—Senator Lundy, I am just wondering how many more questions you have.

Senator LUNDY—It depends on the answers, Madam Chair.

CHAIR—That does not help because we are going to finish this in the next seven minutes. We will finish at 11 o'clock and take the ABC because we are running late. Would you like to speed up the questions?

Mr Tanner—Senator Lundy, it is probably worth also mentioning that the bill makes provision for a review of the entire regulatory scheme in light of convergence. There are clearly enormous issues for the traditional ways we have regulated broadcasting arising out of the digital convergence of on-line and broadcasting services—point to point to point to multi-point—and the bill does not really attempt to comprehensively solve or future-proof the regulatory scheme. It envisages that a review would be required. But, certainly, the definition of datacasting proposed in the bill excludes the kind of multi-channelling broadcasting that I think you are asking about. It certainly does not prevent a commercial broadcaster or a national broadcaster from acquiring at auction further digital capacity—that would be subject only to the Trade Practices Act, I guess—but it does prevent them from using that for broadcasting.

Senator LUNDY—On point to point and the definition of on-line based services and interactive services, is there anything in this legislation that addresses that style of service, or are they just excluded generally?

Mr Tanner—Except for that one prohibition on what you can do with datacasting, it leaves datacasting at large. Presumably, anyone acquiring seven megahertz channel at auction or an existing broadcaster using its down time would have a very wide discretion to use that bit rate to provide data that was not in the character of broadcasting to people with UHF or VHF aerials. Presumably there is a range of technological consumer products that can be developed, and those consumer products may very well also be linked to the Internet via telephone.

So it is very difficult to predict what commercial applications are really going to fly from this or how they are going to look from the point of view of the viewer. All we really know is that the legislation seeks to confine the content of radiated digital datacasting. There is also the general ban on having more than three free to air commercial television broadcasting licences and markets. Any datacaster getting a channel is going to be subject to those. It is not a technological limitation; it is going to be a legal limitation.

Senator LUNDY—Does on-line content currently fall within the definition of what you would describe as datacasting?

Mr Tanner—No. There is some discussion on on-line content in one of the ABA's on-line investigations. Most on-line content falls outside the division of broadcasting, but some, and I am thinking for example, of synchronous—simultaneously available radio services—would fall within the definition of broadcasting in the current Broadcasting Services Act. The current on-line environment will give you a choice of predominantly non-broadcasting but some broadcasting applications.

Senator LUNDY—And, given the rapid change in the nature of on-line content, do you envisage that there will be a re-assessment of the definition of on-line content, perhaps to be more closely defined or related to datacasting in the future, and what contingency is available within the legislation to deal with that?

Mr Tanner—There is not really a definition of on-line content. I am referring to on-line content which is something which is out there at large and available over the World Wide Web.

Senator LUNDY—Let us use an on-line news service as an example of what we are talking about, just to give it a bit more character in terms of this discussion.

Mr Tanner—Let us look at that news service. Is it in the form of a web site such as Reuters or *Atlantic Monthly*, or something with a lot of textual information—

Senator LUNDY—Basically, yes.

Mr Tanner—Such a thing would be clearly within the definition of datacasting, but not within the definition of broadcasting, so it would be permitted to download that using a—

Senator LUNDY—Okay. So there is some content already that would be defined as datacasting if it was an on-line news based service.

Mr Tanner—Oh yes. Datacasting is really uncircumscribed as a notion, except that it cannot include a whole lot of broadcasting applications. I think the spectrum made available for datacasting as it is defined in the bill could certainly be used to download certain on-line—well, any on-line—applications. But, presumably, it is particularly well designed on-line applications where a very high bit rate is an advantage, because that is what VHF-UHF offer. You can get 56,000 noughts and ones through an ordinary modem from your telephone line, but you can get around 20 million a second over VHF-UHF.

Senator LUNDY—Given that we all know that it all depends on the style of the on-line content per se as to whether or not it falls under the datacasting definition, how do you draw that distinction, or how are you going to guide broadcasters who also provide an on-line service?

CHAIR—Sorry. Senator Lundy, that is the third time that your phone has gone off. I ask all officers and anybody who is here in the public section to turn their telephones off. Thank you.

Senator LUNDY—My question goes to the relative definitions of on-line services. Using a news on-line service as an example, I asked the question before whether on-line services were defined as datacasting under your legislation, and you said no. Now you are telling me that on-line news services are. I am just seeking some clarification as to the extent to which convergence of these services, which we all know is happening, is going to be addressed under your legislation.

Mr Tanner—I am a little bit confused. On-line is not defined anywhere and I do not believe—

Senator LUNDY—That is why I asked the question.

Mr Tanner—Datacasting is really any data—we are only talking about noughts and ones—other than data that can be reassembled as broadcasting service. So, clearly, most of what you can find on the World Wide Web is going to be a subset of that data.

Mr Corker—Can I just put in place the framework for it within the legislation? There are only the two defined terms—one is the broadcasting service and the other is the datacasting

service. If it is a datacasting service it is not a broadcasting service. So the two terms together will cover the field of all services. The minister has the power, within the definition of a broadcasting service, to declare certain things to be not broadcasting services, and within the digital conversion bill there is a power by regulation to declare certain things to be not datacasting services.

So, with those two powers and those two definitions, there is the flexibility to determine a service that falls into a grey area, whether or not it is a broadcasting service or a datacasting service. And, apart from that, as Giles has said, the concept of an on-line service is just something we use to generally talk about what comes from the Internet.

Mr Tanner—That is a good answer, yes.

Senator LUNDY—Okay. But it still does not solve the problem in terms of what are the tests applying to that discretionary feature of the legislation. What are the tests?

Mr Corker—No. They are unfettered. They would be by regulation, or for the Governor-General to determine or for the minister himself to determine when something is not a broadcasting service.

CHAIR—Senator Lundy, there are two things. I have just asked for your microphone to be looked at. It seems that there is a lot of bass in it or something. It is very difficult to hear. Can you notice the difference between the microphones? Can you hear Senator Lundy? Over here it is difficult to hear her?

Senator EGGLESTON—I am getting her loud and clear.

CHAIR—Are you? Well, it is a problem here. Last time we had a complaint one of the amplifiers had broken.

We have had you here for two hours, gentlemen. It is difficult to know which comes first, the chicken or the egg. But we may want to ask you some more questions. We may ask you to be available on 15 June, if we have time, as there are some questions we would like to ask you in detail. I think it is appropriate that members of the committee send questions on notice through the secretariat for you to answer by Friday, 12 June.

Senator LUNDY—I would like to put two questions on notice, then, if you are going to stop my questioning.

CHAIR—Okay. Senator Schacht did ask questions for about an hour and a half, so you need to have some arrangement with him regarding sharing the questions. But, if you would like to read those two questions out, and then any others that you have that come to mind as we go through the hearings, I will ask the ABA to respond to us on those. Senator Lundy.

Senator LUNDY—The first one relates to any consultations that you have had with the providers of content, such as content providers who are angling in on the area that is currently undefined by this legislation, like Web TV, and that relationship between on-line service providers and current broadcasters. We would like anything that can shed some light on how we are going to define these services as they further converge.

Secondly, more specifically, we would like some details on the test and the discretionary factors that exist within the legislation on the definition of what is or is not broadcast or what is or is not datacasting, and if there is anything out there that could possibly fall within neither, and what is its nature.

Mr Tanner—We will take those on notice.

Senator LUNDY—Thank you.

CHAIR—Thank you very much. I thank officers from the Australian Broadcasting Authority for their attendance. I note that we may well want to ask some more questions on notice. Also, we may wish to call you back. If you could get the answers to those questions on notice to us as quickly as possible it will help us clarify things. We do not want to ask the same questions again. Thanks very much for your attendance.

Mr Tanner—Thanks a lot.

[11.03 a.m.]

BERG, Mr Michael, Solicitor, Legal and Copyright Department, Australian Broadcasting Corporation, 700 Harris Street, Ultimo, New South Wales

McGARRITY, Mr Ian Alexander, General Manager, ABC Development, Australian Broadcasting Corporation, PO Box 9994, Sydney, New South Wales

CHAIR—The committee has before it submission No. 21 which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr McGarrity—No, Senator, but, if it would be useful, we are quite willing to make a general statement prior to questioning, which will not be long.

CHAIR—As long as it is quite brief.

Mr McGarrity—Yes.

CHAIR—Thank you very much.

Mr McGarrity—Senators, the ABC supports this bill. Clearly, the digital age is upon us. There is nothing we can do to prevent that, nor do we wish to. However, we would like the digital age to emerge with the current structure of the free to air broadcasting industry being maintained, and that means that there is a strong national, commercial and community broadcasting sector. Clearly, the ABC must be part of this change to digital. The ABC, however, has some concerns which are outlined in our submission. I would like to summarise what they are in terms of the bill.

CHAIR—Are these over and above what you have put in the submission? We have read the submission. Are those concerns over and above that?

Mr McGarrity—No, Senator, they are summarising them.

CHAIR—Okay. For the sake of the time of the committee, we just cannot have people going back over their submission again.

Senator SCHACHT—Do you have them in hand—your remarks?

CHAIR—Yes, we can include them.

Mr McGarrity—No, I am just speaking from notes.

CHAIR—If they are concerns you have got in the submission, it really is not helpful for us for you to go over them again.

Mr McGarrity—Fine, if you so desire.

CHAIR—Thank you.

Senator SCHACHT—I notice in your submission, Mr McGarrity, that you recommend a number of what you might call and some might call finetuning amendments to the bill. One of them relates to your concern about how the power of the minister could be used. On page 6 of your submission, clause 26, on ministerial direction, you say:

This gives almost unlimited power to the Minister to direct the ABA in relation to national broadcaster's conversion scheme, and potentially overriding the objectives spelled out in clause 17(2).

Elsewhere you mention that you are concerned that this power or related powers can interfere with the independence of the ABC. On the bottom of page 4 and the top of page 5, you say similar things:

In doing so, it cuts across ABC independence in determining its programming strategy, including when it will broadcast in HDTV format.

Is this concern about ministerial interference heightened by recent episodes in the ABC, where the minister has been making submissions and public comments about bias in the ABC, about the programming content, et cetera?

Mr McGarrity—Senator, the submission we have made to the Senate is very similar to one we made to the department, which was before that episode. So, to that extent, I think I can answer it that way.

If I could just refer you to some other areas, the ABC does not come under the same Australian content provisions that commercial licensees come under. In many ways we see that some of the aspects of the bill in relation to setting quotas or particular levels of HDTV and other aspects are a bit like applying the Australian content quota to the ABC and making us absolutely required to meet them, irrespective of the funding we have. So I would suggest that our statement in relation to this extra ministerial or regulatory control is based on the current relationship we have to commercial broadcasters in the way current regulation applies to us in a different way across the different sectors.

Senator SCHACHT—Thank you for that, Mr McGarrity. I presume your sensitivity on this issue has probably been heightened since you had the perspicacity to lodge this submission with concern about ministerial interference on programming?

Mr McGarrity—I would think that we would lodge a similar submission had this been last year or next year.

Senator SCHACHT—Can I turn to an issue of funding for the ABC for digital conversion. The minister set a deadline of 1 January 2001 for the broadcast of digital HDTV. The minister announced in the budget \$20 million for the ABC and the ABC indicated it was disappointed that this was not enough to complete the conversion over a five-year period. Will you be able to match the commercial sector in providing digital broadcasting in the television area by 2001 on the present funding provided by the federal government?

Mr McGarrity—If I can answer that this way, the funding submissions that we have made in relation to digital thus far relate to the expenditure we believe we need to make in order to do the things on our side of the fence. This bill, of course, is dealing with the transmission side of the fence which currently is, if you like, from the NTA onwards. We have not made any submissions in relation to digital funding for transmission purposes at all.

The way we would interpret what is happening at the moment is that the government has said it will revisit the funding that it has so far indicated we will get for the expenditure on our side of the fence at some time in the future when things are more clear. I would expect those discussions and those deliberations to occur as some of the reviews and some of the aspects of this bill work their way through the system.

Senator SCHACHT—The bid you put in, which you made public, I think in the first phase, as it is called, for digital conversion in the ABC was between \$30 million and \$50 million from the federal government, and the rest you would provide from asset sales, property sales,

totalling nearly \$120 million. If you do not get between \$30 million and \$50 million, and you have only got \$20 million, even if you had all the money provided and all the transmission side was okay, would you have the equipment in your studios to be able to start transmitting a digital signal on 1 January 2001?

Mr McGarrity—If we were not able to achieve the funding that we have indicated for our side of the fence, there would be some truncation—we would be unable to achieve all that we believe the digital age would allow us to achieve for the Australian public as a national broadcaster.

Senator SCHACHT—Tell me what are the truncated areas where you would not be able to achieve digital under the present arrangements that the government has offered you?

Mr McGarrity—I do not think we have turned our mind to working through what \$20 million over the next five years would enable us to do versus what the full funding that we have sought would enable us to do. We certainly see the environment as one where discussions are still to occur and deliberations are still to occur.

Senator SCHACHT—We know about endless discussion. This minister has made it very clear that he is going to punish the ABC up hill and down dale over bias. This is one of the things he is holding out as a carrot and stick, that you do not get the funding unless you do such things as more outsourcing, toe the line on programming, toe the line on what he has put to you in proposals for dealing with alleged cases of bias in the ABC. All I want you to do is to tell me what are the truncated services that, under the present offer you have on the table of \$20 million from the government, you will not be able to provide with a digital signal to the Australian public?

Mr McGarrity—I do not have in front of me from my organisation a considered view as to exactly what the \$20 million, which is for phase 1, would enable us to do if that was the sole funding that was to be provided.

Senator SCHACHT—I am trying to help you lot, giving you the platform here to outline your problem, and you seem to be as obfuscating as the minister himself is. I do not know who you are trying to defend: the minister, who is trying to put the knife right through you, or the ABC. On 1 January 2001, under the present offer, tell us what you will not be able to do in digital broadcasting?

Mr McGarrity—In fairness, you are asking me a very detailed question. You have asked me to actually—

Senator SCHACHT—You have put a detailed submission in, Mr McGarrity.

Mr McGarrity—A detailed submission which does not have all the expenditures prioritised in terms of what we would do on our side of the fence if the funding that we had set out we required was not provided in full. That, I think, is quite a detailed response.

Senator SCHACHT—For good planning you must have some idea, you must have some discussions under way internally, to indicate, if the government does not provide you with more than \$20 million in the budget, what the impact will be on your digital program. Are you going to cut back on conversion of a number of studios, on a number of program contents? Where are you going to allocate the \$20 million? You have got to give us an idea.

Mr McGarrity—At this stage I cannot give you that idea, and it is a highly detailed response that you are seeking. The work in the ABC has not been done on the basis that the funding that has been provided is the sole funding. Clearly, however, there would be a

significant reduction in our ability to do all that we seek to do and that the digital age enables us to do.

Senator SCHACHT—Tell me, what is ‘all that you seek to do’ if you got the funding request met by the federal government and you were able to meet your own asset sales to raise the funding for digital conversion? What is ‘all that you seek to do’ in the digital world by 2001 when it starts?

Mr McGarrity—That was set out in submissions that were made some time ago and in which I was not personally involved, but I am sure we can provide you with a summary of that.

Senator SCHACHT—Can’t you do that here?

Mr McGarrity—No, I am not in a position to but I certainly am able to provide you and the committee with a summary of that which we did set out in our digital funding submission.

Senator SCHACHT—You said in the submission you sent me, maybe because you made it public, that you wanted between \$30 million and \$50 million and you got \$20 million for phase 1. You are \$10 million short on the minimum amount that you asked for. You have no idea at the moment inside the ABC—and you are in charge of digital planning I presume—of what that one-third cut in the minimum amount that you asked for will do over five years to the planning of the introduction of digital television?

Mr McGarrity—I did not bring down with me the considered brief from the ABC as to what that funding, which is designated as phase 1 and which is pending further discussions and deliberations, would enable us to do. If that was the sole funding we were able to achieve, the managing director has indicated that he saw it as a foot in the door and a first step.

Senator SCHACHT—A foot in the door! He had his toes well and truly jammed I would have thought, blood streaming out of the big toe, over this decision of the federal government. But can you give me an idea: when you asked for the \$30 million, was that going to be spent overwhelmingly on converting studio equipment to digital?

Mr McGarrity—It was a very large submission that we put in as there was a very large sum of money. The expenditure spreads over many things including studio facilities in regional areas and equipment that relates to how we would get various programming streams to NTA sites. It would include HDTV capacity for certain numbers of outside broadcast vans and production streams in Sydney and Melbourne and digital equipment for the news and current affairs area. It was a very large and broad and multi-filamented submission.

Senator SCHACHT—Does your minimum bid being reduced by a third mean that there will be some aspects of television news and current affairs on the ABC that will not convert to digital in time for 2001?

Mr McGarrity—I do not think I can give you more on this matter than I have already. I do not carry with me a brief from the ABC saying how we would prioritise.

Senator SCHACHT—Well, you should.

Mr McGarrity—I do not believe, at this stage, the ABC has done the work and perhaps it may not consider that it should at this stage do the work so as to prioritise exactly what it would do with those funds if they were the sole funds to be provided.

Senator SCHACHT—You see, Mr McGarrity, the reason I am raising this is that the minister has set down a timetable for the introduction of digital television broadcasting on 1 January 2001. The parliament might be interested to know whether the national broadcasters,

you and SBS, can actually meet the deadline. If commercial television across metropolitan Australia and major regional areas are able to broadcast in a digital format to all their consumers and you cannot, that may be of concern to members of the Australian Parliament on behalf of the Australian people.

Mr McGarrity—I can understand that concern but could I say to you we will very shortly be broadcasting in digital and satellite. You can broadcast in digital and produce in analog. There is no great magic about that. What you are talking about, and what we have been talking about in our funding submissions to the government, is being able to do all those things that make full use of the flexibility that digital transmission and technology allows. But, for instance, in two months time we will be broadcasting to the remote areas of Western Australia in digital but you have not seen a huge amount of expenditure in the ABC on digital production equipment or the necessity to spend money on HDTV outside broadcast vans to enable that to happen.

In fact what actually happens is we take the existing stream that comes through to your transmitter here in Canberra at Black Mountain and we encode that so that it is digital and off it goes through Optus and down to the remote area audience that we have. Merely transmitting in digital does not necessarily of itself require huge expenditure at the other end in terms of producing in digital.

Senator SCHACHT—On the production side, whether you are covering sporting events, or producing drama, et cetera, that is the question I want to get to. This committee may recommend that from 2001 in the first year there would be a certain percentage of HDTV broadcast on the commercial sector; we may say that the ABC ought to match it: you should have three hours of HDTV every night from 7 o'clock onwards. I want to find out if the money you have been given by the government will enable you to meet such a requirement.

Mr McGarrity—Senator, certainly we require funds to do such things as to upgrade outside broadcast vans so that they can produce in HDTV format and similarly so with respect to studios. There is a direct connection between the digital bill and any imposition of a quota or a standard for a certain amount of HDTV broadcasting and the equipment that we have now and the funds that we would need to be able to meet that standard. At this stage though we have chosen in front of this committee to direct ourselves to what we think might be the inappropriateness of having the ABC subject to the particular standard that otherwise would apply to the commercials, and that is of course in our submission. In other words, we would certainly seek to be in the HDTV arena. We want to be. We think the Australian public would ask us to be, if not demand us to be, but the amount of HDTV we can produce will be a direct function of the funding that we are able to receive.

Senator SCHACHT—Mr McGarrity, this is getting slightly frustrating from my point of view. It is no use arguing about amending a particular clause of the act because the minister might have too much power over programming when the fundamental issue has not been resolved. Have you got enough money to actually put it out in HDTV anyway? Unless you can answer that, you are weakening your own position. I would have thought you would be in here outlining in very clear terms that you cannot meet the deadline to put HDTV programming on air by 2001 under the present funding arrangement. That is the way I read your submission which you very kindly sent to me some months ago.

Mr McGarrity—Certainly, Senator, there is a direct link with the funding that we do achieve from the federal government and our ability to meet any standards that are set for the amount of time we need to broadcast in HDTV. As I said before, I do not come here today

with an ability to put in front of you exactly how the expenditure priorities would be set for the expenditure of the extra money that the federal government has so far indicated we would receive.

Senator SCHACHT—Mr McGarrity, it is about a week to the Senate estimates for the ABC to turn up. I do not know whether you are coming along with the chief executive, Mr Johns, or the other suspects who usually turn up accompanying him but unless you can come along in a week and a bit's time and give us more information—because I will ask the same question to him about the funding—the ABC will be doing itself an enormous disservice. I cannot batter you around the head any more on this but I have to say I am very disappointed that you cannot answer these specific questions. This is fundamental to the ABC being in digital television and the fact that you cannot give us the figures of where you are at is extremely disappointing.

Can I ask though on the asset sales side whether you would be able to hurry up the asset sales side where you are obviously looking at up to \$80 million worth of asset sales? Could you hurry that up so you could have more of that available to make up temporarily for that government shortfall in money for digital television?

Mr McGarrity—I am sure the ABC will attempt to do whatever it can to help itself in the best possible way. I am sure, if it feels that it is prudent to try and hurry up those sales in order to free up those funds, it will do so. Again, I would think that it would be useful if you did address those questions next week when the managing director is here, along with those people who are specifically in charge of those property rationalisation issues.

Senator SCHACHT—Can you tell me whether any of the property rationalisation sales have taken place to raise the minimum of \$80 million?

Mr McGarrity—I do not deal with the progress of the property rationalisation, but certainly under normal circumstances, Mr Balding would be appearing at Senate estimates, and he is the executive who oversees that area. By the way, I am the executive that oversees ABC development.

Senator SCHACHT—So you have no idea where your money is coming from, when it is coming or how it is coming?

Mr McGarrity—I do not have a considered view that the ABC has given me to relate to this committee today about the progress or amendment of our property rationalisation sales or activities which might be put in place as a result of the funding that has been made available in the budget.

Senator SCHACHT—How will you spend the \$20 million that you have got in the budget? What will you spend that on in digital?

Mr McGarrity—I think I have answered that.

Senator SCHACHT—You have not. You have gone all over the place.

Mr McGarrity—If I do not have in front of me a brief as to what we would not be spending our money on as a result of getting \$20 million instead of \$30 million to \$50 million, it follows that I cannot give you detail of what we would spend the \$20 million on.

CHAIR—I would suggest that you would anticipate that there will be a series of questions on this line for estimates. It is the same committee. It would not be inappropriate for information gained in that part of the hearings next week to actually be included in the report. Senator Schacht, it might be an idea, too, if you could forewarn them by putting a series of detailed questions on notice as well.

Senator SCHACHT—Forewarn them? I would have thought this was the most easily forewarned series of questions that one could poke a stick at in any hearing dealing with the ABC. They have been out there whingeing that they are short of a quid, yet they turn up here and cannot explain what the impact of being short of a quid is. I am astonished.

CHAIR—You will have a range of people here next week who cover that area, as Mr McGarrity said.

Senator SCHACHT—Mr McGarrity covers it. He is in charge of the implementation of digital television in the ABC, as I understand it.

CHAIR—He has told you that he is not in charge of selling property.

Mr McGarrity—That is not correct.

Senator SCHACHT—Who is in charge of implementing digital television planning in the ABC?

Mr McGarrity—There are, I would say, two key executives. One is Mr Colin Knowles, who is the head of technology strategy development.

Senator SCHACHT—And he has gone overseas.

Mr McGarrity—He happens to be at Broadcast Asia this week in Singapore. The other is Mr Russell Balding, who would normally be here, and I would expect to be here at Senate estimates.

Senator SCHACHT—Why is he not here today then, if he is one of the two key executives dealing with digital?

Mr McGarrity—We have come here specifically to talk about this bill, which is predominantly related to the transmission side of the fence, for which I do have some significant responsibility.

CHAIR—That is a very reasonable answer. We are actually looking at the legislation. If you leave those questions, we will assume that that information can be incorporated into the report.

Senator SCHACHT—All right. Sometimes it amazes me how some people miss an opportunity to kick at goal with a 10-mile wind behind their backs and they are standing in the 10-yard square. Nevertheless, I should never be surprised in politics. You are saying that this bill deals with the transmission side of issues. The funding you have requested is dealing with the programs in the studio. How much money do you need to be enable you to transmit in digital, dealing with the transmission side? Is there a separate amount of money that we now have to look at?

Mr McGarrity—Certainly, it is, and at this stage, of course, as you would be only too well aware, we are not responsible for our own terrestrial transmission. We certainly hope to be. I would suspect you will get some estimates of what digital transmission costs will be for the ABC and the SBS from the department.

Our own view is that, when fully implemented, we would expect that the accrued sum of money that we would require from the government in order to transmit across Australia in digital format would be in excess of \$30 million per annum. Of course, it will not be in the nature of a cash grant, because in many ways, if the National Transmission Network Sale Bill 1997 were to succeed, it would be up to somebody else to borrow the cash in order to provide for the enhanced facilities.

If the National Transmission Network Sale Bill 1997 was not to pass, then it would be up to the government to fund the National Transmission Agency in cash terms for the equipment and the upgrading of equipment that would be required. Our best guess—and it can only be a guess, but we think it is in the ballpark—is that the figure we would require for an accrued basis to pay a new owner of the national transmission network for all of our terrestrial digital transmission activities would be in excess of \$30 million per annum.

Senator SCHACHT—That is on top of the existing analog transmission costs?

Mr McGarrity—Yes, whilst ever there was both going, that would be on top of it.

Senator SCHACHT—Does that \$30 million include capital expenditure on putting the digital transmitters and devices up on aerials, masts, et cetera?

Mr McGarrity—Again, in that environment that would be either the NTA's responsibility or the responsibility of the new owner of the national transmission network. Our expenditure or payments to them would be effectively to pay them to put that on.

Senator SCHACHT—So, they would be recouping their capital investment out of the \$30 million a year cost?

Mr McGarrity—And return on capital, and all of that.

Senator SCHACHT—Your calculation of \$30 million is the cost of electricity and the recurrent expenditure, plus getting back their investment in putting up the new equipment, transmitters, aerials, masts, et cetera?

Mr McGarrity—I should say that that is very much a guess, because, as you know, we have no real knowledge of the cost structure of our current services.

Senator SCHACHT—The government has been negotiating with you since it made the principal decision to sell the NTA, but the legislation has not been carried yet. We do not know whether it will be or not in the Senate, but it was said that there would be a compact between the ABC and the government to guarantee funding for the ABC for five years to the privatised NTA. In that way it has actually got some value, I presume, so that they can flog it off. In those compact discussions in which you have been involved, is the \$30 million figure included?

Mr McGarrity—The compact with the federal government in relation to the transfer of responsibility for transmission and the contract that would be with a privatised owner, deals with existing analog services only. Any increased services, whether they be in analog or whether they be digital, would be the subject of a separate decision by government and separate funding.

We would expect—in fact, it is the only way it could happen—for the ABC to participate in the sort of digital transmissions that are envisaged under this bill, that we would fundamentally have to be provided with the extra funds that were equivalent to the estimates and the contracts that we might put in place in some future time for the provision of those digital services by either NTA or a new owner.

Senator SCHACHT—Let me get this quite clear. The compact you are negotiating, if the NTA is successfully privatised, does not deal with any increased funds—the \$30 million—for digital broadcasting.

Mr McGarrity—It deals absolutely with what is now.

Senator SCHACHT—Analog, right.

Mr McGarrity—Maintenance of what is now; no extra analog services are covered by the contract that we are negotiating. There will be—even though this is not part of this bill—some funds provided to us by the federal government to provide for infills and minor service extension for us to meet particular problems that are emerging in the way analog services are delivered. But, for instance, should the government decide that there should be an extension of Triple J down to communities of smaller population, that would be a decision for government and a separate funding action, exactly the way it is now.

Senator SCHACHT—What I can say from this is that not only are you short on the money commitment from the government, which is down to your minimum requirement of \$30 million from \$50 million, to upgrade your studio and production side for digital television, but also you are \$30 million a year short on the transmission side. Is that correct? You have no commitment yet from the government or heard that they have given it to the NTA, whether it is privatised or not, so that the ABC can actually transmit digitally?

Mr McGarrity—Certainly, for us to be involved in the digital transmission that is envisaged in this bill, we would have to be funded by the federal government in order to pay the costs that emerge from either the NTA or a new transmission company. That is correct.

Senator SCHACHT—Making your best calculated guess that it would cost you \$30 million, and after discussions with the NTA—because this is still an NTA issue at the moment, in a way, and I presume you do occasionally speak to each other—has the ABC actually put that submission to the government as well as the bid for a minimum of \$30 million to \$50 million for your own production costs?

Mr McGarrity—The sorts of discussions you are now talking of about a prospective cost of \$30 million are not discussions that are normally entered into between the ABC and the NTA; they are entered into between the government and the NTA. We are more or less consulted about where our services might be, as opposed to the particular costs that the NTA might have to enter into in order to provide the transmission that the government says that it requires.

Senator SCHACHT—I understand the bedevilling arrangement that the ABC, SBS and NTA have had with each other over many years—it has not exactly been a love match made in heaven from time to time—but nevertheless you say that you have had consultation, which one would expect. What do those consultations lead you to believe? Do they lead you to believe that the NTA roughly agrees with your figure of an additional \$30 million a year for national transmission?

Mr McGarrity—I see Mr Jones in the audience, and he would probably be able to answer for himself. But in fact the NTA's current costing system does not measure things that way. I could not even tell you what our analog services cost on an accrued annual basis.

CHAIR—Senator Schacht, I have some questions I would like to ask about the legislation and I think Senator Lundy and Senator Tierney have some questions, so I would like you to begin to focus in as you have been on this issue for quite a while. We have listened patiently while you have gone on for 40 minutes now. Could you just try to wind up so that we have a chance to ask some questions?

Senator SCHACHT—No matter what you have in the legislation, it is irrelevant unless the government or someone gives the ABC a minimum of \$30 million for broadcasting and, as we have now been told, another \$30 million, they think, to the National Transmission Agency to broadcast the signal.

Senator TIERNEY—Madam Chair, wouldn't it be more appropriate to have these questions at estimates? You will get the chance next week.

Senator SCHACHT—Unless we have this out here at the digital hearing, I think this is going to affect some views in the Senate about the arrangement on this bill. I agree: when estimates come along and Mr Johns and a few others are here and the minister is at the table, we may get a bit more clarity about this.

Senator TIERNEY—Let's leave it until then.

Senator SCHACHT—No, I want to get this on the record now, because there has not been clarity about the figures. When Vic Jones, who is sitting down the back somewhere, turns up, he may be able to explain how he does or does not get his figures correct compared with the ABC. But I certainly have it on the record now, and I have expressed my disappointment that the ABC has not used this opportunity to explain the dire situation it is clearly in unless it get this money.

CHAIR—Mr McGarrity, on page 7 of your submission you made a recommendation that the mission for multi-channel programming be specifically provided for in subclause (c) to the extent determined by the review. Why are you so concerned that multi-channelling ought to be in the legislation and not in regulation? I know you have talked about uncertainty, but could you just explain in more detail?

Mr Berg—If I go back one step, our understanding of the ministerial announcement in relation to the introduction of digital was that the ABC and SBS, as national broadcasters, would be permitted to multi-channel, which we understand to be more than the incidental programming that you were discussing previously with the witnesses from the ABA.

CHAIR—Are you saying that you think you can multi-channel and the other free to airs cannot multi-channel?

Mr Berg—That is my understanding of the ministerial announcement, yes, Senator; and that when the legislation has emerged, reference to multi-channelling is only implicit in clause 32(c) as to regulations for other sorts of programming.

From reading the legislation, it is more than incidental, which we take to mean multi-channelling, but it is not expressed in the act. Therefore, there appears to be a considerable uncertainty as to what multi-channelling would be permitted, if any. The regulations, as the legislation is drafted, would appear to assume that you could have minimal or no multi-channelling determined by the regulations, in turn based on a review whose timing we have a concern about.

CHAIR—You are saying the minister's announcement allowed the ABC and SBS to multi-channel but not the other free to airs.

Mr Berg—Yes.

CHAIR—That is what you believe the announcement said and you do not think that the legislation expresses that as clearly as you felt the minister's announcement indicated. Is that what you are saying?

Mr Berg—That is so, Senator. Even if the legislation is regarded as adequate to achieve the result by way of regulation, the concern we then have is that the regulation depends on a review specifically on that issue, which is to take place at any time up to 2001. That potentially leaves an uncertainty as to what may be permitted and, in a fairly short time frame, the uncertainty may not be resolved to very close to the proposed start date.

Mr McGarrity—That in a way goes in part to the exploration that Senator Schacht was making: that regulations some time off relating to important investment decisions that we will have to make between now and 2001 just give us a bit of uncertainty. If you are going to have to invest in a different way, if you are moving confidently in to a multi-channelling environment, it would alter your investment decisions. It is best to have those done as soon as possible. I suppose, in the end, legislation is always slightly more certain than regulation.

CHAIR—You have indicated that you are concerned also about regulations for high definition television hours or some sort of proportion of content, whether it is the hours or percentage of the day or whatever else, being a problem for you. My concern is that, if it is not there, there is a disincentive for you to get up to the mark if it is lower for you than it is for the other free to airs, or it is lower for everyone. Do you think it should be a step-up thing? If you leave it open, how do you get people to use the extra band for high definition television if all people get on their expensive televisions is analog equivalent? There have to be some incentives in place to get you up and going. What do you think they should be?

Mr McGarrity—I refer you to what I said earlier and I hope it is a reasonable analogy. There is no requirement on us to produce 55 per cent of our transmission in Australian content. There is no specific requirement on us in legislation for a certain amount of drama. In many ways, because we are responsible for to the parliament and work under a charter which is embedded in legislation, it is more or less assumed that our board will interpret that in the best possible way, given the funding that it is provided. We see any specific levels of HDTV as being in a similar boat.

We will do as much as we can of it, given the funding we have, and the board will then interpret that funding against all of its obligations. I do not believe that the history would show that, in terms of important technical or programming developments, the ABC drags its feet or is necessarily being guided. It is not being guided by the commercial incentives and returns that others are guided by.

CHAIR—There is another factor there, because you are being allowed to multi-channel, which the other free to airs are not able to do. The incentive might be: we can put two or three lots down this and people will be sort of happy and we will not have to put in as much high definition television. You have a different incentive from the other free to airs.

Mr McGarrity—We would seek to be involved in high definition television like others, but to an extent, as Senator Schacht was alluding to, we do not at this stage know the total funding that we are going to be provided. Even though I cannot provide you with details as to what we would do, given what we currently have, the fact of the matter is that eventually what we do with multi-channelling and with HD television will be dependent on the extra funds we receive.

CHAIR—Let us say you had the money. The way you want it structured there is still not an incentive for you because you can multi-channel to produce the same level of high definition television. What would you imagine you would be using the other channels for—educational purposes or what?

Mr McGarrity—Educational purposes, regional programming, news and current affairs—those things that are consistent with our charter. In many ways, I suppose, for quite a long period of time, we felt a bit restricted because we only have one channel but we certainly—

CHAIR—You are going to have the money to do that? You are going to have the money to send down extra information?

Mr McGarrity—To an extent some of those things do not require a huge amount of extra money, but moving into HDTV, with its requirements to update your technical equipment in order to produce in that standard, does certainly require significant capital funds in the first instance.

Mr Berg—We see that the legislation provides the ABC actually with a pallet of options in terms of its use of the seven megahertz of spectrum. The legislation and also the ministerial announcement assume the ABC may have potentially a greater flexibility as to how it may use that. If the aim is a transition to digital television, which is obviously an assumption, take-up is important. The ABC would look within the scope of its charter to present its services, whether they be HDTV or multi-channelled, and how it blends those at different times of the day or for different purposes, with one aim, and that is to make the service as attractive as possible and, ultimately, assist it in the migration to digital television. I think we see that the multi-channelling and HDTV, to the extent we can do it, is a programming decision. It is an exercise in mixing the service to make it as attractive as possible, which is what we always endeavour to do.

Senator SCHACHT—You are recommending that in clause 32 in the bill, which is an amendment to the Broadcast Services Act—which is not an amendment to the ABC act, by the way—(c) be amended to actually make the multi-channelling program specifically provided for in subclause (c) to the extent determined by the review. That review is going to be conducted by whom? Which review? There are about four running around at the moment, at my last count.

Mr McGarrity—It is one of the three key reviews which are to occur prior to 2001.

Senator SCHACHT—Which one, do you know?

Mr McGarrity—There is one on incidental programming, there is one on multi-channelling for the ABC and the SBS, and the other one is in relation to—

Senator SCHACHT—There is a specific one for multi-channelling?

Mr McGarrity—Subclause 32(c), I think it is, in terms of the area—

Mr Berg—It is actually noted in the legislation in clause 56, which says:
Before 1 January 2001, the minister must cause to be conducted a review of the following matters . . .
And 32(b) and (c) are in subparagraph 1(a)(i).

Senator SCHACHT—Have you been notified yet that you are a member of that committee?

Mr McGarrity—No, there has been no notification that I am aware of.

Senator SCHACHT—And you do not know what the terms of reference are or who is on the committee?

Mr McGarrity—No. But we certainly do seek for those reviews to be done very soon.

Senator SCHACHT—Okay. Could you provide to us—because you do not actually do it in your submission—what the actual wording of a revised (c) would be to meet your requirement? We are now at the legislation stage. It is no use saying in principle you want a change unless you give us the wording for it. I am sure you have got some appropriate legal advice on that. Secondly, do you think that it should actually be written into the ABC act—into the charter—that you have a right to multi-channel or are you happy to have this in the Broadcasting Services Act?

