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Proof Committee Hansard

SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION
COMMITTEE

Estimates

(Public)

THURSDAY, 30 MAY 2024

CANBERRA

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ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Thursday, 30 May 2024

Members in attendance: Senators Antic, Bilyk, Cadell, Chandler, Cox, Davey, Faruqi, Grogan, Hanson-Young, Henderson, Liddle, McKenzie, Payman, David Pocock, Sharma and Shoebridge

INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS PORTFOLIO

In Attendance

Senator Carol Brown, Assistant Minister for Infrastructure and Transport

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Mr Jim Betts, Secretary

Ms Maree Bridger, Chief Operating Officer

Mr James Chisholm, Deputy Secretary, Communications and Media Group

Dr Stephen Arnott PSM, Deputy Secretary, Creative Economy and the Arts Group

Mr Jeff Goedecke, Chief Information Officer

Mr Ian Porter, First Assistant Secretary, Data, Research, Strategy and Net Zero division

Ms Georgia O'Cianain, Acting Assistant Secretary, Bureau of Infrastructure and Transport Research
Economics and Bureau of Communications, Arts and Regional Research Branch

Ms Rachel Houghton, First Assistant Secretary and Chief People Officer, People, Culture and Change Division

Ms Susan Charles, Assistant Secretary, Communication and Change Branch

Mr Aaron O'Neill, Assistant Secretary, Ministerial, Parliamentary and Cabinet Branch

Ms Cha Jordanoski, Chief Financial Officer

Ms Jodi George, Assistant Secretary, Financial Management Branch

Mr Mike Hogben, Assistant Secretary, Budget Engagement and Strategy Branch

Ms Michelle Mant, Acting Assistant Secretary, Assurance, Integrity, Risk and Governance Branch

Ms Christine Burke, Chief Counsel, Legal Services, Privacy and FOI Division

Program 5.1

Mrs Lisa La Rance, First Assistant Secretary, Communications Infrastructure Division

Ms Kate McMullan, Assistant Secretary, Telecommunications Resilience Branch

Dr Jason Ashurst, Assistant Secretary, Digital Inclusion and Deployment Branch

Ms Nicolle Power, Assistant Secretary, Universal Services Branch

Ms Shanyn Sparreboom, Assistant Secretary, Competition and Spectrum Branch

Mr Ben Phelps, Assistant Secretary, Broadband and Emerging Communications Branch

Ms Bridget Gannon, Acting First Assistant Secretary, Online Safety, Media and Platforms Division

Ms Margaret Lopez, Assistant Secretary, Media Industry and Sustainability Branch

Mr Andrew Irwin, Assistant Secretary, Online Safety Branch

Mr Andrew Hyles, Assistant Secretary, Platforms and News Branch

Mr James Penprase, Assistant Secretary, Media Reform Branch

Mr Mitchell Cole, Assistant Secretary, Classification Branch

Mr Samuel Grunhard, First Assistant Secretary, Communications Services and Consumer Division

Ms Kathleen Sillieri, Assistant Secretary, Consumer Safeguards Branch

Ms Karly Pidgeon, Assistant Secretary, Regional Mobile Infrastructure Programs Branch

Mr Daniel Caruso, Assistant Secretary, Post, International Telecommunications and ACMA Branch

Ms Meghan Hibbert, Assistant Secretary, Regional Connectivity Branch

Portfolio Agencies

Australian Broadcasting Corporation

Mr David Anderson, Managing Director

Ms Melanie Kleyn, Chief Financial Officer

Mr Gavin Fang, Editorial Director

Ms Deena Amorelli, Chief People Officer

Australian Communications and Media Authority

Ms Nerida O'Loughlin, Chair
Mr Chris Worley, Acting Executive Manager, Spectrum Planning and Engineering Branch
Ms Helen Owens, General Manager, Corporate and Research Division
Ms Autumn Field, General Manager, Content Division
Ms Rochelle Zurnamer, Executive Manager, Gambling and Mis/Disinformation Branch
Ms Jenny Allen, Acting Executive Manager, Content Safeguards Branch
Ms Sam MacCready, Executive Manager, Finance, Reporting and Operations Branch
Ms Naomi Behla, Manager, Revenue, Cost Recovery, Budgets and Operation
Ms Cathy Rainsford, General Manager, Consumer Division
Mr Craig Riviere, Executive Manager, Telecommunications Safeguards and Numbers Branch
Mr Michael Brealey, General Manager, Communications Infrastructure Division

Australian Postal Corporation

Mr Paul Graham, Group Chief Executive Officer and Managing Director
Mr Nick Macdonald, General Manager, Corporate Secretary and Board

Classification Board

Mr Tristan Sharp, Acting Director
Mr Dominique Irlinger, Acting Deputy Director

NBN Co. Limited

Mr Philip Knox, Interim Chief Executive Officer
Mr Gavin Williams, Chief Development Officer, Regional and Remote
Ms Anna Perrin, Chief Customer Officer
Mr Dion Ljubanovic, Chief Network Officer

Office of the eSafety Commissioner

Ms Julie Inman Grant, Commissioner
Mr Toby Dagg, General Manager, Regulatory Operations Group
Mr Stuart Wise, Head of Business Operations
Ms Kathryn King, General Manager, Technology and Strategy Group

Special Broadcasting Service (SBS) (appearing via videoconference)

Mr James Taylor, Managing Director [by video link]
Ms Nitsa Niarchos, Chief Financial Officer [by video link]
Ms Clare O'Neil, Director, Corporate Affairs [by video link]

Committee met at 09:00

CHAIR (Senator Grogan): I declare open this hearing of the Environment and Communications Legislation Committee into the 2024-25 budget estimates. I begin by acknowledging the traditional owners of the land on which we meet, and I pay our respects to elders past, present and emerging. The committee's proceedings today will begin with corporate matters relating to the communications and arts portfolio. The committee has fixed Thursday, 18 July as the date for the return of answers to questions taken on notice.

Under standing order 26, the committee must take all evidence in public session; this includes answers to questions on notice. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence.

The Senate has endorsed the following test of relevance of questions at estimates hearings: any questions going to the operation or financial position of the departments and agencies which are seeking funds in estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Witnesses are reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised, and I incorporate the public immunity statement into the *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: I remind all senators that, as we continue our work implementing the *Set the Standard Report*, as chair, I will ensure that proceedings are conducted in an orderly, respectful, and courteous way.

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

[09:03]

CHAIR: I now welcome Senator the Hon. Carol Brown, Assistant Minister for Infrastructure and Transport, representing the Minister for Communications. Minister, would you like to make an opening statement?

Senator Carol Brown: No, thank you.

CHAIR: I also welcome Mr Jim Betts, Secretary of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. Mr Betts, would you like to make an opening statement?

Mr Betts: No, thank you, other than to introduce James Chisholm, who has stepped into the role of Deputy Secretary, Communications and Media, replacing Richard Windeyer in that capacity.

CHAIR: Welcome, Mr Chisholm. Before we commence with the corporate section, I remind senators that the part of the program that we are in now relates to matters concerning central departmental administration, such as building services, ICT staffing levels and media procurement. Questions relating to individual policies and programs should be addressed to officials when those specific programs are considered in subsequent sections. We will start with Senator Hanson-Young.

Senator HANSON-YOUNG: Mr Secretary, could you outline for us the list of legislation that is currently on the books for this department?

Mr Betts: When you say, 'on the books', how are you defining that?

Senator HANSON-YOUNG: I would like to know what pieces of legislation are expected to be introduced and dealt with this year and what pieces of legislation are still expected before this term of government is complete.

Mr Betts: I may need to take on notice those elements which aren't relevant to the communications portfolio, but we can run through the headlines for the communications and media group.

Senator HANSON-YOUNG: That would be helpful. The reason I am asking this is that we have been given numerous updates from this department over the last two years about legislation that has been promised and we are still waiting for a lot of it. I am trying to work out where it is up to and how much of it is going to come.

Mr Chisholm: We will confine our answers to the communications and media portfolio. There are not a large number of representatives from the communications and media portfolio in the chamber now. Are you focused more on 'intending to be introduced' or 'currently being considered' by the parliament?

Senator HANSON-YOUNG: What legislation is the department working on that will be dealt with in this term of government?

Mr Chisholm: One of the pieces of legislation that is being dealt with at the moment is to do with prominence and anti-siphoning.

Senator HANSON-YOUNG: That is in the parliament already?

Mr Chisholm: Yes, that's right; it is in the parliament already. Pause me if you would like us to explain the policy behind it at all.

Senator HANSON-YOUNG: Yes, I'll let you know.

Mr Chisholm: The government has also indicated that it intends to legislate with respect to online gambling. Other processes are underway looking at policies to do with online safety. Amendments have been made to a number of instruments related to basic online safety expectations, for example.

Senator HANSON-YOUNG: When you say, 'online safety', is that one particular piece of legislation, or is that a theme by which legislation falls?

Mr Chisholm: A review of the Online Safety Act is underway; that is being undertaken by Delia Rickard. She will report back later this year and will no doubt have a number of recommendations related to legislation that we might need to consider in that context, too.

Senator HANSON-YOUNG: When you say, 'online safety', are you referring to the misinformation and disinformation bill—

Mr Chisholm: Separate.

Senator HANSON-YOUNG: Separate?

Mr Chisholm: That is another bill. As you would be aware, the government has previously consulted on misinformation and disinformation and has undertaken to consider amendments to that legislation. So that's another piece of legislation that will come forward in this portfolio—or we anticipate that it will; it is obviously a matter for government as to when that is introduced. I'll just pause and check with my colleague Ms Gannon as to any other pieces of legislation that we anticipate being introduced.

Ms Gannon: Mr Chisholm is right. We have a number of pieces of legislation in the parliament at the moment. There is also legislation that we have flagged in previous hearings. I would just highlight that there is a third category of work that the department is working on, where we would expect there to be legislation but to

date the government may not have flagged its intention to legislate in that area. The policy settings behind the 'mis and dis' legislation are currently being revised. The government has indicated that it will introduce that legislation, I think, later this year but again, that timing is for government. Legislation for gambling advertising restrictions, similarly: the timing for that is a matter for government and the government's response to the gambling inquiry. The legislation on anti-siphoning and prominence is before the parliament. Legislation has been foreshadowed on a content scheme—

Senator HANSON-YOUNG: Local content?

Ms Gannon: Local content. That is a matter for my colleagues in the Office for the Arts. However, the government has indicated, I think, that the legislation would be this year; I am not the expert on that.

Senator HANSON-YOUNG: What do you mean 'this year'? The government promised that the scheme would be in place by 1 July.

Mr Betts: That is a matter for cabinet.

Senator HANSON-YOUNG: Hang on—for two years we have been told that this legislation would be dealt with and done so that the scheme would take place from 1 July. It is now 30 May and you don't know whether we're going to get this legislation?

Mr Betts: It is a matter for cabinet to determine the content and timing of legislation.

Senator HANSON-YOUNG: They said 1 July; that is what the minister has said. Both ministers have said that.

Senator DAVEY: He commented, 'on 1 July.'

Senator HANSON-YOUNG: It will start on 1 July. Is the government breaking its promise on this? Wow!

Mr Chisholm: The government is undertaking consultation on the policy, as reflected in the Revive cultural policy statement. It is committed to working closely with participants to achieve the right outcome. My colleagues from the arts portfolio would be able to assist you further on the detail of that, but I wouldn't agree with you that the government has changed its position on implementing the policy.

Senator HANSON-YOUNG: How on earth are we going to get a scheme in place from 1 July—

Senator DAVEY: Another guillotined bill.

Senator HANSON-YOUNG: when we haven't even got the legislation yet? Can the minister answer this? Minister Brown, is this another broken promise from this government?

Senator Carol Brown: This is an area of policy that we are very committed to—

Senator HANSON-YOUNG: You're not that committed to it.

Senator Carol Brown: The government is working through the final details of the Australian content obligation and will introduce the legislation in the near future.

Senator DAVEY: You are not allowing much time for debate.

Senator HANSON-YOUNG: Has the legislation been drafted?

Mr Betts: The final policy decision is still being considered by the government.

Senator HANSON-YOUNG: I would like to say that I am shocked, but it is becoming a regular pattern.

Senator CADELL: Tell me that you're not leaving this out.

Senator HANSON-YOUNG: Has industry been told that this is not going to start on 1 July?

Mr Betts: We can describe to you the consultations that have taken place with industry. As I have said, these are matters before cabinet. There is not much more as public servants that we can say.

Senator Carol Brown: We are committed to introducing the legislation and legislating this year. This is something that the Australian government and Minister Rowland and Minister Burke are determined to get right. They are doing an enormous amount of consultation. My advice is that it will be introduced in the near future.

Senator HANSON-YOUNG: The government committed to the scheme starting on 1 July; can you still commit to that?

Senator Carol Brown: My advice is that we will be seeing a piece of legislation in the near future.

Senator HANSON-YOUNG: So you can't commit to the 1 July start date?

Senator Carol Brown: Yes, we remain committed to the 1 July date.

Senator HANSON-YOUNG: For the scheme to start on 1 July?

Senator Carol Brown: Yes.

Senator HANSON-YOUNG: That's an ironclad guarantee, is it?

Senator Carol Brown: We remain committed to 1 July.

Senator HANSON-YOUNG: I'm just flabbergasted at that. Are there any other pieces of legislation that are being worked on or that are expected?

Mr Betts: Would you like us to take you through the arts legislation?

Senator HANSON-YOUNG: Yes.

Dr Arnott: A few other bits of legislation work were committed to in Revive, the National Cultural Policy. We have some remaining legislation to establish the First Nations and Writing Australia parts of Creative Australia. There is also a commitment to modernise the National Archives and a commitment to modernise the Protection of Movable Cultural Heritage Act.

Senator HANSON-YOUNG: I will come back to questions about those other pieces and exactly where they are.

Senator CADELL: Secretary Betts, I watched, during the infrastructure portfolio estimates, your comprehensive answers to the PM&C handbook questions. Do you have any similar stats? Our staff went through and found a few last night.

Mr Betts: The statistics that I quoted in the context of that PM&C advice related to 'coordination QONs', as we call them, across the department, with 154 questions coming from EC. Across both this committee and RRAT, 127 coordination QONs were tabled, which, as I noted in RRAT, is a 60 per cent increase compared to the October 2023 sitting. I know that ministers have written, accounting for responses to the questions on notice that were directed to their offices.

Senator CADELL: I've given out something to be handed around. You went through the infrastructure portfolio and said that there were 26 responses. Was that in this committee?

Mr Betts: There were 26 in RRAT and the same number in this committee.