Mr Berg—I would have said that the ABC act was sufficient in its present terms. The charter is comprehensive and therefore the particular technological way in which the services are delivered I do not think would require the act to be altered.

Senator SCHACHT—So you are happy for this amendment to be in the Broadcasting Services Act?

Mr Berg—Yes.

Senator SCHACHT—So long as (c) is amended. I do not disagree with you. The way (a) and (b) read is that it is actually in the negative and it is about multi-channelling for the ABC. It is quite clear the minister could by regulation stop you multi-channelling, full stop. Though it is a disallowable instrument, the advantage is always with the government on regulations, et cetera. You wrote a reasonable point on that, and you will provide us with the rewording of (c).

Senator TIERNEY—Earlier on, in response to a question, you said in relation to the amount of high definition television you would use that it would be as much as the other channels. Is that your personal view or is that actual ABC policy, is that what you are actually planning to do?

Mr McGarrity—We believe high definition television will be one of the instigators for people to readily move from their analog equipment to digital equipment. I believe that high definition television will add a significant new experience to people which will have some profound effect. It is very important that the ABC and the national broadcasters participate in that, both for fulfilment of their objectives to the audience but also to fulfil their part in making it a desirable, easy and welcome change from the analog sets to the digital sets.

Senator TIERNEY—But your proportion, you can assure us quite confidently, will be roughly the same as commercial television?

Mr McGarrity—It is dependent on funding, just as, as I have mentioned before, our ability to provide certain levels of Australian content within our television broadcasts is ultimately dependent on funding. The two go together. If there is a requirement for a certain amount of HDTV that we have to meet but the funding does not match that requirement, then if we still have to meet that requirement, funding has to be drawn from somewhere other than digital television in order to meet it. My difficulty in answering Senator Schacht's questions is that I cannot tell you in fine detail where the shortfalls would fall and how the priority decisions would unfold.

Senator SCHACHT—Wait until next week.

Mr McGarrity—I am sure Mr Johns will be prepared for it.

Senator TIERNEY—With the opportunity for the ABC to multi-channel, this was raised earlier, and there were perhaps vague references to education, but has there been any detailed planning within the ABC as to what you might be able to do with multi-channelling—in more detail than just saying 'education'? What type of education and what sort of programs might be run? Apart from education, what other things might you be thinking about to use multi-channelling for?

Mr McGarrity—Certainly we would see that one of the main uses of it would be to provide a greater access to our news and current affairs programming and to potentially provide news and current affairs programming on a television version, if you like, of PNN.

Senator TIERNEY—Like news radio.

Mr McGarrity—We believe that there would be significant room in that environment to provide regionally based material, which is something we have had great difficulties in doing where we only have one signal going out in each state. In respect of education material, there are obviously limited amounts of time that you can broadcast education where you have only one channel and you are attempting to meet a whole broad range of audience needs.

You will find that our overall first-run repeat ratio in our programming on television is very significantly above 50 per cent. Given that, in general, one buys two in at least three runs of all programming that you purchase, and that when you make it you often in fact own unlimited runs, in the inventory of the ABC is an exponential growth of programming rights which are not being able to be utilised because of the fact we have only one channel. So there is a great deal of material which can be put on for a second time, which can be put on in more desirable times of the day and which I believe, if we had the opportunity, would not only be the primary and secondary education but would move further into adult education and such matters of that sort.

Senator TIERNEY—So they would not be having to see it at 3 o'clock in the morning or record it so they could replay it later. You would envisage them seeing more live, say, adult education at 3 o'clock in the afternoon or something like that?

Mr McGarrity—At a time which was one heck of a lot more accessible. For instance, if you want to watch *Open Learning* at the moment it is only on at a particular period of time. Whilst there are VCRs about the place, in so many homes only the children know how to operate them.

Senator TIERNEY—You mentioned regional programming. I suppose one of the disappointing things about the way television has evolved in the last 20 years is that there is less regional programming. How do you see multi-channelling reversing this on a regionally specific basis? Were you talking about more regional things in general—I suppose the equivalent of some of the rural programs that are broadcast across Australia—or are you referring to specific regional programs, things that might be of interest to people in northern Queensland, for example?

Mr McGarrity—This is one area where the questions that Senator Schacht was asking earlier and the transmission side absolutely coincide, because it is important that we are able to upgrade our regional centres so that we can gather more material from the regions and provide it back to central areas for development into programming which contains more regionally relevant material. The second part of it is that digital does allow you to deliver more than one program stream, so, yes, you could have material that was going out that was relevant to North Queensland, whereas at the same time you could have material going out to south Queensland transmitters which was completely different, both of which were more able to be focused on the interests of the audience.

So you have here a combination of the ability of digital production equipment to allow the gathering of material from far-flung areas much more cheaply, an ability to get that material back to central production and play-out areas more cheaply and flexibly, and, finally, an ability to broadcast different streams to different areas in a way we have not been able to do since the advent of analog satellite technology in 1985. The other thing is that, even though our thoughts on it are not mature, there is equally the potential ability to have service servers at individual transmitter sites and to potentially play in material at the transmitter sites that was relevant to just that coverage area of that particular transmitter, which probably goes

significantly beyond, say, the regionalism that we did prior to the satellite from Townsville and Rockhampton and Launceston in days gone by.

Senator TIERNEY—I am pleased you mentioned that point because you did say earlier that the whole technology makes it easier to gather material centrally and then put it out from there. I am pleased to see there is some possible regional bypass where things can stay in the areas.

CHAIR—I want to ask you about the requirements of the bill in relation to closed captioning. You seem to express concern about the requirements for closed captioning. Can you elaborate on that?

Mr McGarrity—No concern as an objective and as a public policy. I think you already are aware that we do more closed captioning for the hearing impaired than anyone else, and we would seek to continue to do so. It is just again, however, the situation that a standard could be imposed which would require very significant funds to be expended and that that would therefore mean that, unless extra funds were provided to us, that would require us to leak money away from something else which hitherto we have found a high priority as well.

CHAIR—In the States, I have forgotten what it is called but they have a voice—actually I think it is on radio—so if you are visually impaired you can listen to a description of what is happening so you can actually watch it and be told, for example, that somebody is creeping through the darkness or that they have glanced over their shoulder with an angry look or whatever. It does help you to understand what is going on because a lot of stuff is non-verbal. If that was to be a consideration and there were people like the association for the blind who do it on a voluntary basis for theatre, how much of the spectrum would voice take up in multi-channelling? Is it very much?

Mr McGarrity—No, I am not particularly familiar with the technology you are speaking of, but in terms of the provision of an audio track in amongst the 20 megabits we are talking of, it would be pretty minimal. I am not, however, in saying that, making a comment about the expenditure that is needed to make sure that those comments are relevant and coincide with the actions that are taking place.

You are probably aware of the major improvements that have taken place in captions for the hearing impaired on live news and current affairs programs over recent years. Mostly that has been a partnership between the ABC and the Captioning Centre. Maybe that is a relationship and a funding model which could continue into the future in relation to this proposed standard.

Senator SCHACHT—A number of the recommendations you have made we have already dealt with, but I just want to turn now to clause 34 in which you recommend that any reference to national broadcasters is deleted from clause 34 and instead require national broadcasters to report to parliament annually for the duration of the simulcast period on programming and broadcasting in digital mode in the HDTV format.

You are asking that, whatever the regulation is that is applied to the commercials, it not be applied under the same regulation to you, but that parliament apply some regulation for you to meet targets of HDTV broadcasting.

Mr McGarrity—Again, if I can just allude to the Australian content drama levels issue, we report to the parliament on what we do with the money that is appropriated to us. We are answerable to the parliament for that under the charter. What we are seeing is that there is clearly an objective of this bill for HDTV to be a very significant part of the move to digital.

The ABC should play its appropriate role in doing that, and we would report to the parliament on what we had been able to do in respect of spending on that area.

Senator SCHACHT—I do not have any argument about that. That is a principle separation that has been around for a long time. But it would be bit rich if the free to air commercials were under regulation by the minister who, after consultation, set a certain number of hours of HDTV broadcast which crept up each year towards 2008, and the ABC was nowhere near matching it, because that then is derogatory to the uptake of HDTV which everyone is trying to promote.

I suggest not just a deletion, but wording that states that, in reporting to parliament, if the ABC is not meeting the general standard, maybe the minister can make a disallowable instrument. You would have your feet held a bit to the fire to meet the standard; otherwise you are letting the side down. You might say that the government has to give you more money, and that is a public debate. I do not think you can get complete exemption from having a target set, if they are set for commercial television.

Can I move to ministerial direction? Are you concerned when you read clause 26 that that is such a broad power that the minister may basically be able to tell you to do a whole range of things at the periphery which are not central and absolutely involved to digital television?

Mr McGarrity—We were just seeking to ensure that those directions were taken in the context of the clause 17 objectives in the same way as the whole development of the conversion and implementation scheme had been developed within that context.

Senator SCHACHT—Can I suggest that, if you want it amended, you had better forward to us what that amendment is from your legal brains trust?

Mr Berg—Could I also mention, in addition to what Mr McGarrity said, that as section 26 is currently formulated it is not even direction directly to the ABC. It is directions to the ABA and, therefore, directions apparently in an unlimited form as to the conversion plan, which then have implications to the ABC in which we do not have any indirect involvement.

Senator SCHACHT—I think what you are asking may be reasonable, but I think you had better suggest what you think the wording should be. You are asking that clause 20 be deleted completely. Clause 20 is a very simple clause—the national television conversion scheme may make provision with respect to any matter by conferring on the ABA a power to make a decision of an administrative character. You want that deleted.

Mr Berg—Yes. That is because of our view that, since this is part of the Broadcasting Services Act, it appeared to be an unnecessary additional power since, we would have thought, the general powers under the Broadcasting Services Act will provide all the powers the ABA needs, and this seemed to be a more general and vague power for no apparent additional purpose.

Senator SCHACHT—Can you give us some idea of what you think it may be? Because it is such a wide power, is it what the ABA can use it for that is of concern to you?

Mr Berg—I am not sure that we have anything that I could say that is specific as to what it might do. I suppose that probably comes from the fact that it was expressed in terms that it was a decision of an administrative character and it was as long as a piece of string. We were concerned that it appeared to then have a lack of clarity, and as it was not tied to the objectives we thought that might make it open to a degree of uncertainty.

Senator SCHACHT—Do you want it deleted for all broadcasters or just for the ABC?

Mr Berg—Our suggestion was in respect of the ABC. That is also consistent with, by and large, the link between the ABA and the commercial broadcasters under the Broadcasting Services Act—

Senator SCHACHT—That does not require a deletion.

CHAIR—Hang on, Senator Schacht; let Mr Berg finish.

Mr Berg—I think it is also consistent with the treatment that the legislation has always maintained, that the ABA has a much greater regulatory role in relation to the commercial broadcasters—the ABC act dealing with the ABC. The treatment of the act throughout runs a slightly different arrangement for conversion and implementation between the ABA and its dealings with the commercial broadcasters—the broadcasters that are licensed under the Broadcasting Services Act—and the way implementation and conversion occurs for the national broadcasters, which is consistent with the regulatory split.

So our comments in relation to clause 20 were addressed to the impact on the ABC and not seen as a general issue for broadcasters because we accept that, in relation to the system of regulation that applies at the moment, it would not be for us to say what the ABA ought to do in relation to commercial broadcasting regulation.

Senator SCHACHT—By deleting it, it means it is deleted for any involvement over the commercial sector.

Mr Berg—I think, Senator, it is because the national—

Senator SCHACHT—If you delete clause 20—

Mr Berg—If I can assist, Senator, I think the magic words were—

Senator SCHACHT—That clause 20 be deleted was your recommendation.

Mr Berg—The words in clause 20 say the national television conversion scheme is, by definition, the scheme that applies to the national broadcasters. My understanding is that the conversion scheme for the commercials—

Senator SCHACHT—You say the national television conversion scheme is only about the ABC and the SBS.

Mr Berg—That is right because—

Senator SCHACHT—So therefore the clause does not deal with the commercial sector.

Mr Berg—No. That is right, because the commercial television conversion scheme is what applies to the commercials.

Senator SCHACHT—That is fine. You have clarified that for me. To save the time of the committee—we are getting on—can I suggest you go through your submission and, where you make actual suggestions to amend clauses, get them drafted and send them to us pronto? Really, at this stage, it will save us a lot of time as well.

Mr Berg—Certainly, Senator. We will certainly attempt that.

CHAIR—Obviously, you will monitor what happens in the House of Representatives today and tomorrow. If there are any amendments that concur with those, then we would not really want to have those repeated.

Mr Berg—Certainly, we will check *Hansard* in that regard.

Senator SCHACHT—With any of these amendments that you have suggested, even though you have not written them out in legal terms, have you had—since you have published your submission—any discussion with DoCA, the NTA and the ABA about them?

Mr Berg—To the best of my knowledge, a number of the matters that are here were expressed in similar terms to DoCA when the draft was circulated earlier in May when we were invited, before it was introduced on the first occasion, to make any comments on the drafting. So a large part of this has been suggested to them already. But, at the time we had to draft this, we did not know how many may or may not have been taken up by amendments. So some matters may already be dealt with in amendments.

Senator SCHACHT—You do not know yet whether DoCA or the government have accepted any of these suggested amendments?

Mr Berg—That is so. We were told the practical solution at this stage was to assume that nothing had gone through, but we may already have a number of the matters addressed.

Senator LUNDY—In the DoCA submission to this inquiry they canvassed the features of the government's policy. One of the specific issues DoCA raised in the context of meeting the needs of regional and remote broadcasters and viewers was that the regional services have a later start-up date than the metropolitan service, with the latest commencement date extended to 1 January 2004. What are the implications of that extension of providing digital services to regional Australia in the context of the funding cuts that you have experienced with your digitisation program?

Mr McGarrity—I am sorry, I have not seen the DoCA submission. Are you saying the DoCA submission is now suggesting that the regional simulcasting only start from 1 January 2004, rather than from 2001, but it would be to complete—

Senator LUNDY—No, this is distinct from simulcast. It goes on to make reference to a potential extension of simulcast, although you have raised that quite significantly in 7.3 of your submission. What the DoCA submission seems to imply is that there will be an extension of time for the provision of those services. I was then going to go to a question relating to 7.3 of your submission, but I wanted to get a broader perspective from you about the implementation of digitisation to the regional areas, particularly, obviously, on the proportionality of the ABC's regional services to those of the free to airs.

Mr McGarrity—I am sure we would want the regional development in digital transmission to occur as soon as possible so that people there have the advantages as early as possible. I have not been briefed, nor was I aware, that there might have been a change of thrust from DoCA. We had seen the dates in the bill as being by way of phasing and by way of trying to get to the majority of people in the first instance through relatively small numbers of installations and also in many ways to do possibly some of the most complex planning that would need to be done. So we thought that probably what was being proposed was rational, but we would certainly like to see the fruits of digital broadcasting available to the regional areas as soon as possible.

We are also, of course, aware that the bulk of the costs associated with the transfer to digital are in the regional areas because that is where the bulk of the services are. The same, therefore, is the case for commercials. One assumes that the regional commercial stations would have something to say about that—as to how quickly, just as the government can absorb our costs, they can absorb their costs in the regional areas.

Senator LUNDY—So you were not aware of this extension of time?

Mr McGarrity—No. I am looking at it here. It looks to be a three-year delay, but that is not something I was aware of.

Senator LUNDY—Do you believe there is any relationship between this new information and the fact that the government found it within themselves to cut your budget for your digitisation program so extensively?

Mr McGarrity—I really cannot enter the minds of the people who made that decision. As I have said before, we will be in digital broadcasting by satellite in two months time, without any additional funds from the government. There is not necessarily a direct nexus between happening to broadcast in digital and funding. However, you simply cannot do—

Senator LUNDY—Except that you have just stated that in fact a large proportion of the costs are associated with taking the services to regional areas. There seems to be a fairly clear link.

Mr McGarrity—They are the transmission costs, though. Of course, as we were saying to Senator Schacht earlier on, the submissions we have made to government and the government funding that was announced in the recent budget are not related to transmission; they are related to expenses on the ABC side of the fence.

Senator LUNDY—Just going to your point, in 7.3 in your submission, about an extended simulcast period, what is your understanding of the current requirement by the government on the ABC in the provision of simulcast in that transition phase?

Mr Berg—As we understand the draft bill at the moment, it is in slightly different terms to the provisions as apply to the commercial broadcasters. They are given definite dates in the legislation—it actually says 1 January 2001, 1 January 2004 for the date by which regional services are to be operative. The equivalent provisions in respect of the national broadcasters do not actually have a date; they have a date that is to be inserted by reference to an implementation plan. I think everyone is making the assumption that the date on those implementation plans will not be significantly different, because of the problems that would emerge from a ragged start of services between the national broadcasters and the commercial broadcasters.

One of our concerns was, though, that the legislation also provides that the date at which this simulcasting might end might be different. There are potential costs and exposures in being obliged to maintain the simulcast of analog and digital for a longer period. Obviously, the longer it goes on the more it costs. So there is a concern not only that the periods coincide but that the ABC is not in a situation of having to turn its simulcast off either before or after, because we also perceive problems in being the first to turn off analog and the impact if, particularly, take up had been less than perfect. So we were concerned that the periods ought to be consistent. That was the particular point we wanted to make in 7.3 of our submission.

Mr McGarrity—I would also say that, given that we will require supplementary funding for the digital transmission side of our expenses, we would want to make sure that, whatever decisions were being made by the minister in this area, for as long as we had simulcast requirements we were funded both for the analog services and for the digital services and we did not have a simulcast period which extended beyond the guarantee of funding that we had for the digital services happening at the same time as the analog transmission services.

CHAIR—Senator Lundy, I am conscious of the time. How are you going?

Senator LUNDY—I just have one more question, Madam Chair. It goes back to the differentiation between the implementation dates for metropolitan and regional Australia for accessing digital services. Can you answer what you can now, but take on notice what provisions you are aware of, in the body of the act, the explanatory memorandum, directions

or even indications by the minister, as to any prioritisation of the provision of services to the regions or whether it is anticipated within your organisation, based on what the minister has indicated, that they will be last to receive those services?

Mr Berg—I will have to take the balance on notice, but in relation to the legislation I do not see anything in relation to priorities as between regions. The only indication in the bill at the moment is the intention that all regions should have commenced by 1 January 2004. But, within the transition and within the pick-up of regional areas, I can see nothing in the bill that actually makes the ABC make a particular decision about which area would go first or how you deal with phasing them in within the time frame. We can take on notice whether there have been any discussions outside the bounds of the bill itself.

Senator LUNDY—From our point of view you can make some assumptions about the level of priorities, given that there is a four-year extension of time.

CHAIR—I thought that in the briefing we had the other day we were told that some regional areas may actually get better digital than analog because they do not get analog well. There would be patches of people who get analog well now for whom digital might be a problem at the beginning.

Senator LUNDY—That is a separate point from the one I am trying to extract.

CHAIR—No, your point is whether the regional will get it last. Is that what you are asking?

Senator LUNDY—I am canvassing what is required under the legislation as it currently stands about the relative status and prioritisation of the regions.

CHAIR—You are saying you do not think there is any, but you will get back—

Senator LUNDY—There isn't.

Mr Berg—As I understand it, Senator, there is not. It is something to be addressed. The legislation assumes it will be addressed within the implementation plan, which would obviously, therefore, have some prioritisation contained within it. But as to how that would be handled, it is probably too early in the process to have actually addressed that.

CHAIR—Thank you very much. Because it is arbitrary who comes first in this process of asking people to come, we may have questions we wish to ask you when we have spoken to other groups. There may be more questions on notice. We would ask that you respond to those as quickly as possible because they may inform questions at a later date. If you have an answer, address it as quickly as possible to the secretariat.

Senator SCHACHT—Because of the time, you may have a chance, now that the submissions are being made public, to go through other submissions from various groups—from DoCA and everyone else under the sun—and you may care to comment on some of those proposals as they affect the ABC. We would appreciate receiving that advice as well. We should have said this to the ABA officers when they were here.

CHAIR—I did say it to the ABA officers.

Senator SCHACHT—Did you? We will say the same thing to all others coming in the short time we have: if they read other submissions and find comment they want to make, please make it as soon as possible.

CHAIR—I would like to thank you, Mr McGarrity and Mr Berg, and I am sure we will be seeing you next week for a long stint as well.

Mr McGarrity—Thank you.

[12.23 p.m.]

BARRETT, Mr Roger Spencer, Network Director of Engineering, Seven Network, Mobbs Lane, Epping, New South Wales 2121

BRANIGAN, Mr Anthony Michael, General Manager, Federation of Australian Commercial Television Stations, 44 Avenue Road, Mosman, New South Wales 2088

ROBERTSON, Mr Bruce Andrew, Chairman, Engineering Committee, Federation of Australian Commercial Television Stations, Avenue Road, Mosman, New South Wales 2088 and Executive Vice President, Engineering, Nine Network, Artarmon Road, Willoughby, New South Wales 2068

RUSHTON, Mr John Illingworth, Chief Executive Officer and Managing Director, WIN Television Network, Locked Bag 8800, South Coast Mail Centre, New South Wales

THORLEY, Mr Gerry, Member, Federation of Australian Commercial Television Stations, Avenue Road, Mosman, New South Wales and General Manager, Network Operations, Ten Network, 1 Saunders Street, Pyrmont, New South Wales 2009

CHAIR—I welcome Mr Tony Branigan from FACTS and representatives of the commercial television networks. The committee has before it submission No. 2, which has been authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Branigan—No, Chair. There are some preliminary remarks we would like to make if there is time.

CHAIR—We will get to that. So there are no alterations or corrections?

Mr Branigan—No, there are not.

CHAIR—Is your short opening statement in addition to what you have in your submission, or is it just a summary of what is in your submission? You have to take it that it has been read. If it is a summary of the submission, we do not want to spend time doing that. So if there is anything additional—

Mr Branigan—It is in addition.

CHAIR—Thank you.

Mr Branigan—Thirty-one months from today, digital television broadcasting will begin in all mainland capital cities. At about the same time it will also begin in a number of regional markets, including Hobart, Canberra, Newcastle and Wollongong. That means that 24 months from today this industry needs to be at an advanced stage of installing scores of new transmitters. We will need to be transmitting test broadcasts from at least August 2000, which is 26 months from now, if we are to meet the 1 January 2001 deadline for full-scale digital broadcasting, and if we are to help retailers to sell the digital sets which will be in stores in the last quarter of 2000.

It is a very tight timetable, but it is achievable if we can begin to commit to equipment purchases and the complex preparation process within a matter of months. We can begin to do this only when the legislative framework is in place. We believe that we must have that legislation in place before parliament rises in July.

This is the most significant issue this industry has faced since its inception in 1956. It involves a new transmission system which will have to meet our needs and the needs of Australian viewers for the next three to four decades. It will require duplication of over 800 transmitters and major upgrading of studios and station facilities across the country. It will

cost the commercial television industry at least \$500 million in capital expenditure in the first four to five years. It will take the industry, and particularly regional stations, years to digest this huge spending requirement at a time of rapidly increasing competition from pay television. That is why a guaranteed period without new commercial television licences is essential.

Digital television will provide dramatically better quality pictures for viewers, particularly in the form of high definition television. Eventually, it will also allow much more efficient spectrum usage, which will also benefit the community at large. We believe that free to air broadcasters alone will be able to motivate the whole population to make this change and thereby achieve these benefits for all Australia.

CHAIR—Can you just repeat that?

Mr Branigan—We believe that free to air television are the only people who can motivate the whole population to make this change and thereby bring about these benefits for all of Australia. Bear in mind, too, that digital television is not just about quality improvements to television programs; it will also bring substantial data delivery capacity to virtually every Australian household. This is something no other information technology approach could hope to match over the next decade or so.

Digital television will provide an immeasurably greater boost to the information economy than any alternative uses of the broadcast spectrum. While those alternative uses would not be without value, they would swallow up the spectrum needed for television simulcasting. This would deny viewers the smooth transition to free to air digital television.

By 2001, many American and European cities will have had digital television for a year or for less. We are far enough behind them to benefit from their experience and from the technical improvements in second generation equipment, but we will be close enough to overseas digital television start-ups to be in the forefront of development of this exciting new technology, a technology which spans all of the converging information and communications industries.

We can share these benefits only if we are able to meet the timetable set out in the legislation. If there is significant slippage we will find ourselves in our familiar role as mere passive consumers of established technology. Australia must move quickly or lose this opportunity.

This legislation, as you know, Chairman, is framework legislation; it does not deal with much significant detail that has yet to be decided. This will be the province of a series of reviews at which many interest groups will be represented, with further opportunities to influence Australia's digital television future.

This approach allows further debate and substantive input to decisions while allowing broadcasters, set manufacturers and the Australian technology and information technology industries to move full speed ahead to implement digital television and unleash its potential for all Australians.

CHAIR—Thank you. Senator Schacht.

Senator SCHACHT—Mr Branigan, when the discussion paper came out in July 1997 from the ABA, which was based on an experts group document, nowhere in this paper that I can see—and the ABA confirmed it this morning—is there any recommendation that the existing free to air commercial television stations should receive a period of up till 2008 where there will be no more commercial licences issued. Do you accept that the ABA did not make any recommendation in this area?

Mr Branigan—I do not recall them mentioning the year 2008, but I certainly do recall the document discussing the question of new licences and commenting that, if it made no sense to issue new licences in an analog environment, it was hard to see how it made sense in a digital environment. I am paraphrasing what they say, rather than quoting.

Senator SCHACHT—Perhaps if you have a copy you could come back to it and point out to me the form of words they used in that context. Until you have it in front of you, I will pass on.

In any of the discussions between the issuing of that report in July of last year and the decision of the government on 24 March publicly to commit to digital television—and during that period of consultation the minister clearly acknowledged he had had with a range of people involved in the industry, and it was clearly quite acceptable for him to have that, though much of it was kept private—did you make either written or verbal submissions that you wanted a prohibition on any new commercial free to air television licence issued for a specified time?

Mr Branigan—We certainly made the point on a number of occasions orally and, from recollection, at least once in writing, that it was really a precondition of making this major investment that we have some years of relative certainty as to the commercial environment we were operating within. Now we took it as read that there would be increasing competition from virtually every direction, particularly from cable, satellite and other likely services, but we took the view that, given the scale of the investment we were envisaging, we needed a guaranteed period of no new commercial licences.

Senator SCHACHT—I will come back to the scale of the investment in a moment. When you wrote to the minister—you said you mentioned it at least once in writing—did you propose to the minister any particular time for what you thought was a reasonable moratorium on the issuing of any new commercial television licences?

Mr Branigan—From recollection, and it is not a document I have looked at for some time, we would have said for at least the duration of the simulcast period.

Senator SCHACHT—So you took the simulcast as a minimum period for the prohibition on any new commercial licences being issued?

Mr Branigan—That is correct.

Senator SCHACHT—Did you suggest a time past—that is, eight years from the beginning, or seven years from the beginning of 2001? Did you suggest 10 years from 2001, or 15 years?

Mr Branigan—I think we suggested that the dual transition period, as I think we called it at the time, was likely to last seven to 10 years. Seven seemed to us to be a particularly optimistic view of how long it would take viewers to replace their set. But we thought something in the seven-year to 10-year period, possibly closer to the 10 years, would see most sets replaced and, hence, we saw that as the likely dual transmission period.

Senator SCHACHT—Did you recommend a different time length for the phasing out of analog broadcasting to a length of time for the prohibition on new commercial licences?

Mr Branigan—As I say, we recommended that a prohibition be at least the dual transition period. I think we left it open to the government to double it if it so wished.

Senator SCHACHT—Is there any reason why that submission you made to the government could not be provided to the committee?

Mr Branigan—I would have to check with my principals. It was a letter to the minister, from recollection, last July. If they have no objection, I certainly would not.

Senator SCHACHT—If you want to make it in confidence to the committee, I am happy to accept that. It is just that between July of last year and March of this year there was an eight-month period when there was plenty of speculation but there were no public documents, other than the ABA summary report, available for public discussion.

Do you believe that the simulcast period and the moratorium on any new commercial licences are directly connected?

Mr Branigan—I would make two points in response to that question. The first is that we think the sort of investment that stations will make over the first four or five years will knock them about for some years after that. It will take some years for stations to recover from the scale of investment that they are looking at. The second point is that they will be wearing the very substantial additional operating costs of dual transmission until the end of the simulcast period. So, as we see it, there are fairly persuasive reasons for extending that exclusivity period, if you like, until the end of the simulcast period.

Senator SCHACHT—You do not think that the advantage you already get, in being provided with a seven-megahertz spectrum free of charge, as far as an allocation is concerned, is not an already major inducement to invest in HDTV broadcasting?

Mr Branigan—It is a necessary precondition of investing. It is not a benefit in the sense of anything that is bankable. Our view is that the additional revenue to be gained over that period is slight indeed. The need for the spectrum is not because of anything we want to do, other than to make as smooth a transition as possible to the post-analog environment, in which we will have no more spectrum than we do now.

Senator SCHACHT—If there was no great benefit to you in being given that extra spectrum for simulcast and to seven megahertz each, why don't we test that in the marketplace and let anybody bid for the batches of seven megahertz? We could see whether the marketplace agrees with you that there is no great benefit and they will not bid for it.

Mr Branigan—It is essential to us for getting from here to there—here being analog and there being digital.

Senator SCHACHT—I understand that, but you said that there is no great benefit in having it allocated to you.

Mr Branigan—There is no direct benefit to stations, in the sense that they are transmitting exactly the same programming as they are transmitting on their analog frequency. There is no additional revenue to be gained. It is simply a necessary transitional mechanism.

Senator SCHACHT—There has been speculation that the departments of Treasury, Finance and Prime Minister and Cabinet, and the industry department, when this issue was before cabinet—it is only a speculative piece in the *Financial Review*, I think; Mr Lewis may be smiling over there about his speculative piece—seemed to say that the community may have forgone considerable revenue by not allowing the spectrum to be auctioned off to new players who met the cross-ownership rules, et cetera. Having that bid, you could continue in analog and the new bidders could go into digital HDTV. The community would have got a revenue increase if people were willing to bid for that spectrum.

Mr Branigan—Again there are several issues there. The first one is how, eventually, free to air television moves from analog to digital. I am sure you have had enough evidence to you in the course of today, let alone what you have received on paper, to indicate pretty clearly

that there is no alternative in the long term but for free to air to move from an analog transmission system to a digital transmission system.

Senator SCHACHT—I do not disagree with that. It is the argument over who is in charge of the migration: do people who already have analog have a right to be the ones who automatically go to digital? I do not disagree with you that we have to move to digital but it is the way it is done. The argument which the central agencies of the government put up from the departmental level seems to be: why don't we have a bid and see who is willing to pay to migrate to the digital world and not just hand it to the existing analog broadcasters?

Mr Branigan—The first issue is who buys the spectrum. If it is broadcasters—and the likelihood is that it would be—it is simply another tax on broadcasters. There may be as many views around this table as there are people as to whether broadcasters need more taxes. My view would be that they are one of the most heavily taxed industries anyhow. Adding it—

Senator SCHACHT—On that point, before you go on to the next one: are any of the three major metropolitan networks, known as Ten, Nine and Seven, losing money?

Mr Branigan—Not at all. They are profitable businesses. They are indeed.

Senator SCHACHT—In your submission you give the gross figures for the revenue from metropolitan and regional and what the licence fees are, et cetera. Despite the licence fee averaging six or seven per cent of gross, I suppose it is, the dividend being paid back to the shareholders is still quite significant.

Mr Branigan—They are very profitable businesses at the moment. They have not always been and there is no guarantee that they will continue to be. They will pay that nine per cent licence fee off the top, whether they are losing a quarter of a billion bucks a year, as they were in 1991, or making that much money.

Senator SCHACHT—But you cannot blame the public of Australia for the loss in 1991. That was bad management by a number of managers of networks who went berserk outbidding each other for program, et cetera.

CHAIR—Senator Schacht, I am just wondering if you could come back to the legislation. We are fading off a bit.

Senator SCHACHT—No, it is not. If you read the submission from FACTS, you see that they go to great detail about the financial structure of the industry and the justification for why they should be allocated these licences.

CHAIR—I understand why you are asking these questions but if you make them succinct and short we will get the answers that we—

Senator SCHACHT—They are succinct and short, and Mr Branigan is handling them admirably.

CHAIR—Just let me finish what I am saying, Senator Schacht. We are beginning to stray a bit.

Senator SCHACHT—No, we are not. You cannot ignore—

CHAIR—I draw you back to ask questions that are specific to the debate.

Senator SCHACHT—If you go through pages of the FACTS submission—and I congratulate them on the detail they have put forward—you find the argument about the financial success of the industry, the financial base of the industry to pay, the Australian content rules being paid for out of a solid revenue base, et cetera. These are all germane to their submission and I am just trying to get it on the record that they are a profitable industry,

paying a dividend to the shareholders. As well as that it is, as Mr Branigan said, a heavily taxed industry. Despite being heavily taxed they are paying good dividend to the shareholders.

CHAIR—You have that on the record. Now let us move on.

Mr Branigan—There was one other point in reply. That was on the question of whether the benefit to the public of selling spectrum was greater now or at a later date. We point out in our submission that there are very good grounds for believing that the spectrum at the moment is of equivocal value for other users. It is obviously very constrained in terms of what uses it can be put to. Down the track, when analog transmitters have been shut down, it is quite conceivable that that same spectrum can be immensely more valuable. It seems to me that these great departments of government were possibly guilty of very short-term thinking in spotting a dollar now when there are perhaps tens or hundreds of times as many dollars a little down the track.

Senator SCHACHT—It is good to see that occasionally one has allies in abusing the central agencies for their cost recovery, free marketeer attitude on everything. It is not often that three very successful commercial networks, who by and large I think are in favour of capital, also abuse the central agencies for taking a short-term view. Congratulations, Mr Branigan. I am sure that we will pass these words on to them and look for your support next time on other issues. We are looking for your support against the central agencies on any number of issues.

CHAIR—Senator Schacht, we are very interested in your views on that issue, but again you are straying. We have half an hour left, as we are finishing questioning these witnesses at a quarter past one, and Senator Lundy and I have questions, so move on.

Senator SCHACHT—Mr Branigan, the ABA this morning—I do not know whether you were here in time to hear this—said that, even with the allocation of the seven megahertz to each of the five free to air broadcasters in the simulcast period, including the ABC and SBS, there would be at least a minimum of another 10 megahertz of broadcasting capacity in the spectrum available for allocation, if the government so chose, either for another full network in seven megahertz for HDTV or for two more specific limited standard digital broadcasts. Are you aware of that view from the ABA, that there is that spectrum already available?

Mr Branigan—We are aware that there is some spectrum apparently not required for the simulcast period. We are aware, for instance, that there is one short channel next to SBS that is not the full seven megahertz. I think it is six megahertz.

Senator SCHACHT—Mr Branigan, the secretary will provide you with a transcript of the ABA's evidence in this area. You may care to comment about whether you think they have it right, because the technical point about the availability of spectrum generally is a useful thing to look at.

In your submission, in your opening remarks and elsewhere publicly FACTS have said that there is a real need to make a decision to get the legislation through so that the planning and the introduction by 1 January 2001 can take place. Are you aware that in attachment 1 to that July document the ABA give an indicative timetable for the introduction of digital television in Australia? They say, for example, that the legislation does not have to be tabled in the parliament until October 1998—that is, this year. They say that, for metropolitan centres, the first services could be on air at the end of 1999—a year earlier than the minister finally adopted.

I raised this question with them, and it turned out that, although there is some difference between their definition of what would be 'metropolitan centres' and what the minister has

finally announced, the ABA said that not every consumer in Australia with a television set would be guaranteed to get a digital signal even if they had a receiver on 1 January 2001. So there will be patches.

Did you discuss with the ABA their indicative timetable, which is different from the one that you have stressed in your submission, and the urgency of getting the timetable in place for planning and introduction even though it is now a year later, under the minister's timetable, than their own?

Mr Branigan—I do not believe we did, Senator. We were certainly heavily involved in a lot of the technical discussion in the experts group, but as far as I am aware that did not extend to any detailed discussion about the timetable. I would have to say that our own analysis of the work to be done and the likely cost did not begin in earnest until about this time last year, so perhaps we would not have been well placed to advise on timetables at that time.

Senator SCHACHT—I do agree that this is July last year.

Mr Branigan—Yes.

Senator SCHACHT—In view of the time we have, you may care to make some further comment about that timetable because, again, I think it is germane to our discussion—

Mr Branigan—Sure.

Senator SCHACHT—Certainly if we are trying to deal with it in the last two weeks of June.

Mr Branigan—Senator, I would make the point simply that it is obviously possible to put a transmitter at the foot of a tower and hoist an antenna up and broadcast some sort of signal. After all, we did that in Sydney last year in testing digital television, but it was a very low-powered transmission and it would not have reached many people. I imagine what the ABA is talking about there is a rather more staged introduction than we are currently looking at.

Senator SCHACHT—They did say that themselves. We had a difficulty because they did not actually have their own document with them—someone got held up in the fog—but it does say, 'First services on air (metropolitan centres) end 1999'.

I now go back to this issue of the cost structure. Page 9 of your submission refers to 'metropolitan stations—program origination, \$159 million; operations, \$104 million; transmission, \$22 million'. Can you explain to me the difference between program origination and operations?

Mr Branigan—By 'program origination' I believe we mean studios, outside broadcast vehicles and I think also news acquisition.

Senator SCHACHT—Content for news?

Mr Branigan—Yes, that is right. In other words, refitting news vehicles, replacing news cameras and all of that. 'Operations' would be everything between program origination and the point at which the signal goes to the transmitter.

Senator SCHACHT—Is the \$104 million recurrent expenditure?

Mr Branigan—No, this is capital investment in the area of the station that we call operations.

Senator SCHACHT—After a period of time, none of that is going to be recurrent other than the normal maintenance, et cetera?

Mr Branigan—No, all that is recurrent is the additional operating costs for the duration of the simulcast period. We mention that a paragraph or two further on.

Senator SCHACHT—The total capital cost, including for the aggregated stations and independents, is \$490 million—let us make it \$500 million—over five years. That is \$100 million a year divided evenly, which means, for each television station network, maybe at the metropolitan level, \$20 million a year. On a turnover of over \$2 billion, isn't that a sustainable figure that you would be able to carry in normal commercial business practice and investment?

Mr Branigan—It is a very substantial bunching of investment. I think we mention there that it is the sort of investment that would normally be made over 10 years, perhaps 15 years, compressed into less than five years. The other point that is worth making is the one we make further on—that some of the more recent assessments by regional stations suggest that their costs will be very much higher than we assumed.

Senator SCHACHT—I accept the fact that there is no argument that regional television is going to have a higher cost structure on capital. We have to accept that, because they need more translators and they have a lower population density and therefore the marketplace is limited. I think that in their own separate submission—I do not know whether it has been lodged with the committee yet, but certainly it has been with me personally—they make a reasonably strong point about that, which any planning on policy terms has to take into account. I think the parliament will be sympathetic to that and I am sure the government will be. I think that is a bipartisan view as well.

The metropolitan stations are profitable; they have a turnover, from your own figures, of \$1,700 million per annum in revenue. You are looking at maybe \$10 million or \$20 million a year for five years on average for each of the major commercial networks in metropolitan television.

Mr Branigan—Closer to \$30 million a year.

Senator SCHACHT—Let us say \$30 million a year over five years—

Mr Branigan—Plus additional operating costs of probably \$10 million to \$15 million a year, at least.

Senator SCHACHT—Okay; \$50 million a year over five years, and with the government's policy you have got no threat of competition until 2007. This is a pretty reasonable proposition for you as far as the shareholders are concerned regarding reduced risk; no competition; you have got revenues of \$1,700 million on average; Channel 9 makes more than Channel 7 and Channel 7 makes more than Channel 10, but their cost structures are different. Are you saying that the stations will not be able to absorb, in normal commercial business practice and business running costs, the \$50 million a year each that they will be up for for going digital?

Mr Branigan—We are talking about an environment stretching up to 10 years ahead. It is axiomatic that the competition from pay television—even existing pay, let alone what comes in by satellite over that period—will become much tougher. Our share of the advertising dollar is going to be very difficult to maintain. Growth rates are unlikely to equal those we have known in the last few years. I think it would be extraordinarily difficult to absorb this kind of capital expenditure and inflated operating costs in an environment where your share of television revenue was sharply contracting, and there is no doubt that that is what would happen with new licences.

Senator SCHACHT—Sharply contracting? Have any of the analysts who report to the stock exchange and make a business out of providing advice to shareholders made reports publicly

to the stock exchange or to their customers, or have either of the three companies reported to the stock exchange that ‘we warn you that with increased competition from satellite’, as you just said, ‘pay TV, the revenues are going to be substantially reducing and the profitability is at grave risk’?

Mr Branigan—No, I do not think so. That is not quite what I was saying, although obviously I did not say it clearly. What I meant was that if new licences were introduced, there is no doubt that there would be a sharp contraction in revenue share.

Senator SCHACHT—So if new licences were to be introduced, there would be a substantial contraction. If new licences are not introduced, with the present revenues, would you then be able to absorb the cost of this expenditure? You are saying you would be able to absorb the cost of this expenditure without risk to the viability of the metropolitan networks.

CHAIR—Just before you reply, Mr Branigan, I say to Senator Schacht that Senator Tierney, Senator Lundy and I have questions. After this question, we will have a go, because you have had more than half an hour now on your own. We are members of this committee and we would like to ask some questions.

Mr Branigan—I believe we have had extraordinarily high revenue growth for a mature industry in recent years. I do not believe that will necessarily continue. I think, with revenue increasing but not at the rate we have seen in recent years, it would be possible for stations to absorb this capital expenditure, these additional operating costs, but it would certainly be at the cost of much of their current profitability, at least for five to seven years.

Senator SCHACHT—There is much in your submission, Mr Branigan, on which I am not going to question you because I think it is very self-explanatory and very detailed, but other members might want to ask questions, so we will cover it together.

CHAIR—Senator Schacht, Senator Tierney is now going to ask questions. In fact, he may cover some of your questions. You have had a fair go. Now somebody else can have a shot, so to speak.

Senator TIERNEY—You have said in your submission that the early passage of this legislation is essential. Earlier today we spent a fair bit of time discussing that. Perhaps it was left in a bit of a cloud as to whether the early passage of the legislation was essential. Could you, for the *Hansard* record, sum up why we need to get this legislation through very quickly.

Mr Branigan—I think the main reason is that stations are obviously going to be reluctant to start spending the serious amounts of money that are involved until there is a secure legal framework. Looking at metropolitan markets alone, there are over 100 transmitters and translators that will need to be duplicated, or for us to be well along the way to duplicating them, by 1 January 2001. It is a very tight timetable.

There is a great deal of competition for access to the equipment that we will need. There is huge demand from markets overseas—the North American market, the bulk of which will be converting to digital in exactly the same time frame as we are, European markets, the United Kingdom, Scandinavian countries, Spain, and there are others likely to be announced in the course of this year.

There is unprecedented demand for transmission equipment, studio equipment, the whole range of equipment that we will need to make that deadline. That is leaving aside the work that will need to be done on preparing towers and associated structures. In some cases, towers will need to be strengthened to carry this additional weight.

We believe that we can make that deadline, but it will certainly be an extraordinary effort, and if we lose many more months—if we were, for instance, to lose three to six months—I do not believe it would be possible to make the beginning of 2001. If it were not possible to get orders in for broadcasting equipment, there is a good chance that the waiting lines could blow out until very late in 2001 or later. That is the reality, because of this huge and unprecedented demand for broadcasting equipment over the next three to four years.

Senator TIERNEY—If this legislation does not go through, say, in the next month, and we then go to an early election and come back with this legislation in March next year, what would you see as the effect of that on the particular timetable that has been set out? When would Australia be likely to be introducing digital television if we were faced with that sort of problem?

Mr Branigan—With a lot of luck, you could say it would be, let us say, eight months later than is currently planned. There is a good chance that we would be so much further back in the order queues that it could be a year or more later. In other words, for every three months you lose at this point, you may be looking at something like six months delay in delivering equipment down the track.

Senator TIERNEY—There is an indication in your submission that you are not too keen on the idea under digital television of not having the opportunity to run additional channels through multi-channelling. We do have five free to air systems in Australia at the moment; do you really think there is a need in the current environment for any further channels?

Mr Branigan—We do have a very good broadcasting system. Our view as an industry has been that the best way of preserving the strengths of that system while allowing more diversity is to permit and encourage additional services; services that do not compete as directly with free to air services as new free to air services. For instance, cable and satellite are obviously adding diversity but not competing as directly with our revenue as new free to air services.

The short answer is yes, we think that Australia is well served. No, we do not think that multi-channelling is absolutely essential to our future. We do believe, however, that it would have provided additional incentives for people to purchase digital television sets. We hope that we will be able to experiment with these services at some later stage. We do not know whether they will work; no-one does. We think it is unfortunate that we are limited to one shot, albeit we think it is our best shot, which is high definition television.

CHAIR—But I would presume, if you did have multi-channelling, that you would need to have some advertising money going into that; you would not be doing it for free. You have just told us that there was only so much advertising money to go around. That is a bit of a contradiction.

Mr Branigan—You are right: the advertising market is a limited market. Any broadcaster who relies on advertising, as everyone at this end of the table does, would be very cautious about embarking on multi-channelling for that very reason. There is a strong chance that all you would do is cannibalise your own revenue market. There may be some limited areas where it makes sense but, as a generality, it is obviously a very risky way for any free to air broadcaster to go.

We know, for instance, what happened when the number of commercial stations was tripled in regional markets eight or 10 years ago: it drove the price of advertising down below that of advertising on radio. That is a real risk when you greatly increase the advertising minutes.

CHAIR—Do you know of any independent research that has been done on viewer satisfaction with free to air television in Australia versus viewer satisfaction of free to air television in America?

Mr Branigan—We periodically commission the Roy Morgan Research Centre to poll—

CHAIR—I just want a quick answer. Is there any way of comparing apples to apples with regard to the satisfaction of American television viewers, who have a large number of channels, versus the satisfaction of Australian television viewers?

Mr Branigan—Satisfaction with television in Australia is pretty much on a par with satisfaction with television in the United States and Canada where similar sorts of research have been done for many years. The figures here pretty much track the figures in North America, which suggests that if there is dissatisfaction, it is not particularly strong.

CHAIR—Maybe they have been fed a diet in North America. On page 9 of your submission you say that spectrum availability is not really an issue in Australia; that television bands occupy some three per cent of current usable spectrum, so there is generally adequate spectrum outside the broadcast bands for any new non-broadcast application. If someone came along and said they wanted to use spectrum for a non-broadcast application—for Internet, for example—would you believe they would have to pay for that?

Mr Branigan—That is the normal approach to allocating spectrum in this country nowadays.

CHAIR—So if you were to use any spectrum in your 7 megahertz when you were not actually using the whole of the spectrum for high definition television, would you be expecting to pay for any non-broadcasting application?

Mr Branigan—We have been well and truly put on notice by this legislation that we will. Indeed, we are used to paying for our use of the spectrum.

Senator TIERNEY—The introduction of high definition television does enable you, of course, to broadcast by this means 24 hours a day, but that is very unlikely, particularly in the earlier stages. What is the view of the free to air channels on how they would actually use that additional space when they are not broadcasting high definition TV in off-peak times?

Mr Branigan—I might defer to one of my colleagues on that.

Mr Thorley—I think the initial focus will obviously be on prime time, where newer product hopefully will become available from Australian and overseas sources in a high definition form at origination. However, there is a significant amount of daytime sport in Australia that may well very quickly migrate to high definition, particularly on weekends. Likewise, there is a significant amount of film originated product that may be in a repeat form and used in daytime areas that, with retransferring fairly simply, we hope, may also form some very early high definition programming for daytime. That is a focus of the networks, if for no other simple reason than making sure that the retailers have as much high definition available as possible during the hours that they are open.

Senator TIERNEY—I believe programs like *Seinfeld* were actually recorded in a format where the reruns, I assume, could be actually on high definition TV. Are you aware whether there is a wide range of programming available in that way, or is it just isolated?

Mr Thorley—We are finding it difficult to get clear answers as well. We do know that there is obviously a lot of North American and English product that is being originated on film. How much of that has been originated on wide screen, or in a format that could be transferred into a wide screen, is still a little vague, but early evidence suggests that product starting in production from the end of this year in the US will most likely be at least on film and in a

wide screen format which should allow for the transfer either to existing formats or to high definition, yes.

Senator LUNDY—How many of your member organisations provide on-line services that would fall within the definition of datacasting as it currently stands under the proposed legislation?

Mr Branigan—I guess all, in so far as all stations provide closed captioning. I must confess I am not all that well informed on what additional services stations provide. I know that the Seven Network provides a broader teletext service and possibly some other data. Perhaps Mr Barrett could enlarge on that.

Mr Barrett—Yes. We have been transmitting and broadcasting for many years. Our Austech service is a teletext service which is an information service to those people that have the appropriate receivers. Also, we have a minimal datacasting service we are running again for about five to six years. That is still the case at this moment in time.

Senator LUNDY—And what about, perhaps, joint ventures or partnerships with other companies that embrace an Internet based on-line service? For the committee's benefit, can you canvass the capabilities of your members in that regard?

Mr Branigan—Again, I think I would have to defer to the members to be able to give you a better account than I can.

Mr Robertson—One of the major problems of broadcasting Internet is the synchronous nature of the data that is required for Internet. It is the large amount of capacity that you require to the home and the small amount of return traffic that you require.

The amount of capacity within a television signal is extremely limited. If you can contemplate a large number of people being connected via your television signal to the Internet and the amount of traffic they require, then you are limited in the capacity that you can carry. You are limited in the analog format. Whilst the digital can provide a higher data rate, you are still limited.

Senator LUNDY—That was not my question. Perhaps you could take it on notice, refer it to your members and forward it to the committee. My question asked for a description of the Internet based on-line services provided by your members.

I refer you to submissions made on behalf of the Internet Industry Association and the Australian Information Industries Association which make the observation that the current statistical analysis of the actual viewing time of teenagers, particularly, shows that there is an identifiable trend transferring away from television to the Internet in terms of viewing audience. So, in the report, they are staking their claim, if you like, on the fact that a locking up of the potential spectrum would allow them to provide wireless Internet based services to that particular audience that is in fact being encroached upon by the government's policy in this area.

I believe the committee needs to have a good understanding, in the context of competition policy, as to what capabilities currently exist amongst your membership, as to what their plans are in terms of the development of those services, regardless of your current mechanisms of distribution of that content, if you like. Currently, obviously, it is over the Internet, but with technological developments of wireless transmission and the obvious locking up of the spectrum within the seven megahertz brackets in digital spectrum there are some quite serious implications.

Mr Branigan—I will certainly get that information, Senator. I would make the point that we have an appendix to our submission, appendix 9, which looks at the data service applications in DTTB spectrum. If I can crudely summarise the complicated technical discussion in that submission, the conclusion is that digital television, for all its much greater data capacity, is not particularly suited to the sorts of Internet-type uses that Mr Robertson was describing then because of the shape of the network, the fact that it is essentially a one-to-many broadcast rather than a one-to-one structure which is much more typical of Internet use.

Senator LUNDY—Could you also provide to the committee any information about relationships that your members may have currently with Internet service providers?

Mr Branigan—Other than strictly user relationships?

Senator LUNDY—Yes, commercial relationships, joint ventures, partnerships.

CHAIR—It is now a quarter past one.

Senator LUNDY—I have just two more questions, Madam Chair.

CHAIR—I am sorry; the staff need to have a break. Everyone else has walked in and out of here, other than me, except to go to the bathroom. I need to have a break. If we ask FACTS to come back, it will then put the program back.

Senator LUNDY—I would like the opportunity to put two more questions on notice. I will read them in.

CHAIR—I am happy to put the program back, but it is a problem. But I do think the staff need a break. They should not have to go for any longer. I need to get up and have a walk.

Senator SCHACHT—I have a couple of further questions on program enhancement that I would like to put to them. They will not take long. I am happy to have the break now. Are we looking at a 40-minute break for lunch, or something like that?

CHAIR—We will be back at 2 o'clock, and then we have 15 minutes.

Senator SCHACHT—Yes, that is fine.

CHAIR—I am sorry to do that to you, but it is impossible to expect the staff and *Hansard* to keep going. We will break now until 2 o'clock, and we will be finished FACTS by 2.15. Any further questions will go on notice.

Proceedings suspended from 1.17 p.m. to 2.05 p.m.

Senator SCHACHT—Mr Branigan, on page 14 of your submission you state that program enhancements would be permitted under the legislation. This was discussed earlier today regarding the definition of the ABA and the ABC. I think it is a major issue for the committee to look at. When you outline what you see as a definition of enhancements, you have taken this as a view of FACTS; have you taken this view after consultation with the government, the ABA and the Department of Communications and the Arts?

Mr Branigan—We have had a number of discussions with the Department of Communications and the Arts since the legislation was introduced, and I think it is true to say that what we say here is shaped to some extent by the to and fro of those discussions.

Senator SCHACHT—I am not being in any way critical of the fact that this is your definition and I may be misreading it. The legislation at the moment is rather vague and it is a regulation that would be determined. It was raised this morning that the ABC wanted theirs in the act to determine clearly their right to multi-channel, which is different from the position of the commercials. When you say 'enhancement of the current program such as replays within a sports match', that means that during the match while you are watching, because of the

digital capacity, you will be able to put different-angle replays through the match while you are watching the same program.

Mr Branigan—Yes, indeed. It might go slightly beyond that. You might not just have simultaneously a different angle; you might want to replay something that happened some minutes or hours earlier, but within the confines of the same event.

Senator SCHACHT—The same program?

Mr Branigan—Yes.

Senator SCHACHT—Do you have any idea of how much, if it was a normal digital broadcast, not an HDTV broadcast, extra capacity in megabits and/or in megahertz you would need to do that enhancement for replays within a sports match?

Mr Branigan—I suspect it would depend very much on the type of sport, but perhaps I can ask one of the engineers to comment on that.

Mr Robertson—Perhaps the easiest way to describe it in terms of data content is that a digital channel can support approximately 19 megabits of data. If you were to assume that a high definition picture consumes all that data, and that would be the 19 megabits, if you assume that a standard definition is somewhere between six megabits and eight megabits, it leaves the available capacity for additional channels. On those replays, they could be down as low as three megabits, so you could have a different configuration on each one of your supportive channels.

Senator SCHACHT—So for the consumer or the receiver, in their receiver, while that program is going to air, there will be held in reserve, so to speak, some of the capacity of the 19 megabits additional to do this add-on?

Mr Robertson—Yes, it could be that, if you took the Channel 9 service, by pressing your remote control you could obtain the main channel on perhaps 9, and then press A; then you could get a replay on B or you could have a different camera angle on C, D or E. You could have a variety of different types of programming associated with that sporting match.

Senator SCHACHT—I see. So that means that, for a particular commercial television station, even though they are only using standard digital, they in fact would require, so that the enhancement would be available, either by switching to another channel—9A or 9B in this case for Channel 9—the whole of that seven megahertz, 19 megabits; it will always be in play for that channel?

Mr Robertson—Yes, that is right.

Senator SCHACHT—Are you sure that is what the legislation allows?

Mr Branigan—Obviously, there is scope for different views on what is intended by program enhancements. We have based our view on a very close reading of the legislation, the explanatory memorandum and detailed discussions with the government, the minister's office and the department. We believe that what we are suggesting there is within the policy as we understand it.

Senator SCHACHT—Have you had discussions with the government, with DoCA, about the drafting of the regulations in this area?

Mr Branigan—No, we have not.

Senator SCHACHT—That then leads me very clearly on to the one where you are dealing with localism. This means—I am not picking on Channel 9, but just for the sake of the argument or discussion—Channel 9 is going out around Melbourne as Channel 9, but people

who live near Geelong, Werribee, Lorne or somewhere like that which is within the metropolitan signal, can be told, 'If you switch to 9A, you will get a different program with a mixture of Geelong content in it.' Is that correct?

Mr Branigan—That is correct.

Senator SCHACHT—That would be a different signal transmitted.

Mr Branigan—No, not at all. It would be part of that same seven megahertz.

Senator SCHACHT—Yes, it is in the seven megahertz, but I am watching the standard Channel 9 news service transmitted from Melbourne, whoever the newscaster is.

Mr Branigan—He is bound to be called Brian, wherever he is.

Senator SCHACHT—Is it Brian Henderson in Melbourne?

Mr Branigan—A different Brian, but equal.

Senator SCHACHT—I do not want to insult any presenter, but whoever it is, because I have got information in my TV guide, at the same time, on Channel 9A, or whatever you call it, I can watch an amended service that has part of the national news that he is giving, with a mixture of Geelong content mixed into it.

Mr Branigan—That is correct, but that would be receivable anywhere that the Channel 9 signal is receivable.

Senator SCHACHT—That is receivable all over the metropolitan area of Melbourne, where the normal Channel 9 signal goes. What I am getting to is: that is now a separate signal, it is not an enhancement of the same picture, like having a square up in the corner so that you can call up a different camera angle; you are now moving into using another part of the seven megahertz, other than what you are already doing in simulcast and standard digital, for another content, even though it is mixed.

Mr Branigan—But this is no more than happens at the moment. On the Gold Coast, for instance, two of the Brisbane stations provide Gold Coast news as part of their Channel 9 and Channel 7 service to the Gold Coast. It is within their service area, but they provide slightly different content. It presumably would have been open to any Melbourne station to erect a translator in Geelong and do much the same.

CHAIR—I cannot express it in technical terms, but the ABC told us that you could enter the network further down and transmit from, say, a regional area, separate information.

Mr Branigan—Indeed.

CHAIR—Just say—and we will keep the Victorian example—you are transmitting the football, and you think it is going to be more advantageous for people who are passionate about a footballer who comes from the Geelong area and who want to see the camera focus on him, you could argue that this is augmented but it is different for different regions, starting further down the track. The thing I am concerned about is: when is enhancement enhancement and when is it not enhancement? I do not think that is clear, and I do not know that you think it is clear, either, because that is the problem—you can really stretch what enhancement is. This is really what you are saying, Senator Schacht.

Senator SCHACHT—If the enhancement is in the same signal as the standard digital signal, if the enhancement is in that particular part of the four or five megabits of capacity and two megahertz, if that is one signal and you are taking some of the megabits to enhance the camera angle to show more of Gary Ablett kicking goals, it is fine in that one signal. But if you are saying that at the same time there is a parallel signal using another part of the seven

megahertz, another part of megabits—that you can actually show, for the Geelong people, Geelong versus Hawthorn, whereas Channel 9 over the metropolitan area has got Melbourne versus Richmond—

Mr Branigan—I am not suggesting that, Senator.

Senator SCHACHT—But you are getting close.

Mr Branigan—Perhaps I can take a step back. In technical terms, there is no difference between enhancements and multi-channelling. In terms of the bits that are being transmitted, it is exactly the same. It is essentially a policy difference. The policy, as I understand it, is that it will be an enhancement—

Senator SCHACHT—I hope you are doing better than we are in understanding the policy. Good luck!

Mr Branigan—It will be an enhancement only if it is subsidiary—incidental—and directly linked. If it is not incidental and directly linked, then it is multi-channelling and it is not permitted.

Senator SCHACHT—I think Mr Barrett made the comment before lunch that 19 megabits are needed for the equivalent of seven megahertz to do your HDTV. The way I was using the old style of slicing it into silos of capacity to get four separate, individual, normal, standard digital signals may not be technically competent, but it is at least something I can so far understand.

At the moment, the way the government has designed this legislation is that it is moving into a grey area. I suspect other people are going to come forward in this hearing and say that what you have just described in your enhancement is in fact another channel. If they want another channel for that enhancement, even, they ought to bid for or pay for it separately.

Everyone accepts that you get seven megahertz for the full HDTV. When you knock them back, you are back to standard digital, but if you simulcast with the analog signal then you have got some other spare capacity. If this definition of enhancement that we have before us in your submission is accepted by the government, that means all the rest of it automatically goes to Channel 9, Channel 7, Channel 10—and the ABC, and to SBS, but for the commercials. There is no other access for anybody else to use it unless you are the one providing it under the enhancement. It is either silent or dark, not being used.

Mr Branigan—Or datacasting.

Senator SCHACHT—Or datacasting. I am not sure that this is not going to end up in the way this is described, not just in your submission. I think you have made a genuine effort to say, 'This is what we think we can do.' The government's legislation is only, 'Trust us, we are going to have a regulation later on.' I know what is going to happen now; I can see this standing out. There will be one almighty brawl over the regulation, because you will say, 'It means this,' your competitors or opponents will say, 'No, it doesn't,' and we will be back into a brawl in the Senate or the House of Representatives over a disallowance resolution on either side of the argument. This issue of certainty ought to be clarified in legislation now, rather than everyone being hung out to dry. Regulation under disallowance is a very awful way to provide certainty for you or for anybody else. Do you think that is a concern?

Mr Branigan—I am sure that any decision on regulation will not be without controversy. All I can say, Senator, is that at the end of the day it may well be that a court is going to have to decide what incidental and directly linked means. Courts do this all the time, of course. One

thing you could say is that, as a result of any future court decision, there is bound to be a clearer line than there appears to be now.

Senator SCHACHT—Is this possible, Mr Branigan, even if it might not seem favourable to your viewpoint? Say you use the full seven megahertz, 19 megabits for HDTV. No argument. That takes the whole lot. When you go back to standard digital, we accept that there is a minimum of about two megahertz and four or five megabits to get a standard digital signal out. Therefore, there are the equivalent of three signals, with a bit of latitude left over, going out on that signal. One of them will be used for simulcasts—which you have a right to; I am not arguing about that—but the other two would be defined such that either you have access to them and bid for them accordingly or someone else can bid to use them and come in to use them for another purpose, so that there is some flexibility. Otherwise, you are walking off with total control of three different channels. Even though it is not multi-channelling, you will use it as three different signals for enhancing three different ways Gary Ablett is kicking goals for Geelong in a football telecast in Melbourne.

Mr Branigan—Program enhancements are likely to be a relatively minor aspect of what we do. What we do, as we currently envisage it, will be to start off with a limited amount of high definition programming, but that high definition programming will grow in volume as time goes by.

Senator SCHACHT—Of course. I accept that.

Mr Branigan—So it may well be that within four years, say, all of prime time and a growing amount of non-prime time will comprise high definition output.

Senator SCHACHT—Yes, HDTV. But what I am asking is this: in the meantime, during that period, instead of your saying, ‘We are going to argue that this is all enhancement and, even if you do not actually use it, it is actually locked away.’ But a government, by policy decision, might choose to say, ‘We can give it to some educational group to use midnight till six in the morning, or we can use it 9 o’clock till three in the morning for some other purpose.’ It might not be particularly commercial, perhaps something the ABC and SBS are not doing, but it has a good policy intent. It is not competitive to you in some way. But you have got the signal all locked up under the possibility of enhancement. Therefore, there are, in my judgment, two signals in each of the commercial allocations, a total of six channels, that could be locked away and not used for other purposes, even if they were non-commercial. I am not sure that it is good public policy to lock them away until digital is taking 24 hours a day.

Mr Branigan—Sure. The only point I would make is that you are looking at a great increase of data capacity on both of the national channels, and in all likelihood that will absorb more than any conceivable educational use, given that educational users have been very reluctant to use what space is already available on the national services. Also, the legislation makes provision for community television to have a standard definition channel on a datacast. So I would have thought that the demand for public interest programming is likely to be well and truly sucked up by the available capacity.

Senator SCHACHT—Maybe you could give some further thought to some of the issues I have raised—I do not know whether I have raised them very coherently—and respond. But on this localism: as I understand it, at the one time on the consumer’s receiver, using the example you have there of Geelong, I can choose to look at Channel 9, the standard Brian Henderson news service—the National Nine News—or I can turn to 9B, still a Channel 9

signal, and watch a different program, editorially different, a mixture of Brian and Mr So-and-So who might be doing—

Mr Branigan—Or it might be Brian doing a simple segment which he has—

Senator SCHACHT—Yes, and he has prerecorded it or something like that. Actually, at the same time there are two different signals going out to everyone's receiver. That is actually multi-channelling.

Mr Branigan—As happens in the Brisbane sports area at the moment.

Senator SCHACHT—Yes, I know. But what I am saying is that under the definition, the way I read it in commonsense, as an ordinary citizen, I have got two Channel 9s to choose from at the same time. I would say that that is multi-channelling and not enhancement. Enhancement comes to one signal by adding more sophisticated things to it. You have got two different signals and I am making a choice. The government may have intended that to happen; you have described it as a possibility. I am not sure that that is the intent. I have to say that I have some reservations that you are actually into multi-channelling rather than enhancement using that localism of two different signals at the same time.

CHAIR—Mr Branigan, with analog, if channel X has a metropolitan news broadcast and a news broadcast to a regional area, do you have separate licences for that? Is it considered two separate broadcasts, or is it seen under your licensing as news to both?

Mr Branigan—No. What happens—

CHAIR—I am sorry—one program, if you know what I am trying to say.

Mr Branigan—If I understand what you are saying, let us take Channel 7's news in Sydney. That is broadcast in the Sydney licence area by ATN7. A number of regional New South Wales television licensees also broadcast that news along with their own news. They broadcast it as the locally licensed broadcaster.

CHAIR—That is still Channel 7. It is still free to air.

Mr Branigan—Channel 7 has effectively sold them the rights to use that news service locally. It is no different in that respect to a movie or a drama, but they are providing it as part of their service. It so happens that it originates from Channel 7, but Channel 7 does not have any proprietorial role in their station.

CHAIR—I cannot watch it if I am in Turrumurra but, with digital, I would be able to watch it. Just say I came from Wollongong—

Mr Branigan—Yes.

CHAIR—And I happen to be a student living in Turrumurra. I could now watch it—I am just trying to see the difference—whereas with analog I cannot watch it in Turrumurra. I cannot watch the regional broadcast in Turrumurra on analog but, if it were digital, I could just switch over to 9A if I knew—

Mr Branigan—No. I am sorry. I am perhaps confusing things by talking about Geelong because Geelong is, in many respects, a bit like Wollongong. It just so happens that it is in the Melbourne licence area. There are no Geelong stations, for instance; there are only the Melbourne stations.

Perhaps a better example would be the sort of thing that American broadcasters are talking about which is providing a north Canberra news, a south Canberra news, an east Canberra news and—for all I know, there is a west Canberra—a west Canberra news. It would all be part of the same transmission. You would simply be able to flip around—

CHAIR—What I am saying is, under analog, if I am in a regional area I can watch the regional television news.

Mr Branigan—Yes.

CHAIR—But if I am in the metropolitan area I cannot, unless I have some quirk, watch the regional television news through analog. That is what I am asking.

Mr Branigan—That is right; you cannot.

CHAIR—But, under digital, I could flick around to 7A, 7B or 7C and see the regional news?

Mr Branigan—No.

Senator SCHACHT—Yes.

Mr Branigan—You could still only see the Sydney news.

Senator SCHACHT—I am sorry. Let us go back to Geelong. The more important issue to get in before us is that, at the one time, there will be two different signals going out from the transmitter in digital. One of them will be the Melbourne Channel 9 national news as is.

Mr Branigan—Yes.

Senator SCHACHT—But, before that has gone to air, you have used Brian to pre-record some local Geelong news and put Geelong weather on and whatever—or an interview with the Geelong football coach and the usual stuff that attracts Geelong people—

CHAIR—We have got the message.

Senator SCHACHT—That is a second signal. I am sitting at Werribee and I turn the TV on. I can watch Channel 9 news. I see in the program printed in the newspaper that 9A has Geelong regional news on and that tonight they are interviewing Gary Ablett. Ah, click over. So there are two signals at the same time. There is choice.

Mr Branigan—It is one signal but two—

Senator SCHACHT—No. The receiver receives two because the next thing that then occurs is that you, as a commercial network, will sell. You will go to the businesses in Geelong and say, ‘We can give you a special rate to put advertising on the second signal, which is 9A or 9B for Geelong, because we expect more people in Geelong to watch this signal; therefore, your ad is going to be absolutely targeted. You do not have to pay the metropolitan rate as though everyone in Melbourne is watching—just in Geelong.’ Therefore, you are segmenting, quite rightly, and going after a new commercial product.

Mr Branigan—Absolutely.

Senator SCHACHT—That is what will occur, will it not?

Mr Branigan—Absolutely. I doubt that a commercial broadcaster would put on—

Senator SCHACHT—They would be mad not to, to put it bluntly. They would be mad not to go to Geelong and say, ‘We have a second signal at the same time. It has a Geelong flavour about it. Geelong Motors, do you want to buy ads on this because you will be getting’—

CHAIR—I think we have got the message, Senator Schacht.

Mr Thorley—Senator, could I just add to that? I am not sure that that connect automatically takes place for a couple of reasons. The first thing is that, while you would be trying to sell

spots in Geelong, you would be having advertising agencies in Melbourne getting exactly the same message that they were getting a smaller audience potentially on, as you perceive it, the main signal.

In other words, as Tony indicated, the Geelong market sits inside the Melbourne market. It is metered as part of the total viewing audience. So any fragmentation will follow through, then, on the sales aspect as well. If a dealer—

Senator SCHACHT—Are you saying that the metropolitan market will drop and advertisers will all ask for a discount because the Geelong second channel, the 9, is taking some of the advertising away?

Mr Thorley—Unless the 9 total market of the two signals now is greater than the sum of the original audience it had by the same proportional amount, you will not get extra revenue.

CHAIR—But, irrespective of the advertising, you can do something different from what you could do when you had analog.

Senator SCHACHT—Yes.

Mr Thorley—If you term it in part as not of the whole of the half-hour news—

CHAIR—Irrespective of that, do not confuse the issue about the spectrum. You can now do something different from what you could do with analog.

Mr Thorley—Exactly, yes.

CHAIR—That is what we need to look at as a committee, and how much the legislation allows you to do of that something different, and what we see as multi-channelling and what you see as a definition of enhancing incidental and linked, which are the two key words. I was not aware of that.

Senator SCHACHT—It is now clarified. This is a matter that the legislation, one way or the other, in my view, has to either allow you to do and accept that is the condition, or it does not. Can I ask one question which you may want to take on notice, Mr Branigan, although you might not have to respond to this. If the legislation did actually say the second signal I have described for Geelong—which is a different parallel signal—was available, would the free to airs be willing to accept that they may have to pay for a separate licence, if it is separate revenue, or bid for it through the ACA and pay a fee to use a second and third channel which others may want to show an interest in using from time to time?

Mr Branigan—I think we would have to get back to you on that. The point to make is that any additional revenue earned would automatically attract a nine per cent licence fee.

Senator SCHACHT—I understand that.

CHAIR—Is there something more than you can do with analogue is the issue.

Mr Branigan—The point I was clumsily trying to make is that you can do this with analog but in a more roundabout way. It has been open to any Melbourne broadcaster to erect a translator in Geelong.

Senator SCHACHT—But in Geelong at the moment with analog, Channel 9 cannot send three different signals down to Geelong or anywhere over metropolitan Melbourne—which you will be able to do with a standard digital signal, three different signals. You do not have that scope now with analog. You may be able to juggle the translator to have a local signal, but what you are doing under this digital system is having a transmitter on the top of

Dandenong, or whatever it is called, that goes all over metropolitan Melbourne as far as Geelong with three different signals—Channel 9A, B and C. It is the same with 7A, B and C, and the same with 10.

Mr Branigan—Senator, the whole purpose of the policy as outlined in this legislation is, broadly speaking, to prevent us from doing that.

Senator SCHACHT—But it does not, if you use your definition.

Mr Branigan—What is allowed by exception is certain enhancements, but they must be incidental and directly linked. I would argue that most of the things we have suggested here as program enhancements are very clearly incidental and directly linked. Some of them may be close to the border. Some of them may, at the end of the day, turn out to be on or over the border. That is a matter for the regulator to determine.

Senator SCHACHT—But they are a separate signal in the case of localism. With the example we have used for Geelong, it is a separate signal. It is not just adding to one signal, which I take as enhancement; it is actually a separate discrete signal where, if you tune the knob or use your remote control you can flick from 9 to 9A and get a different content than on Channel 9. That is a different signal, discrete; the consumer has a choice.

Mr Branigan—It either is incidental and directly linked or it is not. That is why regulators are set up to decide those sorts of issues.

Senator SCHACHT—I think we have hit a nub issue here about both sides of the argument. There will have to be a clearer definition; otherwise you people will scream your heads off a bit later down the track that you have been ambushed, or someone else will scream their heads off that they have been ambushed going up the track as well. We cannot leave it grey in the legislation; otherwise mayhem will break out. The chaos theory will get a real kick along here.

CHAIR—We have actually gone over our time, Senator Schacht, by 35 minutes.

Senator SCHACHT—Well, thank goodness we have.

CHAIR—Do you have any other questions?

Senator SCHACHT—No, other than to ask Mr Branigan if he would care to respond on behalf of FACTS to any of these issues that we have raised; that would be very thankfully received. Can I just say that I have not asked questions about the rest of your submission because much of it about the industry is very sustainable.

CHAIR—As we get further down the track and we become more familiar with the legislation, we may send you some questions on notice, if that is okay, if there is something we want clarified as we get further down the track.

Mr Branigan—Certainly.

CHAIR—It is a bit arbitrary who comes first in this process—everyone likes to be last, but everyone cannot be last—and we would appreciate you doing that. And also, now that all of the submissions have been made public, if you have any comment to make or you feel there is something that should be clarified, that would be helpful to us. We would like to thank you for your presence here today and apologise for running late.

Mr Branigan—Thank you, Chairman.

[14.37 p.m.]

GERMANOS-KOUTSOUNADIS, Ms Vivi, Executive Director, Ethnic Childcare Family and Community Services Cooperative, 13/142 Addison Road, Marrickville, New South Wales 2204

TAYEH, Mr Nicholas, 3 Slim Place, Wentworthville, New South Wales 2145

CHAIR—I welcome Mr Tayeh and Ms Germanos-Koutsounadis. The committee has before it submission Nos 11 and 11A which it has authorised to be published. Are there any alterations or additions that you wish to make at this stage—are there any changes you wish to make to those submissions?

Mr Tayeh—I have some additional information.

CHAIR—Yes. As I have said to everyone else, we do not want you to repeat what is in the submission—you need to take that as read. We do not want to take up the time of the committee hearing what is already here in your submission. If there is anything additional you wish to say, would you say it briefly. Thank you.

Mr Tayeh—Okay. I am here today as the father of a deaf son to discuss making Australia a better place by increasing captioning for the deaf people. Captioning must be made available, because being deaf is a most debilitating disability. The isolation that results from it can lead to depression which, in all its forms—insomnia, irritability, et cetera—can affect their employment, lifestyle and social and family life. Being able to re-establish lines of communication and being up to date with current events can help break this vicious cycle of isolation and depression. Captioning promotes bonding outside of TV watching, for example, promoting discussions with friends about programs viewed the previous evening. Captioning will help deaf people, especially the young deaf, not to give up.