Senator CADELL: Is that 26 the same number just coincidentally?

Mr Betts: There would be overlap, I imagine. Just to be clear: 26 answers were provided through the minister's office, drawing on the advice that the Department of the Prime Minister and Cabinet provided.

Senator CADELL: We have those. You say 'drawing on'. Last night, quickly, my office went through and had a look at the responses; they're being handed around. We found 17 examples for this estimates where it's not 'drawing on'; it's a cut and paste. Looking at that document, you'll see that there is a QON and then, from the relevant page in the PM&C handbook, it is a cut and paste. So, when we say '26 drawing upon', are we talking about 26 verbatim copies?

Mr Betts: I haven't had a chance to go through these individually since you tabled them a few seconds ago. The advice that the Department of the Prime Minister and Cabinet tabled is not intended to constrain departments or ministers' offices on how they answer questions, but it did give them recommendations as to how they could formulate those answers so that there would be nothing inappropriate about them following the guidance that the Department of the Prime Minister and Cabinet had issued.

Senator CADELL: Mr Richard Pye, the Senate Clerk, said:

I think, to an extent, there are suggestions in there that go contrary to the advice in the government guidelines for official witnesses before committees ...

He further said:

I don't think that instructions that suggest being vague are useful instructions, and I think that there were some examples being given within that document that suggested people be less clear than perhaps they could be.

Are you concerned that at least 17 responses that we found last night follow that and don't give specifics? Here's an example of a question: 'How many specific meetings with the minister were there?' The answer does not give numbers but says, 'There are regular meetings.' I compare that to questions asked under the previous government; the question was asked, 'What brand of wine was given at functions?' and the department went to that detail and gave that answer. There seems to be a migration from fact.

Mr Betts: Yes, we certainly had to answer a large number of questions which involved coordination across multiple different agencies, notwithstanding the advice that the Department of the Prime Minister and Cabinet provided. That department produced that advice and provided it to us in its final form. That advice asserts that it is

consistent with government guidelines for official witnesses before parliamentary committees and related matters. We and the minister's office have relied on that advice from the Department of the Prime Minister and Cabinet.

Senator CADELL: Has that opinion changed, given the Clerk's advice in evidence here?

Mr Betts: You'd have to ask the Department of the Prime Minister and Cabinet, as the owners of those guidelines.

Senator CADELL: Yesterday, another department said that the ultimate responsibility lies with the secretary for their decision on the way to treat these questions. Isn't it your responsibility to decide what is in and what is out?

Mr Betts: The guidance makes it clear that individual ministers, departments and agencies are ultimately responsible for the answers that they provide to parliament and its Senate committees. But it is also established practice, under successive governments, that ministers ultimately take responsibility for the form in which questions on notice are answered. They will draw on advice, including draft answers from departments, but they are at liberty to request further information or to propose redrafts of those proposed answers, with the department's role at the end of the day being to fact-check the answers that come from ministers' offices before they're tabled in the committee.

Senator CADELL: Did your department pass the PM&C document on to your agencies in the arts portfolio?

Mr O'Neill: That document, in full, was not disseminated to portfolio agencies. We summarised key points; we shared that information and guidance note, where applicable, to portfolio agencies, where that question may apply to them. It was then in their court as to how they would respond to that specific QON.

Senator CADELL: Would you be able to table the summary that you provided?

Mr O'Neill: I don't see any issue with that.

Senator CADELL: Mr Betts, did you have discussions with the SES cohort about the advice from PM&C?

Mr Betts: The only discussions I had about that advice were at the Secretaries Board, where, as I explained to the RRAT committee the other day, the Secretary of the Department of the Prime Minister and Cabinet emphasised that normal operating protocols applied; there was no change in departments' approaches to answering Senate estimates questions on notice, including where those required an unreasonable diversion of effort or when there were matters of particular sensitivity; and that the guidance material that you're referring to should be read in the context of attempting to efficiently answer a growing number of questions on notice, which require consultation and engagement across multiple different agencies. In our case, that involves 30 different agencies, as well as multiple parts of the department, so it is a significant administrative workload. I believe that those guidelines are intended to respond to that.

Senator CADELL: They were intended to respond to the workload, but they don't inform the Senate as well as previous answers, do they? The answer to a question such as: 'How many meetings have taken place?' is a cut and paste. The standard answer is that they meet with ministers at a number of meetings, including stakeholders and, at times, ministers outside the portfolio. That's not an informative answer to the question. It's an action, but it's not informative, is it?

Mr Betts: That's feedback that I suggest you might want to provide to the Department of the Prime Minister and Cabinet.

Senator CADELL: I'm sure that they'd listen to my feedback with much gusto! Who in your department clears the responses to QONs when they're sent to the minister's office; is that you, or is that the deputy secretary?

Mr Betts: They're signed off at senior level within the department, by deputy secretaries.

Ms Bridger: I'm the one who often clears the responses that go to ministers' offices.

Senator CADELL: Is there anyone else?

Mr O'Neill: I'm happy to run you through the process that we go through for all questions on notice. When the committee secretariat finalise the list of QONs from this committee, once they're received by our team back in the department, we disseminate those questions immediately to portfolio agencies and our line areas within the department. That drafting commences immediately. I'll use portfolio agencies as the key example here. The content of that answer will be cleared at the highest levels of that agency. That will then come back to our department. I will clear it, just to make sure that we have consistency with formatting and so forth across all our QONs. That will be provided to our chief operating officer, Ms Bridger, and then it will be sent to the minister's office for final clearance and we will be instructed to lodge it with the committee.

Senator CADELL: How many are amended between you forwarding them to the minister's office and them coming back?

Mr O'Neill: That's a hard question for me to specifically answer. Regarding the 448 that we had from the last hearing, I can't give you an exact figure today as to how many—

Senator CADELL: Could you give that on notice?

Mr O'Neill: We will have to manually go back and look at every single answer to look at the chronology of what happened to and from.

Senator CADELL: Just in that last step.

Mr O'Neill: From the department to the minister's office?

Senator CADELL: Yes.

Ms Bridger: That could occur multiple times. They are going backwards and forwards between us and the minister's office, which is why my colleague Mr O'Neill talked about the chronology.

Senator CADELL: Let me go back. For the 26 that we're talking about—I think you said—including the 17 that I've tabled, can you give me the original iteration and how many were modified by the minister's office?

Mr Betts: I'm not sure that we can give you the original iteration. The final version is the version which is authorised by the minister for provision to the committee, but we'll take it on notice and provide you with what information we can. I should emphasise that the process that Mr O'Neill has described has been in operation across multiple governments over many years.

Senator CADELL: I accept that, but I was looking at these functions. We're talking here about an example of a question asked by an opposition senator in the previous government: 'What brand of wine is taken?' We were going to that detail, but we can't even get the number of meetings now. There has been a fundamental change in the facts given, the truth given or the clarity given over time. I'm happy to move on, Chair.

CHAIR: Senator Sharma.

Senator SHARMA: I want to ask about staff numbers in the recent portfolio budget statements. Looking at the PBS for this year, 2024-25, it estimates the average staffing level at 2,271; is that right?

Mr Betts: Yes; that's correct.

Senator SHARMA: For 2023-24 it was 2,043?

Mr Betts: That's right.

Senator SHARMA: For 2022-23 it was 1,818. If I've got this correctly, staff numbers have gone up from 1,818 to 2,271 over the past two years.

Mr Betts: Yes.

Senator SHARMA: What's the main cause of that or what's the demand there?

Mr Betts: We can give you—we provided it to the RRAT committee the other day—the increase in the current budget across all of the department's functions. Obviously, that goes beyond the communications and media function, which is the subject of this morning's deliberations. In terms of the most recent budget, additional funding of 73 ASL was provided for connectivity, media and comms, and that's referenced in Budget Paper 2, page 152. We can talk you through the rationale for that supplementary funding, as approved in the budget. We could also take you through the broader numbers across the entirety of the department in the most recent budget, if that would be helpful for you.

Senator SHARMA: Staff numbers are up 453 over two years, so perhaps you could just tell me the rough allocation of those extra staff.

Mr Betts: We'll take you across the different functions of the department. That's probably the easiest way to do it. If there's too much detail, you can stop us.

Senator SHARMA: Thank you.

Ms Bridger: Across the whole department, we've got six outcomes. Outcome 1, building a better future through considered infrastructure investment, was 87.2. I'll move to outcome 2 now. Enabling Western Sydney international airport is 10; delivering a strategic fleet is 33.1; new vehicle efficiency standard implementation is 38.5; supporting transport priorities is 45; Future Made in Australia and making Australia a renewable energy superpower is 13; and Treasury portfolio additional resourcing is one. In outcome 3, Australian Institute of Sport site redevelopment is four; Future Made in Australia, attracting investment in key industries, is two; and urban agenda and community programs is 20. There was zero for outcome 4. For outcome 5, Secretary Betts outlined

that it was 73 for supporting connectivity, media and communications. In outcome 6, Revive National Cultural Policy was 13.9, and Australia-France enhanced relations was 0.5.

Mr Betts: That's the supplementary funding provided in the most recent budget. I'm not sure whether we have figures going back to the previous budget. The figures that you've just heard are a combination of supplementary resourcing to the department for new policy proposals, in our terminology, which have been funded but also the restitution of funding which might otherwise have elapsed, which was time limited, where the function itself was ongoing. For functions which are ongoing, sometimes governments will say, 'We'll fund that for two years or four years and then revisit it in subsequent budgets.' So the headline figure that you've just heard is a gross figure, which is a combination of new policy proposals and the replenishment, if you like, of terminating measures.

Senator SHARMA: For the communications division in particular, if my terminology is correct there, I guess this is outcome 5?

Mr Betts: Yes.

Ms Bridger: That's right.

Senator SHARMA: The staff numbers there are forecast to be 408 in 2024-25 and they were 316 in 2022-23; is that correct?

Mr Betts: That sounds right. That's a combination of new policy initiatives which the government has introduced, plus the terminating measures being refreshed, which I've just described. The funding in the most recent budget reflects what I would regard as prior significant under-resourcing in the communications policy areas of the department in an environment, in terms of online safety and media reform, which has become a lot more active in the last two or three years. The government has provided additional regulatory resources to, for instance, the eSafety Commissioner to ensure that there is a stable funding base there. One of the things that has become apparent is that frontline regulatory resources are extremely important but so is, higher up the policymaking chain, ensuring that our department, as the principal agency advising ministers on policy in areas like media and online safety, is itself adequately resourced. If you look at the agenda that has come out of national cabinet recently on domestic and family violence and some of the tasks arising in terms of online-safety and classification reform, some of the areas around media reform on prominence and syphoning, and classification reform around public interest, journalism and media diversity—the list of areas in which active reform is being undertaken goes on—you can see that underpins the supplementary resources that's been provided to the department through the budget process.

Senator SHARMA: On my calculations, I think the growth in outcome 5 staffing is 92. You've mentioned that 73 are going to supporting connectivity and communications. Just so I understand that function, would that include things like online safety, media reform, the misinformation bill and those sorts of things?

Mr Betts: Yes, and gambling, community broadcasting—

Senator SHARMA: Age verification and those sorts of things?

Mr Betts: Yes.

Senator SHARMA: So you've got 73 in the supporting connectivity and communications function. Then there are the other 19. I'm sorry; I'm getting a bit deep into the weeds here, but I'm just keen to understand that.

Ms Jordanoski: In relation to the numbers that you're speaking to in the PBS, the way in which we attribute the calculations across the six outcomes includes our corporate functions. It's not a straight cut to say that all of them are in front of us. But when we put the numbers in the PBS, because there is no outcome for corporate, that is attributed on a pro rata basis across the department; so that 19 that you're referring to will also include a corporate allocation as well. So, whilst we did get an increase of 73 in this year's budget directly relating to those measures, as was mentioned by the secretary, the other allocation relates to a corporate allocation which, because there is no corporate outcome, is allocated across the department.

Senator SHARMA: Can I just get the staffing bill for the department overall and then, also, just the communications division or outcome 5, if that's available: the one projected for 2024-25?

Mr Betts: The departmental appropriation funding, which is departmental resourcing in the round, of which a subset will be for staffing, for 2024-25 is \$553.9 million, of which \$530 million is operating expenditure, the balance being the departmental capital budget. I'll hand over to Ms Jordanoski to take it from there.

Ms Jordanoski: Specifically, in the PBS, we do a breakdown of employee benefits across the whole department, and that's on page 81. The current estimate for 2024-25 on employee benefits is \$307,000,444; that's the current estimate of employee costs. In relation to the split, in terms of the PBS, we don't actually split that

across the outcomes; that is because it just forms part of the financial statements, which are the statements of the whole department. So, unfortunately, we don't have that breakdown per outcome.

Senator SHARMA: So the overall staffing costs for the department are \$307 million for 2024-25?

Ms Jordanoski: Yes, that's the estimated cost for the 2024-25 year.

Senator SHARMA: Do you have the figure for 2022-23?

Ms Jordanoski: Yes, I do have that; fortunately, I have that figure. You're talking about the March 2022 budget; is that the figure that you're referring to?

Senator SHARMA: Yes, please.

Ms Jordanoski: At the March 2022-23 budget, the employee benefits for the department were \$253,000,575. If you want the difference between that current figure—

Senator SHARMA: It's about \$54 million.

Ms Jordanoski: anticipating the next question here—it is \$53,000,869.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: I want to go back to this list of proposed legislation or legislation that's pending; I would just like to get an indication. You mentioned online gaming, and then there was also mention of the gambling advertising restrictions. Is this the same or separate pieces of legislation?

Mr Chisholm: This is in response to the June 2023 report with respect to the online gambling inquiry. As you'd recall, there are 31 recommendations, which the government is considering and working through. In relation to that, there's been a range of consultation, and the government is committed to a robust legislative framework to implement the recommendations. So that's what we're talking about in that context.

Senator HANSON-YOUNG: You mentioned online gambling and then your colleague, Ms Gannon, mentioned gambling advertising requirements. I'm trying to work out whether this is the same piece of legislation or separate pieces of legislation?

Ms Gannon: It's the same piece of legislation.

Senator HANSON-YOUNG: So there will be legislation to make changes to online gambling rules. What about gambling advertising during sport; where does that fit?

Mr Chisholm: I think it's part of the same process.

Senator HANSON-YOUNG: So it's not just online gambling then?

Ms Gannon: I'm sorry; pending the government's response, there may be a number of legislative measures coming out of that within this portfolio.

Senator HANSON-YOUNG: That fit within a gambling reform bill?

Ms Gannon: Within that context, we're talking about gambling advertising restrictions.