I am aware of the difficulties involved for the deaf and hearing impaired people in trying to keep up with world affairs. It is very important for all deaf people to understand what has been happening in the world. There are over two million deaf and hearing impaired people in Australia who need help to understand what is being said on television, especially in news and current affairs program, and it is not always possible to lip-read. It is difficult, almost impossible, for a hearing person to understand the frustration and stress and the sense of losing out that the deaf experience every day.

Deafness is not a disability of the intellect. Deaf and hearing impaired people need to be informed members of our society. We all have different talents to offer, and deafness does not take these gifts and talents away. But sometimes practical assistance is required to encourage them and to lift that deaf or hearing impaired person out of the silence which can isolate them.

CHAIR—Mr Tayeh, you are covering quite a lot that is in your submission. The committee is under a very severe time constraint. Maybe we could take that statement and incorporate it into *Hansard*, which is as if you have read it to us, because you are covering a lot of what is in it. I have been very firm with other people today not to repeat their submission because we really do have a time constraint.

Ms Germanos-Koutsounadis—I think Mr Tayeh is very nervous. This is the first time that he has ever been before a committee.

Mr Tayeh—Yes, exactly.

Ms Germanos-Koutsounadis—He has prepared something which is a summary of what he has presented in his written submission to you. He will feel very uncomfortable if you ask him to summarise because—

CHAIR—We are not asking him to summarise. We will take what he has got there and we will incorporate it into *Hansard*.

The statement read as follows—

Nicholas Tayeh
Captioning Campaign Organiser
3 Slim Place, Wentworthville NSW 2145
Phone: (02) 9631 0595 Fax (02) 9631 3058

The Secretary
Senate Environment Recreation, Communications
and the Arts Legislation Committee
S1.57
Parliament House
Canberra ACT 2600

My name is Nicholas Tayeh, and I am here today as the father of a deaf son. To discuss making Australia a better place for by increasing Captioning for the Deaf people.

Captioning must be made available because being deaf is a most debilitating disability. The isolation that results from it can lead to depression, which, in all its forms—insomnia, irritability etc., can affect employment, lifestyle and social and family life. Being able to re-establish lines of communication and being up to date with current events can help break this vicious cycle of isolation and depression. Captioning promotes bonding outside TV watching, eg. Promoting discussions with friends about programs viewed the previous evening. Captioning will help deaf people, especially the young deaf not to give up.

I am very aware of the difficulties involved for the deaf and hearing impaired people in trying to keep up with world affairs. It is very important for all deaf people to understand what is happening in the world. There are over 2 million deaf and hearing impaired people in Australia who need help to understand what is being said on television especially in news and current affairs programs, and it is not always possible to lip read. It is difficult, almost impossible, for a hearing person to understand the frustration and stress and the sense of losing out that the deaf experience every day.

Deafness is not a disability of the intellect, deaf and hearing impaired people need to be informed members of our society. We all have different talents to offer and deafness does not take these gifts and talents away, but sometimes practical assistance is required to encourage them and to lift that deaf or hearing impaired person out of the silence which can isolate them.

I am very interested in the future of digital television in this country. The Minister for communications, Senator Alston, has told me in a letter that the Government will require all free to air broadcasters to begin digital television in metropolitan areas by the first of January 2001. The response I have received to a petition which I have started collecting in support for captioning confirms the needs of the hearing impaired people and demonstrates the support that the Australian people in general have for this cause.

I congratulate the Government in their initiative to gradually build up digital TV so that all areas will have digital services by the first of January 2004 and will require broadcasters to continue analogue broadcasters for eight years.

It is especially pleasing to note the good news that the Government will make both commercial and government free to air broadcasters have closed captioning for all programs during peak viewing times, as well as for news and current affairs outside prime time.

I am very anxious that there are no delays in providing captioning for deaf people.

I would make the point that progress in technology should not stand in the way of benefits for viewers who have hearing disability.

I say we should press ahead to the next stage of captioning and justice for hearing-impaired Australians.

Minister Alston wrote to me on 20th May 1998 and I quote ". . . the commercial broadcasters have been responsible for deciding whether commercial television programs are closed captioned, in accordance with the Code of Practice of the Federation of Australian Commercial TV Stations (FACTS). The Code requires FACTS members to try to increase the amount of closed captioned programming in consultation with organisations representing hearing-impaired and deaf viewers". Despite this, the rate of captioning is only 15 per cent in this country.

Australians are looking forward to the exciting world of digital television from the first of January 2001.

Australian people who have hearing impairment will be looking to the Year 2000 in the hope that ALL programs, including the Olympic Games, will be captioned.

That will be something we can be proud of.

I come before you as a man who has seen in his own family the effects of deafness.

I have seen how deafness can make a person terribly alone, cut off from TV information and news which is freely open to other people who can hear.

In a society that is based on justice, such unfair, enforced isolation should never happen to anyone just because they suffer from impaired hearing.

Only someone who is deaf can feel its profound effects.

The truth is that they are forced to live in a silent world which has real barriers.

It must also do everything it can, through the law, through changing society's attitudes, educating employers and information providers and through communication technology to break down prejudices and unnecessary barriers.

Such an unnecessary barrier exists in the provision of information on Television.

If you want to know what it is to be a deaf person in front of a television I would ask you to do this experiment: Turn off the sound on your television and try to understand the news. That's what it's like for a person with hearing impairment!

Modern technology and the provision of Captions have opened up a new world for such a viewer.

According to the Australian Caption Centre (ACC), captioning is widely used in Canada, the United States, New Zealand and most of Western Europe. Fifteen percent of TV broadcasts in Australia are captioned compared with fifty percent in the United Kingdom. In the United States captioning is compulsory and is well established, with a wide range of available programs. This indicates that the technology is available to do the job and that Australia is simply lagging behind.

The only obstacles that remain are:

- (a) Official reluctance to make captions universal and
- (b) The TV industry's reluctance to spend some of the profits so that over two million Australians suffering from hearing impairment can have full access to TV news and information.

I am not alone in my concern that justice is to be obtained for Australians who have impaired hearing.

I have forty nine thousand signatures on a petition for the New Captioning Campaign I began on June 22nd, 1997 to 7th April 1998. There are still more to be counted. I believe that the majority of Australians support my cause and considering the 40,000 odd signatures and many letters of support I have collected during my campaign in 1993, plus the 49,000 signatures collected in 1997/98, also 1,500 signatures to follow in the next fortnight, this gives a good indication of the views of 18 million people living in this country—2 million of these being deaf and hearing impaired.

These thousands of Australians have signed their names in support of my campaign to have, by the Year 2000, all programs shown on Australian television networks and videos to be captioned including the Olympic Games for the benefit of the deaf and hearing impaired people.

The Olympic Games will bring status, tourists and millions of dollars to Australia.

I say that the TV industry has to spend some of its enormous profits for captioning the Olympic Games!

The goal and effort of my campaign is for full captioning by the Year 2000, when the eyes of the world are on Australia and millions of dollars are pouring into the treasure chest of the TV industry.

Full captioning by the Year 2000 will prepare us for the Centenary of Federation of the Australian nation. Australia became a Federation, a true nation, in the Year 1901.

In the Year 2001 we want to say that no Australian will be denied access to the TV because they have impaired hearing.

All around the world people will be watching the events on their TV screens. The television Industry stands to make a fortune!

In such a climate why should Australia's deaf and hearing impaired people be denied justice? The Australian Democrats have presented a Bill to amend the Broadcasting Services Act of 1992 to provide for all TV programs to be captioned by July 1st 2010 as recommended by the National Working Party, despite the enormous public support for my campaign by over 64,000 Australians for captioning by the year 2000, not 2010. And I would urge the Democrats and all politicians to support for year 2000.

This would be a big injustice. People have campaigned for the year 2000, not 2010! I cannot see any reason why the Federation of Australian Commercial Television Stations (FACTS) is neglecting, ignoring and isolating the Australian deaf community and denied the right to have all TV programs and videos in Australia to be captioned by the year 2000 including the Olympic Games for the benefit of the deaf and hearing impaired people.

We must not allow the Campaign to be betrayed!

People who have supported the Campaign are very upset that the National Working Party's decision was made after discussions with the TV industry, which wants to put off spending money as long as possible.

Senator Richard Alston, the Minister for Communications and the Arts, gave a speech when he launched Australia's first closed captioned early evening national news service—SBS World News and ABC Evening News.

The Minister said, and I quote: "Australian television networks have room to make more effort towards captioning prime-time programs, as well as news and current affairs".

I strongly agree with the Minister. I know the tragedy of deafness in my own family.

I know how important it is that we press ahead with the goal of having full captioning by the year 2000, without any delay. We cannot afford to have a ten year delay!

I feel the Deaf community of Australia has been betrayed by the National Working Party on Captioning by recommending all programs be captioned by 1 July 2010 to Senator Natasha Stott Despoja. Representatives from the TV networks and the Australian Broadcasting Authority met together at the Australian Captioning Centre.

I dispute the right of the National Working Party to make such a recommendation on behalf of the Deaf and Hearing Impaired People of Australia when they have done nothing to find out what the deaf community really want. No questionnaires, no petitions . . . nothing!

Note: On (16 March) the National Working Party issued a postcard urging all deaf and hearing impaired people to sign and forward to Senator Alston. This card is very misleading. It does not give any dates. People will assume that it refers to captioning by the Year 2000 and not Year 2010, which is the real recommendation from the National Working Party.

This is not giving people the right information. Those who signed my petitions will not know from the postcard that a big delay in captioning is suggested.

This is a betrayal of people who signed the Campaign Petitions in good faith.

The response to my campaign has been overwhelming.

Thousands of people have signed the Second Captioning Campaign for all TV programs and videos in Australia to be captioned by the year 2000 including the Olympic Games, for the benefit of deaf and hearing impaired people.

They did not sign the petition for full captioning to be delayed for more than a decade!

There are over 2 million Australians who suffer from the isolation caused by hearing impairment.

Their calls for justice must not fall on deaf ears which are refusing to listen because of financial greed or through lack of understanding.

This is a matter of Justice!

Australia is a rich and clever country. Australia is the Land of the Fair Go. A Fair Go must be given to Australia's deaf and hearing impaired people if we are to maintain the Land of the Fair Go.

I urge the Commission to consider making mandatory the captioning of all TV programs from the starting date of conversion of TV broadcast in the year 2001.

Thank you for the opportunity to speak on behalf of my son and many others with hearing disabilities.
Nicholas Tayeh

Mr Tayeh—It is not the final. I made some adjustments at the last minute yesterday.

CHAIR—You can do that afterwards, Mr Tayeh, and correct anything you would like. It is just that we do not have time to read through a long statement and we would like to ask you some specific questions. I think we understand the problem. Many of us have been concerned about captioning.

Mr Tayeh—I would like to mention something very important and that is the national work party really does not work for the benefit of the deaf people. That is why I am here today. I am here today to show you the postcard they sent to all deaf people for them to sign this card and to send it to Senator Alston. I am showing you this card so you can see that it is misleading the deaf people. Everybody signs it because they think it supports my campaign, but this postcard is against my campaign. Everyone thinks the date is 2000 but the bill that will be presented by the Democrats, as a commendation of the national work party, is a betrayal. It is not correct.

Ms Germanos-Koutsounadis—Mr Tayeh is speaking about the proposed Democrats' bill in relation to broadcasting which says 'for the year 2010', whereas Mr Tayeh is campaigning for captioning to happen in year 2000.

CHAIR—I understand that. But, Mr Tayeh, we are here today discussing another bill, not the Democrats' bill. We are discussing a bill about digital television.

Mr Tayeh—I have some information regarding the digital television.

CHAIR—Let us discuss that. The Democrats' bill is another issue for another day. Today, we are discussing the Digital Television Bill and captioning in regard to that.

Mr Tayeh—I will be invited the next time to discuss my campaign?

CHAIR—If that bill comes before a committee. Today we have not got that bill before our committee. If you would like to write to this committee about that concern, that is important. But it is not for today's debate.

Mr Tayeh—I understand that.

CHAIR—With digital television there is extra capacity for captioning, and some countries do have captioning. I have to say to you that I also have a concern about people who are visually impaired. If you are visually impaired and you cannot see the television, it can be very irritating for the rest of family when you say, 'What is happening now?'

There are mechanisms for describing what is on television. And I have another group that I think we ought to be considering, apart from those who have auditory impairments. We ought to be considering those who have a visual impairment as well. Maybe Senator Bourne or Senator Schacht may have some questions to ask you, but they really should be about this bill.

Mr Tayeh—Okay.

CHAIR—That is not to discount a concern you are expressing about some other aspect, but this is not the appropriate forum for that to happen.

Mr Tayeh—Okay.

CHAIR—One of the committee will talk to you about how you might deal with that issue. Senator Bourne, do you have any questions?

Senator BOURNE—Just a couple. Mr Tayeh, you mentioned the legislation in America and in Britain.

Mr Tayeh—Yes.

Senator BOURNE—Can you tell us where they are with captioning at the moment, and can you also tell us, with their changing over to digital television, whether they have any special provisions that you know of for captioning inside digital television?

Mr Tayeh—I have no idea about digital television. To let you know, they said digital would be by 2001 and that only prime time will be captioned. I ask why prime time, why not full captioning by 2001? What is the difference between hearing people and deaf people?

Senator BOURNE—Are you telling me that in America there will be—

Mr Tayeh—Yes.

Ms Germanos-Koutsounadis—In the United States and the United Kingdom, what proportion have they got not captioned?

Mr Tayeh—Captioning in the United States is 95 per cent, United Kingdom is 45 per cent and Australia is 15 per cent. I just want to know why.

Senator BOURNE—That is now.

Mr Tayeh—Exactly, now. In 1993, when I started my first campaign, it was 17.5 per cent and now 15 per cent. Why? What is the difference? What is wrong with deaf people?

Senator BOURNE—Okay. So at the moment there is 95 per cent of American programs captioned, 45 per cent in the United Kingdom and, around the rest of Europe, you also mentioned—

Mr Tayeh—Everywhere you go you see the captioning, except Australia, and then only 15 per cent.

Senator BOURNE—Is this as a result of legislation in those countries? Is it because in America they have been told that under the law they have to caption?

Mr Tayeh—They have to.

Ms Germanos-Koutsounadis—It is mandatory.

Mr Tayeh—Exactly. They have to caption, except in Australia we do not have the rule.

Senator BOURNE—Okay. So that is the case there, and it is also the case in Britain. Is that right?

Mr Tayeh—Yes.

Ms Germanos-Koutsounadis—This is why it is important; this is why we are coming before the committee. This is an opportunity, now that digital conversion is coming in, for inclusion of captioning from the beginning so we can get it right. I think in your schedule 11 of the Television Broadcasting Service Bill digest 1997-98, page 6 states:

The current lack of content requirement will continue to apply in the digital environment. In addition the FTAs will be required to provide close captioning of all prime time programming as well as for news and current affairs broadcast outside prime time.

This is what we are really commending, that this happen, and this is why Mr Tayeh, who has been campaigning for many years for captioning, is here before the committee today.

Mr Tayeh—From 1993 I started my first campaign. I collected 40,000 signatures. And from June 1997 until April 1998, I collect 49,000 petitions that I have here, and in two weeks time I will send 15,000 signatures to other campaigns running every day to get people to sign. I would like to recommend to members of the parliament to amend the bill of the Democrats.

Senator BOURNE—We know that the digital bill that we are talking about today will go through parliament at some stage. The Democrat bill is a private member's bill so it may never go through parliament.

Mr Tayeh—I hope not like that.

Senator BOURNE—So it is very important that we know what you think should go in the digital bill, rather than Natasha's bill, because hers may never come up, even for discussion. But we know that the digital bill will come before parliament, it will be voted on and, if there are amendments, then they can be passed. So that is the bill it is really important to discuss.

CHAIR—Can I just emphasise what Senator Bourne is saying? If you look in the record there have been eight private member's bills passed in the history of federation in the Senate. That is a bill that an individual has brought to the Senate—eight. That gives you an idea. I have had two before the parliament that never got through, that I was passionate about. So private member's bill is not the easiest way to get things done. Often that is used to raise an issue.

But today we have before us a bill which you can discuss. If you spend the time discussing the Democrat bill we will not look at the issues that need to be addressed in this bill, and that is what Senator Bourne is trying to say. She is trying to assist you to get some of the things that you hope can happen for people who have an auditory impairment. So, if we could stick to that, that would help.

Senator BOURNE—Could you just tell us what you would like to see in the digital bill? What do you think should be in the bill about digital television?

Mr Tayeh—I would like to see no difference. What you give the hearing people, we need the deaf people to get at the same level; no difference. The deaf people are human beings; they are clever, they work hard and they have a right—

CHAIR—What about people with a visual impairment?

Mr Tayeh—The government, they support better the visual—

CHAIR—No, let us not talk about that. If you say to me that people who have an auditory impairment ought to have 100 per cent captioning—that is what you are saying, is it not?

Mr Tayeh—Sorry?

CHAIR—You are saying there should not be any difference between hearing impaired and non-hearing impaired people and their access to television. So you are saying in effect that you should have 100 per cent captioning.

Mr Tayeh—Yes.

CHAIR—But I am saying to you, if you say that about people with an auditory loss, why is it not the same for people with a visual impairment?

Mr Tayeh—Visual impaired people can hear the news.

CHAIR—Yes, but I can hear the news.

Mr Tayeh—They can hear the news—

CHAIR—But often it is what you see—and the deaf person can see something—and sometimes what you see explains what is happening rather than what you hear. So I am sure that we would have people who have a visual impairment who would argue, ‘But there are things on television that are visual that I do not pick up because I have got a visual loss.’ What I am saying to you is that if you say there should be 100 per cent for the person with a hearing loss, somebody with a visual loss could also argue, ‘I ought to be able to get 100 per cent content out of the television as well, as much as I possibly can.’ Then you have an issue of cost and who pays for that.

Mr Tayeh—The television networks have to pay. The profit is enormous. Why do they always complain? Why do they do again 15 per cent—why? Because they do not want to spend. That is the problem. You have the technology and you have the funding. I am here today especially to let the television managers who are here hear what I am saying because I have correspondence with Channel 7, Channel 9, Channel 10, all the members of the networks. For five years I fight with these people that are here and no result. It is good for me to raise my voice for the deaf people beside the television station because the national working party do nothing for the deaf people. They work together with the television stations and so the rate will be 15 per cent for 100 years.

Ms Germanos-Koutsounadis—I think what you are saying here is what I was quoting before—closed captioning for all prime programming as well as for news and current affairs broadcast outside prime time. At least we have to start with something but, of course, Mr Tayeh, because he feels so strongly about it, is advocating for 100 per cent.

Also, I have a hearing impairment; I am wearing hearing aids. I am glad today that you have the loop on because at the back I was able to hear you, but not the people who were not facing me. So it is very difficult. For visually impaired people, as Mr Tayeh said, at least they can hear; but, for a person with a hearing impairment that is very profound, you cannot hear anything. There is a silence. We are just looking at people’s mouths talking and we don’t understand what is happening. I have to concentrate very closely to make out and piece things together, or I have to put my TV up loud and my family complains because it is too loud for them. So it is a problem.

My favourite program is SBS because SBS television has captioning, and when the film comes on I just relax on my seat and watch it. But when I have to hear I cannot relax, so I do not watch television very often. So this is the difference between the hearing impaired and the visually impaired. Mr Tayeh has a very profoundly hearing impaired son who is 26, and for 26 years he has been trying to help his son.

Mr Tayeh—I have one section I would like to develop for you. If you want to know what it is to be a deaf person in front of television, I would ask you to do this experiment. Turn off the sound of your television—

CHAIR—Yes, you have that in your submission.

Mr Tayeh—I understand the news. If you have a deaf son you break your heart. You see the news, and you have a son who has been deaf for 27 years beside the television; I can hear and I laugh, and he does not laugh. I talk, he does not understand what it means. For 27 years I have suffered for my son, and I say that now I would like him to be exactly like hearing people. They have the right. Australia said, ‘We will not discriminate.’ We have to prove that 100 per cent. Allow the deaf people exactly what we give the ordinary people.

Senator BOURNE—I have just got one more question. I have read your submission. Can I see if I have this correct. What you would like amended in the digital bill—this is the bill that is before us today—

Mr Tayeh—Yes. About the decision, anything that is said in 2001, anything that happens, the hearing impaired have got the right to see everything. You have to accept that the deaf people want to see everything. The cost should stop nothing. Because these people are here you have to pay.

Senator BOURNE—Okay. If you could amend this bill yourself, your amendment—tell me if I have this right—would be that, from the time digital television starts, everything should be captioned—

Mr Tayeh—Yes.

Senator BOURNE—And also you are very concerned—

Mr Tayeh—But in the meantime we need to be captioned by 2000. We need it for the Olympics.

Senator BOURNE—You are also very concerned about the Olympics. Is that correct?

Mr Tayeh—Exactly. The Olympics should be captioned. Why should the Olympics not be captioned? All these people from the Olympics say it that costs money. It costs nothing. With the millions and millions of people that come here to visit Australia, the television profit will be enormous. But all the time there will be the decline of the figures—a lot of people, dead people.

Senator BOURNE—Thank you.

CHAIR—Thank you, Mr Tayeh. If there are no further questions, we would like to thank you very much—

Mrs Germanos-Koutsounadis—May I reply?

CHAIR—Yes. You have got a statement you would like to make?

Mrs Germanos-Koutsounadis—Yes. I have prepared something and I would be very happy for you to have it. But I just want to make a few comments.

I work for a community organisation which provides assistance to children and families of non-English speaking background who have disabilities as well as the disadvantage of having a second language, another language. It is a double disadvantage, to me. As I said before, I have hearing impairment and I have been wearing a hearing aid for many years. I know what it is like, and I can feel what Mr Tayeh is saying.

My organisation has been assisting and supporting Mr Tayeh with the campaign, and I admire his determination, dedication, perseverance and commitment to have captioning of all TV programs and videos by the year 2000, to include the Sydney Olympic Games, which will be a historic occasion and should be shared by all Australians, including the deaf and hearing impaired. The success of his campaign and the number of signatures that he has collected indicate that people are anxious to have captioning to enable deaf and hearing impaired people to enjoy and be informed of what is happening around them.

The government should be commended for allocating funding to have SBS and ABC, even the news and the *7.30 Report*, captioned as of June last year. That is where the 19 per cent has a reason. However, the commercial television stations have not taken up the challenge and initiative to have their programs captioned, and as a result nearly two million deaf and hearing impaired people are disadvantaged. The captioning is not only important for hearing impaired

people; it will also assist the 20 per cent of the population who are from non-English speaking background, who speak a second language and have difficulty in understanding spoken English but are able to read.

Further, captioning will benefit children from non-English speaking backgrounds who speak their home language before they go to school, as they will be able to hear and read the captioning content and this will assist them to learn English. I have this experience because I work with children under five and the thing is that they go into the centre, or into the school system, without speaking a word of English. If we have the captioning as well as the English, that will help them to learn English as well.

Also, research has shown that, as people age, their physical and sensory capacities tend to diminish and many develop hearing impairment. Therefore, as we have an ageing population and this will double in the next 15 years, captioning will assist these people to continue to enjoy the news, films, documentaries and what is happening around Australia and the world.

As I said before, we support the television broadcasting services bill and would like you, as senators, when it comes before the House, to support captioning of at least the prime time news and current affairs and also the news after prime time, so that people—two million people we have and it might increase in the future, with all the noise pollution that we have; it is increasing all the time—will be able to benefit and not to lose touch. If these people lose touch then we have psychological problems and then we need psychologists and other people to assist them to overcome the problems. So we are paying double the bills when we should be preventing them by having the captioning.

This unique opportunity to make the provision of closed captioning mandatory for all prime time programs, as well as news and current affairs broadcasting outside prime time, is welcome news for the deaf and hearing impaired people, their families and the general community as a whole, and it will open new horizons for deaf and hearing impaired people. They will be able to enjoy the same programs as everyone else and be included and not excluded from the world around us.

The barriers of isolation and silence will be broken. By being able to read the captioning they will learn of what is happening around them and will be able to participate and interact more fully with their family, strengthen their relationships with other people and stimulate discussion with others, as they will be better informed and enable to discuss and share with others common knowledge of their community and the Australian society.

Thank you for providing us the opportunity to make this input to your committee. When the captioning of the television programs is a reality, it will make my and other deaf and hearing impaired people's lives less stressful and they will be less tense in trying to hear what is happening. At least we will have the opportunity to relax, like everybody else, in order to hear the news. This is what the purpose of this meeting was today, to stress the fact that captioning is really important and it should happen, and to ask you to support it when it comes before parliament, especially that section about prime time.

Mr Tayeh was feeling very anxious because this is the first time that he has done this, and he also feels worried about his English. His English is good but he gets really nervous and was not able to give you the full thing that he had prepared.

Mr Tayeh—Sorry, Chairman, I am very disappointed for the national working party. The national working party helped me to send the petition everywhere to be signed and in the meantime, behind my back, they asked for 2010. That makes me upset.

CHAIR—Mr Tayeh, that actually is not relevant to this bill, but you have made your point. We thank you for coming. As to the statement you had, if you would like to just go through it and if there is any small alteration you would like to make, that will be incorporated into *Hansard*. So the preparation you put into it will not have been lost. We appreciate your coming and putting your point of view to us, and we will take your views into account as we are looking at the bill.

Mr Tayeh—Chairman, I have to say that I urged the Democrats and the politicians to support the year 2000.

CHAIR—Thank you, Mr Tayeh, you have made your point. Thank you for coming today.

Ms Germanos-Koutsounadis—He has the petition and I was wondering whether you want the petition or not.

CHAIR—No, it is not appropriate for us to take the petition here. The way you present a petition to the Senate is to give it to a senator who will then present it on your behalf. Any of us will be happy to present it, but it is not appropriate here today.

Mr Tayeh—Can I give the petition to Senator Chris Schacht?

Senator SCHACHT—No, give it to Senator Patterson. She is chairman of the committee; she is the most important—

CHAIR—We cannot take the petition here at this committee, but we can take it and present it to the Senate. That is the formal process. Thank you for your appearance here today. Is it the wish of the committee that the statement from Ms Germanos-Koutsounadis of the Ethnic Child Care Development Unit be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The statement read as follows—

Ethnic Child Care Development Unit
Hut 13A, 142 Addison Road, Marrickville NSW 2204
The Secretary,
Senate Environment Recreation, Communications
and the Arts Legislation Committee,
S1.57
Parliament House,
CANBERRA ACT 2600.

My name is Vivi Germanos-Koutsounadis, and I am the Executive Director of the Ethnic Child Care Family and Community Services Co-operative which is funded by the State and Commonwealth Government to provide assistance to children and families of Non-English Speaking Background to have equal access to children's and disability services and promote the government policies of Multiculturalism, Access and Equity and Social Justice. I am also the Vice-Chairperson of the Disability Council of New South Wales and have been advocating for the needs of people with disabilities including those who are deaf and hearing impaired.

I have a hearing impairment myself and am wearing hearing aids for many years and know well what it is not to be able to hear clearly and understand what people are saying. My favourite TV station is SBS because many of the films and the news are captioned and I do not have to have the volume high and disturb the other members of my family who are also watching. Not being able to hear clearly cuts one away from people, hinders communication, can cause misunderstandings and can lead to isolation.

My organisation and I have been assisting Mr. Tayeh with his campaign and I admire his determination, dedication, perseverance and commitment to have captioning of all TV programs and videos by the year 2000 to include the Sydney Olympic Games, which will be a historic occasion and should be shared by all Australians including the deaf and hearing impaired.

The success of his first campaign and the number of signatures to his petition (some 43,000 in 1993 and up to last month 49,000) indicates that people support his campaign and are anxious to have captioning to enable deaf and hearing people to enjoy and be informed of what is happening around them in Australia and the international scene.

The government should be commended for allocating funding to have SBS and ABC Evening news and the 7-30 Report captioned as of June last year. However, the commercial television stations have not taken up the initiative to have their programs captioned and as a result nearly two million deaf and hearing impaired people are being disadvantaged.

The captioning is not only important for hearing impaired people, it would also assist the 20 per cent of the population who are from Non English Speaking background who speak English as a second language and have difficulty in understanding spoken English but are able to read.

Further, captioning will benefit children from Non-English Speaking Background who speak their home language before they go to school as they would be able to hear and read the captioned content thus assisting them to learn English.

Research has shown that as people age their physical and sensory capacities tend to diminish and many develop hearing impairment, therefore, as we have an ageing population and this will double in the next 15 years, captioning will assist these people to continue to enjoy the news, films, documentaries and be informed of what is happening in Australia and the world.

We support the Television Broadcasting Services (Digital Conversion) Bill 1998 and Datacasting Charge (Imposition) Bill of 1998 because as it states:

"The current local content requirements will continue to apply in the digital environment. In addition, the FTA's will be required to provide closed captioning for all prime time programming as well as the news and current affairs broadcast outside prime time".

This unique opportunity to make the provision of closed captioning mandatory for all prime time programming as well as news and current affairs broadcast outside prime time is welcomed news by the deaf and hearing impaired people, their families and the general community as a whole as it would open new horizons for deaf and hearing impaired people and they will be able to enjoy the same programs like everyone else and will be included and not excluded from the world around them.

The barriers of isolation and silence will be broken. By being able to read the captioning, they will learn of what is happening around them and will be able to participate and interact more fully with their families, strengthen their relationships with other people, stimulate discussion with others as they will be better informed and able to discuss and share with others common knowledge, their community and the Australian society.

Thank you for providing me the opportunity to make this input to your Committee. When the captioning of all Television programs is a reality it would make my life much more easier and less stressful as I will not be tense all the time trying to hear what is being said while watching the screen which means that instead of enjoying and relaxing while watching television, I must concentrate and put extra effort and am constantly under stress to be able to understand what is being said and piece the story together.

VIVI GERMANOS-KOUTSOUNADIS O.A.M. B.A., DIP. PSYCH, MAPS, J.P.

1st June, 1998

CHAIR—I now call Mr Melville and Mr Hodgman from the Community Broadcasting Association of Australia.

[3.06 p.m.]

HODGMAN, Mr Brian Richard Clive, Vice President, Community Television Standing Committee, Community Broadcasting Association of Australia, and Station Manager, Melbourne Community Television, 47 Little Lonsdale Street, Melbourne, Victoria 3000

MELVILLE, Mr Barry Lloyd, Policy Development Officer, Community Broadcasting Association of Australia, PO Box 564, Alexandria, New South Wales 2015

CHAIR—The committee has before it submission No. 12 which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Melville—No.

CHAIR—As I have said to everyone else, do you wish to make a brief opening statement but please do not repeat what is already in your submission?

Mr Melville—I have just a brief opening statement and then we are both open to questions. The Community Broadcasting Association of Australia, the CBAA, is the peak community broadcasting sector organisation and currently we represent the five community television stations operating in Australia. There are another three services expected to commence this year. The five services currently operating are in four of the capital cities plus Lismore. What distinguishes us from the rest of the broadcasting industry is that our stations alone provide opportunities for community groups to express views, present programming and participate in the management and operation of services. They also serve diverse and particular local audiences.

Overall, CBAA is appreciative of the current legislative package. We note that for the first time this legislation envisages a defined role for community television in the broadcasting industry. We know that it is framework legislation and we are concerned to see that it also allows for other things that are in our submission, such as datacasting in our own right and the ability for community broadcasters to develop multi-channel digital television services and, at some further stage as Spectrum is handed back, perhaps even HDTV. We believe the need for multi-channel services is profound because of the need for further ethnic, educational and localised services. Thank you.

Senator SCHACHT—Mr Melville, I do not have any query with a number of your recommendations, particularly recommendations 1 and 2, which are quite sensible. You understand that the opposition agrees with this position of the government—it is our position anyway—that if the non-commercial sector gets multi-channel then they cannot use it for commercial services to sell advertising. As I understand it from my knowledge in community radio, and I think in community TV, sponsorship is sold; is that correct?

Mr Melville—Sponsorship is sold. But you will note that, in schedule 2 of the Broadcasting Services Act, there is a very careful definition of what is not advertising, and sponsorship is not advertising for the purposes of that legislation.

Senator SCHACHT—So, with multi-channelling, you would continue to ask sponsors to pay for and get sponsorship identification on those multi-channels?

Mr Melville—Yes, as fully licensed community broadcasters, we would stick to the sponsorship rules.

Senator SCHACHT—If you did not get sponsorship, I presume you are going to say that you could not afford to run multi-channelling.

Mr Melville—That is hard to say. We are talking about an industry that will also be driven by datacasting. It is difficult to say in advance. I cannot imagine any circumstance under which community broadcasting would be allowed and would then be deprived of its principal revenue source. For example, 67 per cent of the current revenue of those five operating community TV stations comes from sponsorship.

Senator SCHACHT—Have you ever had any complaints from the commercial television broadcasting sector that your obtaining of sponsorship revenue is cutting into their revenue?

Mr Melville—None that I have heard of, but Richard has been in the industry longer than I have.

Mr Hodgman—No, we have not had any complaints.

Senator SCHACHT—There has been no formal complaint from them to the ABA or to the government direct on this issue?

Mr Hodgman—In respect of sponsorship, no. There has been one complaint from one of the commercial networks in relation to commercialism, which was responded to and did not apply.

Senator SCHACHT—I should have put this question to the FACTS when they were here. As you know, the government's decision—and the opposition has a similar view—is that commercial television should not be able to multi-channel but the ABC and SBS can because they are in the non-commercial broadcasting sector.

Mr Hodgman—I think the multi-channelling we are talking about is different from perhaps multi-channelling in general programming. Specifically, community television does not have general programming in the first instance because it provides for access, and those people do not normally have methods of getting their opinions—

Senator SCHACHT—Anyway, your first recommendation is that the bill 'be amended to include specific permission for community television operators to operate digital multi-channel services'. I suspect that later on there might be further comment from other witnesses about this issue of semi-commercial revenue you are raising.

Mr Melville—Just let me put a bit of a qualification on it: multichannel simply means more than one—

Senator SCHACHT—Yes, but you will be putting sponsorship ads on. It is a revenue base; it is how you pay for it. I am not arguing about that. I want to find out—and I will not necessarily agree with them if they do—if there is any objection from the commercial television broadcasters or from FACTS on their behalf about you having a multi-channel which you could put sponsorship on when they are prohibited from having a distinctive multi-channelling capacity.

Mr Melville—Yes, it would be worth while finding out from them.

Senator SCHACHT—Recommendation 2 speaks for itself about having access to the transmission tower, et cetera, and the same with recommendation 3 about having access to the ABA's service planning responsibilities. Recommendation 4 states:

That the bit rate for a standard definition digital service provided for community television purposes be defined in the legislation.

Do you want to be able to say, 'We want to have three megabits of capacity anywhere on the spectrum' or do you want it defined so that you get a particular part of the spectrum in a certain area of megahertz that has five megabits with it and so on?

Mr Melville—I guess placement on the spectrum would be subject to spectrum availability—it could be determined by the ABA through their planning processes and a legislated definition of what is a standard definition television service. I note that FACTS, in previous evidence, were talking about the standard definition television service being able to be accommodated within, say, four to six megahertz. We have got independent engineering advice that it could be up to six, seven or eight—it depends. If you regard it as a 19- or 20-megabit per second pip, I was very interested to hear FACTS say that they reckon you could have some channel enhancements squeezed down to two or three megabits per second. Yet

we have been told that, even in standard definition television it could be eight megabits per second. It could even go up to 12 megabits per second, depending upon the amount of visual information encoded. Whether or not what we have been told is wrong or what they have been told is state of the art technology, we believe we need to define what is intended by standard definition services.

Senator SCHACHT—Do you have a suggestion of what the standard definition digital service bit rate should be? What is your ambit claim?

Mr Melville—We are saying at this stage at least 12 megabits per second. I note that that is at odds with what we have heard today from the FACTS representatives.

Senator SCHACHT—The 12 megabits means that if it is 19 to 20 megabits per seven megahertz—

Mr Melville—It means it is most of one of these full channels.

Senator SCHACHT—It is most of one of these channels, yes.

Mr Melville—It is more than half of a full channel. That is why it is important to define, because it obviously has implications for spectrum availability.

Senator SCHACHT—I would appreciate it, if you have got any more information, if you would put it in writing to us as to why you think 12 megabits or eight megabits in the signal is required as the standard definition.

Mr Melville—We will certainly provide you with such information. We have got a consultant engineer who has advised us. We will get him to write that up for us.

Senator SCHACHT—You may choose to have a discussion about that with the ABA and with the other national broadcasters and FACTS as well. I suspect we are going to get a variation of answers.

Mr Melville—Indeed.

Senator SCHACHT—Recommendations 5 and 6 are about data. Would community TV be providing this data service as a commercial service, charging people for access to it?

Mr Hodgman—No, that is not proposed at this point in time.

Mr Melville—That would not be possible under the Broadcasting Services Act anyway; we would be operating subscription services then. We have no intention of doing that.

Senator SCHACHT—If you were broadcasting it, how would you pay for it—just by sponsorship?

Mr Melville—There would be communities of interest. Just take Melbourne, which seems to be a popular example. It is the second largest Greek speaking city in the world. That would be a good example where a community itself would perhaps—we are not saying they have put anything on paper to us—be willing to pay for the inclusion of separate information and entertainment, perhaps on drag-down menus during the Greek program or whatever. There would be sustainable ancillary data casting possible.

Senator SCHACHT—And the Greek community would pay you to do it?

Mr Melville—Yes.

Senator SCHACHT—By running the program you would be paid as if for advertising? You would give them the sponsorship logo and they would pay up that way to you, rather than your charging them for a specific amount of data being shown?

Mr Hodgman—That would vary, depending on the individual station, because some stations—

Senator SCHACHT—Where do you draw the line then between your charging for data that way and one of the commercial television stations also charging for data that way?

Mr Melville—If the commercial stations are actually using residual capacity, they are datacasters then.

Senator SCHACHT—They have got to pay in one form or another—as has come out today—a rate determined by the ACA if legislation is amended. They might even have to pay at an auction rate to get that part of the spectrum for data. You want it given to community broadcasters as a right and you may then charge the same rate for data as a commercial service.

Mr Melville—I doubt whether it would be the same rate. It would not be open to us to flog it off; it would be specifically for legitimate public interest purposes.

Senator SCHACHT—That is not what you have said here. You said:

... provide ancillary data services, targeting their communities of interest, on their residual channel capacity.

You are silent about how you would be recompensed for providing the service. I am not against community broadcasting; in fact, I think it is a very important third leg of the three-legged stool. I am just anticipating that our friends in the commercial broadcasting sector might say that this is a cheap way to get round the prohibition that they have to pay a licence fee, et cetera, whereas out in community broadcasting some smarties might get into the community broadcasting network and start providing it as a fully fledged commercial service, charging per datum unless there is a caveat in the legislation that says that you cannot do that. What is your view about that?

Mr Hodgman—It was not envisaged to be a fully commercial service.

Mr Melville—There is no suggestion of that. I guess it would be up to a diligent regulator to differentiate between what is community—

Senator SCHACHT—You had better make that clear. To me it is not clear in recommendation 5.

Mr Melville—Right.

Senator SCHACHT—All you say in the comment above is:

As a non-profit service provided for community benefit, such datacasting should be exempt from datacasting charges.

Those are datacasting charges that you would pay the ABA or you would pay the government, but it does not exempt you from charging for it, does it?

Mr Melville—No, it does not.

Senator SCHACHT—You had better make it more explicit how you are going to charge—you are not going to provide it for nothing—so that it can be seen whether there should be a caveat. You get access for data services but as a community station, a bit like your being able provide it through sponsorship but not through a direct charge for the data itself. I would like to get from you a more detailed comment on that; otherwise I think you will run into pretty serious opposition in the commercial sector and I think they would have a point. You may say that you are not interested in doing it but you never know; someone may start a community television service with a data capacity and start charging accordingly.

Mr Melville—It is a salutary point, Senator.

Senator SCHACHT—The point regarding recommendation 5 flows on to recommendation 6:

. . . to exempt community television licensees who transmit ancillary data services on their residual channel capacity free from statutory charges.

So you do not want to pay a licence fee like the commercial stations.

Mr Melville—No. In fact, the community broadcasting sector is based on recognition of the public interest elements.

Senator SCHACHT—Of course, but to get that right the balance of the argument is that you cannot then charge commercial rates. If you are charging the same rate—you might be charging the same as Channel 9 in volume but you are charging a rate similar on the basis of access to the data—then you weaken your own argument to get exemption.

Mr Melville—There has never been any prohibition within the community broadcasting sector on raising money from within your communities to meet your broadcasting or transmission costs, or to derive sponsorship and to signify that sponsorship in a strictly delimited way. This is a very brief submission prepared very quickly, and I guess its error is that it assumes that people understand completely the paradigm of community broadcasting.

Senator SCHACHT—I understand completely and I agree with the rules. I accept that you had only the short time the government gave to get these submissions in. You have got a problem in the detail. I just ask you to refine it so it is clear that you are not providing the same commercial service as the free to airs would if they pay a licence fee or as new people entering the market would as a commercial service, so that you do not get tangled up in that argument.

Mr Melville—We will follow up promptly with a letter advising of that.

Senator SCHACHT—Other than that this is a very reasonable submission.

Senator BOURNE—Does your licence require you to be not for profit?

Mr Melville—Yes.

Senator BOURNE—So if you start making massive profits from data you are in big trouble, basically, with your licence?

Mr Melville—There is no prohibition on surpluses but those surpluses have to be turned back into that company, which is either a statutory—

Senator SCHACHT—That just means you all become members of the Community Broadcasting Association to have a big end of the year party, to drink the profits, I suppose.

Senator BOURNE—I do not think so, Chris. If you have ever been to one of these places—

Senator SCHACHT—I have. I helped start one in Adelaide a number of years ago.

Senator BOURNE—There is not a lot of profit.

Mr Melville—There is a requirement that each licensed company be owned and operated by the community, and that it be operated on a not for profit basis. That does not stop them from having sponsorship sales staff that go out into the community and derive sponsorship and sell inventory. You can even appropriate some of the industry's terms, but you are not selling advertising and you are not commercialising your program schedule. You are deriving sponsorship that is, hopefully, complementary with your programming and targeting.

Senator BOURNE—And you are not making massive profits.

Mr Melville—Not that anyone is admitting to!

Senator BOURNE—So there are no massive profits in Swiss banks? Funny about that. It feels very familiar!

Senator TIERNEY—You mentioned advertising and sponsorships. Earlier you said that the definitions had been done very precisely. Could you just point out briefly, for the sake of the *Hansard* record, what is the precise difference between advertising and sponsorships, as it applies to your sorts of broadcasting.

Mr Melville—I wish I had a copy of the Broadcasting Services Act here. I could paraphrase. It is in schedule 2 of the Broadcasting Services Act and in layman's speech I guess it is traditionally a sponsorship announcement. Sponsorship is promotional material that is limited to four minutes in the hour; that is the key provision in the Broadcasting Services Act. The regulator, the ABA, has determined subsequently that sponsorship messages will be succinct and can state the nature of the business and the goods and services that the sponsor provides. But at the end of the day really all a sponsorship message has to do is self-consciously acknowledge that this a station sponsor, that this is a promotional message on behalf of a station sponsor. That pretty much brings it in under the regulatory requirements. But the key limitation is the amount of time, the four minutes per hour.

CHAIR—Thank you very much. There being no other questions, I thank you for your attendance today. Thank you for your submission.

[3.27 p.m.]

BROOKS, Mr Donald Leslie, Engineering Manager, Foxtel, Australian Subscription Television and Radio Association, Wharf 8, Pyrmont, New South Wales 2009

MEAGHER, Mr Bruce, Acting Director, Government and Public Affairs, Optus Communications, 101 Miller Street, North Sydney, New South Wales 2060

NICHOLLS, Mr Robert John, Manager, Aurora, Optus Communications, Australian Subscription Television and Radio Association, Wharf 8, Pyrmont, New South Wales 2009

RICHARDS, Ms Debra Shayne, Executive Director, Australian Subscription Television and Radio Association, Wharf 8, Pyrmont, New South Wales 2009

CHAIR—I welcome the representatives of ASTRA. We have your submission before us. Do you have any additions or alterations you wish to make?

Ms Richards—While there has been considerable movement in our sector over the last week, it does not substantially change our position. We would like just to add, on page 3 of our submission—

Senator SCHACHT—Has the membership of ASTRA declined or gone up in the light of the fluidity of pay TV, Ms Richards?

Ms Richards—The membership of ASTRA is in flux at the moment, Senator—not substantially, of course. At page 3, where we have listed our barriers for entry of pay TV, we just want to make a point. Given the importance of competition and the impact on advertising revenue from that competition, we talk about the fact that pay TV had a ban on advertising until 1 July last year. We would like to make the point that we also have a condition on our licence that advertising revenue will always be less than subscription revenue. So there is still a restriction on that advertising revenue.

Also, on the critical point of choice of standards for digital, we would like to tender two papers that we prepared on standards. One is on frame rate issues for DTTB, which explores

the differences in 60 versus 50 frames per second, and the other paper is on ATSC and DVB system information comparison.

CHAIR—If you table those two, the committee will accept them. Are there any other alterations or changes you wish to make?

Ms Richards—No, that is all in terms of alterations.

CHAIR—The little table you gave us on spectrum frequency is the most understandable of anything that has ever been given to me. I appreciate that. For those who are tyros in the area, to be able to have something that you can actually visualise and get hold of has been most useful, so thank you. Do you have a brief opening statement you wish to make, given that you do not repeat what is already in your submission?

Ms Richards—I did have a prepared summary, but given your preference and our fairly detailed submission, and our previous discussion paper of December last year, I will not even attempt to present that.

We agree with a number of points made earlier by Mr Tony Branigan, of FACTS, but for different reasons. He made a point about digital terrestrial television broadcasting being the most significant communications issue in the last 50 years, hence our expressed concern about the lack of vigorous public debate prior to the decision being made. Secondly, he made a point that DTTB is not just about quality of TV signal but about a whole bunch of data which can be pushed through the spectrum—I am paraphrasing that—hence our call that this affects a whole range of players, not just the incumbent broadcasters. Thirdly, he said that the legislation is a very general framework and does not deal with the detail. That is the essence of our concern: the legislation is somewhat devoid of key fundamental content, being left to regulations, reviews and subordinate legislation which will not be subject to the rigours of the parliamentary legislative process.

We still do not understand the rush to push through the legislation, even with Tony's explanation re timing and cost. However, the decision has been made to keep the commercial terrestrial television oligopoly, give the spectrum away and apply some restrictions to the use of that spectrum. Our submission relates to making the legislation more certain; that is outlined in our submission at pages 4 to 7. The only other point I would like to make is that we would like to take up the opportunity, having skimmed through the other submissions, to respond in writing to some of the issues that they have raised.

CHAIR—Before you launch out, Senator Schacht, I ask Senator Lundy whether she has any questions she would like to ask first.

Senator SCHACHT—I thought you were looking at me. That is why I was about to begin.

CHAIR—I was looking at you but it is like throwing a basketball—I look at you and throw it the other way.

Senator SCHACHT—I am more than happy to let someone else go first.

Senator LUNDY—In your submission you have summarised an effect of the draft legislation and identified decisions needed prior to 1 January 2001. It has been generally identified that the minister's definition of what constitutes a datacasting service and what constitutes just a general broadcast service is yet to be resolved. Can you provide the committee with some details on what you believe the definition should be with respect to that issue? Do you have a particular view on how they should be defined in the context?

Ms Richards—Not a particular view but just the comment, Senator Lundy, that as the legislation is now framed it seems that datacasting is anything that is not broadcasting. I

suppose that is one of the major issues we raise in terms of the ambiguity of datacasting. For example, it does not exclude video images, and point to point video services would be datacasting. There is also the point that is made by other submitters, that datacasting would include the sorts of services that are offered now, such as captioning, teletext services, et cetera.

We question also whether the ambiguity of the datacasting definition would allow a class of video images delivered to television sets unregulated as to content—those point to point services that may be unregulated. Our points are really under that point 3 about ambiguity of datacasting service. I do not know if my colleagues would like to add to that.

Senator LUNDY—Given that that is your assessment of it, have you sought any greater clarification of that from either the department or the minister that would give you any reason to believe that it is more narrowly defined than what you have just described?

Ms Richards—Only in terms of, before the decision was made, making the point that it was very unclear about what it was envisaged that data would encompass. I just make the point again that that is the concern that we have: it is still very vague and it will need to be determined as part of regulations. We have put up our hand to be part of the minister's advisory group on this and to be part of the technical and planning steering committee on this, so we would hope to be consulted in that way in terms of what the tighter definition may mean.

Senator LUNDY—Were you given the opportunity to participate in those forums? Or will you be?

Ms Richards—It is our understanding that we will be, yes.

Mr Meagher—The other point to make is that the department did conduct some consultations once the legislation had been introduced into parliament and we have had some discussion with them. That goes to the core of our concern, in that we had a piece of legislation introduced and after the fact there was then discussion about what it might mean. But, in fact, the whole framework of the legislation is to say, 'We will defer those difficult decisions until further down the track.' So the parliament is being asked to endorse a vague framework and 'Don't worry about that, we will fill in the gaps.' We do not think that that is an adequate way to legislate for such an important issue, and it is precisely the concern that we are not clear about those sorts of definitions that makes us nervous.

Senator LUNDY—As a general comment, do you believe that the proposed legislation applies constraints to technological development in this area? Do you have any views about the impact in that regard?

Mr Nicholls—I think part of the problem is that, because it is only a framework that has been established, it is not clear the direction of technology it is going to take. It has a big impact on all of the ASTRA members as well as members of the public, on the costs of equipment—TV sets, VCRs, for our industry the cost of decoders. These are issues on which, as Bruce pointed out, we were handed 'This is the legislation. Try and make some sense of it,' which is not an easy thing to do.

Senator SCHACHT—In your submission, there are a number of dot points near the top of page 4. They begin:

In response to the ABA's Specialist Group Report, ASTRA's concerns related to:

. the give away of spectrum which is a valuable, finite public resource . . .

They have expressed a concern. Do you actually agree or disagree that the free to air broadcasters should be each given seven megahertz of spectrum to introduce HDTV without cost?

Mr Meagher—We disagree with that. We do not, however, disagree with the proposition that there is a role for free to air broadcasters in the digital environment. In fact, we have suggested a method—it is referred to in this document as our multiplexing model—by which the free to air broadcasters could be given a route into digital television using considerably less spectrum and at lower cost, which would allow them, effectively, to replicate their existing signal. Then, for the remaining spectrum, the ordinary principles of spectrum auctioning would apply. If, under those circumstances, free to air broadcasters sought at an auction to require spectrum to introduce HDTV or, for that matter—we could not be insistent in this—subscription television services, then they would be entitled to do so and they would be competing with whoever else sought to do that. But we do not think they need seven megahertz. We do not think people should be given seven megahertz; it unnecessarily restricts the ability to use that spectrum. There is a way of doing it which allows an enhanced definition television signal for all of the existing broadcasters.

Senator SCHACHT—Do you accept that they need approximately seven megahertz, or anyone will need approximately seven megahertz of spectrum with 20 megabits of capacity to provide HDTV in either the European or the American standard?

Mr Nicholls—To go to full HDTV, the answer is yes. But the question is whether you need to go to full HDTV or whether enhanced definition television, which two of the major broadcasters in the United States are running, would do. You would get two of those services in a single 20 megabits per second or six or seven megahertz.

Senator SCHACHT—So you think the policy structure we are providing with this legislation is actually going to a Rolls Royce, gold plated digital HDTV structure for everybody which you think is either undesirable or not sustainable commercially?

Mr Nicholls—The other option, the option that ASTRA presented, which gives a mechanism for going digital but also a price based allocation for going to HD—

Senator SCHACHT—Is that going digital or HD digital?

Mr Nicholls—It is going digital with enhanced definition services. I would challenge most people in this room to be able to tell the difference between an enhanced definition signal that is 720 progressive and a so-called high definition system.

Senator SCHACHT—That enhanced is still the 16 by nine proportioned screen?

Mr Nicholls—Yes, but, to reinforce the point that Mr McGarrity made this morning, 16 by nine can be done using the same types of bit rates as would be needed for a standard definition service.

Senator SCHACHT—So if, when you put it out to auction, nobody bids to go to HDTV, you are saying that that is the market decision and that should be the outcome? If you put the spectrum out for bidding, as you described in your model, and if that occurred, it would be the free market speaking if no-one wanted to bid in one whack for seven megahertz or something similar to go to a HDTV model beyond what you are saying is the enhanced model?

Mr Meagher—That is correct. I suppose there are two things to say about that. Firstly, that is the way we allocate spectrum for other uses. Often the criticism of government in the past has been a tendency to try and pick technologies, and that has had some fairly significant problems that can be demonstrated; we do not need to go into that here.

Senator SCHACHT—But we did not tell Optus to go and lay cable round five cities of Australia.

Mr Meagher—I do not think we need to revisit that here. The second thing is that it is incontrovertible that there will be improvements in quality of television. The question is whether it is going to be HDTV. Despite the fact that the broadcasters in the United States talked about that, as Mr Nicholls says, two of them have decided not to go to that standard. They have decided to do something else. In the UK they are doing something else, in Europe they will do something that probably will not be the same standard as HDTV as defined in the United States, but all of those things will lead to better quality pictures. We do not have any doubt about that. It is just a question of whether you have to allocate such large amounts of spectrum and, effectively, tie them up in the hands of the broadcasters rather than creating some flexibility in the system to get some innovative services.

Senator SCHACHT—As the chairperson said, the table you provided on the spectrum itself is very understandable to us lay people. But it does note that when the simulcasting period ends there will be 35 megahertz of spectrum made available anyway. When the simulcast period ends, the analog goes off the air and that becomes available. Therefore, we are not automatically locking spectrum for ever and a day away from others, even if you accept the government's eight years or 10 years from now moratorium. That is correct, isn't it?

Mr Nicholls—Yes, it is, but the model that we proposed actually used only two 7-megahertz slots instead of five for that simultaneous period, and still liberates the same amount of analog spectrum at the end of the day.

Senator SCHACHT—The ABA is on the record as saying that there are at least 10 megahertz available now, separately from even the separate allocation to the five free to air channels, and even in the simulcast period there are still at least 10 megahertz available elsewhere if government chooses to allocate it. Do you agree with that?

Mr Nicholls—Yes. There is channel 27, which is six megahertz wide, and in most other parts of the country there is another six-megahertz slot.

Senator SCHACHT—So you think there are a minimum of 12?

Mr Nicholls—Certainly of that order, but the issue then comes with standardisation on televisions, that if a television is designed to expect to see a seven-megahertz wide piece of spectrum it may not work with six.

Senator SCHACHT—I presume you will be on the standards committee, Ms Richards—one of these review committees the minister has established as the choice committee that looks at which system we go, European or United States, and then the standards committee looking at the issues for the receivers, et cetera, and the transmitters, of how much megabits and megahertz are used to become the standard. Is ASTRA on both those committees?

Ms Richards—We have been invited to be part of the minister's high-level advisory group, which I think is separate from the digital television steering and planning committee itself; we understand that we would be a part of that. We are certainly a part of the digital radio technical steering and planning committee. Our concern in terms of technical standards, as we raised in our submission, is that there is an industry group already looking at the choice of technical standards of the incumbent broadcasters. We do not want that sort of major decision made without a look at issues such as interoperability and the number of set-top boxes. We are concerned about issues of access and those sorts of things.

Senator SCHACHT—Let me go back to the provision of allocation of spectrum to the five free to airs at seven megahertz, in the government proposal. Suppose that is allocated, the legislation goes through, the review committee says that we take, for argument's sake, the American system and the seven megahertz is provided. Once that standard is locked in and receivers are made to that, you then cannot change it back to six megahertz, can you?

Mr Nicholls—During the standards making process, if you know that you are going to be dealing with the two short channels, the two six-megahertz wide channels as well, you could have options available in the standardisation, but then it would be a matter for the experts who form that standards committee to consider things like cost of implementation.

Senator SCHACHT—For example, if it took your model—and digital receivers and standards are designed to receive your model's signal, where two signals are an enhanced level, rather than full digital, as we have been using the term full digital—then at a later stage the government would not be able to change back to five full digital signals at seven megahertz 20 megabits?

Mr Nicholls—No, that is not correct. The approach of particularly the European technology, but also the American technology, is to have a scalable architecture. So, you can have standard, enhanced and high definition all available to be watched on a single set.

Senator SCHACHT—What I am more worried about is making a standard definition that accidentally creates a monopoly for somebody by saying, 'You're locked away in the receiver'—once consumers start buying it—'and this is all you're going to get, and you can't take more advantage of spectrum management later on.' If you ask the punters to change once in their lifetime from analog to digital, I do not want to be saying, another five years after that, 'Get rid of that one and buy another set of new receivers.' Do you believe it is possible to have the flexibility of design in the receiver to provide this flexible architecture, as you use the phrase?

Mr Nicholls—Yes, it is possible to do that. It also gives the opportunity to have differently priced television sets, some of which would actually make use of the full high definition and some of which never would because the cheaper end of the market would not use the full definition.

Senator SCHACHT—Has ASTRA made those views known already to the government, to DoCA in particular, about this flexible architecture? I do not know if that is the correct phrase, but it is as close as I can get.

Ms Richards—Yes, that is under our point 4, absence of conditional access regulations.

Senator SCHACHT—I know that it is in here, but have you actually had discussions—

Ms Richards—Yes, in response to the legislation that was put before us.

Senator SCHACHT—What has been their response to your view about flexible architecture, whether it is actually your model right now that later can be adapted—the receivers are adaptable to change to a different architecture to go on to full digital or back to enhanced digital or whatever?

Ms Richards—There has been no formal response, Senator. From my memory of the actual discussion around the table, and it was a fairly lengthy discussion on the legislation itself, there was a concern that there would be flexibility in terms of conditional access.

Senator SCHACHT—They wanted flexibility of access?

Ms Richards—Yes. But there is no formal response. I am just going from my memory of our discussion.

Senator SCHACHT—We will have DoCA later on.

Mr Meagher—Senator, that may be an issue where you might look to being sure that the legislation actually provides on the standards side, on conditional access systems.

Senator SCHACHT—When DoCA turn up, and the ACA, et cetera, these are issues of standard, but this is an argument about whether it is in regulation, whether it is in legislation and so on, because we only get one shot at it and then it is gone. You are then stuck with it for ever and a day as they start pumping out the receivers.

Earlier in the day, when FACTS were before us—and I think you were in the audience listening; you get the drop on them, coming after them—they were talking about enhancement of their signal, which actually was not multi-channelling. But they did give an example of metropolitan Melbourne to Geelong where there actually would be two different signals at the same time. One would be the standard Channel 9 news, for example, and the other would be Channel 9 Geelong news, or a mixture of both, but two different signals. Do you see that description as it came out, as they believe would be allowed under this existing legislation, as formal multi-channelling, or still within the definition of enhancement of one signal?

Ms Richards—In our understanding it would be two channels, and therefore multi-channelling.

Senator SCHACHT—It would be multi-channelling?

Mr Meagher—Senator, it is very hard to see how programming that carries the special report on Gary Ablett while the rest of the news is carrying on about Pakistani nuclear testing is incidental or accidentally related to, or whatever the expression is—

Senator SCHACHT—Only you would describe Gary Ablett as being equal to atomic testing.

Ms Richards—It depends on who he is playing.

Mr Meagher—Under that example you can see the program streams diverging quite substantially. If that is permitted, then—wanting to avoid these sorts of things—the thin edge of the wedge and slippery slope and every other cliché you want to bring out is well and truly with us.

Senator SCHACHT—It might be an issue that you look at the evidence given here today and respond to us with suggestions of legislative amendment, from your point of view, that make that clear. We have asked for the same from FACTS. Regarding those separate channels, if there is only standard digital you have got a couple of extra channels at least, under FACTS's view that would be available for some other form of broadcast. When they become available and they are not using them for HDTV, your submission is that there should be open access for anyone to bid to use that capacity as a separate channel, rather than its just being available to the free to air television to use as an add-on.

Mr Meagher—That might be one possibility. That assumes the regime as the government is proposing it, and we object to that regime. If it were in place I suppose that is a possibility. The only difficulty with that is that it would be very, very hard to have an access regime like that where the free to air broadcaster was making decisions about when they were going to be using HDTV and when they were not. That might change from week to week—they might get access to some rights for a sporting event or a movie and you could never actually, with

any certainty, book the time. I think there would be quite considerable practical difficulties about dealing with that.

Mr Nicholls—So, ultimately, what it would tend to lead to is that that spectrum would be wasted for a vast majority of—

Senator SCHACHT—That is the point of where we are getting to in discussion today, this argument of whether it would be accidentally locked away from other use, other than what that particular Nine, Ten, Seven, ABC or SBS chose to use it for. You would de facto lock it away, even if that was not what the legislation specifically said.

Mr Meagher—That, of course, is inconsistent with the basic premise of, say, the Telecommunications Act and the access regime there where you can have a service being—

Senator SCHACHT—This is not about telecommunications; this is broadcasting.

Mr Meagher—Data is data is bits is bits is bits.

Senator SCHACHT—We will get to data in a moment. I understand the convergence argument you may want to run. We did not have a chance to raise this with FACTS today; we ran out of time. From 2001 to 2008 is the period of simulcast and, hopefully, HDTV in whatever form you are arguing there is an uptake amongst consumers of receivers. Do you think the free to air should be given a reasonably firm indicative timetable over the seven years of how many hours each year they should be aiming to broadcast for, as a minimum, in HDTV?

Ms Richards—Yes, Senator. We have asked for up-front in terms of ratcheting up the levels of HDTV.

Senator SCHACHT—As you would also be advantaged in the pay TV industry by people using the new HDTV receivers to receive the pay TV product, whether it comes by satellite dish or cable into the house, you will be arguing for the design to make sure that that receiver receives your pay TV signal too, won't you?

Mr Nicholls—It is unlikely that a straight receiver will be able to work directly into terrestrial and cable and satellite.

Senator SCHACHT—You will have a black box on top of it.

Mr Nicholls—Yes. That means, effectively, even if we stopped rolling out subscribers today, an impost on our business of between \$200 million and \$500 million to buy new boxes for those 770,000-odd subscribers that we already have. We would foresee, because that is the way the industry is moving, that in two years time, in 2001, we will have substantially more decoders to replace.

Senator SCHACHT—But surely you are going to do that, because you will be then at a disadvantage in the marketplace: free to air will be having the digital and maybe HDTV in an ever-increasing number and you will still be back in analog with a converter.

Mr Nicholls—Or digital with a converter. Even if we are offering a competitive service, depending on the way the technologies are implemented and particularly if the choice of the American system is made we will end up with expensive decoders sitting on top of sets and a plethora of decoders sitting on top of your new digital 16 by nine set.

Senator SCHACHT—If the decision is taken with the present structure, you will be on the standards committee. What is ASTRA going to argue to the federal government, to DoCA, about what you want as a standard black box on top to ensure that people get access, when they subscribe to pay TV, such that when you are showing *Lawrence of Arabia* over pay TV

that digital HDTV television set receives and shows it as HDTV. Surely you want that, don't you?

Mr Nicholls—Yes, and the way to achieve that is to actually have a broader view, to look not just at the requirements of the free to air broadcasters but at the whole of the television industry, which includes the subscription broadcasters—doing things like standardising on a form of conditional access and ensuring that all of the standards are integrated.

Senator SCHACHT—Are you now saying to me that the present review structure that the minister has outlined—the four committees, I think they are—in no way guarantees that issue of standardising the black top box for digital HDTV?

Mr Nicholls—I am aware of nothing in the legislation that guarantees it.

Mr Brooks—This is a concern that we have.

Senator SCHACHT—Where have you raised that concern in your submission? I must have missed it.

Mr Nicholls—In the two additional papers.

Ms Richards—We made a general comment about it in the introduction of our submission and the two extra papers we have tendered.

Senator SCHACHT—Today?

Ms Richards—Today. You will not yet have read them, Senator. It goes to issues in terms of comparing the two standards before us, in terms of the American standard and the European standard.

Senator SCHACHT—Because I have not read them I will ask: are you recommending in these papers amendments to the legislation or the structure of the review, to ensure that the standards or interoperability or whatever you want to call it of the black boxes for pay TV will enable full HDTV to be used, so that you get the full advantage of HDTV as well?

Ms Richards—We are not calling for amendments to the legislation specifically within those papers. What we have called for in terms of our submission is that this: the determination of standards is going to affect all of us, whether we are existing players in analog services or future players in digital—we are all part of that—so we wanted to ensure that we are part of that process.

Senator SCHACHT—You are part of the process, but you are only one voice. It seems to me that if I were a free to air operator, one of the five, the best thing I could do to put a big brick through you would be to make sure the standard is so loose that, in respect of the black boxes, you do not get access to HDTV for your programming coming on your signal. Therefore, people would say, 'We are missing out. Pay TV is not providing high definition television programming content,' because your black box standard falls apart.

If I were sitting in the free to air area, I would say, 'This is a very good way to put another \$2 billion loss on this industry.' Is that correct? Am I too cynical?

Ms Richards—No, never.

Mr Meagher—I do not think you could ever be too cynical.

Senator SCHACHT—Not in your industry, I have to say.

Ms Richards—Senator, we are happy to take that on notice in terms of responding with any legislative—

Senator SCHACHT—What you are saying to me is that all you want at the moment is access to the committee. It does not mean to say that you get the outcome that guarantees that pay TV infrastructure is totally open to the use of the HDTV receivers.

Ms Richards—We have raised issues in terms of access, compatibility, simplicity for the consumer—those types of issues.

Senator SCHACHT—Will your industry agree, even before you get down to talking with the government, that you will all have one digital HDTV black box on top of the receiver?

Ms Richards—Our industry will, yes.

Senator SCHACHT—Your industry? Right across the board? Whether it is coming by cable or by microwave or by satellite?

Mr Nicholls—A standards based digital solution, yes.

Senator SCHACHT—In one box, on top of the set?

Ms Richards—Yes.

Senator SCHACHT—I want to get this very clear, because you have not said this before, sometimes.

Mr Nicholls—Broadly the same. The reason for the difference is in the cost-effective manufacture. So we will use the same standards in the box. It will have a different front end, if it is connecting to a satellite dish, from the ones with a cable.

Senator SCHACHT—Yes, of course. So whether I buy Foxtel or Optus or Austar or whatever, I buy their black box and all the rest of the connections. If I then choose to end my subscription to them and swap to another, they will bring their black box along and not only is it still going to give me access to their programming but also the free to air will work through it as well?

Mr Meagher—It should be the policy objective, and it certainly would be our objective.

Senator SCHACHT—That is your objective at ASTRA, amongst yourselves?

Ms Richards—Yes.

Senator SCHACHT—That is very good to hear.

CHAIR—So if that were built into the standards it would not affect you?

Mr Meagher—No. If the standard is an open standard, and allows all the types of flexibility that Mr Nicholls was talking about, then that will answer that part of the concern, yes. We want to work within a regime of open standards, so that no matter what technology you are using or what delivery mechanism you have, you can get access to the customer's equipment.

CHAIR—But if the standards required that, that would not affect you? That is if the standards required that it would be open. Do you see what I am saying?

Mr Meagher—We would comply, now?

CHAIR—What I am saying is: if the standard was written or legislated in such a way that all the things you are saying would be possible, are you saying that that would not affect you because that is what you plan to do?

Mr Meagher—That is certainly what we would hope for, yes.

Senator SCHACHT—So this means that when Optus movies, or Foxtel movies or whatever get hold of the rights to show the *Titanic*—the full 35-millimetre screen as you see it in the movie, shown in proportion at 16 by nine, and full stereo sound or whatever it is all called—

when you put that down on your movie program channel, with the HDTV receiver the people who have purchased the appropriate black box will be able to have that movie, with its full 35-millimetre, full stereo sound, digital sound, et cetera, shown in a quality equivalent to what you see it in the cinema, without the bits chopped off at either end, or squashed down or pushed in or whatever?

CHAIR—It would depend on your amplifier and your set, surely.

Senator SCHACHT—No. What I am saying is that, if I bought the right amplifier, et cetera—

Mr Nicholls—There are two issues here.

Senator SCHACHT—You will broadcast it in HDTV quality, so if I have got a receiver and the right black box, I can receive it in that quality.

Mr Nicholls—In principle, yes, but the commercial issue on that we have not, as a body, resolved.

Senator SCHACHT—What is the commercial issue?

Mr Nicholls—It is the amount of bandwidth that is required, and the various conversions that we have to do in our operations. To put this in perspective: the free to air channels, the FACTS submission, said that \$200 million is to be spent in the operations areas for broadly three channels, plus some regional input. There are 43 pay television channels, and not all of them will be carrying high definition television. It does not make sense.

Senator SCHACHT—But several channels will, such as the sports channel. If you get HDTV to have AFL or rugby league or cricket on sports channel, you would be a mug not to have high quality, latest release movies on an HDTV channel.

Mr Meagher—I think the answer to your question is simply yes, there will be significantly enhanced digital signals over cable or satellite. Whether they are HDTV, whatever that means, or whether they are merely enhanced and much better quality than you can get now, the answer is yes, those things will happen. Precisely what they are, I cannot tell you now. It is the same with the free to air network, Senator. I think the assumption that the free to air networks will necessarily show HDTV is only an assumption. To go back to what I said before, the one thing you can be sure of is that there will be vastly improved picture quality and reception.

Senator SCHACHT—Some of us are only coming to this issue because it will show HDTV. If we have to hold the feet of the ‘free to airs’ to the fire to get them to show it, so we will. If we have to hold your feet to the fire for you to build the capacity for HDTV in digital television, so we will. We are not going to have a hodgepodge system where some poor consumer buys something from you and then discovers when they get home that their HDTV set will not receive your signal—goodness me.

Mr Meagher—First of all, the idea of flexible standards—that Mr Nicholls was talking about before—would accommodate that movement. And it would have to, because not everything is going to be HDTV anyway—

Senator SCHACHT—I agree.

Mr Meagher—Secondly—and this is perhaps going too far back—we would question the premise that HDTV is the greatest thing that the world has ever seen and that there should be spectrum being tied up to provide HDTV anyway.

Senator SCHACHT—But that is your commercial decision and your fight with free to air television.

Mr Meagher—No, Senator, it is a public policy issue. In fact, in the UK they have done precisely that; they have decided that HDTV is a wasteful use of spectrum and that they will not go that way. There is no reason to have HDTV.

CHAIR—You cannot compare Britain with Australia in that way. I differ with you on the quality of HDTV, having seen it.

Senator SCHACHT—On the broadcasting of HDTV, you are saying that this is not an issue in public policy and that going to full HDTV automatically, in public policy terms, is something you might not agree with. Do you agree that a HDTV screen—with its 1,100 lines and 1,900 pixels, et cetera—is a screen that can be used, once you get the infrastructure supplying it right, that will be able to provide a level of information distribution around Australia, if we have that system equal to any in the world? On that screen you can get to full interoperability, you can have cam camera, you can have conferencing, et cetera—if you get the screen with that capacity in it plus the system providing the megabits coming down either the cable or through the air and so on—do you agree that this the way to provide a high quality Internet and on-line broadband service?

Mr Nicholls—It is certainly not clear that it will provide the Internet and on-line service. The key thing is to choose to standardise on a scalable system so that, as technology advances, particularly display technology advances, you can take advantage of those advancements rather than try to pick a technology today.

Senator SCHACHT—I am not picking a technology; I am just saying that I have been told by experts that the HDTV screen has so much more capacity in it because of 1,100 lines and 1,900 pixels—someone will tell me I have got that wrong by 50 or something.

Mr Nicholls—By 20.

Senator SCHACHT—That was not a bad effort for a politician only to be 20 out in 1,000. You would win most elections on those figures. That has more capacity to provide information on the screen than a standard analog screen at the moment.

Mr Nicholls—It does. There is more picture information on the screen.

Senator SCHACHT—Will it have more information available on the screen than a standard digital six by four proportion?

Mr Nicholls—It would have more information than a four by three, yes.

Senator SCHACHT—So, irrespective of the entertainment value, if consumers take them up in large numbers, we ultimately end up with another excellent side benefit—we end up with an information distribution system, broadband, on-line and broader than just an entertainment system.

Mr Nicholls—No, I think not, Senator. The screen will get information to your eyes. It will get you a nice picture that is better than a standard four by three picture and certainly better than an analog picture. But it will not necessarily deliver you content. The rest of the infrastructure, the pipeline, is necessary.

Senator SCHACHT—I accept that maybe good old Telstra, Optus or somebody would have to provide five or 10 megabits of capacity and the wire and cable going around people's homes and the CBDs. If you can connect to that, you are going to get a lot more real-time capacity

and interoperability, I would imagine, coming backwards and forwards, which is what would make the country more internationally competitive.

I am just asking you about the screen because I think there is an advantage. But you have actually put a variation to say probably not, as long as you have to get all the other stuff ready as well. I am not disputing that either. But perhaps you might want to take some of that point on notice. I would feel more comfortable if you would come back to us with more information about what you are going to argue in the standards review about the black box on top and the interoperability of the system at a pay TV level.

Mr Brooks—I think the important point is that what we want to see as a pay TV group is a single standard or a group of standards and it is exactly as you are saying: that will ensure that all customers out there who pay their \$10,000 for their HDTV set will have access to services. There is a danger here that we could go down a road that would lock some operators out of that standard.

Senator SCHACHT—Can I just turn to another area. Mr Meagher, you have said that you are very strongly opposed to the present structure—what you call here the ‘give-away of the spectrum to free to air’—and the ban on any further commercial licences being issued until the year 2008. But doesn’t the decision also mean that there will be no more pay TV licence operators coming into the marketplace? Do you get the same benefit of the ban?

Mr Meagher—No, there is no restriction on pay TV operators. Anyone can apply—

Senator SCHACHT—So if someone wants to risk a couple of billion or \$500 million or whatever, they are free to come and try it.

Mr Meagher—Yes they can. There is nothing in the act that prevents you from obtaining a section 96 pay TV licence. Apart from the initial practical constraint because of the nature of the satellite in the very first year or so, there has been basically open competition in pay TV from day one.

Senator SCHACHT—And you are saying this will continue all through this period where free to air have a prohibition on any more free to air licences; you are saying that there is no change in the system that at the moment an unlimited number of people can come and get a licence and risk their money in providing a pay TV service, both on an infrastructure side as well as a content side.

Ms Richards—We operate in a competitive market.

Senator SCHACHT—Why do you think the free to airs need a prohibition on any new licences being issued until 2008 then?

Mr Meagher—We cannot work that one out.

Senator SCHACHT—Did the minister or the government give you any particular reason when you lobbied them against this decision—as you clearly have publicly?