Senator HANSON-YOUNG: In relation to the misinformation and disinformation bill—which we were promised we would get to last year, then being told it would be at the beginning of this year and now being told it would be by the end of this year—has any drafting been done on that bill thus far?

Mr Chisholm: The government has committed to a number of revisions in relation to the bill. I think some of the areas there that the government has been focused on include questions of definitions and attention to getting the balance right with respect to things like human rights; so there has been careful consideration of those issues. The question then of legislative amendments, with the time line and process for that, is currently before government.

Senator HANSON-YOUNG: Senator Brown, is the government committed to getting the misinformation and disinformation bill through the parliament at the end of the November session?

Senator Carol Brown: We've said, following on from the consultation from the exposure draft, that we want to make sure that we get the right balance and that we will bring forward the legislation when we believe that we've got the balance right.

Senator HANSON-YOUNG: So you can't commit to having it legislated before the end of the year?

Senator Carol Brown: I can't do that right here and now. I'm happy to take that on notice for you, though.

Senator HANSON-YOUNG: Thank you. I just want to go back to the 'local content for streaming services' commitments. I guess the reason for my being very surprised at this is that, when the Revive cultural policy was released, which was at the end of January last year, it promised to 'introduce requirements for Australian screen

content on streaming platforms to ensure continued access to local stories and content in the third quarter of 2023' and 'to commence no later than July 2024, with the Minister for the Arts and the Minister for Communications to undertake further consultation with the industry in the first half of 2023'. It feels like pretty bad faith to now come in here and tell us that we don't know when we're going to see the legislation but that we have to somehow believe that it's going to be passed and implemented and will start on 1 July. Why has it taken until now? Who has got their claws into you?

Mr Betts: Who are you directing your question to?

Senator HANSON-YOUNG: What's the problem? I asked two years ago whether the conflict between the communications minister and the arts minister was going to create a problem for this piece of legislation and who was in charge. I couldn't even get a straight answer on that. Fast forward two years, and we still can't even get confirmation that the bill is going to be tabled in the next four weeks.

Mr Betts: So what's your question?

Senator HANSON-YOUNG: My question is: what is the problem?

Mr Betts: The task is to arrive at a formulation that reflects the feedback that has been sought from stakeholders and to get the best policy position the cabinet can get so that the legislation can proceed to implementation.

Senator HANSON-YOUNG: Is there a different view between the communications minister and the arts minister on the model?

Mr Betts: As you know, the legislation is co-sponsored by the two ministers, from a policy point of view. We don't comment on the deliberations of cabinet; but, no, my observation would be that there is a strong alignment of interests within the government.

Senator HANSON-YOUNG: Can the minister answer that?

Senator Carol Brown: The answer is no. Yes, I can answer it to say that there is no—

Senator HANSON-YOUNG: They're of the same mind, are they?

Senator Carol Brown: Yes.

Senator HANSON-YOUNG: You'd think that, with two smart minds dedicated and committed to this, it could have been done before now.

Senator Carol Brown: They are dedicated and committed.

Senator HANSON-YOUNG: They're not.

Senator Carol Brown: They are.

Senator HANSON-YOUNG: If they are, this is a very strange way of showing it.

Senator Carol Brown: They have been consulting with stakeholders and working to ensure that they get it right and that we get it right, and my advice is that we remain committed to the target implementation date of 1 July.

Senator HANSON-YOUNG: So this committee will not get a chance to actually look at this legislation properly then. We haven't been told what the model is, and there are competing views about what the model should be: expenditure versus revenue. We know what the big tech companies want; they want expenditure so that they can rig and game the system. That's what the big corporates in America want so that they don't have to spend so much money in Australia; they want to game the system. And this committee is not going to be able to look at this legislation then and do its job properly because we don't have the legislation and it's meant to be passed and implemented by 1 July. It's a woeful process, and you've had two years. I do wonder what the communications minister, in particular, has delivered in her term as minister. It feels as though there's a lot of kicking the can down the road.

CHAIR: Is that a question?

Senator HANSON-YOUNG: No.

CHAIR: Senator Cadell.

Senator CADELL: You've said that I could take up my concerns regarding the PM&C handbook. Do you regard the PM&C handbook as advice or direction?

Mr Betts: It's not direction; it's advice. It explicitly says that it provides guidance and that individual ministers' departments and agencies are ultimately responsible for the answers they provide to parliament and its Senate committees. The guidelines constitute 'broad guidance' only.

Senator CADELL: It's guidance. So wouldn't your answer be that you should take on the advice of Mr Pye, the Clerk of the Senate, in that he doesn't think it's in line with the Senate's rules?

Mr Betts: The guidance is owned by the Department of the Prime Minister and Cabinet. The final form in which answers to questions on notice are provided to the committee is through ministers. We have reference to the guidance, but we don't feel constrained by it.

Senator CADELL: When you answer these questions, are the responses that you send back based on guidance or your decisions? Given that we're in this committee now, today, at 9:20 and 14 responses have come in while every member of this committee has been in this room, and unable to access them easily, I'd like to know whether those responses are based on your decisions or Prime Minister and Cabinet.

Mr Betts: That was actually with the minister's office. As you know—this is past, established practice from previous governments—the final form of answers is approved by the minister's office.

Senator CADELL: And the timetable for them to release those answers was at 9:20 today while this 'corporate' of estimates was in the minister's hands?

Mr Betts: Correct; it always is.

Senator HENDERSON: It is of deep concern that right now, during these estimates, we are receiving answers to questions on notice from the last estimates, including questions from the ABC. How can we do our job, when you don't comply with the time line as requested by the committee?

Mr Betts: We do our best to comply with the time frames stipulated by the committee. As I've described, or as Mr O'Neill described earlier, there is a process for ensuring that ministers and officers review, seek advice and perhaps seek amendments to draft answers that are provided by the department. Our capacity to meet the time lines stipulated by the committee, even when we use our best endeavours, which we always seek to do, is sometimes challenged by the complexity of the answers required of us, including the need, at senior management level, sometimes across 30 different agencies, to vouch for the factual accuracy and consistent presentation of everything that we do.

Senator HENDERSON: Just on that, these answers were due on 5 April for an estimates hearing that was held on 13 February. They've now arrived in our inbox at 9.19 am, after the commencement of this estimates, and include a number of answers from the department. That is just inexcusable, in my view. Could you go through these answers and indicate when they were provided in draft form to the minister's office for clearance?

Mr Betts: We will have to take that on notice.

Ms Bridger: I think that will be included in the request that Senator Cadell asked for earlier today.

Senator CADELL: I asked about a timetable for these 14.

Senator HENDERSON: I'm talking about these particular 14 questions. There are a number of answers from the ABC as well as a number from the department. Where is the hold-up, Secretary? Is it your department that is sitting on its hands, or have you sent those draft responses to the minister's office in a timely manner and they have not been cleared by the minister's office?

Mr Betts: It will be a combination of those things. In some cases, the requirement to coordinate across multiple agencies and provide factually accurate information will take time. Also, we may be reliant on other agencies to provide information to us in a timely fashion. I've recently written, by the way, to a number of the key agencies, emphasising the need to provide information to us in a timely fashion so that we can respond to the stipulated deadlines of the committee. I've reminded them of their accountabilities in that regard, but it's also on us. Where we have questions like question on notice No. 247, which was in relation to functions and official receptions, and which required input from all 30 of our agencies and 19 divisions within the department—and we were required, for instance, to go through and check that there was consistent presentation of GST in our answer—that does take time. We strive to do it within the available time frames, but that can be challenging. Similarly, to give you another example, question on notice No. 310 was in relation to security clearances. Again, that involved input from all of our agencies. We've answered that fully; but, ultimately, the information that we provided required ratification and input from the Australian Government Security Vetting Agency, which was itself fielding a large number of identical requests simultaneously across government.

Sometimes it is on the department, and we have not always been able to meet those deadlines, despite the hard work of staff in our department and our agencies. In other cases, we provide drafts to ministers and, quite legitimately, they ask for redrafts or for further advice and information, and sometimes that takes us past the deadline.

Senator HENDERSON: On notice, Secretary, perhaps you could provide, in relation to the questions to the department, the time line for when those draft questions were provided to the minister's office, when you received any response back and when a further redraft, if that was the case, was provided, so that we can understand where the hold-up is. Thank you; I will hand back to Senator Cadell.

Senator CADELL: On the point you raised about security clearances, that's one of the questions that has come in today; thank you for that. A number of people have been waiting for six months and, having had a quick glance, a couple for 12 months for a security clearance. Is that holding up the ability of staff within your department to do things?

Mr Betts: It can be a challenge. It took me many months to obtain a security clearance when I first came into government, which meant that there were certain processes where I had to delegate responsibilities. Yes, that is a challenge which the relevant agency, which I've just described, is working hard to remedy; but I wouldn't say that it fundamentally impairs the capacity of the department to do its job.

Senator CADELL: We heard that this was due on 5 April and it is now two months overdue; and, on security, I understand that there were a lot of very similar things at the same time. Given cyberthreats and all of the things that we're going on with—we're seeing increased attacks, and there was one the other day—how many people do you have, waiting in positions, who can't access data or information that they need in order to do their job in the security space of data protection?

Mr Betts: I don't have the answer to that to hand.

Ms Bridger: I don't know whether we track that on a daily basis, because it ebbs and flows as people come in and leave. The normal way we deal with that on the ground, in a team, is by managing the flow of information to that individual. If we can bring them in on a lower clearance or do a risk assessment on the individual, we will, in order to try to bring them in as quickly as possible, so that they can be productive as quickly as possible. But it is very dependent on the work area and the nature of the work, and I don't know whether we actually track that on a daily basis. It would be something that I would have to take on notice.

Mr Betts: It certainly hasn't been reported to me as being a major issue that, as I said before, is impairing our ability to do our job, but it can be a frustration for individuals.

Senator CADELL: It would be more of an individual frustration than a workflow problem?

Mr Betts: Correct. I think that's a fair characterisation. Obviously, within the Australian Public Service, there is a reasonably high turnover of staff at any given time. People arrive in the department sometimes with extant security clearances that can be immediately applied to their new role; in other cases, we have to wait for them to go through the process, and we manage around that.

Ms Bridger: Also, as I said, we do risk-assess it, so we could consider giving them a provisional clearance, for example. That's us being conscious of the risks et cetera, while making sure that we have the right guardrails around the work that the individual does.

Senator CADELL: How does provisional clearance go? Does that work with any other agencies, or is that just you guys giving it?

Ms Bridger: That's where we have to do an assessment. Basically, it then needs clearance up the line from the appropriate supervisor, director or SES officer.

Senator CADELL: But it would be all internally, within the department?

Ms Bridger: Largely, yes.

Senator CADELL: What level would you give temporary or provisional clearance to?

Ms Bridger: What level?

Senator CADELL: Yes. Would you do a PV?

Ms Bridger: Not a PV.

Senator CADELL: Would it be an NV1 or NV2?

Ms Bridger: We would rely on the guidelines that we've been provided from the vetting agency. I'd have to defer back to that guidance; I don't have it top of mind here.

CHAIR: Senator Hanson-Young?

Senator HANSON-YOUNG: In relation to this local content and streaming quotas debacle, the communications minister and the arts minister are involved. Has the foreign affairs minister been consulted about this legislation?

Mr Betts: In the process of coordinating government policy, cabinet ministers are routinely consulted, so yes.

Senator HANSON-YOUNG: Have the foreign affairs minister or the trade minister been specifically consulted in their roles as officers for those positions as opposed to just general cabinet consultation?

Mr Betts: They are consulted through general cabinet processes in an ex officio capacity.

Senator HANSON-YOUNG: Has the Department of Foreign Affairs raised concerns with your department, Mr Betts, about this legislation?

Mr Betts: We will not comment on cabinet deliberations or conversations between ministers.

Senator HANSON-YOUNG: I'm sorry; the department. Have officers within the department raised concerns with you about this legislation?

Mr Betts: I will see whether Dr Arnott wants to comment on this. We are talking about matters which are before the cabinet at the moment and, obviously, discussions take place between ministers and between officials, and those are covered by conventions around cabinet confidentiality. In the area that you're straying into, they may also relate to matters between governments, in terms of treaty obligations and so on, in which case we certainly wouldn't be able to talk about those.

Senator HANSON-YOUNG: Dr Arnott, I know that you want to get this done.

Dr Arnott: We all want to get this done, Senator.

Senator HANSON-YOUNG: My concern is that perhaps not all do.

Dr Arnott: We are absolutely committed to getting this done. But to answer your question, yes, there are ongoing conversations between senior officials in the Department of Foreign Affairs and the department of infrastructure, as we work through this policy.

Senator HANSON-YOUNG: Has the department been asked to brief the US Ambassador on this legislation?

Dr Arnott: It wouldn't be something that the department would do. The Department of Foreign Affairs would brief the ambassador.

Senator HANSON-YOUNG: Have you been asked to assist the Department of Foreign Affairs in providing a briefing to the US Ambassador?

Mr Betts: As Dr Arnott has described, we have discussions with our DFAT colleagues all the time and they may well use information gleaned from briefings that we have in order to brief ambassadors generally.

Senator HANSON-YOUNG: Is the department aware of whether the United States has asked Australia not to pursue this legislation?

Mr Betts: That would be a matter for DFAT. It's certainly not something that we could comment on.

Senator HANSON-YOUNG: You haven't been told that?

Dr Arnott: No.

Senator HANSON-YOUNG: You haven't been asked not to do it because the Americans aren't happy?

Dr Arnott: No.

Mr Betts: No.

Senator HANSON-YOUNG: That would be pretty ballsy of them, wouldn't it—telling Australia not to protect our own local stories and culture because some US companies want to keep making a motza?

Mr Betts: The answer to your question was no.

Senator Carol Brown: As I said, Senator Hanson-Young, the government is committed to bringing forward this legislation.

Senator HANSON-YOUNG: Yes, but we've heard that for two years and you've broken your own time frame. You've already broken the promise; it's just how bad the broken promise is going to be. I'm trying to work out why, because it just doesn't make sense, unless you are kowtowing to the US companies and the US administration. If you are, I think that is extraordinary, because what else is going on here? For some US company to dictate to Australians that we shouldn't be protecting our own stories is outrageous.

Senator Carol Brown: You're suggesting or putting forward a proposition, and I'm saying to you that the Australian government is committed to this legislation and we remain committed, as I've advised, to bringing this forward.

Senator HANSON-YOUNG: How many meetings with the US companies Netflix, Amazon and Apple TV have department officials had in relation to this issue?