Mr Meagher—The reason that has been given is the cost of conversion—and there obviously is a cost of conversion. But for an industry that has basically been protected for 50 years and is highly profitable, I do not know of any other industry where, when they decide to upgrade their facilities, the government then steps in and says, ‘We will prohibit competition to protect you.’ For example, the two newspaper operators have recently spent sizeable amounts of money upgrading their printing facilities. It would not have even occurred to them to go to the government and say, ‘Will you please prevent anyone else getting into print to make sure that we can recoup the cost of our investment?’ When we built our cable system or others got involved in bidding for licences for satellite or MDS, nobody would have thought

to ask the government to protect us from competition. It is all about making investment decisions.

CHAIR—People pay for newspapers and they pay for pay TV.

Mr Meagher—And advertising revenues, which feed into the cost of consumer goods, pays for free to air television.

CHAIR—Yes, but advertising pays for newspapers as well. I think you are comparing apples with apples, which you just did with the spectrum in Britain versus Australia. The arguments were not very convincing, Mr Meagher.

Mr Meagher—The only point I was making there was that in the United Kingdom, and for that matter in Europe, it is not an assumption that HDTV is a good in and of itself and that there are other forms of enhanced service that are good and perfectly adequate. For whatever public policy reason, they have decided that they are no going to—

CHAIR—They have other constraints that we do not have here with spectrum.

Mr Meagher—That may be the case.

CHAIR—It is the case. You are trying to tell me to compare it. We may be tyros, but at least I know that much.

Mr Nicholls—The spectrum limitation, which is essentially that bands 1 and 3 are not available in the UK, is not stopping other European countries, which have the same restrictions, from considering HDTV. Spain is an example of that.

Senator SCHACHT—Pay TV has one advantage over free to air television in the commercial sector, because the free to air commercial sector has much higher levels of Australian content imposed on it than you do on your level. I think you have 10 per cent with some drama stations. It is considerably higher on commercial television and free to air which leads to the development of indigenous production of Australian TV, employment, good actors, script writers, et cetera—they tell me they are all very good—whereas so far pay TV has not had the same impost of Australian content rules across the board in your broadcasting that free to air has; is that correct?

Ms Richards—There is actually an impost, and that is going to be made enforceable. It is our understanding that the government has made a decision to enforce the 10 per cent expenditure—on predominantly drama channels—for the pay TV industry.

Senator SCHACHT—What is it on free to air commercial?

Ms Richards—It is a content based regulation. It is a 55 per cent transmission quota and, within that, there are certain requirements for children's, drama and documentary programming.

Senator SCHACHT—But that means they put more Australian content to air than you do; is that not correct?

Ms Richards—Again, I suppose you are not comparing apples with apples because—

Senator SCHACHT—You are because—

Ms Richards—Ours is an expenditure condition across a number of platforms and across a number of channels whereas the free to air is a content based requirement.

Senator SCHACHT—The free to airs argue in their submission that one reason they should be given this special consideration of access to spectrum is that that maintains a very profitable revenue base—I agree with that—to enable higher levels than normal of Australian content

to be maintained with the employment of Australian actors, script writers, directors, production, et cetera. It is much higher than what pay TV has been hit with across the board.

Ms Richards—We were hit with that from the introduction of pay TV.

Senator SCHACHT—But not at the same level.

Ms Richards—But it is a different thing. Ten per cent expenditure is not the same as 55 per cent content. If you look at the expenditure that the free to airs have made on drama, it levels out at about 11 per cent. We have had the impost from the very beginning.

Senator SCHACHT—But it has never been enforced, so you have got away with it.

Ms Richards—It has been a voluntary requirement because the legislation was poorly drafted in the first place, a little bit uncertain and did not know how the industry was going to work—

Senator SCHACHT—So, in terms of value, you are saying you have spent about 10 per cent and they have spent about 11 per cent?

Ms Richards—That is my understanding in terms of their expenditure on drama and children's drama.

Mr Meagher—If you are comparing like with like, our obligation is on predominantly drama channels to spend 10 per cent on new Australian drama. If you compare that with what the free to airs do, it comes out roughly the same.

Ms Richards—That is 11 per cent of their total expenditure. That is trying to get it to be more like apples and apples as opposed to apples and oranges.

Senator SCHACHT—So the argument they have in their submission, which is now public, about the great weight they give to that, you think is not as strong as the other argument you raise against—

Ms Richards—Certainly when you look at it in the context of the fact that their first regulation was brought in in about 1960, they have had about 50 per cent for the last five years or so and it has only just increased to 55 per cent in terms of transmission quota. It is a minimal requirement in terms of hours for documentaries—10 hours per year—and a fairly minimal requirement in terms of children's programming per year. Whereas we provide certain streams of channels of niche broadcasting, and we have an expenditure requirement on each of those drama channels.

Senator SCHACHT—But there are other channels where there are none?

Ms Richards—Yes.

Senator SCHACHT—Foreign movies obviously is not full Australian content.

Ms Richards—There is no requirement in terms of a special quota on free to airs' full news and current affairs either.

Senator SCHACHT—I just want to get this clear: you discount the argument they put in their submission about Australian content. You say the revenue needed to produce levels of Australian content does not give the weight that they say should be given to justify access to the spectrum for up to seven or eight years?

Ms Richards—There has been a history of public policy in that they do operate in a protected market and they do use valuable spectrum. The quid pro quo for that is requirements such as Australian content.

Senator SCHACHT—You say that you are not operating in a protected market, because anyone who wants to chance their arm at being a pay TV operator can get a licence?

Ms Richards—Yes, and we do have an impost on us in terms of expenditure for Australian drama.

Senator SCHACHT—The only thing is that, at the moment in view of the rationalisation going on, it is highly unlikely there will be a mass rush of blood to people's heads to come down and start pay TV operations, is it not? There is a natural inhibition now operating against any more operators in pay TV.

Ms Richards—The market.

Senator SCHACHT—The market is going to determine that, the same as if you use the argument of newspapers. It is true that anyone can go and start a newspaper, but it is also true that no-one is going to weigh up how many billions they would have to sink into an investment to challenge the *Sydney Morning Herald* or the *Daily Telegraph* in Sydney, so those newspapers have invested a large amount of money. They also know they almost have a natural oligopoly operating which protects them and gives them a return on their investment. Isn't that correct?

Mr Meagher—Obviously there are those sort of issues existing. But that is not to say that somebody who wanted to produce, say, a niche pay TV programming supply might not be able to do so and get access to a satellite or to a cable system. That is entirely possible.

Senator SCHACHT—You are saying that, if they wanted to do that they would have access to your interoperable black box on top? No, you would have to take it away, wouldn't you? If they swapped from yours to theirs as a new niche operator, is that another black box on top of yours on top of the television set?

Mr Meagher—Well, hopefully it would not be. If they adopted the same standard it should not be.

Senator SCHACHT—And you are happy for them to use your own black box even though they are a competitor? You would change them for that, would you not?

Mr Meagher—If they were obtaining access to our cable, then we would charge them. That is obviously the way you would do that, but it depends on the terms and conditions.

CHAIR—Senator Schacht, how are you going?

Senator SCHACHT—I have no more questions, Madam Chair. I just want to suggest that maybe ASTRA, like the others, might read the other submissions and come back to us with cross-comment on some of these issues that we have raised in our discussion with you today. In particular, if you do have amendments to the legislation, would you send us the actual drafted amendment rather than just a comment that this ought to be changed—what the actual wording of the amendment should be? We have said this to others.

Ms Richards—We did attempt some drafting. But we take your point.

Senator TIERNEY—Mr Meagher, in response to a question asked by Senator Patterson on spectrum restrictions in Europe, you brushed this off by giving an example of a country that was right out on the edge of the continent in the Atlantic. Could you explain to me why there would not be restrictions in the grouping of Belgium, Luxembourg and Holland, for example—three countries that are very close together. Austria, Hungary and Switzerland would be another grouping of countries that surely would have spectrum problems?

Mr Nicholls—There are issues of adjacent spectrum and those issues were part of the rationalisation behind a pan-European standardisation of digital television—that is the use of the spectrum, the format of the signals, everything. There was basically a recognition, ‘Hey, we’re going to have a real big problem when people start to change. Let’s make sure that that change is uniform across the whole of the European community.’

In setting those standards and in creating that uniformity, there was nevertheless the flexibility built into the technical standards to allow the UK to go off and say, ‘We won’t have any high definition television, but we will have a system that has a multiple standard definition services,’ or a country—I am sorry I chose Spain; it was not because of its geographic location but because of what they are doing—which could choose to use the same system similarly being able to interoperate in the geographic region that is Europe without major problems and offer high definition services.

Senator TIERNEY—If we go back to the example of Belgium, Luxembourg and Holland, are you saying they could each offer—separately as countries—providers within those countries with high definition television without creating spectrum problems in that area?

Mr Nicholls—They need to coordinate with each other to ensure that they do not create problems.

Senator TIERNEY—But they would have a lot more restrictions, wouldn’t they, than an island continent like Australia?

Mr Nicholls—Yes, absolutely.

Senator TIERNEY—That was the point we were trying to get to. With the proposed arrangements, there is a channel 6 with available spectrum of about seven megahertz and there are other parts of the spectrum with available bandwidth. Do you not think that, in the initial start-up phase of all of this, that would be sufficient for other providers, given that down the track you have four channels with seven megahertz each—28 megahertz—coming back on stream for perhaps auctioning off and using for datacasting and other services. So, surely, this will phase in over time. What do you see as the problem in having an available bandwidth for other services if we go to this proposal of four channels using high definition?

Mr Nicholls—Only whether or not we are getting the right return for those channels. Yes, the way that the system is designed, which is to have gaps between used channels which can be used for digital services, means that the roll-out is perfectly possible. The only issue is: are we getting the right return for the spectrum when we are giving it away for nothing for eight years?

CHAIR—Can I ask another question: will high definition television be more competition for cable television than analog television in terms of the quality?

Mr Meagher—In and of itself—not necessarily. It depends on what happens in terms of having pay TV operators moving to digital platforms themselves.

CHAIR—If you have the same film that is being transmitted down cable or in analog—and if you had access to it—which do you think a person would want to watch?

Mr Nicholls—Comparing high definition to—

CHAIR—No, analog with cable. I do not have cable, so I do not know.

Mr Nicholls—You would not notice it.

Ms Richards—Would the analog be free to air?

CHAIR—I have a movie such as *Sound of Music*, and I want to watch—

Mr Nicholls—If it was broadcast in stereo and it was properly set up, you could go from Channel 10 to a pay TV channel and you would not actually—

CHAIR—This is analog to digital

Mr Nicholls—Analog via cable, you would not actually see a difference.

CHAIR—No, I am not asking you that. If I have same movie on analog free to air TV versus cable TV, I am not going to notice the difference?

Mr Nicholls—No—

Ms Richards—I mean, you are paying for one.

CHAIR—Yes, I would notice the difference. But you tell me the quality is going to be as good?

Mr Nicholls—Yes.

CHAIR—So, if there is a storm outside, it is going to be as good.

Senator SCHACHT—As long as you have the cable.

Ms Richards—A point is that a lot of people choose to take up cable because it gives them a better signal. For example, I subscribe because I get ‘ghosting’ on Channel 7 and Channel 10, but I get a clear signal on Channel 9 and the ABC. So I have chosen to subscribe because of the better signal that I might get.

CHAIR—So you are telling me that if I have a reasonable signal—I have not sat and compared it; I moved into an apartment that had cable TV but it was not very good and then it disappeared, so I presume that the person who owned the flat was paying for it for a week or two after I moved—there is no difference between free to air analog at the moment and cable?

Mr Meagher—Assuming that you have got a reasonable signal. Sometimes you do not get a good signal over the air, and that is often one of the reasons for taking a cable. Your next question is: would HDTV over the air be substantially better than the signal available via cable.

CHAIR—It is going to be better than analog.

Mr Meagher—Is it a greater commercial threat.

CHAIR—More competition for you, yes, because it is better. Yes is the answer, isn’t it?

Mr Meagher—The answer may be yes.

CHAIR—It is yes.

Senator SCHACHT—That is why you want to put HDTV down your cable, because that will be of even better quality.

Mr Nicholls—It will be the same. If you compare apples with apples, HDTV over the air with HDTV over cable, they will be the same quality.

Senator SCHACHT—Until we get a sun spot or a storm.

CHAIR—A meteor shower.

Mr Nicholls—In the digital phone, the phone is either there or not. Similarly with digital TV over the air—

Senator SCHACHT—Mr Nicholls, using a mobile phone regularly, probably too regularly, I always get a quality of sound coming over a mobile phone by and large that compares well with the voice on a fixed phone wire.

Mr Nicholls—No, sorry, that is not the comparison I was trying to make. I was trying to compare a digital phone with an analog phone. With an old analog phone you would know when somebody was fading, because it would start to get crackly. With a digital phone it is either there or it is not. It is the same with a digital television picture. It is either there and perfect, or it is as perfect as it was decided to send it out, or it is not there.

Senator SCHACHT—I see.

Senator TIERNEY—Mr Meagher, a comment you made recently was that we are giving this spectrum away for nothing to the free to airs. But surely that is not right, is it? There are a number of expenses in relation to having to run the analog and digital system. They might have to spend from half a billion up to a billion on the conversion, and they have no guarantee of getting any extra advertising revenue. Finally, they have got competition not only from pay TV but also from a whole range of new and exciting on-line services. So would you still stand by that statement that we are giving it away for nothing.

Mr Meagher—The fact that people then have to invest in capital to make a commercial return has never been a reason why the Commonwealth has given spectrum. The fact that we have to build a mobile phone network, or Telstra does, is no reason why the Commonwealth would give us spectrum. We go and bid for the spectrum, as we did in the auctions that finished a week or so ago, and then we make the capital expenditure.

CHAIR—But you made the example of a newspaper having capital expenditure and they do not come to the government. The point that was made to me was that newspapers are not being asked to produce two newspapers, one in colour and one in black and white, for 10 years.

Mr Meagher—Newspapers are also not being given a finite resource that is public property.

CHAIR—Yes, but you used the example. When a newspaper upgrades to new printing, it does not come to the government and ask for protection. But what the government is saying is that, if we could wave a magic wand and everyone could have digital TVs tomorrow, it is like everyone being able to read a colour newspaper tomorrow and a black and white newspaper yesterday. But here we are saying we have to have simulcasting for a period of time, so you are asking them to do something which is very different from the examples that you gave of, for example, the newspaper.

Mr Meagher—In that sense, yes.

CHAIR—That is why I was saying before that it was not a very convincing argument.

Mr Meagher—But it remains a fact that a substantial amount of the expenditure that is going to be made on the conversion of digital, certainly the studio equipment and the like, is happening anyway, so some of that amount of money that is put into that pot we would argue is actually being done now. Secondly, even though there is an impost, it is an impost in order to create a substantial commercial return; it is not being done out of altruistic motives. These are commercial operations seeking to get a commercial return, and they are being given spectrum, which in every other circumstances is regarded as a finite resource, and is charged for under commercial arrangements.

Senator TIERNEY—But it is a government decision to go to digital television at this time. We may not have taken that option; we might have just left it as it was, say. For example, the last government did this with your own area of pay television. It was left, some say, 10 or 12 years beyond when it might have been introduced at an earlier time. I mean, if we had

left that option as it was, there would be no extra cost to them, they could just continue on. We are an island continent and they have not got any competition in free to air television.

Mr Meagher—That may be true, but one of the loudest voices in having this decision made quickly, and we would argue without adequate public debate, has been the free to air television industry. I do not accept that they are an innocent party who have been forced to bear some huge cost burden because of the government imposing it on them. They have asked for this because they see it as being to their commercial advantage.

Senator TIERNEY—If they are adding to their costs and they are having to be handicapped by taking an analog system for 10 years with it, how are they being commercially advantaged?

Mr Meagher—Because they want to get into digital broadcasting; that is where they see their future and that is fair enough. In the meantime, they could not turn off their analog signal because their advertising revenues would go away. So the only way that they can maintain an income stream in order to fund themselves into what they see presumably as a more profitable future is to maintain analog. It is not an impost on them; it is a commercial necessity.

Senator TIERNEY—They could have gone on making the big money Senator Schacht pointed out this morning if it was left exactly as it was. They would have cut out all these other options as well.

Mr Meagher—For whatever reason, their commercial judgment is that they want to be in digital broadcasting. They have made a commercial decision to do that. To fund that they need an advertising revenue stream. As Senator Patterson said, you will not have digital television tomorrow. People will not have the television sets. They are not affordable, they are not available, so it is necessary for there to be a transition path and as much as anything to support a revenue stream to move the free to air networks—

Senator TIERNEY—How are they making any extra dollars on that revenue stream from advertising by having a simulcast as opposed to staying with the old analog system?

Mr Meagher—There are probably a number of reasons where they may be able to.

Senator TIERNEY—How do they make extra money? That is the question.

Mr Meagher—No, Senator.

Senator TIERNEY—Could you answer my question and then go on to another point, perhaps.

Mr Meagher—The answer may be no. But, if you ask them why they want to go to digital, it must be because for some commercial purpose.

Senator TIERNEY—What is that?

Mr Meagher—They see that the future revenue streams are supported by a digital environment, and what they have asked the government to do is to assist them into that by giving them spectrum at no cost.

CHAIR—It might be that in 10 or 15 years time you will not be able to buy an analog television and they will be off the air. That might be their commercial decision.

Mr Meagher—It could well be.

Ms Richards—In response to the question that Senator Tierney asked about what sort of revenue they may get from providing the service, a point was made by Mr Brooks, my colleague, that you could get extra revenue in terms of the datacasting that you are providing.

Presumably, if you are going to get statistics about Gary Ablett, that will be brought to you by Fosters. I do not know, but there is an example of something that could be.

CHAIR—We are looking at legislation to make sure that cannot happen if it is different from the original.

Ms Richards—But if it was in the AFL football match and you could pull down statistics about Gary Ablett, that may be allowed under the datacasting definition.

CHAIR—But you are making an assumption that it will be allowed. That is what we are still looking at.

Ms Richards—I am just giving an example in response to Senator Tierney's question.

Mr Meagher—The other point to make about the datacasting is that—even in those circumstances which are not enhanced programs but are datacasting, and where the broadcasters are permitted to go into that as of right subject to a charge, and they will go into because a business case stacks up—there is a guaranteed revenue stream out of that which other people cannot be sure that they would get access to because they can not be sure that they would get the spectrum at the auction that would permit new entrants into that market. You have a group who are guaranteed a place—admittedly they would have to pay something for it—in that market, and that presumably would be another revenue stream.

Senator BOURNE—We have had these people for more than an hour. I would just like to ask two short questions. First of all, can someone tell me the definition between high definition and standard definition digital television, and have we seen the standard definition as a trial anywhere in Australia?

Mr Nicholls—The difference between high definition and standard definition is that it is normally taken as the number of lines that you actually see. We have standard definition digital signals, and they are provided by pay television operators.

Senator BOURNE—It is transmitted as digital?

Mr Nicholls—Satellite pay TV is digital. In the near future, services from the ABC, SBS, Channel 10 in Queensland and Imparja will be delivered to retransmission sites in digital in a standard form. A question was raised from the CBAA of what the bit rate of standard definition is. I think we would like to make some comments on that in writing.

Senator BOURNE—In these two extra bits that you have given us, you obviously have real concerns about the ATSC and the frame rate of 60 per second or six megahertz. Can you tell me whether we can use ATSC and not use 60 frames per second? Could we take the standard of ATSC and not have all these problems that you have identified with that frame rate?

Mr Brooks—The ATSC standard does support 60 hertz and 50 hertz—or there has been a 50 hertz standard proposed—

Senator BOURNE—Why?

Mr Brooks—However, you have to bear in mind that in the US it has been developed for 60 hertz. I do not know of any other country that is going 50 hertz ATSC. So availability of equipment and receivers and that sort of thing, probably within the time frames we are talking about in Australia, would mean that if you are going ATSC you may have to adopt 60 hertz, which we have real concerns about because it will lead to high costs not only for the consumer but also for any broadcasters.

Senator BOURNE—You think that even with a black box translator probably 80 per cent of people could not pick up the new digital signal under that. Is that right?

Mr Brooks—An issue comes about at the end of the simulcast period as to how you maintain compatibility with existing PAL sets and all that sort of thing. It increases the cost of any translator required to convert to the PAL set.

Senator BOURNE—It seems to me from what you are saying that while some small number of TV receivers—maybe I have not read the whole lot properly; possibly less than 20 per cent—may be able to display that signal, most could not handle the differing scan rate. Even with the converter, do you think there would be real problems if we adopted the 60 hertz?

Mr Brooks—Yes, absolutely.

Senator SCHACHT—Is that a problem because your equipment—the black box, et cetera—can handle the 50 hertz frame rather than the 60 hertz? Maybe the free to airs want 60 hertz because it does you more damage. You want 50 hertz because you have more equipment on top of the box and the black box is designed for 50 hertz. Therefore, you do not have to go and replace them or adjust them. Is that correct?

Mr Brooks—It is not just the set top; it is also the existing PAL television sets.

Senator SCHACHT—What is the disadvantage to pay TV operators in going to 60 hertz?

Mr Brooks—The disadvantage at the moment is that there are no sets out there that will receive 60 hertz, except for some that may be NTSC framework compatible.

Senator SCHACHT—But, if we have to convert to digital, the existing analog is 60 hertz when it becomes digital. Is that right?

Mr Brooks—Yes.

Senator SCHACHT—When you get rid of the present analog, you have to go to the digital anyway, whether it is 50 hertz or 60 hertz. Someone will manufacture them presumably. The Australian market would be six to 10 million television sets. It is not an inconsiderable market, so someone will produce them. I cannot really see what you are so upset about with the 50 hertz to 60 hertz?

Mr Nicholls—It is the transition phase that is part of the problem. While you have a mixture of sets, it means we will need a mixture of set top boxes to be able to deal with the fact that some are digital and some are analog.

Senator SCHACHT—Is that for pay TV operators?

Mr Nicholls—That is for pay TV operators. The other issue is that, if some people want to keep their old PAL sets, it would not be inconceivable to expect that there would be set top converters which take a free to air and go out to an ordinary set. They are not going to be economically viable if we choose a 60 hertz based system.

Senator SCHACHT—So you are saying that it will be a small cost for a converter to get the digital signal for a standard 50 hertz analog set but, if the signal goes out at 60 hertz per frame, the converter to make your analog set receive digital will be much more expensive.

Mr Nicholls—A lot more expensive, yes.

Senator SCHACHT—I have not had a chance to read this in detail. Can you provide us with information of what you think that would be?

Ms Richards—Certainly.

Senator SCHACHT—Would you put that to the ABA and to the ACA? What do they say about your view on this? We have not had them here yet, but have you discussed this with DoCA, with ABA and all the usual suspects?

Mr Nicholls—We have raised it briefly with DoCA. I am not aware that we have with ABA.

Senator SCHACHT—But you will be on the standards committee anyway, and this is a standards issue, isn't it?

Mr Nicholls—Yes.

Ms Richards—It is, but there is also the Free-to-Air Standards Committee that is coming towards its recommendation as well, which we are not a part of. That is our concern.

Senator SCHACHT—Is the Free-to-Air Standards Committee one of the four committees that the minister announced in the policy statement?

Ms Richards—No. My understanding is that it is an extension of the FACTS engineering committee.

Senator SCHACHT—That is the one that is going to make a decision as to whether it is 50 hertz or 60 hertz per frame?

Ms Richards—We understand that they want to make a recommendation, to make a decision, on standards. We have a concern that a decision they make may be incompatible with what—

CHAIR—So you need to ensure that there is at least one person who is on both of those standards committees as a liaison person between the two committees.

Mr Nicholls—But there cannot be, Senator Patterson, because that committee is closed. It is the free to air broadcasters.

Mr Meagher—I think the only point we are trying to make here is to ensure that when a recommendation from the free to air broadcasters comes forward, it is not, for whatever reason, a fait accompli, that there is actually an open process and that because you have a group of people who are moving into digital terrestrial television broadcasting it is not then assumed that what they have decided is in fact the right thing.

Senator SCHACHT—Who does that free to air committee report directly to? Does it go to the minister? Does it go to DoCA?

Mr Meagher—They would make recommendations to the other standards committees; one is the Standards Australia committee and the other is a ministerial committee. All we are saying is that we would not want to get railroaded into a situation where that is accepted.

Senator SCHACHT—I accept that. Is there a pay TV standards committee which free to air is not represented on?

Mr Meagher—Yes.

Senator SCHACHT—Why don't you both agree to meet together and sort out the need for technology convergence on standards? It seems obvious to me.

CHAIR—To make sure the black boxes are compatible.

Senator SCHACHT—Make sure everything is compatible.

Ms Richards—We are very happy to meet with the FACTS committee.

Senator SCHACHT—Okay. Mr Branigan from FACTS is sitting down the back. I am sure he will take this up. Is anyone from DoCA down the back?

Ms Richards—We have raised it with DoCA.

CHAIR—From the consumers' point of view, the more compatible it is the better it is, the cheaper it is and the more access they have to everything. It would seem to me that if you

have the consumers' interests at heart and competition at heart, then the more access people have, the freer they are to choose and the more able they are to make a decision between the two. We have taken that on board. I think we have asked you enough questions. Senator Schacht completed his final hurrah about 20 minutes ago and then he got involved in it again. I do not know how I let that happen, but I slipped.

Senator SCHACHT—It is because I think it is a matter of great interest.

CHAIR—I slipped because you had already said goodbye, Senator Schacht. Thank you very much for your attendance. If you have anything more you would like to add, or if there is anything in the other submissions you want to comment on, please forward that to the committee. We may have further questions we want to ask of you. Because the order has been determined basically by fate and who is available at various times rather than by design, we may have questions that come up later. I would like to thank you very much for your submission and for the time today.

Ms Richards—We are happy to come back. You mentioned a date.

CHAIR—We are not asking you back. Do not get excited about coming back.

Ms Richards—What a shame.

CHAIR—I would like to actually have a day at home at some stage in my life. Unless it is vital we have you back, do not hang out to meet us again. We will be seeing you some other time, but do not be too anxious about coming back to see us again on this hearing. If we have a question, the secretariat will get back to you.

Ms Richards—You talked about responding on these issues by the 13th. Is that the timing or do you want that earlier?

CHAIR—That would help. We have one more short hearing on the Monday. In order for us to start looking at the material, if it is given as early as possible, it means that we have more time to consider it, digest it and include it. Thank you very much for your attendance.

[4.51 p.m.]

LAVERTY, Ms Meredith, Research and Policy Adviser, Australian Association of National Advertisers, Suite 2, Level 5, 99 Elizabeth Street, Sydney, New South Wales 2000

MEDD, Ms Ruth, Executive Director, Australian Association of National Advertisers, Level 5, 99 Elizabeth Street, Sydney, New South Wales 2000

CHAIR—The committee has before it submission No. 4, which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Ms Medd—Not to the submission.

CHAIR—Have you any corrections to make?

Ms Medd—No.

CHAIR—If you wish to make a brief opening statement, I ask that it not duplicate anything that is in your submission. You can take it that the submission has been read. Despite what it might seem, we are trying to keep this to some sort of timetable. Do you have anything you would like to add to your submission?

Ms Medd—I do. Our submission does not cover our attitude to the legislation because we had not actually been able to have a view about that until quite recently. Our submission is premised on two things: the continuation of a high quality free to air television service to the

people who actually watch it, which is most of Australia, and the need for open competition for new services to ensure an open and competitive media.

When you look at the legislation, you can see that it is clearly only a framework legislation at this stage. There are two elements of it that are not in accord with our recommendations, and they are that we are in favour of multi-channelling and we are in favour of extra free to air competitors. Having said that, I will just make some remarks about the legislation itself.

It is framework legislation. There are a number of issues to be decided by these various committees in due course. In our view, the priority issues in that regard are: firstly, the question of standards—that is, the quality standards, the hardware standards, the definition of enhanced services, and the principle to be applied there. When we get the opportunity to sit on the committee that is going to oversight this, these will be our views. But the principle there should be that it is to provide a maximum range of broadcasting data and other services which are interoperable common platforms and which have open standards.

The second item of priority is the promotional digital television. The full range of services on offer needs to be promoted to ensure that there is a reasonable take-up rate for digital television and that the swap can be made from analog to digital as soon as possible, hence reducing cost structures. That promotion should probably be funded by the networks but overseen by the government because it has many aspects to it.

The third priority item is the definition of datacasting. It needs to be flexible so as not to cut off the digital future. It needs to demonstrate that this is convergence in action. Once again, that is about common platforms and open standards. The final item of priority is the method for allocating the spectrum for datacasting. You need to think about what lot sizes are offered so that you get a reasonably sustainable collection of new players into that market.

CHAIR—Thank you very much.

Senator SCHACHT—From your submission and what you have just added to it, you have no disagreement with the government on the structure of the legislation for the period of simulcast or for the period where there is a ban on any new commercial licenses being issued. Does your association agree with that?

Ms Medd—No, we do not agree with that. We favour new free to air broadcasters to be included as part of the move to digital television.

Senator SCHACHT—I see. You agree with a simulcast period?

Ms Laverty—Yes, we do.

Ms Medd—We do, broadly. If it was shorter it would be nicer, but we can cope with the reality that it will probably take longer.

Senator SCHACHT—You understand that you are trying to convince the seven or eight million Australian households that on a certain date in the next decade every one of their television sets are going to go blank unless they pay some money. Not often Australian governments conscript consumers, whether they like it or not, to go and purchase some gear to continue with an item they already have.

Ms Medd—Certainly. Eight years is probably realistic. If it could be sooner, that would be nicer.

Senator SCHACHT—You would favour that when the spectrum becomes available there be open competition to bid for who gets access to use it?

Ms Medd—Yes, we would, and we would like that to include the opportunity for more free to air broadcasters, amongst other things.

Senator SCHACHT—Amongst other things. Do you have a high priority on the fact that it must be HDTV ultimately that is used, that it is used for HDTV?

Ms Medd—It is really a question of what is going to persuade people to buy a new television set, and HDTV is one of the elements that might persuade them. Other elements that might persuade them are multi-channelling. Other elements that might persuade them are sophisticated enhanced adjuncts to free to air broadcasting. Other elements that might persuade them are the presence of data services. It is not at all clear which of those potential elements might be successful in persuading them at this stage.

Senator SCHACHT—So you are agnostic on HDTV?

Ms Lavery—No, we are not agnostic on HDTV.

Senator SCHACHT—You are a true believer in HDTV?

Ms Lavery—Yes, we believe that it is a fundamental part of Australians taking up digital television with some fervour.

Senator SCHACHT—Just as an advertising industry, what do you see as the advantages for the members of your industry in having digital television and then HDTV?

Ms Medd—Basically, we think digital TV is a given. The rest of the world is taking it up, so we really do not have a view about that. For HDTV, nothing in particular. We do not really know yet. Will it make people watch more television? Well, it might do and it might not. Will it cause the advertising rates to go up? Well, probably. And so on. I do not think we have actually put together the proposition of what the viewer should get from HDTV in an advertising sense as yet.

Senator SCHACHT—By favouring more commercial licences and the flexibility for more licences to be issued rather than having a moratorium for almost a 10-year period, does that enhance the ability of your members to get cheaper advertising rates on television, or having more competition?

Ms Medd—It may do, but evidence from overseas suggests that it would be a marginal case.

Senator SCHACHT—What, the new players will jack the price up as well?

Ms Medd—The experience in the United States is that they have had new free to air players and advertising rates have still gone up at an average rate of three per cent above CPI for the last many years. So it is not conclusive that additional free to air players would do much to the advertising rates.

Senator SCHACHT—Do your members complain that they have difficulty getting time on commercial television, irrespective of the cost—getting enough time slots?

Ms Medd—That is a variable answer. The characteristic of free to air television is that there are a number of high quality programs that a large number of advertisers wish to advertise in. There is a limit on the amount of advertising slots that are available in those programs. Therefore, the price tends to go up in a way that we do not have much control over. We clearly do not have trouble advertising at 11.30 p.m. at night, so the answer is mixed.

Senator SCHACHT—But when most of the viewers are around—

Ms Medd—There is excess demand from advertisers.

Senator SCHACHT—It is a seller's market.

Ms Medd—Yes.

Senator SCHACHT—And you think that another licence or so would actually give you an opportunity to put some pressure on for prices to come down?

Ms Medd—It cannot harm that cause.

Senator SCHACHT—And subject to some other quality programs turning up.

Ms Medd—Of course.

Senator SCHACHT—When you see the figures of the free to air television stations' profitability, do you think that shows that they are actually overcharging, they are getting away with charging a higher price because there is a limit in the market?

Ms Medd—Yes.

Ms Medd—Yes, to put it succinctly.

Senator SCHACHT—What weight do you give to an argument which is in the FACTS submission at some length, that, if they have a limited number of operators or licensees—which is profitable, and they do not deny that—that then ensures that they are able to meet quality and Australian content rules, which produces high quality television with an Australian flavour, background, et cetera. Do you think that is a legitimate argument?

Ms Medd—Certainly there are cost imposts on free to air broadcasters to satisfy their regulatory requirements. Certainly programming costs over the years have gone up at rates that perhaps are in excess of inflation, et cetera. However, you have to match that against the fact that the advertising rates are really in the hands of the broadcasters. Since large advertisers are still very keen to advertise on television and will continue to be so, there is no relief in sight. I suspect that the advertising revenues from a well-managed television network are going to keep going up and up and, if they can keep their costs under control, they will continue to make handsome profits.

Senator SCHACHT—If you removed the Australian content rules, or weakened them, would the television stations continue to make the same quality Australian dramas and current affairs, et cetera? That is what your advertisers know attracts viewers first.

Ms Medd—You would have to ask the networks if they would continue to make the programs, but my judgment would be that of course they would, because they produce high rating, quality programs that people want to watch.

Senator SCHACHT—They therefore can charge your members a higher rate to have the ads put on. Is that right?

Ms Medd—That appears to be the outcome, yes.

Senator SCHACHT—You mentioned the retransmission regime, which is free to air via pay TV. There is actually a separate bill coming in soon, I suspect, from the government on the issue of retransmission, which is free to air being retransmitted on pay TV. You mention it here in a dot point. Do you have a view about that? Do you favour retransmission rights? Do you favour the right for pay TV to retransmit the free to air signal?

Ms Medd—Yes, I do. Since I wrote that, it was explained to me that there is a system in place already for that to occur currently. The issue is really for the regime to be put in place when digital TV comes in. Having said that, yes, I think that is an appropriate thing to do. At the present, of course, if you retransmit on pay TV you tend to get a better picture. That seems to me to be an overwhelming reason why—

Senator SCHACHT—But the commercial television networks, through FACTS, are lobbying very hard and have got the government to agree to not ban retransmission but make it only available if they agree to pay a commercial fee which the commercial stations can set themselves. Otherwise, it can be prohibited by the free to air stations. That is a decision that you do not favour, obviously.

Ms Medd—I do not really understand that decision. I do not really think I understand enough about the arguments on one side or the other. On the face of it, you would think it would be appropriate to be able to retransmit down a pay signal.

Senator SCHACHT—When they retransmit, your adverts still get retransmitted as part of the program, so you are getting access to a bigger market.

Ms Medd—You may be unless, of course, people buy pay TV merely to get a better television signal for free to air broadcasting, which some people, I suspect—

Senator SCHACHT—Apparently there is an element of that with purchase by people in bad reception areas who know they get a good picture just to watch the free to air and they are willing to pay \$50 a month. The point is that your advertisers are actually getting access to a bigger and better market because they are getting a better reception.

Ms Medd—The market has not got any larger, actually.

Senator SCHACHT—No, but the market has a better picture, a better quality.

Ms Medd—That is true.

Senator SCHACHT—You have not finally made up your mind whether you are in favour of retransmission being banned unless they pay a fee or not?

Ms Medd—No, we have not. I detailed the high priority items when I spoke initially, and the other matters have not had our attention yet.

Senator SCHACHT—In relation to multi-channelling for the ABC and SBS, both the government and the opposition have said that they favour allowing multi-channelling for the national broadcasters but not for the commercial broadcasters, so long as the ABC and SBS do not use it for commercial purposes. Are you in favour of that or do you oppose that? It is not clear from your comment.

Ms Medd—We actually do not have a view about that just yet. We are still working on it.

Senator SCHACHT—Okay.

Senator TIERNEY—The issue of multi-channelling is something that you have raised as a concern in your submission, particularly for SBS and the ABC. Could you perhaps explain what is the problem you have with multi-channelling?

Ms Medd—We were in favour of multi-channelling for free to air broadcasters. The reason for that was that, once again, the first priority item was the continuation of a high quality free to air television service to people who watch free to air television, which is the majority of Australians. It seemed to us a matter of why would you want to restrict what the technology can offer merely for business type reasons when you could argue that your first priority is to ensure that Australians get high quality free to air television at no direct cost to them? When you realise that, even on the best estimates, half of the Australian population will not have pay TV, or any of these other clever things, in the foreseeable future, why shouldn't they get the cricket and the news on two channels, for example?

CHAIR—But what is the difference between that and an extra television station?

Ms Medd—We wanted both really, didn't we?

Ms Laverty—Yes.

Ms Medd—There is not a lot of difference. But recognising that we do have established free to air broadcasters and that any new competitor would be slow off the mark, so to speak—digital television is arriving in 2001, or a bit before, and no new entrant would be established by then in realistic terms; they have got issues about getting access to programs and setting up shop and all that sort of thing—why deprive the majority of Australians of a slightly improved service?

CHAIR—But you have a vested interest in that because your advertising would be cheaper if people were doing news on one and football on the other.

Ms Medd—We carefully considered that issue, and our view was that the mere presence of multi-channelling would not affect the advertising rates. The thing that would cause advertising rates not to go up at the rate they historically have done would be if you had a new owner and a new broadcaster.

Senator TIERNEY—The proposal to have an extra channel has been around for a very long period of time. The feeling generally has been that the market would find great difficulty sustaining an additional channel. As a matter of fact, at one stage, they thought even the 10 network was not viable—that is going back quite a few years; they are obviously very profitable now. They changed their format, and they became very profitable. Given that that really was not a goer, if suddenly the 7, 9 and 10 networks offered multi-channels, would that be viable given the size of the Australian market?

Ms Medd—Taking the point that in the past TV stations have not been very profitable, times have clearly changed and now they are. That might be a function of better management, increased advertising rates or a whole lot of things. To that extent, we thought the market could sustain another player. It may not be a full service of a Channel 9 type player; it might be something different from that—just as it might be, for example, an up-market datacaster and you suddenly cannot tell the difference between them and a free to air broadcaster.

I guess our view, on balance, was that the market could sustain other players, so we fashioned that as a recommendation for a new player. Remembering that the first call is on good quality service to the viewers, we took multi-channelling as a preference. That does not do anything for advertisers really. It does not fix the rates—it does not cause any reduction in rates in our view—but the presence of an extra player may well do that, remembering that there are many other things that are now available to provide to people.

An extra free to air television channel is one amongst many things. Other things are up-market or datacasting services, whatever they are. My favourite example is the financial information type service. There could be a whole range of other unimaginable things that people might wish to put into that spectrum and deliver to people.

Senator TIERNEY—But on multi-channelling out of the free to airs, I would have thought it would have been better for your organisation if there were less transmissions in the sense that if it is more focused in bigger bunches it would be easier for the advertisers, would it not, to operate across three rather than six or nine?

Ms Laverty—In reality, the networks are not going to split their enormous rating prime time viewing such as *Friends*. They are only going to be able to do it, in a business sense, at times when the cricket is on and then multi-channel whatever the latest TV show is for children. That way you keep the people for cricket and you also satisfy the mothers who tear their hair out when the cricket comes on.

Ms Medd—We do have some elements of general public interest in our submissions.

Senator TIERNEY—The other side of multi-channelling is with the government stations such as the ABC having multi-channelling. There is no advertising on that. Would you just like to explain further, I assume, possible objections to multi-channelling in that part of the market, not in the commercial part.

Ms Medd—As I said, our submission was about multi-channelling in general, so everybody could multi-channel. I am now in the dilemma that our board has not quite made up its mind about multi-channelling for the ABC and SBS only, so I really cannot give you a view about that.

Senator TIERNEY—I suppose it might be possible for you to take a different view of the two government stations, given that one has advertising and the other has not.

Ms Medd—I am not sure. We could conceivably, but I do not anticipate we will, if that is helpful.

Senator TIERNEY—You also express concerns about the method of allocating spectrum for datacasting. Is that broadly in the context of allocating spectrum generally or, given that under this bill we are allowing, channels to have the spectrum for digital television, are you speaking about the additional spectrum that is available?

Ms Medd—I was speaking about the additional spectrum.

Senator TIERNEY—What are your concerns with allocating that spectrum?

Ms Medd—My concern is that it be done sensibly. It is very difficult to work out how much spectrum a particular type of service needs. That is partly because we are not very well informed of these things in a technical sense.

Senator TIERNEY—So the actual chunk size, I suppose.

Ms Medd—If you divide it up in an infinite number of chunks, that would not seem to be a very good idea. But if you only divide it up into one chunk, that would not seem to be a very good idea either, because you are keeping out potential operators of whatever the service turns out to be. When you divide up the spectrum, perhaps you need to think about both the timing issue and also the size of the lots—and perhaps they could be different; I am not sure. But these sorts of issues will get looked at in due course and we will have the view that says, ‘Is this a sensible approach and not just a technological convenience?’

Senator TIERNEY—The approach of government in the past has perhaps raised some concerns about the sensible allocation of spectrum, particularly in relation to pay TV, if you recall. I would assume that would be a reason for a cause of concern. You also expressed concerns about convergence issues. Just for the *Hansard* record, would you like to summarise what they are?

Ms Medd—I guess our overriding consideration is that whatever decisions are made about things, like what is datacasting or what is an enhanced service, they are taken in such a way that you do not cut off the opportunity for Australia to enter the digital future. I am not sure that I know what it is, but I know that it is certainly not a stack of six black boxes on my television set. I know that it is certainly possibly the opportunity to do things like watch the *Getaway* program, which I did the other night, and know that I can get to the Internet site and find out more information about hotels or holidays in Thailand, for example. I know it is probably about a whole lot of other things, too. You just need to be very cautious that you do not block off any of those paths when you do things like define what is a datacasting service. What is a datacasting service? I think it is a figment of someone’s imagination really.

Senator TIERNEY—I suppose the British example would give us some cause for concern. I think the way they have set it up does open the possibility of people buying five black boxes to put on the top of their set if they want the whole range of different services. I think an important thing that has probably come out of today is that that debate has been opened up a bit more here. We need to pursue that so that consumers at least have a reasonable cost structure in front of them if they want to access those services.

Ms Medd—I have written down here ‘What is a datacasting service?’ just by way of example. We know that the traditional definition is stock market prices. I do not think anybody would disagree that that is a sort of service that you might say is a datacasting service when stock market numbers come up on your screen. Is it also the stock market numbers with a bit of commentary that comes with it? Is it the stock market numbers with a talking head that you can see on the screen? Is it the stock market numbers with some video clips about digging things in places or whatever? People will vary as to their view of a data service. I guess our preference is that it is as liberal a definition as possible, because if you do that then you do not cut off too many paths to the future.

Senator TIERNEY—I suppose the problem we will come across is that some of this datacasting might come not through spectrum allocation but down your phone line, or through some sort of link with the Internet to give you further information on what you have just looked at. For example, you might want to find out more about some Pharaoh in 400BC.

Ms Medd—Exactly.

Senator TIERNEY—That may not come out of the spectrum. It may come through your phone line. I appreciate the issues you are raising.

CHAIR—When you gave the example of *Getaway*, were you imagining that I would be able to sit with a remote control in my hand and when *Getaway* puts up the address for the world wide web, if I have the appropriate box on the top of my television, I could hit a button and it would be there?

Ms Medd—In due course I would anticipate you can do that, yes, or you might want to put the Internet up on half your screen and watch the program on the other half. I do not know whether you can do that now.

Senator TIERNEY—I believe in the UK it was not quite working with your normal box in the corner—obviously it would with digital and the new screens—because of the scale of it. The fact is that if you want to read some information in one-quarter of your screen if it is sitting in the corner it is difficult to do. If you have a big screen, which we are moving to, it will be possible. There are transition problems but, as you say, we will be able to use convergence in quite a creative way.

Ms Medd—Yes.

Senator LUNDY—I think this very issue highlights the relevance of convergence in this current debate, given that not only is that capability that you are describing available now but also it combines the use of receipt of bandwidth in the home through two different structures—obviously through the telephone line, the Internet connection, and through other broadcast services which integrate them into your TV set or receiving unit in the home at the moment. I just want to highlight the point that when we are talking about datacasting services and Internet style content being delivered through the existing TV receiver we need to be mindful of the fact that integration of those services is occurring through other technologies at the moment. So anything that we decide or recommend in the form of this particular bill is having

a direct impact upon the delivery of similar services, similar content and similar experiences for the consumer through competing technologies.

CHAIR—You would have it through cable or through terrestrial or through telephone or electricity.

Senator LUNDY—There is a vast range of ways of delivering bandwidth to the home, and wireless is just one.

CHAIR—Thank you very much for your attendance. We appreciate your submission. If you have anything else you would like to say to us please put it in writing or if you have any comment to make on any other submissions we would appreciate that. We may or may not have questions we want to put to you. As I have said to others, there is no rhyme or reason in the order we have asked people questions, and there may be questions that come up in further hearings that we would like clarified. We would appreciate that if we do ask you further questions you respond as quickly as possible to assist the committee. Thank you very much.

[5.20 p.m.]

HEAZLETT, Mr Mark Henry, Senior Director, Trade Sales, Office of Asset Sales and Information Technology Outsourcing, 28 National Circuit, Forrest, Australian Capital Territory 2603

HUTCHINSON, Mr Michael James, Chief Executive, Office of Asset Sales and Information Technology Outsourcing, PO Box 4271, Kingston, Australian Capital Territory 2604

CHAIR—Welcome. We do not have a submission from you. Do you wish to make a very—I emphasise very—brief statement?

Mr Hutchinson—Senator, this is not an issue which is of central concern to the office of asset sales and we are here really to answer any questions the committee may have.

CHAIR—Senator Schacht, do you have any questions?

Senator SCHACHT—Mr Hutchinson, it is good to have you back again.

CHAIR—He is delighted to be here, Senator Schacht.

Senator SCHACHT—The committee thought it might be useful to have you along, in that it appears that, at a stage of consideration of the issue of the spectrum management issues for digital television and its provision to the public, PM&C, Treasury, Finance and Industry put in submissions favouring a full sale of this asset, which is part of the spectrum. Did the office of asset sales have a view about this?

Mr Hutchinson—Senator, I understand you to be asking questions which appear to me to be questions about comments that or may not have been made in response to a cabinet submission. As such, I do not really feel I should comment on what may or may not have been put to cabinet.

Senator SCHACHT—I thought you would say that, and I am not surprised. But I noticed the other day, in a hearing on the sale of Telstra, that you spoke enthusiastically about the full privatisation of Telstra. I think that at one stage you actually said that it was the view of the office of asset sales that there would be an advantage because there would be a better telecommunications system in Australia, et cetera, if Telstra was sold. That seemed to be a policy view of the office of asset sales. Have you reached a similar view, as a policy issue,

within the office of asset sales of how best the assets of Australia, namely the spectrum, can be used?

Mr Hutchinson—I always like to try to bring a degree of enthusiasm to any job that any government asks me to do, and generally I feel I am successful. The government has not asked me to take on any responsibility for the sale of spectrum broadcasting assets. It is not within the responsibility of the office of asset sales and therefore it is not—

Senator SCHACHT—So when you were speaking about Telstra, that was totally because it was the government's direction for you to be enthusiastic about the sale of Telstra?

Mr Hutchinson—When I was speaking about the sale of Telstra, I was speaking about a matter that was within the functional responsibility of the office for which I have responsibility.

Senator SCHACHT—And you were enthusiastic because it was government policy?

Mr Hutchinson—I was enthusiastic because I always like to be enthusiastic about my work, Senator.

Senator SCHACHT—You are always enthusiastic when you are carrying out government policy?

Mr Hutchinson—Absolutely.

Senator SCHACHT—So in all of those issues where as the office of asset sales you spoke enthusiastically that was only because that is government policy? There is no schizophrenia in your mind? You don't go home and kick the cat because you have had to speak in favour of something that you disagree with?

Mr Hutchinson—My cat is very old and I do try not to kick it very often.

Senator SCHACHT—Probably because you have kicked it so often. Is that right?

Mr Hutchinson—I do not feel the least bit schizophrenic, Senator.

Senator SCHACHT—An article in the *Financial Review* of 7 May quotes the office of asset sales as saying:

The proposal involves a significant reduction in the potential value of the remaining public spectrum assets that would be available for subsequent sale. The reduction would be reflected in a de facto further grant of a valuable public asset to existing commercial interests in the television entertainment industry.

Is that the view of the office of asset sales?

Mr Hutchinson—I understand that what you are reporting from is purported by the journalist to be a quote from a leaked copy of a cabinet document. As such, I really feel it would be inappropriate for me to comment.

Senator SCHACHT—Do you think that is from a leaked cabinet document?

Mr Hutchinson—My recollection of the article is that the article claimed that to be the case.

Senator SCHACHT—It was claimed to be the case, but you do not necessarily agree that it is the cabinet document?

Mr Hutchinson—I really would not care to comment on whether it is or it is not, Senator.

Senator SCHACHT—And you have written no such view in any non-cabinet document? There is nowhere else where the office of asset sales has expressed a similar view?

Mr Hutchinson—I do not believe that we have expressed a view in a forum that would be relevant to this committee, no.

Senator SCHACHT—That is what I am getting at. You are totally agnostic in the public issue of spectrum sales, et cetera?

Mr Hutchinson—Were the government to settle on the sale of this particular spectrum, it would either be broadcasting spectrum, in which case the sale of the relevant licence would be a matter for the Australian Broadcasting Authority, or radio communications spectrum, in which case the sale would be a matter for the Australian Communications Authority. In neither case would it be a matter for my office, and therefore it would not fall within my responsibility.

Senator SCHACHT—Have you issued a writ against the *Financial Review* for publishing alleged words of the office of asset sales, purporting this to be a cabinet document and clearly mentioning you, as the head of the department of the office of asset sales? There is a quote here under the heading ‘Office of Asset Sales’. If this is not a cabinet document, have you issued a writ for libel, slander or defamation of your character?

Mr Hutchinson—Senator, I do not believe there is anything defamatory in what that article said, as I recall it.

Senator SCHACHT—There is nothing defamatory, nothing libellous?

Mr Hutchinson—Nothing defamatory.

CHAIR—It does not mention any individual.

Senator SCHACHT—The head of the office of asset sales, who clearly would be responsible for anything written at this level, would have to be very upset if there was something wrong.

Mr Hutchinson—I would not dream of suing the *Financial Review*, even for a misprint.

Senator SCHACHT—I must say that nine times out of 10 they are there cheering you on as you sell every piece of the government’s silver that you can get your hands onto.

Mr Hutchinson—Senator, I would not dream of issuing a writ against the *Financial Review* in respect of an alleged quote of that sort, when the substance of the quote is not, in my view, defamatory.

Senator SCHACHT—It is not defamatory?

Mr Hutchinson—Whether or not it is accurate I pass no comment.

Senator SCHACHT—If it is inaccurate, does that not do damage to the reputation of your department and yourself?

Mr Hutchinson—Whether it is accurate or inaccurate there are no adverse imputations on the character of my office or me from that article.

Senator SCHACHT—That means that you do not mind having it recorded that you are in favour of a view that there is a ‘significant reduction in the potential value of the remaining public spectrum assets’?

CHAIR—You are putting words in Mr Hutchinson’s mouth. That is not hygienic; you know that.

Senator SCHACHT—He is an old trooper. I am not putting words into his mouth. This bloke is slipperier than a barrel full of Dutch eels, to try to get a grip on him on anything that he doesn’t agree he was going to bounce around on.

CHAIR—I think you should withdraw that, Senator. It is always in jest, but to say that about a witness is not appropriate. Withdraw the description you just made of Mr Hutchinson.

Senator SCHACHT—What, as a barrel of Dutch eels?

CHAIR—Just withdraw it. It is not appropriate. You can withdraw it.

Senator SCHACHT—Do you find that defamatory, Mr Hutchinson?

CHAIR—Senator Schacht, withdraw it.

Senator SCHACHT—It was a figure of speech. This bloke has a hide thicker than five rhinoceroses.

CHAIR—Irrespective of that, it is just as bad and it is inappropriate.

Senator SCHACHT—This is the bloke who is flogging off everything he can get his hands on.

CHAIR—Senator Schacht, I ask you to withdraw the comments you made.

Senator SCHACHT—I will withdraw. You do not find that this claim by the *Financial Review* of what is in the cabinet submission on your behalf is inaccurate?

Mr Hutchinson—I have offered no comment on its accuracy or otherwise. It is about a purported comment of a cabinet document on which I cannot and will not comment.

Senator SCHACHT—I presume you will not even comment then on whether you actually lodged a cabinet submission?

Mr Hutchinson—Absolutely not.

Senator SCHACHT—What do you think the value of the spectrum allocation to the five free to air television stations of seven megahertz each would be worth in an auction system?

Mr Hutchinson—The Office of Asset Sales and Information Technology Outsourcing has done no work on which I could base any reliable estimate that I would care to put before the committee.

Senator SCHACHT—That means you have done some work but you just would not care to tell us.

Mr Hutchinson—No, we have done no work and therefore I have no basis for an estimate. Therefore, I am reluctant to speculate.

Senator SCHACHT—I find that extraordinary. You have lodged a cabinet submission, which you refuse to confirm or deny, and you did not tell cabinet of what you thought the value of the spectrum would be if it were auctioned? You are not usually that sloppy, I have to say.

Mr Hutchinson—Had there been a cabinet submission on this issue, it would not have been prepared or lodged by the Office of Asset Sales and Information Technology Outsourcing.

Senator SCHACHT—If there had been a cabinet submission on the value of the spectrum, you would not have lodged a submission on the value of the spectrum?

Mr Hutchinson—The responsibility for the spectrum falls squarely within the portfolio of responsibilities of the Minister for Communications, the Information Economy and the Arts. It would be a matter for Senator Alston to raise this and not a matter for my office to raise this.

Senator SCHACHT—Out of curiosity, would it be a matter that either Finance or Treasury would have a view on? There would be consultation about how much the spectrum would be worth at any stage if it were auctioned off. When there actually is an auction, as there was recently for mobile telephones, they do not declare their hand publicly—and quite rightly—to

affect the price. But, surely, privately Treasury and Finance would have a view about what the value of the spectrum, if it were auctioned, would be.

Mr Hutchinson—They are questions that you would have to ask of those departments.

Senator SCHACHT—We will get around to that. Your minister is the minister for finance, is he not?

Mr Hutchinson—Near enough. He is the Minister for Finance and Administration.

Senator SCHACHT—You pedant. At any stage, when you are selling assets or looking at possible assets, do you provide any advice to the minister for finance on what the value of that asset might be, in view of your accrued skill now in flogging stuff off?

Mr Hutchinson—If they are assets for which my office will have responsibility, then, yes, it is possible that we would prepare estimates for the consideration of the minister. Again, I point out that the spectrum assets are not assets for which my office has responsibility. The responsibility for the sale of spectrum assets falls within the communications portfolio of either the Australian Broadcasting Authority or the Australian Communications Authority, depending on which part of the spectrum they fall in.

Senator SCHACHT—When the spectrum is being auctioned for whatever purpose, as it was recently for mobile phones in the 800 megahertz and the 1800 gigahertz band, you have no involvement, either directly or indirectly, in the process of how that auction should be conducted?

Mr Hutchinson—That is correct.

Senator SCHACHT—You are telling me that, even if the government had taken a decision to auction the spectrum for digital television, you would have had no involvement in that auction process?

Mr Hutchinson—That is correct.

Senator SCHACHT—Well, why did you lodge a cabinet decision?

CHAIR—He did not say he did.

Senator SCHACHT—In that case it means that Mr Steve Lewis is publishing material that is an utter fabrication.

Mr Hutchinson—It would not be unusual for the media to get something wrong. But, as I have said in the past and in this hearing, I have no intention of commenting on whether there was or was not a cabinet submission, or whether we did or did not offer a comment on that cabinet submission.

Senator SCHACHT—But presumably if this quote appeared under the heading ‘Veterans’ Affairs Department’, the head of Veterans’ Affairs would have written a letter or said, ‘Listen, sport, we don’t lodge submissions about the sale of the spectrum.’ That would have cleared that up because that would have been a ludicrous suggestion. Therefore, when you do not write a letter to the editor pointing out that this was incorrect, you just stay silent, a lot of us would be experienced enough to believe that that was an admission that there actually was something lodged.

Mr Hutchinson—It is a clear and strong tenet of a professional public servant that we do not comment in public or before this committee on what has or has not or may or may not have gone to cabinet; it is an absolute requirement of us. We certainly would not write to the media about what may or may not have gone to cabinet. I would be very surprised if the secretary to the Department of Veterans’ Affairs would do so.

Senator SCHACHT—Even if it was comprehensively wrong and your reputation was damaged accordingly?

Mr Hutchinson—I believe, if it went to a cabinet matter, even in those circumstances.

Senator SCHACHT—You would manfully bear the slight and insult that went with it?

Mr Hutchinson—I have a thick skin.

CHAIR—Senator Schacht, I think you are straying off the bill. I think we ought to get back to the actual bill.

Senator SCHACHT—This article appears in the *Financial Review* in great detail of six different government departments putting submissions, apparently what is called ‘coordinating comments’ at least, all opposing the decision that the minister announced about the allocation of spectrum for digital broadcasting. And the office of asset sales is one of them, as is, of course, the office of regulation review, et cetera. I find it not just an odd little leak. In great detail, someone in the system has chosen deliberately to leak this because they are outraged about the government’s decision. It is not the first time that someone in Treasury or Finance or PM&C has been known to leak something against the interests of a particular minister they disagree with, I must say—whether it is a Labor or a Liberal minister.

CHAIR—Senator Schacht, Mr Hutchinson has indicated to you he is not going to say whether a submission was made. You have asked the question; you have made your point. I think we need to move on.

Senator SCHACHT—I just have a couple more questions to Mr Hutchinson. In your very wily experience over years of involvement in senior Public Service matters, have you ever known six departmental coordinating comments to be leaked, and be published so overtly over any particular decision, like this?

CHAIR—Senator Schacht, that is making the assumption they are, and I do not think it is appropriate to this bill.

Senator SCHACHT—Let him answer. He can make a comment. It is for him to answer, Madam Chair.

CHAIR—It is not relevant to the bill.

Senator SCHACHT—It is relevant.

CHAIR—It is not relevant to the actual legislation and whether we have amendments to legislation.

Senator SCHACHT—It is relevant to the judgment that some senators may make in their final decision on whether they support the bill as is or want to move amendments.

Mr Hutchinson—Senator, it is a matter of great regret that, from time to time, documents that should not be put into the public domain are put into the public domain. It is not a practice that I condone, it is not a practice that I would ever myself indulge in, and it is something that is inimical to the good conduct of government business. It has happened in the past. I trust it will not happen too often in the future. But I will not take part in any discussion of it.

Senator SCHACHT—So, in all your long history as a senior public servant, you have never been involved in briefing or leaking?

CHAIR—That is not a relevant question, Senator Schacht. I am going to disallow it.

Senator SCHACHT—Well, all right. You are just trying to protect what clearly someone in the government—

CHAIR—I am not trying to protect anything. It is not a relevant question to ask Mr Hutchinson whether he has ever leaked a document or not.

Senator SCHACHT—Someone has leaked comprehensively. This is extraordinary: a major decision has been leaked of six government departments opposing what the government finally adopted. In the 25 years I have been observing federal politics, and being involved directly myself for at least 11, I have never seen six department cabinet submissions in opposition to a minister being leaked in this way.

CHAIR—You are assuming that they are.

Senator SCHACHT—Maybe someone can find a case that I have missed, but this is a pretty substantial leak and every one of them is extremely embarrassing to the minister and the government's decision. Poor old Mr Hutchinson has to sit there and duck and weave and use the 'We do not comment about cabinet submissions' approach, even though it actually sounds like he wrote it himself. I would have to say, Mr Hutchinson, it is you all over. But never mind, I am not going to belabour the point, because he is not the one who should be got at it. Is actually the minister and the cabinet decision that perverted six very strongly held positions.

CHAIR—Alleged positions. Mr Hutchinson has not agreed whether they are cabinet submissions.

Senator SCHACHT—The six comments here bear no relationship at all to the final decision that government took on digital television.

Senator TIERNEY—On a point of order, Madam Chair. This is really a matter for the chamber and not for this hearing.

CHAIR—I agree. Senator Schacht, do you have any more questions that are about specific aspects of the bill?

Senator SCHACHT—If I ask him anything about the bill, he is going to say, 'Nothing to do with me. It is over to the ACA, the Department of Communications and the Arts.' Is that not correct, Mr Hutchinson?

Mr Hutchinson—We came prepared to answer any questions relevant to our area of responsibility and we will do so.

Senator SCHACHT—Yes, of course, and I have raised it with you about your cabinet submission and you have decided to give it a big miss and duck and weave about it and make no other comment.

CHAIR—Have you got any other questions relevant to the legislation and the amendments that you might be looking at, Senator Schacht?

Senator SCHACHT—Just for the record, is there any legislation before us, Mr Hutchinson, that you have had any input into drafting—your office, that is?

Mr Hutchinson—Yes, we have been closely involved with the Department of Communications and the Arts in preparing the draft legislation in order to ensure that the intersection between this policy and our responsibilities for the sale of the national transmission network are properly accommodated.

Senator SCHACHT—Today with the representative from the ABC we discussed the money that the government had already publicly announced, provision of \$20 million, to the ABC

for digital conversion, for equipment in their studios, et cetera. Then he outlined to us something that on the transmission side, which this bill is dealing with, has to be an issue for the National Transmission Agency. He said that the government would need to provide, at his estimate, an extra \$30 million a year over the next few years to cover the cost of the extra transmission in digital and including a recouping by the NTA, either privatised or not privatised, of the cost of installing the digital equipment to broadcast the ABC signal. Is that a figure that you have discussed with the NTA?

Mr Heazlett—There are no formal estimates of the cost of transmitting digital broadcasts in connection with the sale of the NTN. At this stage our understanding is that there is no determined system for the transmission of digital signals and therefore there are no valid cost estimates on which to base the cost of transmission services.

Senator SCHACHT—So here we have a deadline which the government has set, 1 January 2001, for digital broadcasting to start in Australia in a simulcast manner, both analog and digital together including HDTV, just over 2½ years away, and unless the ABC gets some money for transmission they will not be on air in the digital format. Is that correct?

Mr Hutchinson—The funding of the ABC is a matter for the Communications, the Information Economy and the Arts portfolio.

Senator SCHACHT—But you said you were discussing with them the privatisation of the NTA.

Mr Hutchinson—Correct.

Senator SCHACHT—In your due diligence and scoping studies, I think they are euphemistically called in your terms, have you prepared that material to the potential bidders? They will have identified themselves once the bill is carried from various places from around the world. Have they been told that the ABC and SBS, who must use the National Transmission Agency for five years after the privatisation occurs, will have to provide the cost of the digital transmission equipment?

Mr Hutchinson—The contracts that we are preparing between national broadcasters and the national transmission network prior to its sale at this stage cover only the transmission of analog broadcasting. Any post-sale additional services, including digital services, will be a matter for subsequent contracts to be settled directly between the parties, the owner of the national transmission network and the ABC and the SBS and any other broadcasters who choose to use the network.

Senator SCHACHT—But the ABC said today that they believe—and they may be wrong by the quantum—that \$30 million per annum will be needed for the transmission costs. They also made it clear that, one way or the other, either the government gives the money to the NTA before it is privatised—that is the existing arrangement for transmission costs—or, if it is privatised, the ABC will need a commitment of \$30 million for transmission costs to pay the privatised NTA. You say that is not in your discussions?

Mr Hutchinson—Under the arrangements to be put in place following the privatisation of the national transmission network, its customers will be required to pay it for services that it provides. If the ABC requires additional services by way of digital transmission, the ABC will be required to pay the buyer of the national transmission network. If the ABC then has a funding issue, that is a matter between it and the communications and arts portfolio; it is not within my responsibility to comment on or discuss.

Senator SCHACHT—In the material that you provide to all the potential bidders when they register, will you warn them that that will be an issue, that digital broadcasting for ABC and SBS is going to be an issue that has to be dealt with—even though it is a funding issue not for them but they will be required? You are saying that they have got to broadcast for five years, or is that only five years in analog?

Mr Heazlett—The contractual arrangements underlying the sale of the national transmission network are for a five-year contract for analog services, and those contracts have the option, at the discretion of the broadcasters, for their renewal.

Senator SCHACHT—After the five years?

Mr Heazlett—After the five years, and that solely relates to analog services. That is made quite clear in all material passed—

Senator SCHACHT—So the ABC, if it chose, if NTA is privatised, could go somewhere else to get its digital signal broadcast, other than the NTA?

Mr Hutchinson—Subject to the planning responsibilities of the Australian Broadcasting Authority and the various policies that apply to that which touch on the issue of desirability of co-location of transmitters—

Senator SCHACHT—I think you had better warn the potential bidders that there is no guarantee that the ABC or SBS will use the privatised NTA for digital broadcasting.

Mr Hutchinson—If it would help the committee, we could make available a copy of the information memorandum that we have provided to bidders that would indicate what we have told the bidders.

Senator SCHACHT—You had better, pronto. In the material are they warned that the ABC and SBS contract is only for analog and that within 2½ years, halfway through this five-year period, the ABC and SBS can go off and make a separate deal with anyone they like for digital broadcasting? If that does not have some germane view about the value of the NTA, I do not know what has.

Mr Hutchinson—The information we provide to bidders tends to tell them what does apply rather than what does not apply, and therefore we have outlined what the government policy is and what the contractual arrangements are and are proposed to be. We do not spend a lot of time going into what they are not and what they may not be.

Senator SCHACHT—After 2008 there will be no analog broadcasting, subject to a review in 2005. Clearly, who gets access to be the digital broadcaster within the next couple of years from the ABC and SBS is therefore going to have the long-term advantage of being the permanent digital broadcaster. I would have to ask whether you have run this prospectus draft in front of the Australian Securities Commission. By omission, you are not providing due diligence to potential bidders.

Mr Hutchinson—We will provide the committee with a copy of the information memorandum, and I can assure the committee that the due diligence process that we will afford all the bidders will fully meet all our obligations under Corporations Law and the Trade Practices Act.

Senator SCHACHT—I see. But you cannot tell me whether they have been informed that the ABC is not automatically bound to take the services of the privatised NTA for digital broadcasting?

Mr Heazlett—They have been informed of that.

Senator SCHACHT—They have been. Now you have cleared it up. For the last five minutes you were silent about that.

Mr Heazlett—It is quite clear that any new business activity, including digital, is contestable.

Senator SCHACHT—Is contestable; that is in the package. I wish you had said that to me five minutes ago; I would not have belaboured the point with you.

Mr Hutchinson—I apologise if I did not communicate adequately. I did say to you that I thought the contract indicated that any services beyond that would have to be negotiated between the parties at the time.

Senator SCHACHT—That is the parties at the time, but you did not say that that was in the package going out. So the ABC, to get back to the point, is now going to have to go to the government, cap in hand, and ask for an extra \$30 million, if that is the figure they think is correct, to pay for their digital broadcasting. As you say, that is not an issue that is of great concern to you, Mr Hutchinson.

Mr Hutchinson—I did not say that it was not of great concern to me; I said that it was not my responsibility.

Senator SCHACHT—I see, you are showing some sensitivity in helping the ABC along. That would be a first too. Nevertheless, you have not had any information from the NTA, even indirectly, about what that cost to the ABC-SBS would be for digital broadcasting.

Mr Heazlett—I understand that the NTA may have had some very preliminary estimates of the cost of transmission equipment that has been provided to bidders.

Senator SCHACHT—I understand there are a number of commercial television operators, mainly regional, who may use, in one form or another, some of the assets of the NTA. It may be a mast to do broadcasting in some areas. I do not think it is a large number but I think some of it is there. Have they covered that prospective bidders for the NTA know that the commercial broadcasters may wish to negotiate access to put their new digital transmitting equipment on those existing masts?

Mr Hutchinson—The NTN has a fairly extensive client base of regional television broadcasters arising out of the way in which the former government's policy of television equalisation was administered. The contractual arrangements between those broadcasters and the NTN for use of the sites and towers will be novated to the purchaser, and the future of those contracts will be a commercial matter between the purchaser, the buyer of the NTN and any other service provider in the marketplace under contestable arrangements.

Senator SCHACHT—That is for existing analog. I presume some of the existing NTA contracts for analog services, using the equipment or access to a site or whatever, have varying lengths of time left to run. In that way, you are warning potential bidders that when they run out they are up for renegotiation and there is no guarantee that that commercial sector will continue with the contract.

Mr Hutchinson—As I understand it, the typical arrangement between a regional television broadcaster and the NTN is essentially that the broadcaster locates their own transmitter on the NTN site, the NTN provides them with power supply, access, a feed to the antenna and the mounting of the antennae on the NTN mast. The transmission is carried out by the broadcasters themselves and not by the NTN.

Senator SCHACHT—To get access to those facilities they pay some rental figure.

Mr Hutchinson—Correct. And the future of that arrangement will be novated to the buyer of the NTN and its further evolution will become a contestable commercial matter.

Senator SCHACHT—Again, when a digital system is needed that is a matter that potential bidders will be negotiating between them and any commercial operator who wants to discuss an appropriate rate to put digital signal equipment on the existing site.

Mr Hutchinson—That is correct. The bidders are fully aware that that is the commercial basis going forward.

Senator SCHACHT—All right. The main issue then is how much funding the ABC gets, and this is not in your hands, to pay for the cost of using either the privatised NTA or going somewhere else to get their digital signal. Do you disagree with my description on that?

Mr Hutchinson—The question of what digital broadcasting the ABC undertakes, how much it is charged for it and how it manages to find the funds to meet those charges are matters entirely outside my responsibility.

Senator SCHACHT—That is all have.

ACTING CHAIR (Senator Tierney)—Thank you.

[5.56 p.m.]

CORONEOS, Mr Peter, Executive Director, Internet Industry Association, PO Box 74, Red Hill, Australian Capital Territory 2603

WARD, Mr Michael, Board Member, Internet Industry Association, PO Box 74, Red Hill, Australian Capital Territory 2603

DURIE, Mr Rob, Deputy Executive Director, Australian Information Industry Association, PO Box 246, Deakin West, Australian Capital Territory 2600

CHAIR—Welcome. The committee has before it submission No. 24, which it has authorised to be published. Are there any alterations or additions that you would care to make at this stage?

Mr Coroneos—No. There is also submission No. 26 to which we are speaking.

CHAIR—That is right, submission No. 26 was tabled today. Thank you.

Mr Coroneos—Is the senator clear that she is speaking to two organisations?

CHAIR—Yes, we are speaking to the Internet Industry Association and the Information Industry Association.

Mr Coroneos—That is correct.

CHAIR—And we have submission No. 24 and submission No. 26.

Mr Coroneos—With submission No. 26, there are two changes that we would like to make in respect of the wording to the top line at the top of page 3. These matters go to the complexion of the submission but not the substance—to substitute the words ‘preferential treatment’ instead of the words of ‘a lavish bestowal.’ The sentence should read ‘. . . purpose can justify such preferential treatment when alternative applications of the . . .’

CHAIR—More moderate language. Anything else?

Mr Coroneos—One further one on page 4. On the second line, we would like to substitute the word ‘flawed’ with the words ‘deficient in certain respects’. Again, it goes to the complexion rather than to the substance, which remains intact.

CHAIR—Thank you. Does either organisation wish to make a very brief statement, not duplicating anything that is in the submission?

Mr Durie—I wish to reiterate that AAA's concerns are essentially of principle. We believe government policy in the area of the information industry covering computing, telecommunications and broadcasting should encourage competition and new entrants, and should promote technological independence and innovation and allow the market to be the arbiter of the allocation of scarce resources. There should also be full and open consultation with all the players. In our view, the bills before the Senate and this committee fail to address any of these criteria adequately.

The bills provide for a static environment for digital TV for eight years. For somebody from the information industry this is impossible to comprehend, given the rapid pace of technological change and the convergence of computing, telecommunications and broadcasting. It is also hard to understand how the government's policy fits with its own vision for the information economy.

The likely outcome is that the emergence of new and innovative technologies and applications for all Australians will be inhibited and delayed. Our submission does identify a number of specific issues relating to legislation, but in view of your exhortation not to repeat myself I will leave it at that point.

Senator LUNDY—In your submission you talk about the government failing to address the concept of free competition with respect to these bills. Would you elaborate on how you believe this bill is anti-competitive.

Mr Durie—We just contrast it with the competitive environment that the previous government created and that this government has continued in telecommunications, where there is no limitation on entrants, there are no market reservation arrangements and there are no technological reservations of any description. We believe that provides the best basis for providing services which are appropriate, and appropriately priced for the consumer. If you look at the policy proposals for draft legislation, I think you will see that there is unparalleled market reservation, certainly from the information industry's point of view.

Senator LUNDY—Can you describe, for the information of the committee, the types of services that could be and perhaps are being provided through this area of spectrum in broadband datacasting style services at the moment.

Mr Durie—I suppose I could run through a list of the sorts of services, technologies and applications that are provided at the moment over the Internet. Given that most of us were almost unaware of the Internet three years ago, it is a bit hard to predict what is going to be available. That really goes to our point.

Senator LUNDY—So what you are saying is that everything that is currently being delivered over the Internet is capable of being delivered in a wireless way through this section of spectrum that is under consideration?

Mr Durie—I am not a technician, Senator, but that is my understanding.

Senator LUNDY—It is my understanding also. On that basis, you say that the construct of the current legislation will exclude your members from providing their Internet services through that part of the spectrum, but we heard earlier today that some 10 megahertz of excess spectrum could be available. Does that change in any way your views about your exclusion from access to this spectrum?

Mr Durie—I would be interested to know on what basis it is going to be made available to the potential players. It is going to be given away. Is that right?

Senator LUNDY—I think you will find that the government intends to at least make a few quid out of it.

Mr Durie—I suppose that would be point number one. That does not give you a fair basis for competition. I know that the legislation does provide for the sale or auction, if you like, of additional spectrum for datacasting services, but to provide for the charging for those services it is hard to know how they are going to strike a price, given that we do not know—as we have heard from the previous witnesses—what the value of this spectrum is.

Senator LUNDY—Both of your submissions make quite a specific point of referring to this legislation being technologically specific, or in fact stifling of innovation with converging technologies and so forth. Can you perhaps elaborate on how you see those constraints being imposed, and what approach should be taken to avoid that specificity.