Mr Betts: The part of the department which is leading on this or has lead policy responsibility, acknowledging that there are two ministers co-sponsoring it, is Dr Arnott's. We will have staff here tomorrow who will be better able to answer that question in detail. Stephen, I don't know whether you have that answer to hand?

Dr Arnott: I don't have that detail with me. We can take it on notice and answer it tomorrow.

Senator HANSON-YOUNG: If we can get an answer on that tomorrow—

Dr Arnott: Sure.

Senator HANSON-YOUNG: I'd like to know how many meetings there have been between Australian officials, the local Australian department, and these big US companies.

CHAIR: Senator Henderson?

Senator HENDERSON: I refer to question on notice No. SQ24-000392, which was asked on 23 February 2024. It states:

Has the Department/Agency held any organised external retreats for staff? Please provide a list including the number of staff who attended, the location of the retreat and the cost incurred by the Department/Agency.

Secretary, that question has not been answered. Can you explain to the committee the basis for not answering that question?

Mr Betts: I believe that it's still awaiting clearance from a minister's office.

Senator HENDERSON: Could you answer that question now, Secretary, given your obligation to do so?

Mr Betts: If we have the information, we will answer it now.

Mr O'Neill: I do not have the exact contact of our draft response with me here now. We'll have to take that on notice.

Senator HENDERSON: Could you call one of your colleagues here today? Could you ask someone to provide it to you and come back to the committee as soon as possible this morning?

Mr O'Neill: Indeed.

Mr Betts: We will do our best to come back to you as soon as possible in this morning's session.

Senator HENDERSON: Thank you, Secretary; I appreciate that. Just on the broader issue, Secretary—it is not acceptable that we are still waiting for this question to be answered—how long has this draft answer been with the minister's office?

Mr Betts: We will answer that in the context of what we have taken on notice previously in this session.

Senator HENDERSON: Secretary, did you raise concerns about the fact that this answer was not cleared by the minister's office before today's hearing?

Mr Betts: I have asked a number of questions of my team about which questions on notice have been cleared. It is something we review every week in our leadership team to make sure that, as far as possible, we are complying with the deadlines stipulated by the committee. I routinely raise questions with ministers' officers about the status of questions on notice in the round.

Senator HENDERSON: Are there any other outstanding questions on notice from the last estimates; and, if there are, can you describe them?

Mr Betts: We had answered all questions on the RRAT committee, which I know is not the question that you are asking, but I believe there were five.

Mr O'Neill: I can assist there. I believe with a high degree of confidence that, as of right now, there are five outstanding questions on notice.

Senator HENDERSON: For the communications portfolio?

Mr O'Neill: For this committee.

Senator HENDERSON: What are the other outstanding questions?

Ms Bridger: The first is 000360; which relates to the use of artificial intelligence by the department; 000386, external engagements for professional development; 000404, underpayments of worker entitlements in the department/agency; and 000409, total expenditure on advertising and information campaigns.

Senator HENDERSON: What is the status of those other four questions: 360, 386, 404 and 409? Are they with the minister for clearance?

Mr Betts: Yes.

Ms Bridger: Yes.

Senator HENDERSON: They all are?

Mr Betts: The same, yes.

Ms Bridger: Yes.

Senator HENDERSON: Again, could we also have those answers brought back to the committee as soon as possible, unless you have them now. Do you have those draft answers with you now?

Ms Bridger: I think we can answer the artificial intelligence question if I have my colleague from IT here.

Mr Betts: We answered an identical question in RRAT.

Mr Goedecke: As it relates to generative AI, generative AI is not like ChatGPT; it is not authorised for use on the department's networks.

Senator HENDERSON: Including ChatGPT?

Mr Goedecke: ChatGPT is not authorised for use on our department's networks.

Senator HENDERSON: And that is the full content of your response?

Mr Goedecke: I have to check on the question because a previous QON was raised which says, 'Does the department use ChatGPT on its networks?' and that was the response to that one.

Senator HENDERSON: Secretary, do you have any officials here who can answer the other questions?

Mr Betts: No; but consistent with the information around external retreats, we will endeavour to answer those during this session, if it is at all possible.

Senator HENDERSON: Perhaps you could also provide the time line in relation to those other questions.

Mr Betts: Yes.

Senator DAVEY: I am interested in finding out more about the 3G shutdown. Minister Rowland said at a media conference on 17 March this year that she had only found out 10 days prior that up to 740,000 4G phones would not be able to make 000 calls after the 3G networks were closed down. I was flabbergasted listening to that at that press conference because Telstra announced their intentions to shutdown 3G five years ago, in 2019, and Optus did so around the same time. Telstra's original time line was to shut down by the end of June this year—they have now pushed it out—and Optus by September this year. They have been very open about it and in communicating with customers about it. So how come the minister only found out in March this year that there could be an issue?

Mr Betts: You are right to say that the telcos have been open about their plans for the 3G shutdown; they have been less forthcoming about the implications of that for the functionality you are talking about. I am happy to take you through the detail of what information was provided to the government and when.

Mr Chisholm: I might make some broader comments, and my colleagues here can assist you with further detail. The secretary is correct. The government is closely monitoring the situation with regard to the 3G shutdown. In doing that, we are reliant on the numbers provided to us by industry. As late as late November last year, the relevant industry association, AMTA, was telling us that there was a very small proportion of affected devices associated with the shutdown. So, while the industry has had plans to transition for some time, we were not aware of numbers—and the minister was not aware of numbers—anything like what we were able to ascertain when we undertook more intensive questioning of the industry, particularly earlier this year. At that point, on 14 March the minister was able to write to the industry to request further information. In particular, she was committed to establishing a working group and action plans. We have regular engagement with the industry now with all of the major providers to get a very specific and granular understanding of the number of affected handsets. We have ongoing quarterly reporting. A key message which the minister has been keen to reinforce and which we are reinforcing in our engagement with the industry is the importance of clear and active communication with customers about affected handsets, ensuring that they prepare for the switch in sufficient time. As you would be aware, Telstra has extended the period over which it is prepared to transition away from 3G, and that is welcome in the context of making sure we get it right before the transition occurs.

Senator DAVEY: I want to bring you back. You mentioned AMTA, the Australian Mobile Telecommunications Association, and you implied that they had been underselling the potential numbers. Their submission from November last year was clear when it said, 'Some older 4G phones do not have a feature called VoLTE'—Voice Over Long Term Evolution—and would be 'unable to make and receive any voice calls' and that some 4G phones that support VoLTE 'do not support voice calls to emergency services'. But you're saying that didn't ring any alarm bells at the time for the department or the minister.

Mr Chisholm: Not at all. Both the current government and the previous government have been aware that there are going to be handsets affected in terms of the calls they are able to make associated with the switch from 3G. So we have always known that there were going to be affected handsets; hence the institution of the reporting arrangements some time ago. We now have more intensive reporting and engagement with the sector, but we are reliant on the actual numbers of affected devices. We are reliant on the information given to us by industry. As late as late November last year, we were being told that it was a very small number of affected devices. We were not aware—I can check with my colleagues from the major providers—that the numbers were anything different from that.

Senator DAVEY: I appreciate it if you have to take this on notice because quarterly reporting was instigated which shows that the government was aware that this could be a problem. So, when the minister said that she wasn't aware of how large the problem was, she was not being completely straight. She was aware that there was a potential problem; it was just the scale of it.

Mr Chisholm: She was being completely straight with the community and the sector. We have known for some time that the transition from 3G will affect a number of devices because there are people with 3G devices. It is not just phones; other devices will be affected by it—

Senator DAVEY: Medical devices, medic alert devices, irrigation technology, farmers' devices.

Mr Chisholm: Yes. So we have been aware for years that this would be an issue; hence the importance of communication from the sector to its customers so that they have that information, they know who their customers are and they know the devices to ensure that customers are ready for the transition away from 3G. My point is that the number of affected devices was not something we were aware of until early this year, when we were writing to industry to ask for answers to a series of questions triggered by our concerns that we were not being given the full scale of the number of devices affected.

Senator DAVEY: So you weren't getting numbers in the quarterly reporting; you were just getting reassurances from industry that 'It is all okay.'

Mr Chisholm: My colleague Mrs La Rance will assist you with the nature of the quarterly reporting.

Mrs La Rance: From 2019, when intentions to start shutting the 3G network down were announced, we were working with industry. We have had quarterly reporting in place since that time. The quarterly reporting goes into some detail around the processes industry has in place for identifying devices and contacting customers. Devices that rely on 3G were a category that everyone was aware of. Some of the older 4G devices you referred to, from 2019, and some newer ones were unable to call 4G at all. The reporting on that suggested that the communication campaigns for people would reach affected people. The issue that came up in relation to the 4G devices which wouldn't be able to call triple 0 because they relied on 3G got our attention because you wouldn't know that you could not call triple 0 until you go to do so. The advice from AMTA did say 'a very small number of devices', and quarterly reporting from Optus and Telstra suggested that there was an issue they were aware of and were investigating. But nothing suggested scale with it. So Ms Sparreboom and her team worked with the mobile network operators to understand that issue more. I understand that at the time that AMTA said 'a very small number' they didn't have access to that joined-up figure. As soon as we brought to the attention of the minister that it was 743,000, the minister acted quickly and established a working group. Through that working group we now get fortnightly reporting on the different categories of devices and what is being done to contact customers and so they are able to easily check their devices in advance of the shutdown.

Senator DAVEY: You keep saying that AMTA suggested that it was a very small number. It's since become clear that we're talking in the hundreds of thousands. What numbers were AMTA claiming prior to this extra work that has discovered that it's hundreds of thousands? What actual number were they saying was a small number? There are millions of mobile devices in Australia, so maybe when someone is thinking that there are about 10 million mobile devices, 700,000 is a small number. But it's not; it's a very large number, particularly when you consider that a lot of those devices are owned by older and more vulnerable Australians, who are the ones who need the services that they're relying on.

Mrs La Rance: That's correct.

Senator DAVEY: So what was the number that AMTA was claiming?

Mrs La Rance: AMTA didn't quantify it with a number.

Senator DAVEY: They didn't quantify it.

Mrs La Rance: No, they didn't.

Mr Betts: But they did quote 'a very small number'.

Mrs La Rance: Yes; that's correct.

Senator DAVEY: So they said that.

Mrs La Rance: It's on their fact sheet from November.

Senator DAVEY: An IT networking expert, Mr James Parker, made a submission to the Senate committee inquiry into the Optus network outage. In his submission to that committee, he wrote:

In early June I contacted the Communications Minister ... via email regarding this issue and I did not initially receive a response. However 4 months later, after following up through my local member a few times I did end up receiving a response late in September.

The response that he provided to the committee came from the department. He came to this conclusion:

Based on the letter I received and the recent events its clear there is lack of oversight from the Government regarding both the 3G Switch-off issue and the telecommunications sector more broadly.

Mr Chisholm: In relation to that, yes, we're familiar with Mr Parker's letter and the correspondence, but it's just not correct that there has not been active and intensive engagement on this issue. It is a very high priority for our group. We meet weekly with industry to discuss the latest numbers. We have a pretty specific sense of how those numbers are moving. As you'd be aware as well, TPG has already transitioned. Particularly from the correspondence that we had with industry early this year, in February, from that point on we have had very intensive engagement. It's quite a high priority, not only with the sector. We've met with a number of the groups that represent consumers—groups like Connected Farms and Purcell—and we've met with the Telecommunications Industry Ombudsman to facilitate the sharing of information between them and the providers to ensure that we really wrap our arms around this.

Senator DAVEY: You've just said that, based on the information that you were getting through submissions, you ramped up your communications with industry in February, obviously identifying that this was potentially bigger than you had been led to believe. I come back to the press conference on 17 March. The journalist directly asked Minister Rowland:

When did this issue pop up with the 4G capable phones not being able to dial triple 0?

Minister Rowland's response was:

I became aware of this approximately 10 days ago.

However, as a department, you'd ramped up your efforts to investigate it in February, if not slightly before, so why was the minister not brought up to speed?

Mrs La Rance: May I clarify in relation to Mr Parker's letter? That letter referred to that class of devices that I referred to, the 4G devices that weren't VoLTE enabled, so they wouldn't be able to work at all. It wasn't referring to the class of devices that the minister was referring to, which is the ones that would look like they would work except when you went to call triple 0.

Senator DAVEY: I want to come back to this point. Minister Rowland claims that she only found out on or about 7 March that there were 4G-enabled devices that wouldn't be able to call triple 0. When did the department become aware of it and when did you make the minister aware of it? By your own admission, you started ramping up work to investigate this issue as early as February, which some would claim is still a bit tardy.

Mr Betts: February being the month before March. We can give you more detail on the time lines, if you wish.

Mrs La Rance: Yes; we can take you through the time line. In the early part of 2024, in February, as you referred to, we had sought to understand the issue and the magnitude of it. Once we asked for numbers, we became quite concerned that it was a much broader issue and might take more focus than was currently being applied. We brought it to the minister's attention and she acted quickly. We can take you through the dates on the time line, if that's useful.

Senator DAVEY: So you knew that it was a potential issue in February, you sought to understand the magnitude and you hadn't spoken to the minister at that stage.

Mrs La Rance: Not in terms of formally briefing the minister. We brought it to the minister's attention. We can give you the date; it was early March.

Ms Sparreboom: We formally briefed the minister through a written brief on 7 March. It was on 26 February that we received the detailed information from mobile network operators that the number of devices in that particular category—the 4G VoLTE devices that use 3G for triple 0 calling—was in the order of 740,000.

Senator DAVEY: So you got that on 26 February, after writing to the telcos about the issue—an issue that, despite people saying 'a small number', had been raised in November 2023 by AMTA at the very earliest and, potentially, via communications from Mr Parker in June, but you only sought the detail in February.

Mr Betts: The Mr Parker thing is a different issue. The issue was raised in November but significantly downplayed in the commentary that AMTA provided at the time. The department did more due diligence, informed the minister as soon as it had the relevant information and the minister acted as soon as the department informed her. That's the story.

Senator HANSON-YOUNG: I've got some questions around the anti-siphoning legislation. This legislation has passed the House and is now before the Senate. Has the department done any modelling as to how many Australians will be locked out of guaranteed free access to sport, given the failure to deal with digital rights under this scheme?

Mr Penprase: Obviously, the impacts of the proposal were taken through the impact analysis process. That process examined the various options that were taken forward, including the one that was reflected in the bill. I would note that the proposals that are contained in the bill do extend the anti-siphoning scheme to cover online rights. They prevent any media content service provider, including streaming services, from acquiring a right until the free-to-air broadcasters have acquired a right to broadcast that event. So the scheme does extend and provide additional protections for the acquisition of rights, including online rights.

Senator HANSON-YOUNG: It's not a protection of rights for the viewer, though, the audience member.

Mr Penprase: The scheme is designed to support the free availability of televised coverage of iconic sporting events, and it does—

Senator HANSON-YOUNG: But it fails to do that for half of Australian households.

Mr Penprase: I don't believe that's the case.

Senator HANSON-YOUNG: What are the numbers of Australians who watch the Matildas on a digital device and not through their aerial?

Mr Penprase: That's something that I'd have to take on notice.

Senator HANSON-YOUNG: It's nearly four million people, and that number is growing day by day. I find it extraordinary that the Senate is being asked to pass a piece of legislation that is effectively already obsolete because it is not fit for purpose for the modern day. You either think that Australians should be able to access these iconic sporting events for free on whatever device it is that they watch television on or you don't. You haven't actually guaranteed that all Australians will be able to access sport for free, have you?

Mr Penprase: I'm sorry; what was the question?

Senator HANSON-YOUNG: You haven't been able to guarantee that, through this legislation, all Australians, regardless of what device they watch their sport on or watch television on, will be able to access it for free.

Mr Penprase: The scheme doesn't guarantee and has never guaranteed free access to televised coverage. It's designed to support the free availability of televised coverage of iconic sporting events. The reforms that are put in place in the bill do amplify those protections. They enhance those protections for digital media rights, but there is no guarantee that a free-to-air broadcaster under any scheme that's either in place now or will be in the future will acquire those rights. That remains a choice for the free-to-air broadcaster in question.

Senator HANSON-YOUNG: Have you seen the latest news out of the US that NFL fans are having to pay US\$1,600 to be able to watch the full season because the games are locked behind different paywalls, such as Netflix and Amazon?

Mr Chisholm: I'm not sure that we're particularly focused on what's happening in relation to the NFL. But, as Mr Penprase has said, the scheme will ensure that all media content providers are prevented from acquiring these events until free-to-air has acquired them or had the opportunity to do so. The protections have been extended over a number of weeks.

Senator HANSON-YOUNG: Half of Australians don't watch and access television through the free-to-air, analog, terrestrial aerial service.

Mr Penprase: I just might make a couple of points here. The department commissioned some survey work and has had a survey commissioned for the last few years on television and media findings. Last year, when asked, 'How do you access free-to-air television services?' 53 per cent of Australians said that they use the

broadcast signal and antenna—that's 53 per cent of Australians who use the broadcast signal and antenna to most often watch free-to-air television—and 20 per cent use an on-demand app through smart TVs.

Senator HANSON-YOUNG: How many Australians are watching free-to-air television, compared to what the number used to be, rather than catch-up services or other streaming services?

Mr Penprase: I think the trend—

Senator HANSON-YOUNG: Are you trying to tell us that we're not moving away from terrestrial television?

Mr Penprase: I'm simply saying that the aerial based system remains an important feature for the consumption of television programs.

Senator HANSON-YOUNG: Of course. But, increasingly, for more and more Australians, it doesn't. That is the whole reason that you have brought in a bill that deals with prominence.

Mr Chisholm: I think the important point to make here as well is that the legislation is clear about what the government's policy is on anti-siphoning. I'm not sure that we're really in a position to discuss alternative policy scenarios, particularly with respect to what might be happening in other markets.

Senator HANSON-YOUNG: The reason I'm asking is that there is nothing to stop that happening in Australia now. Under this legislation that the government has drafted—that Senator Brown's government has brought in—there is nothing to stop big corporate streamers milking these sporting events and forcing Australians to bring out their credit card in order to watch the grand final. You're not protecting them for all Australians.

Mr Penprase: If the bill were passed, Amazon, Netflix or any other streaming entity would not be able to acquire a right—any right—to any event on the anti-siphoning list until a free-to-air broadcaster had a right to broadcast the event.

Senator HANSON-YOUNG: I understand that. However, you are leaving out nearly half the population and that's the problem here. Minister, did Foxtel lobby the government over this issue?

Senator Carol Brown: I don't have that information here. I would have to take that on notice.

Senator HANSON-YOUNG: How many meetings has the minister's office had with executives from the News Corp, Murdoch-owned Foxtel in relation to this issue?

Senator Carol Brown: I don't have that detailed information here.

Senator HANSON-YOUNG: Well, could you get it?

Senator Carol Brown: I will take it on notice for you, Senator Hanson-Young.

Senator HANSON-YOUNG: Could the secretary provide us with any information as to how many meetings or pieces of correspondence the department has received from the Murdoch-owned Foxtel and Kayo subscription service in relation to this issue?

Mr Betts: I haven't had any meetings with them, but we will take on notice whether departmental officials have had any.

Senator HANSON-YOUNG: They're the winners out of this, aren't they? Rupert Murdoch, the Murdoch Corporation, Foxtel and Kayo are the winners out of this. They are going to make a motza; meanwhile, half the country is locked out of free access to sport.

Mr Betts: Is that a question?

Senator HANSON-YOUNG: Are they the winners?

Mr Betts: I don't even know where to begin with that. It's asking us for an opinion. The policy is the policy of the government and it's before the parliament.

Senator BILYK: Can I clarify something, please, Senator Hanson-Young?

Senator HANSON-YOUNG: Sure.

Senator BILYK: Does the bill actually confer a competitive advantage to free-to-air television broadcasters in Australia in obtaining rights to events on the anti-siphoning list?

Mr Penprase: The scheme certainly does place free-to-air broadcasters at an advantage in terms of the acquisition of sporting rights, and the proposals contained in the bill would amplify, as I said before, that competitive advantage and place free-to-air broadcasting as the safety net for the acquisition of rights, regardless of the method by which they are acquired.

Senator HANSON-YOUNG: If you're lucky enough to have a television with an aerial that might work because most people in this country are actually moving towards digital services with Smart televisions or

watching the games on their phones or their tablets. What is the point of introducing new laws that are not even fit for purpose, except if you are doing the bidding of Murdoch? That's what seems to be going on here.

Mr Betts: I assume that's a rhetorical question.

CHAIR: There doesn't appear to be a question in there. We will rotate the call.

Senator BILYK: Can I just clarify? I am no techie, but don't most Smart televisions have aerial plugs?

Mr Penprase: That's correct, Senator.

Senator DAVID POCOCK: I have some questions on gambling advertising. The Murphy review was a bipartisan-backed report, and the government said that there would be a response within six months. They were very definitive about that. It is 12 months next month. What is happening? Where is that response?

Mr Chisholm: The minister has made clear that the status quo is untenable in relation to the harms associated with the gambling report and committed to a robust legislative framework with strong consumer protections. We are working through—

Senator DAVID POCOCK: Sorry, Mr Chisholm, when can we expect the response?

Mr Chisholm: Sorry, Senator. I was going to say that we are currently working through policy responses to those recommendations that are being considered by ministers; that's part of the cabinet process as well.

Senator DAVID POCOCK: Has legislation been drafted as part of that?

Mr Chisholm: We are developing closely the policy framework associated with that. As to legislation—

Senator DAVID POCOCK: But no legislation?

Mr Chisholm: We haven't put legislation to the parliament at this stage, as you know.

Senator DAVID POCOCK: Has Minister Rowland requested the drafting of any legislation?

Mr Chisholm: Again, in the context of a cabinet process, the sequencing of policy, authority and legislation is still before government.

Senator DAVID POCOCK: Surely Minister Rowland's request to you about drafting is not cabinet-in-confidence?

Mr Chisholm: The timing of legislation and how that is sequenced in the context of when the government formally commits to a policy, and when that is communicated to industry and consumers, is still subject to a cabinet process, yes.

Senator DAVID POCOCK: Just to be clear: I am asking whether the minister has requested the drafting of any legislation to do with the response to the Murphy review? You are claiming cabinet-in-confidence.

Mr Chisholm: Senator, probably what I could say—

Senator DAVID POCOCK: Sorry—

Mr Chisholm: I am definitely answering your question. We are actively considering how to implement, including in a legislative context, responses to the Murphy report.

Senator DAVID POCOCK: That's great to hear. Does that include legislation?

Mr Chisholm: It includes how we might express that policy in legislation. Again, it comes back to the fact that the government is committed to—

Senator DAVID POCOCK: Answer me in plain English.

Mr Chisholm: I keep mentioning the sequencing point. The government will be committing to a policy response.

Senator DAVID POCOCK: They committed to it six months ago and we haven't seen it. I am interested in what is going on here.

Mr Chisholm: We have also committed to further detailed consultation and consideration of the amendments of the response.

Senator DAVID POCOCK: Surely, from where I am sitting, you have to take that with a grain of salt if you have a government that says, 'Yep, we'll respond in six months', and 12 months later there's not even a response.

Mr Chisholm: It is a very active piece of work in my group.

Senator DAVID POCOCK: Back to the question about whether or not Minister Rowland has requested the department to begin any drafting as part of the response to the Murphy review.

Mr Chisholm: The minister has certainly asked us to consider how we would legislate the policy that the government will eventually be in a position to communicate.

Senator DAVID POCOCK: I'm sorry?

Mr Chisholm: The minister has asked us to consider how we would go about implementing the policies that we are advising the government on in relation to a response to that inquiry report.

Senator DAVID POCOCK: Mr Betts, how much training do you do with staff for estimates?

Mr Betts: Training?

Senator DAVID POCOCK: Do you and the department do any training for estimates? You're just good at not answering questions.

Mr Betts: No. We discuss the issues that might come up in Senate estimates with a view to making sure that, where possible, we are standing ready to answer those questions. That's the limit of it.

Senator HENDERSON: Do you do any mock questions and answers at all, Secretary?

CHAIR: Senator Pocock, are you happy to recede your call to Senator Henderson?

Senator HENDERSON: Apologies, Senator Pocock.

Senator DAVID POCOCK: I will keep going.

Senator HENDERSON: I couldn't resist.

Senator DAVID POCOCK: No, that is fine. This is probably a political question. The response that was given from what we have seen in terms of the rhetoric certainly doesn't line-up with the actions. This morning we had a briefing with Jess Hill and Michael Salter, and they identified problem gambling as a really important contributing factor to violence against women. We have a government that is supposedly keen not only to tackle problem gambling but that has also said a lot about violence against women. It was pointed out that long lunches with the gambling industry isn't going to solve this. Minister, what is going on? Why are we seeing such a failure and lack of courage on this issue?

Senator Carol Brown: What I can say to you, Senator Pocock, is that the government is committed to protecting vulnerable Australians from gaming harms. As has been highlighted, we are considering the recommendations from the parliamentary inquiry, and we are consulting with relevant stakeholders to inform our response. I know you are criticising the time that it is taking, but it is extremely important that what we put forward as Australian Government policy is right; that something that is put forward does exactly what our aim is, which is to reduce harms from online gambling.

Senator DAVID POCOCK: From the public's perspective, though, we see a total lack of action. We are promised a response in six months. We see the minister wining and dining with the gambling industry. You can't dispute that. That's on the public record. I am interested in Minister Rowland saying that she is deeply concerned about Sportsbet advertising a gaming app without using the gambling disclosures. ACMA has said that the advertising of this app doesn't fall into its remit. Can the department say what the penalties will be for Sportsbet for this breach?

Mr Chisholm: Are you asking in relation to what penalties will be in the reforms?

Senator DAVID POCOCK: No. What is happening now is that Sportsbet is advertising a gaming app without using the gambling disclosure. It doesn't fall under ACMA, so I assume it falls within the department. What's happening?

Ms Gannon: I would like to take the detail of that case on notice. I am aware of an app that was around and ceased operation in, I think, December 2022. I will correct the record if I am wrong about that date. What this demonstrates to us is that there is evolution in that gambling market. It is something that we are watching very closely so that we can provide advice to government on responses to issues as they emerge.

Senator DAVID POCOCK: In terms of time line, what do I tell people who are just sick and tired of sitting through gambling ads with their kids? They see their young teenagers thinking that gambling is just normal; that it's something that all Australians do. They see us lose \$25 billion a year during a cost-of-living crisis. We are the biggest losers in the world. What they see and what I am hearing is that the government is either asleep at the wheel on this or there is a serious issue with vested interests and not wanting to take on a big fight with the gambling industry given how much they spend on advertising—\$260 million a year. When will we see this report? What is the time line?

Mr Betts: We described to you the policymaking process within government, including finalisation of policies through Cabinet, which leads through to drafting instructions and which, in due course, will lead through to the

preparation of legislation. I don't accept your characterisation that the government has done nothing in the meantime. We've seen the activation of the BetStop scheme in August 2023, customer ID verification in September 2023, banning of credit cards from June 2024 and mandatory minimum classification for gambling content in computer games coming live in September 2024.

The minister has indicated that the status quo with respect to gambling advertising, as Mr Chisholm indicated, is not tenable. The key focus now is to make sure that the government frames policy in a way that will achieve the desired effect. If that takes consultation and careful consideration, then in due course, in the government's judgement, that's likely to lead to a better outcome.

CHAIR: I will need to rotate the call, Senator Pocock.

Senator DAVID POCOCK: In terms of a response to the Murphy review, has the minister requested a date for that?

Mr Betts: We are working within the government to provide advice to Cabinet in due course. That is the process we are in.

CHAIR: Senator Bilyk.

Senator BILYK: Mr Betts, could you talk us through the action that the government has taken to reduce the harms of online wagering?

Mr Betts: In the time before the tea break, I'll hand over to Ms Gannon.

Ms Gannon: As Mr Betts said, the government has implemented and introduced a number of measures to deal with gambling harm. Since BetStop, the National Self-Exclusion Register, commenced in August 2023, over 22,000 people have registered. That number is as of April. The government also introduced the mandatory customer pre-verification in September, which requires wagering service providers to verify a customer's identity before they can place a bet. The use of credit cards for online wagering is subject to a ban that will commence in June 2024. Mandatory minimum classifications for gambling-like content in computer games commences in September 2024. There are a number of harm reduction measures that are in place or coming into place soon. We are working very closely with the Department of Social Services on this work.

Mr Chisholm: We have also commenced an investigation into other online gambling-related issues.

Ms Gannon: That's right. As part of the parliament's consideration of the legislation around credit card bans, the government committed to look at how those credit card bans might extend to lottery-like, keno-like products. Early work on that review has begun. The review itself is expected to commence in the next couple of weeks.

Senator BILYK: You mentioned BetStop. 22,000 people have registered with the self-exclusion register; is that right?

Ms Gannon: That is right. That is the number I have as at April 2024. ACMA will be here later today and may be able to provide an update on those numbers. BetStop allows individuals to ban themselves from interactive wagering services for three months or for a lifetime.