Mr Durie—I suppose the approach we would recommend is that the government should allocate this spectrum on an auction basis and allow the market to determine its use. Again it is a bit hard to be predictive about what the appropriate technologies are going to be in three years time, let alone in 10 years time, which is the province of this legislation. The only way to really determine that in an efficient and effective way is to allow the market to determine it.

Senator LUNDY—Further in your submission you state that the legislation should be amended to state clearly that commercial and national broadcasters are not able to commence datacasting services until they have commenced digital broadcasting services. Is that because of what you perceive as anti-competitive behaviour?

Mr Durie—There are two points there on datacasting, in order to create within the environment that we think is quite restrictive as level a playing field as possible between the free to air broadcasters as well as other service providers. One is on the timing, so that all players are starting at the same time, if you like. The second is the provision of an open access regime, which would operate in theory in a similar way to the telecommunications access regime, where basically the owners of infrastructure would be required to make that available on commercial terms to other service providers.

Senator LUNDY—Are you in a position to embark on the exercise of drafting up the relevant amendments that would give effect to what you have submitted?

Mr Durie—It is possible that the digital coalition we participate in would be prepared to do that; I would have to consult with the other members of the coalition. I think it would be pointless for all the different groups to draft their own alternative clauses. I suppose it is a bit like the old Irish joke, though. I am not sure if the bills are the right place to start to draft the environment for the future; that is my concern.

Senator LUNDY—Your submission makes that very clear. The next point in your submission relates to the access regime for that section of digital spectrum. You make reference to the similarities between the current considerations of the regime for access to the telecommunications infrastructure and what is proposed under this piece of legislation giving the broadcasters control of both the gateway and the navigational system through the digital spectrum. Have you had any indication from the government or the department that they are prepared to view allocation of spectrum or access to this spectrum in the same way as they are viewing access to the telecommunications infrastructure?

Mr Durie—I have not had an explicit response from them on that point.

Senator LUNDY—Are you seeking an explicit response?

Mr Durie—We are, but I have not had a specific response at this point. I will keep you posted.

Senator LUNDY—Thank you. We will ask the same question of the department. On a point about respective amendments: I know the access regime matters are still under consideration, but again perhaps you could consult with your colleagues about the construct and nature of any appropriate amendment which would address that point quite specifically, about other players getting access to that spectrum via a broadcaster that has it locked up.

Mr Durie—Yes.

Senator LUNDY—I have a question for Mr Coroneos, from the Internet Industry Association, about the current datacasting services being provided over the Internet. We have had a lot of discussion today about just what constitutes a datacasting service, and that point is highly relevant in the context of the bill. But also there has been a lot of speculative comment about what is currently available over the Internet and where that fits in terms of current thought on what that definition of datacasting is.

Perhaps you could describe for the committee the types of services that your members currently provide over the Internet and how they fit, in your understanding, into that definition of datacasting. That might give us a clearer idea of just what point we are at, with convergence, with the sort of services that the government is trying to legislate for in respect of the broadcasters.

Mr Coroneos—That is a good question, Senator. Perhaps a better question, though, is what services will soon be offered. We are seeing clear signals now that what is going to happen in the next six to 12 months will really start to open up. I have enumerated in our submission, at page 4, about eight points on the kinds of things that we expect new datacasting services to offer. For the record, they are: shopping at home through interactive shopping channels, where people view goods and services—and can download if they are digital type services, like music or perhaps videos, or, in the case of products, can order them on line for delivery in physical space; trading on stock exchanges all over the world; the ability to download electronic cash to a smart card in your living room, essentially creating an ATM situation in your own lounge room; the ability to send, view and receive email through television, with the appropriate set-top box; the ability to view movies and video clips via a form of video on demand; the ability to provide family protection for offensive content—this is an issue that Senator Tierney was asking me about in another situation not so long ago; the ability to engage in computer games and network gaming situations with other players elsewhere in the world, in real time; the ability to access multimedia news, that is, news in a variety of formats, including news that can be customised according to pre-selected criteria; and access to inexpensive Internet based telephony—using the Internet to make long distance phone calls at very much cheaper prices than are currently available.

These are the kinds of services that we anticipate will lend themselves, since they are in a digital medium, to a datacasting format. To go back to our submission: we say that this is one of the main reasons why we believe that sufficient spectrum must be allocated so that there is an incentive for these kinds of technologies to actually take hold in Australia.

Senator LUNDY—Just to follow up on that: in terms of the provision of content, are your members in the business of providing that sort of multi-tiered content at the moment, in terms of your services and—

Mr Coroneos—To trace our roots: we evolved more as an Internet service provider cum telecommunications carrier organisation, but increasingly have sought members who are web content developers or web site developers. Now, as electronic commerce is accelerating, increasingly we are targeting people that will be engaged in electronic commerce. Some of those people will be content providers in their own right, moving into the electronic medium.

Senator LUNDY—So it is those providers of content that stand to be disadvantaged, if you like, if they do not have the means by which to deliver their product?

Mr Coroneos—That is correct.

Senator LUNDY—I just want to follow up a couple of points. Do you have a question on that previous one, Senator Schacht?

Senator SCHACHT—No, but in the same area. Keep going.

Senator LUNDY—You mentioned video on demand. As far as I can see, it is one of the areas that will prove to be very grey in terms of definition of a datacasting service. In particular, for example, one of the submissions I think mentions a video carousel. Because it is not point to point delivery it comes under the definition of broadcast. How do you see that style of broadcasting—not point to point but still video on demand—fitting in with the sorts of people that you are representing and the content providers that you represent?

Mr Ward—I think the way this datacasting service will operate, certainly in the foreseeable future—that is, the next two to three years—is that you will essentially be migrating what is available currently through Internet based services into a form where it is available to normal television receivers through antennas. But you will have an enhanced ability to deliver far greater content to those people through that medium, simply because you have much greater capacity than you had through the twisted copper pair.

So, to answer your question, if on the Village Roadshow site, which we currently house and which is one of the most popular entertainment sites in Australia, they made provision for you to download a number of the titles they currently have available which would normally be in the video stores, for example, or sound clips, music clips or whatever, you could actually subscribe to those and download those to your hard disk for a one-off play. And that subscription would be a one-off payment for that download and for that use. There would be no reason why that would not be possible today, except that you cannot squeeze that amount of stuff through a twisted copper pair.

Senator LUNDY—So that is a specific example where exclusion from access to the digital spectrum would prove to be an anti-competitive act?

Mr Ward—It is essentially about capacity to the home.

Senator SCHACHT—So for downloading that movie at video quality, so you get good quality video at at least the same level that you are getting now, you either need a terrestrial digital signal or fibre—

Mr Ward—Cable to the home.

Senator SCHACHT—to the home, with a proper modem?

Mr Ward—Yes.

Senator SCHACHT—But you will be able to do that downloading by terrestrial signal as well? If I have a digital transmitter, a digital receiver and a digital television set, can I ring up, as you say, Village Roadshow and say, ‘I want to watch *Bliss*, or *Shine*, or whatever the movie is,’ they could download that to me and then I could replay it off the disc once and they would charge me accordingly, and I would see it in good quality video sound and vision?

Mr Ward—I think the difference, and the Senator made this point before, is that the Internet is generally considered a one-to-one medium. That is not really true. It is a one-to-many medium; it is just that individuals have to make that individual choice each time. In this case, every machine that was downloading information would be uniquely identified so that subscriber No. 25 would say, ‘Tonight we would like to watch *Shine*,’ and for 18 seconds *Shine* would download onto their hard disk in their set-top box. They would watch it on their analog television because they will not have a digital television for several years—

Senator SCHACHT—Yes.

Mr Ward—but the capacity will be there to do that because the spectrum allows that kind of service to be provided.

CHAIR—If you do that and it is not being watched immediately, can you compress it down more, when you get to the point of—

Mr Ward—A thousand times more, yes.

CHAIR—We are not talking about analog. If we get to high definition television—

Mr Ward—Yes.

CHAIR—So to do that you would need less spectrum to do it, if they are not going to watch it in real time?

Mr Ward—Yes. In this kind of service offering we need to separate what might be considered traditional broadcasting, where you are watching it and if you are not watching it has gone, from a datacasting facility, where essentially you are enabling an intelligent device at the end to receive information that you choose and you decide what you want to store. That allows you the capacity to filter material, to choose streams of information in particular languages or whatever, to add value to the information stream that is coming to you. But you do not have to be there to watch it at the time: you download it onto your hard disk and—

CHAIR—Isn’t this another question about what happens to the excess spectrum and how people get access to it if the free to airs are not permitted to do datacasting that is not enhancing an existing television program; and that if they do do something that is not enhancing it, they ought to pay commercial rates at the same rate that you might if you purchase some spectrum further down the line? Aren’t you really saying—and I might be wrong—‘At the same time, to give us an opportunity, we ought to be able to have some spectrum down the way to do some of this datacasting at a price’?

Mr Ward—You might consider us slightly more audacious than that. What we are saying is that we need spectrum now. If we wait until 1 January 2001 when the minister has a review before him on what the potential regulatory environment for datacasting services might be, then we will be buying machines that have been made in other countries and using them for the services that have been designed in other countries.

The government has made a sensible decision in recognising that there is more to this spectrum than just one-way television transmission. What the government has failed to do is to recognise that, within the next five years, the vast opportunity available to this country is not in television transmission—high definition television though it may be—but in enhanced

transmission services that build on the very able base we currently have with this Internet industry in this country and give us an opportunity to initiate some world class service offerings which will not be done in other countries, specifically in the United States, for the short term because they do not need to. They have so much cable they do not need to worry about this wireless stuff.

CHAIR—Is it a problem that the free to airs take up that spectrum if there is other spectrum that is available?

Mr Ward—It is a question of preferential allocation of data for a facility which we believe is probably going to be—even when it first transmits—old hat technology. We are legislating for the provision of spectrum eight years into the future for a technology which eight years into the future will be old technology, legacy technology, limited technology. Now we could be—with reasonably simple amendments to this bill—making a preferential statement that the government believes we should invest in a new technology, in a new regime, and create a pioneer situation for this country in developing interactive services which are transmitted through broadcasting spectrum.

Senator SCHACHT—Earlier today, the ABA suggested, and others have confirmed, that there is at least 15 megahertz unused capacity that could be made available that is separate from this argument of simulcast and giving the free to airs seven megahertz parallel to their analog for this simulcast period until 2008. If there was a dozen megahertz available, with the capacity of 20 megabits—this is separate from this argument about HDTV and so on—how many channels do you think ought to be just put out there in the marketplace from this other part of the spectrum that is available? You are saying that right now you want to get on with datacasting and so on, and you have listed the range here. Do you have any idea of how many licences should be issued or how much spectrum should be made available, completely separate from the HDTV allocation, to meet your demand to get on with the job?

Mr Ward—I have absolutely no idea, and it would be foolish of me to try to predict. What we are in a position to say is that there are at least two and probably three or four significant players in the Internet market who have made a sizeable investment in the infrastructure in this country based on a telecommunications access regime and who would like to make a sizeable investment in broadcasting infrastructure today, based on some sort of access regime to their broadcasting. How much? That is very difficult to say, but let us look at it in simple terms. Tomorrow we would only need enough to broadcast to two or three set-top boxes. In a year, if it goes the way of the Internet, we will probably need enough to 400,000 or 500,000 set-top boxes, and a year after that three or four million set-top boxes.

Senator SCHACHT—And how much spectrum would you need for that?

Mr Ward—That depends entirely on the content you are delivering. If you are delivering the *Titanic* to every box every night, then you need a lot of spectrum.

Senator SCHACHT—Yes.

Mr Ward—But if you are delivering a series of interactive services which build on the low base we have at the moment, then you certainly do not need a seven megahertz channel, which I think was the point of Senator Patterson's question.

Senator SCHACHT—Looking at the descriptions in the dot points you have here, would your company OzEmail run a program that all those dot points be one channel, one signal of three or four megahertz with, say, 20 megabits so that at some stage during the day you would show the shopping for home delivery, then later in the day you could choose to switch over

and go to the menu which says, 'Here is your movie list menu from Village Roadshow'? Would you be able to handle all that in one—what I would call a channel but I know that is old technology—

Mr Ward—Yes, but one 7-megahertz chunk of spectrum.

Senator SCHACHT—Would one 7-megahertz cover all of that or would you need less to do it?

Mr Ward—My answer to that is probably predicated on two things. Firstly, it would depend on the protocols you were using, particularly in relation to the financial transactions, as to how much had to come down—and that is a big question. Secondly, it would depend on the level of video on demand and computer games, because they would be the largest multimedia applications. But if you were to say to me today, 'You have a five-megahertz channel for a year,' I would say to you, 'With my five megahertz, in a year I can probably service 400,000 people comfortably, servicing their needs with a broad spectrum of content,' much broader than most people recognise at this point in time.

CHAIR—You can do a lot more.

Mr Watt—You can do a lot more.

CHAIR—So if you said, 'On Monday night there are four films you can choose from and three games,' you could get to a lot more people than if there were 20 films and 30 games you could choose from.

Mr Ward—We probably should not over-emphasise films because there are not a lot of films digitised—

CHAIR—But we are talking about the future.

Mr Ward—We are talking about by the end of this year though.

CHAIR—But I just want to get this clear: if you have a limited number of films that I can download, it means that if I want to watch *Titanic* on Friday night I can download it on Monday, because that is when it is in, and I have some sort of apparatus that does it for me.

Mr Ward—Yes, it will do it automatically.

CHAIR—I might not be able to get them all on that night, but I will be able to choose a week in advance to download something. If you have three features and 10 games, you can go to many more people than if you have 100 films and 200 games.

Mr Ward—That is true. But what is probably more likely to occur is that companies who will be offering content—let us say Village Roadshow for the purposes of this example—would offer their catalogue and you would be able to choose from the catalogue. It is unlikely you are going to want to suck down 10 different films at once, which would overdo the capacity of your local receiving machine—

Senator SCHACHT—But, if that happened, the machine would say, 'Hang on, I can't handle it' in one form or another and then maybe in a slack period in the middle of the night—

Mr Ward—Yes, the machine would be self-generating in that sense.

CHAIR—But you can only broadcast so many, can't you?

Mr Ward—You can broadcast a very large amount of information using this technology. The answer to the question is that it would take maybe a few seconds to download a feature film. If you had a lot of spectrum then it might take a few minutes; and if you do not have a lot of spectrum it might take a few hours. It would take weeks at the moment through a

twisted copper pair, so any improvement is significant. As to the number of competitors that would be available to do this now, tomorrow or by the end of this year, that is a very difficult thing to answer.

Senator SCHACHT—Another thing you said is that to service 400,000 customers you would need five megahertz. When you got a million customers signed up, would you then apply to the government for another part of the spectrum for another couple of megahertz?

Mr Ward—The act does not create a process—

Senator SCHACHT—Do not worry about the act for the moment. I just want to know that the process in the technology for this is that, at the moment with the free to air signal, once the signal goes out on the megahertz then one million people or even 10 million can see this simultaneously so long as they are within the range of the signal and have a receiver; is that right?

Mr Ward—Yes, that is geographically defined on the basis of the transmission.

Senator SCHACHT—Are you saying that, with the way things are developing and with data not being geographically defined, there is numerically a limit that the megahertz can provide—even with clever switching, packet switching and God knows what else, as well as through the air—and that when you get to a certain number of people you have to go and apply for more megahertz?

Mr Ward—No, you need transmission capacity between geographical areas. So the question is whether that would be separate from the spectrum allocation. In a sense, you are limited by the geography in the same way that television signals are limited by the geography. You need four station channels in the traditional sense to cover Sydney. Likewise, if you wanted to cover Sydney with a very large number of offerings through this service, you would need a lot of transport channels to make sure everyone had access to everything or you would want to have some kind of signalling system such as single frequency networks, which is one of the options being considered by the standards committees.

Senator SCHACHT—What I want to get clear is that, irrespective of the government's view on allocation and the free to airs each getting seven megahertz, if it is true there is another 12 to 15 megahertz available now through the ABA, if you got five megahertz, someone else got five and there were three datacasters each getting five megahertz and you let it rip and all those dot points were under way and the market took off—how long would it be before the three of you say to the government, 'We have filled up the 15 megahertz; we need more megahertz to meet the demand,' so that the demand on the spectrum keeps growing?

Mr Ward—The capacity for material to be consumed to the traditional Internet doubles about every 100 days. When Telstra, Optus and people like ourselves are forecasting our bandwidth demands, we are forecasting a year or two years out at being able to deal with quadruple the current amount of capacity we are currently dealing with. Let me give you an example: if I am sitting at home and I have downloaded the world's first full 3D animation video, essentially a hologram is going to emerge in my lounge room, I have sucked down a lot of bandwidth that night and probably a one- or two-megahertz chunk is not going to satisfy that. If a million people have done it, I am going to need a very large amount of bandwidth.

CHAIR—But by the time you get to that there might be a way of compressing it even further.

Mr Ward—That is right. The answer to all these questions is that it is very difficult to put that kind of mathematical relationship into legislation today because it is changing exponentially and it is very difficult to determine.

Senator SCHACHT—Telstra provides Internet now through the cables of Australia—is that right?

Mr Ward—Only a limited amount, but yes.

Senator SCHACHT—A limited amount with all the deficiencies. Here we are with digital terrestrial broadcasting putting the signal out. Therefore, unlike a fibre, it has a limit because of the capacity to compress so far.

Mr Ward—Yes.

Senator SCHACHT—If we issue three licences, first of all, when we issue them do we issue them per megahertz or per megabits so that people in the marketplace know what they are actually dealing with? We know we allocate certain megahertz for Channel 9, Channel 7, Channel 10, ABC and SBS; would you request the same definition—it might not be the same amount of megahertz—to get your business under way of running a datacasting covering all those dot points?

Mr Ward—I do not think it is any different from allocating spectrum for broadcast purposes. Essentially we are just talking about different content; we are not talking about different transmissions. However, it would make more sense to allocate the spectrum on the basis of its capacity rather than of its frequency.

CHAIR—But if that did happen, then would it only be in the beginning available to people in the city areas and would it cost more then to go out into regional areas? I presume you would have to put up transmitters to broadcast your information.

Mr Ward—Yes, I think the same issue applies to television as applies to this kind of service offering, and that is that to enable all the transmitters right across the country to do this requires a considerable amount of time.

CHAIR—Could you buy space on an existing transmitter from the television people?

Mr Ward—The access regime here is quite explicit in relation to site access and to transmitter capacity. So as soon as transmitters are enabled, let us say we enable transmitters in western New South Wales first before we enable transmitters in Melbourne, then you could go to Melbourne first.

CHAIR—We have got existing transmitters for television.

Mr Ward—Yes, they have to be enabled for this digital broadcasting.

CHAIR—Yes, and could you purchase space on those?

Mr Ward—Absolutely, that is exactly how you would do it.

CHAIR—You said that the amount of information that goes out is doubling—

Mr Ward—That is consumed by Australians, yes.

CHAIR—But the capacity to compress it is not going at that rate, is it?

Mr Ward—No, not nearly that rate.

Senator LUNDY—Could I go back to clarify a couple of things. In terms of the growth rates of the usage of the Internet in Australia, I note some of the statistics you have used about the transfer of consumers away from sitting in front of the TV to sitting in front of the PC.

Mr Ward—Yes.

Senator LUNDY—The other point I want to make is that also in your submission you say that the only way to deliver these high bandwidth interactive services that bypasses the costs of basically installing cable or some sort of broadband fibre network is through this digital spectrum. With those two factors, you are really painting a picture of the imposition of technological constraint upon an industry that obviously is growing but will not be able to if this bill proceeds. I know that is the theme of your submission but it seems a very significant point and I want to make sure that this is the substance of what you are saying.

Mr Coroneos—That is what we are saying. We are saying that, given that these services are going to demand more bandwidth than can currently be supplied through traditional telecommunications networks, we really do need spectrum to go to the next level.

Mr Ward—I do not think the bill excludes the possibility of this. I think, with the small amendments we have been talking through in the last few hours, it would probably allow a far greater degree of access. The bill is essentially constructed for one purpose and datacasting has been grafted into it. With some amendments, I think the bill could actually provide more of an opportunity to get into this service early.

A really key argument here, and I think it was a point that Rob made in his submission, is the question of timing. We just want to be in a position to get on with doing this quickly in this country as opposed to having to wait for it to be done somewhere else and then import the technology and be an importer of the applications and hardware associated with it.

Mr Coroneos—If I could amplify and add to that point, the ability to engage and provide these services may actually come about quicker than the ability for free to air television stations to broadcast HDTV. The Internet industry is the one with the immediate need here.

Senator LUNDY—In terms of allocation you have been quite scathing—perhaps that is a bit too harsh, given the changes of your wording, but perhaps not—of the allocation of this public resource free to the free to airs. If the government persists with that, do you think you have an equal claim to the allocation of this spectrum to services and the people you represent?

Mr Coroneos—There is an equity argument that you have correctly picked up on, and that is that, while the government recognises that there are costs that will be incurred by free to air broadcasters in migrating to the digital platform, similarly, there are going to be costs in the Internet industry in moving to a broadcast capacity. So while the costs are of a different nature, they are still costs.

CHAIR—Yes, but you are doing something new. You are not trying to repeat the same thing.

Mr Ward—That is right.

CHAIR—There is a difference. It was the same thing Mr Meagher tried to tell me about newspapers. You are going into a new area, and what we are saying to free to air is, ‘We want you to continue to give an existing service, but do it on digital television.’ Can I just ask one question: is anybody else anywhere in the world using spectrum to deliver this sort of service—datacasting?

Mr Ward—Yes. There are three companies, one in the UK and two in the US, servicing markets of approximately 300,000 to 400,000 people.

CHAIR—How much spectrum do they have?

Mr Ward—They are not using spectrum in the broadcasting area. They are, in fact, using spectrum which is in the higher spectrum bands of 28 to 31 gigahertz or in the 800-megahertz band.

CHAIR—Is that slower or less efficient?

Mr Ward—The 800-megahertz band is much slower—it is drip feeding—and the higher band width is much, much faster: it has enormous capacities but its limitation is that it is very short distance.

CHAIR—So you have to have transmitters fairly close together?

Mr Ward—Yes, you can only service a small cell of 4,000 or 5,000 people per transmitter. That service is being used in the United States by a company called Cellular Division and also by a company called WinStar which is not being used without success. The problem there is the purpose in doing it is generally to do what we would like to do in this country, which is to design the technology, develop the applications and market them.

CHAIR—So you are saying that, because it is not happening anywhere else yet on the—

Mr Ward—On this type of spectrum.

CHAIR—broadcasting band, it could give us a technological advantage in people being innovative and getting product up and running?

Mr Ward—And we certainly think in markets adjacent to ours—the Asia-Pacific market—where people are not going to have cable to their home in the foreseeable future, it is a very good option for them to have high speed Internet services.

CHAIR—As long as we do not let intellectual property go as we so often do in Australia.

Mr Ward—So it would be an important consideration.

Senator LUNDY—Chair, could I go back to a point you made earlier about this being one of the distinctions between what we are talking about here and what is being provided for in the bill for broadcasters in the digital spectrum. It goes to a question of equity in that, yes, it is new, but currently the provision of bandwidth and the hardware associated with Internet access is far in excess of the purchase of a typical television. Can you provide some information to the committee about the socioeconomic impact of the access and equity arguments in relation to providing the organisations you represent access to the digital spectrum for free?

Mr Coroneos—If I understand you correctly—

Mr Ward—How much would it cost?

Senator LUNDY—Not just how much, but a comparative imposition in that context of equity, given that we know people who do not have access to the Internet now are generally a lot poorer than those who do. How can what you are proposing change the nature of that trend or that circumstance?

Mr Coroneos—We have canvassed it slightly in our submission in so far as we say the ability to datacast certain parts of the Internet content may actually relieve the load off the telecommunication part of it and may help therefore drive down the costs of providing that content and therefore, hopefully would equate to lower overall charges. We see that to deny the Internet industry that ability to utilise datacasting in that way is to unnecessarily withhold potential price reductions across the board.

Mr Ward—We think that we could probably have a set-top box on the market by Christmas which would retail somewhere between \$A200 and \$A300 which you would connect to your

existing television aerial, stick it into your telephone plug at the back, stick it into your television and be able to receive the Internet bigger, better and faster than you can currently do through a PC. In addition, a PC card retailing for somewhere between \$100 and \$150 would do the same thing.

The incentive to do this for an industry which I suppose is a very young industry is that we believe that unless people have far more satisfying experiences with the Internet and unless people have much more instantaneous experiences of the Internet, you will essentially be relegating this technology to a third or fourth layer of priority in people's lives and it will stay on computers and people connected to modems.

Senator LUNDY—And accessed only by people who can afford it.

Mr Ward—That is right and you will not have the mass market penetration which we believe this technology can bring.

CHAIR—If you did have spectrum and you were datacasting in that form, would you expect that you would be subjected to the same sorts of content rules that free to air television is, which you do not have when you are datacasting down the telephone?

Mr Ward—It is not a free to air service, so in all likelihood you would create some sort of subscription service. People would choose to subscribe to the offerings that were available from whoever is operating the datacasting services of the day. In that sense, it is not parallel to free to air. Secondly, the government would probably be mindful of requiring some content provisions to be mandated for distribution of this kind of information, and that, of course, would be perfectly reasonably and fair.

Thirdly, though, I would say that the government would need to be mindful of the fact that limiting services to those which might most immediately parallel television services could miss out on a whole range of service offerings that have not yet been designed or developed or thought of. For example, say you cannot receive a radio signal through this medium. That might severely limit the ability of radio to become a more interactive medium, just because it is a radio broadcast in a technical sense. You could do a lot more with radio. You could have instantaneous interaction with producers and broadcasters; you could have game shows where you are part of the game show from your living room.

CHAIR—I can hardly wait, Mr Ward.

Mr Ward—Potentially, for people with a high public profile who get exposed to the scrutiny of members of the public in small doses on talkback radio, it is a terrifying thought, but that kind of possibility should not be excluded in any conditions or regulations that might be placed on allocations of the spectrum. But I am mindful of the concerns of the committee and Senator Tierney's concerns that, for example, you would not be broadcasting child porn—and of course you would not. Regulations that apply in the same way as they do actually apply to the Internet in many ways, certainly the self-regulatory regime of the Internet Industry Association, would be perfectly acceptable.

Senator SCHACHT—Mr Ward, suppose that, irrespective of this allocation for the free to airs, the parliament chose to issue data licences for, say, that 15 megahertz that is available immediately over the next—

CHAIR—It gets bigger every time. It was 10 this morning, then 12; now it is 15.

Senator SCHACHT—No, it is between 10 and 15. Some of it is in a lot, some of it is bits and pieces, but it is around that figure, 12 megahertz. You would say that a decent signal that you would want to bid for would have about three or four megahertz, at least—

Mr Ward—At least.

CHAIR—Does it all have to be together or can it be spread?

Mr Ward—I will come back to that.

Senator SCHACHT—with an appropriate megabit capacity. As you rightly said, we ought to measure capacity as a way of doing it. That is fine. Can you give us any idea what you think the free market would bid in an auction system to get one of those, if, say, there are three of those licences going up in the next six to 12 months?

Mr Ward—I could not honestly do that. The difficulty would be that what you are doing is trying to price an asset which has no commercial value right now.

Senator SCHACHT—But you know it has got a value. Your business plan has got a value.

Mr Ward—This is absolutely right. We believe that, with a considerable financial investment on which we would reap no benefit for probably two to three years, we can grow a new medium of communication which will be very successful, yes.

CHAIR—Are there problems with who would have access to that spectrum for that purpose, in terms of the constants you have got about cross-media ownership?

Mr Ward—I think there would be significant issues if you started to look at the convergence of telecommunications and media, yes, certainly in the terms of cross-media ownership. You could read the *Age* anywhere; you could read the *Sydney Morning Herald* anywhere. But you can listen to the BBC now, you can listen to Virgin Radio UK and you can read the *Wall Street Journal* now in your home. So cross-media rules would not really be particularly relevant in this environment.

CHAIR—You say that I can read the *Wall Street Journal*, but I can read only bits of it; I cannot read the whole lot of it.

Mr Ward—You can subscribe to it and have it delivered every day.

CHAIR—You are talking about subscribing to it, not just looking at it.

Mr Ward—In answer to your previous question, it would depend on where the spectrum was and what it was adjacent to. The basis on which we have been working is that we are essentially trying to do exactly the same thing for the telecommunications medium of the Internet as people are trying to do for the analog broadcasting environment, which is to provide a way to make that more enhanced and with far greater capacity. They are operating on the basis of parallel adjacent channels distributing those signals in parallel over the next few years. We would have to operate on pretty much the same basis.

If we were operating in that broadcasting spectrum you would need to have an adjacent channel set up, because the power settings of transmission and all that would need to be such that you would not interfere with the analog signals. If you took a completely separate chunk of spectrum, then the amount that would be useful would depend on what was adjacent to it. If it was mobile phones or defence signalling or whatever, then the capacity would be limited by what was available next to it.

CHAIR—And when the free to air is not doing high definition TV and it has got space and it is not using it—

Mr Ward—Lots of space.

CHAIR—Would that be able to be used.

Mr Ward—Absolutely; I am sure you will be asking them that question.

CHAIR—So if they say they are only required to do high density television between five in the afternoon and 11 at night—

Mr Ward—And on the weekends.

CHAIR—And on the weekends, a datacasting company could put a lot of stuff down at the other times.

Mr Ward—A lot of stuff. Yes.

CHAIR—Even if it was patchy.

Mr Ward—Even if it was discontinuous, even if it was like off peak hot water.

Senator SCHACHT—Mr Ward, you are saying that whenever the free to air is not using the full seven megahertz that they say they need for HDTV—and so they are right about that—we allow them to have three megahertz for simulcast; there will be four or five megahertz left over, and it is possible to say, ‘When you are not using it that will be open for a data channel in a broader sense. Other people will bid to have access to that. It will be run separately, there will be a commercial bid and it will be licensed separately. Everyone can have access to it.’ It will be an open access regime.

Mr Ward—It is essentially like access to the Optus and Telstra cable. It is technically possible.

Senator SCHACHT—And there is no technical reason why, even if they use five in the afternoon, to six in the evening, to 11 in the evening for HDTV, the rest of it could not be used for all sorts of data application, and people would be willing to bid separately to buy access to that as a distributor, a programmer, an infrastructure operator. Is that correct?

Mr Ward—Let me give you an example that exists in the analog world. The ABC has advertised for expressions of interest for commercial users of their vertical blanking interval.

Senator SCHACHT—Their what?

Mr Ward—Their vertical blanking interval. Each screen has 640 lines, the bottom 40 lines is usually sent for signalling. No-one has really made much use of it except Channel 7 for seven text. They have asked for commercial expressions of interest to use the vertical blanking interval for other services. There is no reason why you could not apply the same regime to the digital spectrum.

Senator SCHACHT—So that means that if, at 11 o’clock, after the HDTV goes off, that channel becomes available, I could turn it on, push certain buttons, and say ‘Right, I can download from the home page on Village Road Show *Titanic*’; they will download it—it may take half an hour to do it or whatever it is—and the next night I can watch it. I will have paid for it through the credit card system and I can watch it at a later stage?

Mr Ward—Yes.

Senator SCHACHT—It can be downloaded and I can then choose to use it at a later stage.

Mr Ward—Yes.

Senator SCHACHT—Even when Channels 9 or 7 or 10 have got HDTV going, I can choose to switch to it, because it is downloaded to the disk in my machine, and I can choose to bring it up any time I like and switch it on.

Mr Ward—Essentially what we are saying is that the television will become a PC with a big screen, and the PC will become a TV with a small screen.

Senator SCHACHT—Can I ask one other question which I know, to some people, is an arguable point. One of the reasons the Labor Party has looked at supporting the introduction of HDTV is that the screens have a greater capacity for information that can be portrayed on them than standard digital, and certainly analog, and if we get a big uptake of HDTV screens through the next decade, the country, including you, will be advantaged in information services. Is that right?

Mr Ward—It is true. I guess the one question that we have in our minds is this. HDTV will be here come the new millennium. Between now and then, much of the design, engineering and applications development will occur. The real question is whether we want to be buying that from other countries or whether we want to be producing it here.

Senator SCHACHT—On the industry development side, the legislation, I think, is deficient. If we are going to mandate someone's standard, we say the quid pro quo is that the investment is in Australia, not just in assembling television sets but in R&D, in the software in all its forms and digital, because that is where the value added is. What I want to say is that, even though we might for eight years out mandate the HDTV screen in a certain standard—1,100 lines and 1,800 pixels, et cetera—despite all sorts of other developments, that is still going to be a useful screen for the next 10, 20, 30 years in Australia.

Mr Coroneos—In fact, one of the deficiencies of using current television screens is the poor resolution. When we have got an installed user base of HDTV screens—

Senator SCHACHT—I just want to get it clear: when you say there are lots of new developments and new technologies coming, they are the add-on to provide the sophisticated services and content. The digital screen gives us a better opportunity of displaying all of that new content in its enhancements, in its Internet, in its downloading of *Titanic* from wherever to show it on the equivalent of a cinemascope screen, as I call it, et cetera.

Mr Ward—Yes, but I would not want to wait until everyone had a HDTV.

Senator SCHACHT—No, you misunderstand.

Senator LUNDY—The point is made.

Senator SCHACHT—When we mandate HDTV and we set the standards in the next year or so—what the standard of that HDTV screen is—I just want to be comfortable that seven or eight years out we then do not tell all the punters that another big technology change is coming; that the analog to digital was a big jump but there is something post-digital that means that that screen is dead.

Mr Ward—Let us look at what we are doing currently. We have got telephones that can make calls over the Internet, that can receive email, that can do home banking by pushing buttons. Intelligent applications of existing investments people have made is what we are going to be working on with this technology. There is new technology in the home and obviously we are going to be able to apply more to that, but you would not want to give people a lifetime guarantee that HDTV was going to be the most exciting thing they ever bought.

Senator SCHACHT—That is a definition, a description. The screen itself has got that capacity—

Mr Ward—Yes.

CHAIR—But if you want, say, 3D television that requires two images to be disparate by whatever it is you are required, because your two eyes are separated by so many centimetres in your head and you need a different sort of receiver that will give you two different bits of

information that you then fuse to make stereoscopic vision, the existing HDTVs might not do it.

Mr Ward—But we will be sitting here having this conversation and some Australian company will be sitting here saying, ‘Yes, but we’ve designed this box which will split the image coming out of your HDTV, if you only let us use it.’

CHAIR—That is right.

Mr Coroneos—We cannot promise that the technology is going to remain static; I do not think you are really asking us to do that.

Mr Ward—But it will provide people with a much greater opportunity to make the information more visually enhanced and more useful. But you can do that with software now for an existing television much better than most people think, and it is essentially as good as a computer screen in terms of its resolution.

Senator LUNDY—With all of these issues, what opportunities have you had to present these fears to DIST, to DoCA, to the minister’s office, in the context of this bill? You mentioned before that you were consulted once the bill had hit the table. Have you through other forums been asked by the government to present your views?

Mr Coroneos—We wrote to the minister, in about March I think it was, seeking a meeting that has not eventuated.

Senator LUNDY—Have you, in the context of this bill, sought advice from the ACCC with respect to the marginalisation of your members’ access to the digital spectrum?

Mr Coroneos—Not at this stage, but I think that the points that the Australian Information Industry Association raised in their submission are valid and that there may be anti-competitive implications which arise from this that would need to be explored. Seriously, in regard to level playing fields, our argument is simply that if we are talking about competitive neutrality, part of that goes to spectrum allocation. There is no question about that.

CHAIR—I think we are exhausted.

Senator SCHACHT—Madam Chair, can I suggest that, maybe at a later stage, particularly when DoCA appear before us, because of some of the issues the two associations have raised with us, it might be relevant if one of these witnesses could be available at the same day at the same table? With some of the issues you are raising on the technical side for DoCA, about the management of the spectrum and the allocation, I would like to hear some of them respond on the technical side, not the policy side, of what you are raising. We have heard today the idea that maybe there is already spectrum that could be issued for your purposes in a digital format, for you to get under way, rather than waiting for 2001 plus. That seems to be something that would be very useful to get a response on from DoCA and the ACA, because they manage the spectrum. I would not mind suggesting to DoCA that we have that discussion.

CHAIR—DoCA is due on the 15th. I do not know if the committee really warrants all of you. Perhaps you could make a decision between the three of you about who best can give the technical information, if you are prepared to do that. I know you are two separate associations.

Mr Coroneos—None of us here are really technical people, but we would be happy to—

Senator SCHACHT—If you are too technical, we will not understand it anyway, in one sense, but what you have discussed with us today is at a level that ought to be put in front

of DoCA and they can respond. If they respond, you can have a side discussion to sort it out, so that we can get a clearer picture of what is possible and what is not.

Mr Coroneos—We are happy to do that.

CHAIR—Are you Canberra based?

Mr Coroneos—Yes.

Mr Ward—Two out of three. It is a short flight.

CHAIR—If that is not an issue, then, Senator Schacht, we will let you know; but most probably that would be useful. Keep the morning of Monday the 15th free. I would like to thank you very much for your time and patience in explaining this all to us. I think we are reasonably literate in that area, but there is always something new to learn, so thank you very much for your submissions. When you read through the other submissions, please send us any comments you wish to make for us to take note of; we may have questions we will ask before the 15th and, if you are prepared to answer those, we would appreciate that. Thank you for appearing before us today. I thank the committee staff for enduring what has been a very long session, and I also thank Hansard. The committee will reconvene on Friday.

Committee adjourned at 7.02 p.m.