Senator BILYK: Do we know how many have opted for a lifetime ban?

Ms Gannon: I don't have those numbers. We can certainly find that out for you, or ACMA may be able to—

Senator BILYK: Could we find out how many are under the age of 40?

Ms Gannon: I will endeavour to get those numbers for you.

Senator BILYK: I am sorry; I interrupted you.

Ms Gannon: If someone has registered with the National Self-Exclusion Register, it means that they can't open a betting account. The wagering companies can't accept a bet, and they can't send direct marketing material to the person that has registered on BetStop. It has a fairly broad application, once you've self-identified for that. The review of that scheme will commence in August, to make sure it is doing what was intended.

Senator BILYK: You talked about identity verification. Is that the mandatory customer pre-verification?

Ms Gannon: It is. That work was led out of the Department of Social Services.

Senator BILYK: That's mandatory?

Ms Gannon: Yes.

Senator BILYK: With the credit card ban, I want to be clear about what payments will be prohibited and why.

Ms Gannon: It prohibits Australian licensed online wagering operators from accepting credit card payments or payments linked to a credit card—digital wallets, for example, or digital currency. It extends to cryptocurrency.

We have sought to future-proof that by allowing the minister to proscribe future credit payment types in the event that different types of credit products emerge that aren't directly covered by the legislation.

CHAIR: We will take a break, and we will return with outcome 5.

Proceedings suspended from 10:49 to 11:05

CHAIR: We will continue with program 5.1, Digital Technologies and Communication Services.

Senator DAVEY: I want to come back to the 3G shutdown. Ms Sparreboom, I know that Mr Betts has said that the letter from Mr Parker is a separate issue. In the response to Mr Parker, which you signed, Ms Sparreboom, you identified that people needed to check if the device supports 4G VoLTE or 4G in the 700 MHz spectrum band. You identified that consumers and suppliers of 3G-enabled mobile phones, medical and other devices needed to migrate to a compatible device option. Mr Parker wrote to the minister's office in June, and you sent the response in September—three months. In that three months when you were investigating and preparing that four-paragraph response, it didn't come to your attention that the issue could be bigger than simply saying, 'People with 3G devices need to upgrade'?

Ms Sparreboom: Four categories of handsets are affected by the 3G shutdown. There are 3G-only devices. There are 4G devices that don't have the radio frequency spectrum capability, which are usually brought in from overseas, and which will not operate correctly on the Australian bands. There are the 4G phones that don't have Voice over Long Term Evolution, or VoLTE, which is what Mr Parker was writing about. These three categories of devices were well known for some time—since 2019. The fourth category of device that we found out about in February was in the scale of 740,000. Those devices are 4G VoLTE-capable, but they use 3G for emergency calling. Those devices are different, and we didn't have the scale and scope of those devices until February.

Senator DAVEY: So you are saying that there was no concern about the previous three handsets—only the 4G no VoLTE—and the number or scale of those handsets in the market? You only became concerned about the emergency calls. The preceding three types of handsets also wouldn't be able to make emergency calls. How many of those were on the market that you were aware of?

Ms Sparreboom: I wouldn't say that we weren't concerned about those devices. It is more that those devices were well known. There was lots of information on mobile network operators' websites, and they were in the process of informing customers about those handsets.

Senator DAVEY: So that issue was well known by the minister at the same time?

Mrs La Rance: The issue of 3G was known and strategies for reporting were in place. There was satisfaction within the department, based on regular communication with the mobile network operators and with AMTA, that the issue was known, that it was taken seriously and that sufficient was being done to be able to contact affected customers. One initiative that has been implemented since the beginning of the year is the SMS tool that both Telstra and Optus have put in place. That makes it easy for everybody—certainly everyone in my house—to check all devices so that you can see whether they are going to work post-shutdown.

Senator CADELL: I am worried about the answer. We keep talking about how in February we found out that the number of this fourth device was 740,000. When did we find out that fourth device existed and that this was a problem?

Mrs La Rance: In 2023 both Telstra and Optus said that there was a category of device they were looking into as an industry. We started to ask questions around what that meant, and the triple 0 calling became apparent. Once we started asking questions around the order of magnitude, which was at the beginning of this year, that is when we brought it to the attention of the minister.

Senator CADELL: So in 2023 we found out it was a problem, but we only started asking questions in 2024?

Mrs La Rance: Industry said they were looking into a category of device, but the scope of the problem didn't become apparent until the beginning of the year.

Senator CADELL: I have a slight concern. We have a question on notice—which has been answered here—from the Optus inquiry. Last time we had a discussion about how the department did not advise the minister that some triple 0 calls that were made weren't coming out prior to a press conference. It says that in writing. We now have: 'In 2023 we knew we might have a problem' and, by your own admission today, 'We didn't inform the minister until 7 March of the scope'. Is it a department thing to leave the minister exposed on triple 0 calls? Is it a policy?

Senator DAVEY: Especially after the Optus outage.

Mrs La Rance: Certainly not; it is something we take very seriously. The reporting that was in place was giving us comfort that industry was working to understand affected devices and contact affected customers well in

advance of shutdown. When we thought it might be a bigger problem than it looked, we acted quickly and brought it to the minister's attention. Knowing what we know now, we would have asked different questions then. But that information did become apparent, and the scope, at the start of this year.

Senator DAVEY: In November, AMTA put out their bulletin that identified that some 4G VoLTE phones did not support voice calls to emergency services. That bulletin was put out around the same time as the Senate committee was inquiring into the Optus outage. Did no-one in the department say, irrespective of scale, that one person trying to make an emergency call—

Senator CADELL: It is life and death.

Senator DAVEY: on a VoLTE-enabled phone and not getting through is enough to make the headlines. Was no-one in the department saying, 'There is a bulletin put out by ATMA. Maybe we need to bring this to the minister's attention now and tell her we are about to start investigating'? Minister, do you feel a bit exposed by the lack of weight that has been put on the issue?

Senator Carol Brown: What we have heard here today, and what the department has outlined, is that the report which came in, in November 2023, indicated a small number of devices. The department was keeping track of that issue going forward.

Senator DAVEY: Not telling the minister.

Senator Carol Brown: They had been advised that there was a small number of devices, and they were keeping track of that issue. It only came to the attention of the department that there was a more significant number of handsets—we now know it is just one particular type of device, which is the 4G VoLTE-enabled one—which had an issue around triple 0. As quickly as possible after the department became aware that it was a more significant number—it has been said here 740,000—they talked to the minister. That is why the minister moved quickly to establish a working group to identify impacted customers, improve the communication and address the issue. My understanding is that the number has been revised down.

Senator DAVEY: The Optus inquiry was kicked off by an outage where only 300 emergency calls didn't get through, but that was determined to be significant enough to establish a Senate inquiry and have a hearing. You say you were made aware of a small number of handsets. If it was more than 300, that would be significant enough.

Senator Carol Brown: Senator Davey, that was an incident that actually occurred.

Senator DAVEY: TPG-Vodafone have already shut down.

Mr Chisholm: Yes.

Senator DAVEY: Have you had any feedback from any of their customers that they are now caught up in this quagmire?

Mrs La Rance: Their triple 0 calls are going through another network. We certainly do take it very seriously. Any one person affected is one person too many. An important point is that this is happening well in advance of the shutdown. Telstra has moved its shutdown date out by two months. We will continue to work very closely. That 742,000 number actually was a bit higher and has come back down. Industry have collectively found it useful to have joined-up visibility of the scope of the problem.

Senator DAVEY: This is all about the timing, making sure the minister—

CHAIR: Senator Davey, I will give the call to Senator Cox.

Senator COX: Thank you, Chair. Can I ask some questions around closing the gap on digital inclusion? Within the budget there has been an allocation of \$68 million over the next four years to support First Nations digital inclusion. Can I get an update in relation to where that is up to?

Dr Ashurst: The allocation of \$68 million over four years is based on recommendations from the initial report of the First Nations Digital Inclusion Advisory Group. There are three main components of this allocation. There is \$40 million over four years to roll out community wi-fi in remote communities, noting that, in fact, the first \$20 million of that allocation was announced in February by the Prime Minister.

Senator COX: Is that new money or is that additional?

Dr Ashurst: The \$20 million is part of the \$68 million announced in the budget, but it was announced earlier.

Mrs La Rance: It was announced in February.

Senator COX: There was no previous allocation?

Mrs La Rance: For it to be announced in February, there was an allocation. If you look at it in the sense of a total of \$68 million, \$48 million was announced newly through the budget and \$20 million was announced in February but included in that budget measure because it didn't appear in the previous update.

Senator COX: This work started in 2021, under Minister Wyatt. Was there any money allocated through the previous government that this is now in addition to, or is this just: 'Now we've got a new government, we're going to start a whole new process'? That's the question I am asking.

Mrs La Rance: I am waiting for someone to correct me if I am wrong. It is newly allocated, not a re-used provision from a previous measure.

Senator COX: Thank you for clarifying that. Who is the allocation to? It says it is for rolling out community wi-fi. Who is responsible for that?

Dr Ashurst: The first \$20 million is being allocated to NBN Co, subject to contract negotiations. Consultations have started with communities across Australia to identify those communities who are receptive to receiving the wi-fi service.

Senator COX: Is that the department doing the consultation or is that a contractor, a consulting firm? Who is conducting that consultation?

Dr Ashurst: NBN Co is undertaking those consultations, in cooperation with the states and territories.

Mrs La Rance: And working closely with the First Nations Digital Inclusion Advisory Group.

Senator COX: Have you got six people in the advisory group?

Dr Ashurst: There are seven members of the advisory group itself.

Mrs La Rance: And it's supported by an expert panel.

Senator COX: Great. The next tranche is the \$22 million over three years to establish the digital support hubs and digital mentors, and to increase online services and improve digital literacy and online safety. Can I have an update on where that is at?

Dr Ashurst: As was just announced in the budget, the implementation arrangements are commencing there. One of the key considerations is to work closely with First Nations organisations and communities, and with the First Nations Digital Inclusion Advisory Group, to design those measures and to implement them. They are underway, but they are in the early stages.

Senator COX: Is this information within your plan—and the NIAA have put this plan out from 2023 to 2026—being informed by what they've said was a roundtable of stakeholders that co-hosted with the advisory group and the NIAA? Is this the stakeholder engagement or is this just the expert advisory group coming up with these grand plans that we now put against the budget? I am finding it difficult to bring those two together, because that is not what you said.

Dr Ashurst: The digital inclusion plan is consistent with the work. The advisory group have taken on board the findings of that plan to implement and propose, in their initial report, these measures. The advisory group is the group that has proposed these.

Senator COX: On notice, can you provide to me where this advisory group co-hosted First Nations Indigenous inclusion forums, how many people attended, what that cost and what were the outcomes from it? From what you are telling me, these are recommendations from the expert advisory group only. We want to see the input of grassroots communities. When we look at the rate of remote communities' digital access, it is significantly different and is behind the times—by generations. Yet it has such an important tenor for us in relation to health, education and social connectivity. It is such an important thing, and yet we are not seeing the mobilisation of community in this. Can you provide that to me on notice?

Dr Ashurst: Yes, Senator.

Mrs La Rance: The other component that might be of use is the \$6 million, to add to the \$68 million. That is expanding the Australian Digital Inclusion Index to improve the data on First Nations digital inclusion, for some of the reasons you've just outlined there.

Senator COX: To date, can you tell me what the current dataset looks like and whether there is any data sovereignty that exists for this data? Have we baselined this data so that we know what we are starting with, the starting point, so that we can improve this target by 2026? Is that achievable? Have we baselined it?

Dr Ashurst: One of the challenges in this space—and I have outlined this in previous answers to questions from the committee—is the lack of data that we can use as a baseline. The more recent data that has been used to inform this target dates back to the 2014-15 census results, so it is quite outdated. One of the reasons for the

government injecting additional funding into data collection is to provide a better baseline here. The Australian Digital Inclusion Index has been collected for a number of years, but the information available within that index, particularly at a sufficiently granular level for First Nations people, is lacking.

Senator COX: We already know that because the Productivity Commission has already reported that there is no comparative data on home access to the internet for non-Indigenous people. Achieving this and estimating the trajectory to achieve parity is currently not possible. You're telling me we're now going to create a dataset. Who is creating this data? Where are we getting it from?

Dr Ashurst: The data is being collected by RMIT University. They have been doing it for a number of years. They also have a project associated with the collection called Mapping the Digital Gap, which is going into a set number of communities—I think it is about 10—to collect much more granular data. That doesn't provide a national data basis. What the government's dataset will provide is a national dataset for First Nations people, on a sufficiently granular basis across states and territories, as well as LGAs, to provide sufficient information for us to start tracking that target.

Senator COX: On notice, can you give me a copy of the 10 communities that currently are providing some of that data. It is interesting that we are now moving to a national dataset. We've already been looking at 10 communities. Where they are is really important. It's really important to get a full picture of that against not just digital inclusion but, as I said, health, education and social connectedness. Particularly when we have folks who talk about the social issues that are happening in communities, I think it is a really important conversation around what that looks like. Do we think that, now that we are creating a pathway with that \$6 million, if we don't currently have any data that we are essentially using at this point, it is achievable that we are going to get parity of data inclusion by 2026? Is that achievable? Are we setting up First Nations communities, in this outcome 17 of Closing the Gap, to fail already?

Mrs La Rance: That is certainly not the intention. These measures are intended to go some of the way. We don't know if they will go all of the way. That's the purpose of data and continuing to work through the advisory group, who will also be developing a road map that informs what it does take. We are trying to have the quantitative data that holds us all to account in terms of where we are and where we need to be. We don't have the foundation that we need at this point in time.

CHAIR: You talked about the advisory group. Are they undertaking any outreach or engagement?

Dr Ashurst: That's correct. In terms of developing the initial report, as well as the current road map that Mrs La Rance referred to, they are undertaking substantive consultations with communities, with states and territories right across Australia, to inform how target 17 can be met, and beyond.

CHAIR: You said they are talking to the states and territories and they are talking to communities. Are they getting out into—

Dr Ashurst: Yes; they are travelling right across Australia. They were in Alice Springs and visited a number of communities around Alice Springs just last week.

Senator SHARMA: I want to ask about the Mobile Black Spot Program. Budget Paper No. 1 makes reference to the conclusion of the Mobile Black Spot Program. Is that correct?

Mr Chisholm: The budget papers make reference to a specific appropriation line. We can assist you in understanding that. I might ask my colleagues to step through it.

Mr Grunhard: It's due, really, to the technical nature of the budget papers. The particular appropriation line for some of the earlier rounds of the Mobile Black Spot Program, because this is a round-based program, is coming to an end. However, the program is absolutely continuing. The more recent rounds of the Mobile Black Spot Program are in fact funded under a separate budget line in the budget papers, which is under the Better Connectivity Plan for Regional and Rural Australia. There's no ending of the program; it's just the fact that some of the earlier rounds of the program, which have been on foot for quite some years, are gradually coming to an end and future rounds are funded under a separate budget line. We can give you more detail about how that is represented in the budget papers, if that would be useful.

Senator SHARMA: Yes, I will come to that. It does say, 'the conclusion of the Mobile Black Spot Program'.

Mr Chisholm: It does.

Senator SHARMA: That is accurate.

Mr Chisholm: It is a reference to the end of that appropriation line.

Senator SHARMA: That particular outcome.

Mr Chisholm: But not the program.

Ms Pidgeon: If I could add to that. That reference is a fairly standard financial reference in Budget Paper No.1. It has been repeated across the life of the program, essentially in: 2016-17, 2021-22, and the 2022-23 March budget, the 2022-23 October budget, the 2023-24 budget and again now. Where an appropriation line comes to an end, it's fairly standard financial language used by our colleagues in the Department of Finance to represent the conclusion of an appropriation line, not the conclusion of a program. That is unfortunate terminology. It doesn't clearly point out that the funding in that budget paper is in the Better Connectivity Plan for Regional and Rural Australia. However, that is clear in budget paper 112, on pages 70-71, table 2.5.2 Program Components of outcome 5, and there's a footnote against the better connectivity plan, which clearly articulates that funding for the Mobile Black Spot Program is included in the better connectivity plan.

Senator SHARMA: That mobile black spot funding is now included in the Better Connectivity Plan for Regional and Rural Australia?

Ms Pidgeon: That's correct.

Senator SHARMA: What's the appropriation for that program in 2027-28?

Mr Grunhard: We've got the aggregated figures here for you, if they are useful. Did you say a particular budget year?

Senator SHARMA: The same table, 2.5.2, which Ms Pidgeon referred to; the appropriation for the Better Connectivity Plan for Regional and Rural Australia program, which subsumes the Mobile Black Spot Program. What's the appropriation for 2027-28?

Ms Pidgeon: It is there at the moment. It is a five-year plan. It was communicated by the government as a five-year plan. The government has commissioned the Regional Telecommunications Review, which is underway and which will report by the end of this year. It's then subject to the government for future funding out from that time. Can I clarify that it is round-based funding. So for the Mobile Black Spots Program there has never been ongoing funding for that program. Every appropriation has been round-based funding and communicated in various budget papers; and, if you like, Senator, I can run you through that.

Senator SHARMA: There is no committed funding for the better connectivity plan, the Mobile Black Spot Program or the Peri-Urban Mobile Program after 2026-27?

Ms Pidgeon: They are round-based funding programs. There is currently funding for the future appropriation for future rounds, which we haven't had yet to run. If government chooses to make a decision in the future, following the outcomes of the Regional Telecommunications Review, then similar to all the funding under this program to date it is round-based funding that will be considered by government.

Senator SHARMA: In the absence of a positive consideration by government, the programs will have zero funding in 2027-28?

Mr Grunhard: It wouldn't be unusual for programs not to be funded in perpetuity. This is round-based funding. The government is always considering the policy settings.

Senator Bilyk interjecting—

CHAIR: Senator Sharma, you have the call.

Senator SHARMA: I am just trying to understand. It's a five-year program but there's no funding in year five?

Mr Chisholm: As the witnesses were explaining, the program is continuing. It's a round-based funding approach. There has been no change to how government approaches this. It's entirely consistent with the previous government's approach to it.

Ms Pidgeon: I can run you through the different appropriations over the life of the program, if you like.

Senator SHARMA: I have them in the portfolio budget statements.

Ms Pidgeon: No; they are actually across the 2014-15 budget, the 2015-16 MYEFO budget and the 2016-17 budget. So they are all round-based funding appropriations provided by government over the life of the program. So round 1, for instance, was funded in 2015-16 in Budget Paper No. 2. You can reference \$100 million for the first round over four years. In the 2015-16 budget in MYEFO, \$60 million was appropriated over two years for the next round for 2016-17. In the financial year 2016-17 at MYEFO, \$60 million was appropriated only over three years for round 3. In 2018-19 MYEFO, \$24.7 million was appropriated for round 4, which came from uncommitted funding from the previous rounds of the program, and at 2019-20, \$160 million was appropriated for rounds 5 and 6 and additional funding for round 4.

Senator HENDERSON: Do you mind if I just—

CHAIR: Senator Henderson, if you are going to object to people asking a point of clarification, it's hardly fair that you do it.

Senator HENDERSON: Chair, I just sought Senator Sharma's consent.

CHAIR: Senator Sharma, you are conceding your call?

Senator SHARMA: Just for this one question.

Senator HENDERSON: Just for one question. Ms Pidgeon, you have read out all the appropriations under the previous coalition government under circumstances where our government had an absolutely firm commitment to this program. Can you answer the question as to why this funding stops in 2026-27, and just make that very clear to the committee rather than reading out all of the previous appropriations. We understand what's happened. This was a program introduced by our government. It's very clear that the funding stops in 2026-27. Isn't that the case? Could you answer that, Ms Pidgeon?

Mr Betts: It is entirely consistent with past practice under the previous government. And the fact that it ends, because it is rounds-based, does not mean that the underlying program ends or won't be replenished with further rounds. That's always been the past practice. It is open to misinterpretation that is the end of the program. It's not. We are clarifying that here and now.

Senator HENDERSON: But there's no more funding after 2026-27, is there?

Mr Betts: It is treated exactly the same as previous time-limited rounds funded under the coalition government.

Senator HENDERSON: Thanks for that clarification. Thanks, Senator Sharma.

CHAIR: We will go to Senator Payman.

Senator PAYMAN: Thank you, Chair. Let's get some facts on the record. There has been some false claims made to media outlets that the Mobile Black Spot Program has been cut. For the benefit of the committee, has this program been cancelled?

Mr Chisholm: No. That is incorrect.

Senator PAYMAN: We were just talking about rounds. How was round 7 of the Mobile Black Spot Program funded? Can you please step us through.

Mr Grunhard: Round 7 of the Mobile Black Spot Program—the outcomes of which were announced in December 2023, as you will be aware—is funded as part of the better connectivity plan that we've just been discussing.

Senator PAYMAN: Where is funding set aside for round 8 of the program?

Mr Grunhard: Again, the better connectivity plan has provision for another round of the Mobile Black Spot Program. Government is considering the timing of that round. That is provisioned within the better connectivity plan budget line that we were just discussing.

Senator PAYMAN: Claims have also been made that, because funding does not exist in perpetuity, the program has been discontinued. Did the coalition provide funding in perpetuity for either the Mobile Black Spot Program, the Peri-Urban Mobile Program or the regional connectivity program?

Mr Grunhard: As we have just been discussing, nothing has changed in the approach to the way in which these programs are appropriated across the forward estimates.

Senator PAYMAN: I just thought we would get the facts straight on the record. Thank you, Chair.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: Previously, in my last round of questioning, you mentioned that the department had conducted an impact analysis of the anti-siphoning laws. Has this impact analysis been publicly released?

Mr Penprase: Yes. It is sitting at the front of the explanatory memorandum to the bill.

Senator HANSON-YOUNG: Did that impact analysis consider how many Australian households don't have access to an aerial?

Mr Penprase: Not specifically; no.

Senator HANSON-YOUNG: How then would you know what the impact of these rules would be?

Mr Penprase: The rules are designed to provide an opportunity for free-to-air broadcasters to acquire the rights to events first. Obviously, we took into account a range of other information about the way in which free-

to-air services are accessed and how other services are accessed, but not a specific figure on the number of aerials. I would note that the proposals paper that preceded this indicated that 98 per cent of Australian households as of 2017 have a working television set that's capable of receiving signals—in fact, every set in the household.

Senator HANSON-YOUNG: To be clear, things have moved on a long way since 2017. Technology has moved very quickly, but that doesn't deal with the issue. My question was: how many households in Australia don't have an aerial?

Mr Penprase: The impact analysis didn't have a specific figure on the number of households that don't have connection to an aerial. I am not sure whether that figure is even available.

Senator HANSON-YOUNG: Other modelling shows that it's at least a third of Australians, and over the next two years it will be half of Australian households.

Mr Penprase: I can't verify that, Senator.

Senator HANSON-YOUNG: Because you don't have the information; you haven't done the work.

Mr Chisholm: You are asking questions about aspects of the legislation that sit outside the legislation.

Senator HANSON-YOUNG: Yes, but that's because you have locked them outside. That's precisely the point. This legislation doesn't acknowledge the huge number of Australians who don't watch television via an aerial. A third of households don't have an aerial and they have been locked out of accessing free sport. That's precisely my point. They're left out in the cold, and they're going to have to pay upwards of \$100 a month in order to access sport in this country; and you want to crow about the fact that you're doing something for iconic sporting events. Half the country is locked out.

Mr Betts: I think the senator needs to differentiate when she is talking to ministers and when she is talking to politically impartial public servants. We are here to administer the policies of the government of the day, and you are personalising attacks on public servants here. I would be grateful if you didn't.

Senator HANSON-YOUNG: Well, the minister can answer why on earth the government is locking half the country out of being able to see iconic sporting events for free.

Senator Carol Brown: The first thing to state is that I don't agree with—

Senator HANSON-YOUNG: You tell me how people who don't have an aerial—

Senator Carol Brown: You give me the data—

Senator HANSON-YOUNG: are going to be able to watch the grand final.

CHAIR: Senator Hanson-Young, can you please allow the minister to answer the question. You've had your lengthy preamble. Minister, if you would like to respond.

Senator Carol Brown: As I was saying, I don't accept Senator Hanson-Young's view. She has made an assertion that a third—maybe it was a half—of households don't have access. Perhaps she would be able to tell us from where she sources that information. We've heard today from the department that 98 per cent of people will be able to watch free-to-air. This bill affirms free-to-air broadcasting services as a safety net for delivering the objective of free access to televised coverage of sporting events to all Australians.

Senator HANSON-YOUNG: It's a safety net for people who have access to an aerial, minister. Your own officials just clarified that. It's all about having an aerial. If you don't have an aerial there is no safety net. That's a third of households, which is quickly increasing.

Senator Carol Brown: You keep asserting that. If you could provide the source, that would be helpful.

Senator HANSON-YOUNG: The evidence was given to this committee when we looked at the legislation. Your department, your government, hasn't done their homework.

Senator Carol Brown: We will have to agree to disagree there.

Senator HANSON-YOUNG: What does your government say to the millions of Australians who have to pay upwards of \$100 a month in order to be able to access the football, or to watch the Boxing Day Test, or to watch the Olympics? You've got nothing for them.

Mr Chisholm: The legislation provides that all media content providers are prevented from acquiring these events until free-to-air has acquired them or had the opportunity to acquire them. We've extended the period of time to 52 weeks. There's a draft anti-siphoning list that's available. As Mr Penprase has said, the policy here is designed to promote free access to televised coverage of events of national importance and cultural significance to address the risk of migration of these events against pay walls. That's the policy reflected in the legislation, and we can talk to you about the policy reflected in the legislation. We are happy to look at any questions around

numbers or data information that you have available; we will take it on notice. Moreover, we're focused more on the legislation that is before parliament.

Senator HANSON-YOUNG: I understand, Mr Chisholm. You are wedged because the legislation delivers for only half the country. I get that. But I've been told that the department did an impact analysis but didn't consider who had access to aeriels. How on earth is that a proper impact analysis?

CHAIR: Senator Hanson-Young, can you frame your questions as questions to the officials. Your rants can be directed to the minister.

Senator HANSON-YOUNG: I think it's very tricky to just keep repeating that it's free access for those who have free access under the legislation, but half the country is locked out.

CHAIR: I thought you said a third.

Senator HANSON-YOUNG: It is a third now; and the analysis shows that over the next two years it will go to half. But you haven't even done your own analysis.

Mr Penprase: We are not aware of that analysis, whether it is a third or a half.

Senator HANSON-YOUNG: That's shocking. You are the federal department of communications and you don't know the trend of the communications and technology in your own purview. That's shocking.

Mr Penprase: We are well aware of the trends. We just don't have that figure, Senator.

Senator HANSON-YOUNG: The reason people are passionate about this is because sport is important. It is an important part of the culture of the country. There is a reason why we have an anti-siphoning list: we think it is important for people to get access to these iconic supporting events. I'd like to ask the minister: what do you say to a kid who wants to be the next captain of the Matildas, and they can't afford the Kayo subscription, which is 25 bucks a month? What do you say to them?

Senator Carol Brown: First of all, I am not accepting some of the commentary that you have put in your question. On page 29 of the Anti-Siphoning Review proposals paper released in August 2023, the department states:

In 2017, 98 per cent of Australian households were able to receive terrestrial television service on every working set in the household. Other estimates suggest that free-to-air television broadcasting services reach 99 per cent of the Australian population via commonly available reception equipment (television sets, set-top-boxes and other devices with an inbuilt radio frequency (RF tuner), or connected to a device with an RF tuner).

Senator HANSON-YOUNG: What do you reckon has changed in the last five years?

Senator Carol Brown: What I can say is that you are asserting certain numbers and you haven't provided any source at all.

Senator HANSON-YOUNG: I am telling you that the evidence was put to this committee by the industry, by audience members and by concerned Australians; and your department, who is introducing this legislation, do not have your own figures. You're relying on something from five years ago.

Senator Carol Brown: I have asked you for the source. You haven't provided it.

Senator HANSON-YOUNG: As I said, it's evidence before this committee. If your department haven't looked at it, they haven't done their job.

CHAIR: We are ready to hand over. For anyone who was misguided there, if you are interested, as I am, in watching the Matildas tomorrow night, you can watch it on Channel 10. We will now go to Senator Sharma.

Senator SHARMA: I want to turn back to the Mobile Black Spot Program and the recent Auditor-General's report, released on Wednesday of last week.

Mr Chisholm: This is the Improving Mobile Coverage Round ANAO performance audit?

Senator SHARMA: Yes. On page 65, the report states that 40 of the 54 target locations, or 74 per cent, are in electorates held by the Australian Labor Party; and, of the 42 target locations to receive mobile coverage outcomes, 30 sites, or 71 per cent, are in electorates held by the Australian Labor Party. On page 66 of the report the Auditor confirms that 81 per cent of the minister's selected sites were in marginal seats. It says that a total of \$29 million out of \$37.2 million was awarded to target locations located in marginal seats. Senator, representing the minister, isn't this report quite damning—that the Mobile Black Spot Program has been used basically to shore up Labor-held marginal seats?

Senator Carol Brown: No, that is not what the report says at all.

Senator SHARMA: It says that 74 per cent of the recipients were in electorates held by the Australian Labor Party and 81 per cent of the minister's selected sites were in marginal seats. Doesn't this suggest that the minister is using the mobile black spot funding program for political purposes?

Senator Carol Brown: No. That round delivered on the commitments that Labor took to the 2022 election. It's not unusual. They were all announced and provided. These commitments were costed as part of our pre-election budget and confirmed in the October 2022 budget.

Mr Betts: The Audit Office report confirmed that the approach to implementation was consistent with Commonwealth grant rules and guidelines, and consistent with the grant opportunity guidelines. Overall, it was rated as largely effective, and the only substantive criticism was that the department could and should have provided advice on a whole series of alternative election commitments which didn't actually exist. We are very comfortable with the audit findings and that the government has acquitted commitments which it took to an election. It was democratically elected. It has now been implemented in accordance with all relevant policies and laws.

Senator SHARMA: I accept that the Auditor-General's report doesn't make any adverse findings about the department. It just highlights the politicised nature of the funding decisions. Could I ask the department: the Auditor-General's report says that 12 out of the 54 projects were not funded, ultimately—of the 54 target locations.

Ms Pidgeon: Senator, is that a question?

Senator SHARMA: I want to confirm whether that is the case—that 12 out of the 54 were not actually funded.

Mr Grunhard: As per the announcement at the time, and as we canvassed at the last hearing of this committee, that's right; the department did make recommendations that some proposals were not value for money. There were also some locations for which proposals were not received from industry. In all cases, the minister accepted the department's recommendations about whether to go forward with funding particular sites.

Senator SHARMA: I understand from the report that some didn't demonstrate value for money, some of these 12 projects that didn't go ahead; three didn't satisfy the technical coverage or solution requirements. For five of them, you didn't even receive any applications; is that correct?

Mr Grunhard: That's correct.

Senator SHARMA: No applications for mobile black spot funding, despite the government allocating resources to it?

Mr Grunhard: That's correct.

Senator SHARMA: Do you now know how many of those 12 that failed were in the seats of Eden-Monaro and Gilmore?

Mr Grunhard: We don't analyse things by electorates. I don't have that information; I am sorry.

Senator SHARMA: I think the Auditor-General goes through this in the report. Would you be able to take that question on notice?

Mr Betts: We are not going to provide information which is electorate by electorate. It is a matter of policy.

Senator CADELL: You are not going to give information to the committee?

Mr Betts: We do not analyse these things on the basis of electorate.

Senator DAVEY: The government does.

Mr Betts: We can provide you with local government area and you can work it out from there, if you like.

Senator SHARMA: My understanding is that five of them were in the seats of Eden-Monaro and Gilmore.

Mr Betts: These are election commitments by a government that was democratically elected—

Senator SHARMA: It seems strange to make a commitment if they can't be realised. Some of them aren't even applying for mobile black spot funding. Some of them don't meet the technical guidelines. Some of them don't demonstrate value for money. I would have thought these are the sorts of things you do before you make such a commitment. Could I ask that you take this on notice: of the 12 projects that failed, could you advise what local government area those projects were in?

Mr Grunhard: Yes.

CHAIR: We will go to Senator Henderson.

Senator HENDERSON: I want to ask about age assurance, Secretary. I want to ask why it took the government so long to back the coalition's proposal in relation to the age assurance trial. Minister, could you address that?

Senator Carol Brown: With age limits for social media, we made a decision—and I think we talked previously about the government's desire to progress the code developments. We have done that. We are now proceeding with a trial.

Mr Betts: The amount of \$6.5 million was allocated in the budget to that end. I'll ask Ms Gannon to take you through the next steps.

Ms Gannon: That is right. We have been looking at age assurance and age verification in earnest, since receiving the eSafety Commissioner's roadmap in March 2023. In the time since then, we've been very clear that we've been scoping the trial that the government has now announced—in particular, looking at matters such as how the trial would fit across government with things like privacy and security policy, looking at how the trial would interact with the eSafety Commissioner's work on codes, and looking at international developments, particularly in the UK and their implementation of the Online Safety Act.

Senator HENDERSON: Secretary, when did the department get wind of the government doing this backflip and now support the trial that was announced by the Prime Minister on 1 May, one that the coalition had long prosecuted and backed? Could you also give us information on who made the change?

Mr Betts: I don't accept the premise of your question and you wouldn't expect me to. I am a public servant. It goes back to the eSafety Commissioner's roadmap, which was for age verification, which was submitted to government in March last year. The government's response was tabled in August. This is the first budget since that. The government has funded the age assurance pilot in line with that.

Senator HENDERSON: You don't accept that it was a backflip, even though the minister sat on her hands for months and months? Surely, that's not tenable.

Mr Betts: I am not interested in political talking points; I am just explaining the content of the budget.

Senator HENDERSON: It is not a political talking point.

Mr Betts: You are trying to verbal me on that.

Senator HENDERSON: No, I am just asking—

Mr Betts: I am saying that \$6.5 million—

Senator HENDERSON: I am asking why you rejected the premise of my question.

Mr Betts: Because you are characterising it as a backflip, and I am not getting involved in that.

CHAIR: It is not the role of the public servants to engage in politics, Senator Henderson. If you wish to do that, you can direct your questions to the minister.

Senator HENDERSON: Thank you, Chair, for your guidance. That was handed to the minister in March 2023.

Mr Betts: Correct.

Senator HENDERSON: And released in August last year, that recommendation by the eSafety Commissioner.

Mr Betts: It was a recommendation. The government's response was in August last year. At the first budget opportunity, the government has funded a \$6.5 million conduct of trial of technology.

Senator HENDERSON: Given that the eSafety Commissioner's recommendations were not accepted by the government, when was the department asked to make the change? Who asked you to make that change—in effect, the endorsement of the trial? Was it the minister's office, the Prime Minister's office or any other minister?

Mr Betts: This is an outcome of the budget process.

Senator HENDERSON: Can I ask where that direction came from, Secretary?

Mr Betts: Cabinet.

Senator HENDERSON: Cabinet?

Mr Betts: Cabinet makes decisions in budget processes, yes.

Senator HENDERSON: There wasn't any particular intervention from PM&C or the Prime Minister's office?

Mr Betts: It's the normal process of making government policy.

Senator HENDERSON: Minister, can you explain why your government sat on its hands for such a long period of time? As you know, age assurance technology is so critical in protecting children. It was a very strong recommendation of the eSafety Commissioner, yet your government did nothing for many months.

Senator Carol Brown: Thank you for the question, many parts of which I don't agree with. I put on the record that the government supported the recommendations in the eSafety roadmap and appropriately scoped options for an age assurance trial, which we announced at the recent meeting of national cabinet. Since the publication of the roadmap, the codes process has been progressing and prioritised by industry and is producing a comprehensive response across all parts of the digital industry to prevent children from accessing online pornography.

Finally, the roadmap calls out the importance of respectful relationships, and education, which is integral to addressing the harms associated with online pornography. The government is investing in this area, with \$83.5 million over six years to support the delivery of evidence-based, respectful relationships education, aligned to the curriculum, and \$39.9 million under the national plan to develop a prevention campaign on consent and respectful relationships. At no time was a pilot ruled out.

Senator HENDERSON: Minister, I would challenge you on that question. When the coalition announced legislation to implement the trial in November last year, your government opposed that legislation. Can you explain that contradiction?

Senator Carol Brown: We do our own work, and we decide our policy direction. We have announced a trial. At no time, regardless of your commentary, did we say that we wouldn't support a trial.

Senator HENDERSON: It is not commentary. I am just asking you about the facts. We introduced legislation in relation to this age assurance trial to protect children, and it was opposed by the government. Why did the government oppose the coalition's proposal in November last year?

Senator Carol Brown: We support our own legislation and policy directions.

Senator HENDERSON: But you didn't because—

Senator Carol Brown: We made an announcement—

Senator HENDERSON: there was no legislation on the table from the government. Our position was that you didn't support it.

Senator Carol Brown: As I said, the government supports government legislation and our own policy directions and initiatives.

Senator HENDERSON: I understand that the Prime Minister made the announcement on 1 May this year, which is more than a year after the eSafety Commissioner's recommendation. Can you explain to Australian parents why it took more than a year for the government to reconsider its position and support the age assurance trial?

Senator Carol Brown: I have already stepped through what work we have been doing, particularly to support the eSafety roadmap. We have now announced the trial.

Senator HENDERSON: I will ask someone in my office to print out an article from 22 November, 2023 entitled, 'Minister shuns safety watchdog's call for age checks on porn sites.' I understand that it needs to be tabled and distributed to the committee. The minister is quoted as saying:

I am concerned that conducting a trial of age assurance technologies may unnecessarily distract industry from developing and delivering new and strengthened codes of conduct.

The minister wrote this in a letter to the eSafety Commissioner in August. So that is not any indication. The minister was absolutely opposing this technology.

Senator Carol Brown: That is not what that says at all. I indicated in my earlier response that we supported the roadmap and we had a preference to do work on the code. At that time we talked about supporting a trial at a later date. We have made that announcement. We support age limits for social media. We will be consulting with development experts, researchers and parents on the question of the right age and how best to apply any limits or restrictions so that they are effective. As everyone here would agree, every parent is concerned about the impact of social media, and online harms more generally. That is why in the budget just gone we have provided \$6.5 million for the trial of age assurance technology.

Senator HENDERSON: Minister, this is a damning reflection on the communication minister Michelle Rowland's commitment—

Senator Carol Brown: No, no.

Senator HENDERSON: I will read from this article. It says:

Communications Minister Michelle Rowland has put her trust in the pornography industry and industry codes to shield children from harm and hinted she would not pursue an outright ban on gambling advertising.

She made it very clear back in November of last year that she would not support this technology, which puts children at risk. So I ask you: Why did it take this government so long to change its mind?

Senator Carol Brown: First of all, we have never ruled out a trial.

Senator HENDERSON: Yes; the minister ruled it out.

Mr Betts: The government funded it.

Senator HENDERSON: It is clear here.

Senator DAVEY: Eventually they funded it, but a bit late to the party.

Senator Carol Brown: I have already answered that question a number of times. This government has a comprehensive suite of measures to make the Internet safer for all users.

Senator HENDERSON: Not last November, not all of last year.

CHAIR: We are going to rotate the call now. The interjections are getting out of hand. We are going round in circles.

Senator HENDERSON: I am entitled to—

CHAIR: No, your time is done. I have been asking you to wind up. You have gone over time.

Senator HENDERSON: I have the call. It is not an interjection.

CHAIR: I will now ask the minister, on my call, to answer what the government has been up to for the last 12 months and tell us what that looks like.

Senator HENDERSON: Not approving the age assurance trial, that's for sure, up until May.

Senator Carol Brown: In last year's budget we quadrupled the eSafety Commissioner's base funding. We initiated a review of the Online Safety Act a year ahead of schedule. We updated the basic online safety standards, which include a focus of best interests of the children. The eSafety Commissioner is progressing with codes development to reduce the exposure of Australians to illegal content and reduce the exposure of children to online pornography. We are undertaking the classification review to modernise our classification framework for the digital age, and we have initiated an online dating app voluntary code to strengthen safeguards, particularly for women. We are banning, and strengthening penalties for, the nonconsensual creation and distribution of deepfake pornography. Recently we established a joint select committee of parliament to examine social media.

CHAIR: Thank you.

Senator Carol Brown: That may not be comprehensive. If there is anything left out, I will take it on notice.

CHAIR: Mr Chisholm had some commentary.

Mr Chisholm: It was just to reinforce the message that the minister was outlining. Over that year a substantial amount of work has been done in the area of online safety. The minister has run through the funding commitments, the strengthening of eSafety, the classification review, and what might be important context here for the discussion about the interaction between the trial and the phase 2 codes process. The government has been keen to get that right so that the eSafety Commissioner is able to develop the phase 2 codes. That is done in parallel with the work we are doing on the trial to reinforce how that phase 2 codes process will work. I will ask Ms Gannon or Mr Irwin to assist the committee with that point.

CHAIR: Am I hearing that you are looking at a comprehensive and strategic approach—as opposed to just a grab-bag of 'my favourite thing today'—to what is an incredibly important and complex structure at the moment?

Mr Chisholm: Absolutely. The trial is important to test technical feasibility and interaction with regulatory frameworks, to benchmark how we might do that work in the context of what has happened overseas as well. It is one thing in the context of a whole suite of actions the government has undertaken in relation to online safety, from strengthening funding and powers through to the work that is being done on the classification system and the important work that the eSafety Commissioner is doing on the phase 2 codes.

Ms Gannon: As Mr Chisholm has indicated, key to our consideration over past months has been how the trial would fit with the work being done by the eSafety Commissioner and her office on industry codes which will regulate children's access to pornography. Section 138 of the Online Safety Act makes clear that age assurance is a measure that would be expected to come in through those industry codes. We have been working closely with eSafety, and we will continue to do so, to make sure that the two work streams work in parallel and inform each

other. We can see that there would be real benefits of undertaking the trial to inform enforcement of those industry codes.

CHAIR: Thank you; I appreciate that. The minister announced she was tabling some amendments to the basic online safety expectations. Is that correct? Can you step us through that?

Mr Irwin: The amendments were registered this morning. They will be active as of tomorrow. They follow a consultation process that we ran from 22 November to 16 February. We also published the nonconfidential submissions on the department's website today. These relate to the basic online safety expectations which set the government's expectations of industry through a series of core expectations, additional expectations to those, and examples of reasonable steps that industry can take to meet those. This is an important transparency and accountability mechanism. Having something included in the BOSE means that the eSafety Commissioner is empowered to make reporting notices to industry; and industry then provides information back to the commissioner, which the commissioner is able to summarise, and publish as well. Some of the new steps that went in are: the minister has already highlighted that one of the new additional expectations is that platforms take reasonable steps to ensure that the best interests of the child are a primary consideration in the design and operation of a service likely to be accessed by a child. There are also some others in relation to both generative AI and recommender systems, important areas of evolving technology since the first BOSE were in, in 2022, which have become a considered part of the public conversation.

Senator HANSON-YOUNG: Do the recommended services or provisions include specifically the use of algorithms and minors' data for algorithms?

Mr Irwin: They definitely include the algorithms that are used in the recommender process. This is, for example on TikTok or Instagram, the feed that the user will see. For both generative AI and recommender systems, the additional expectations are that end-user safety be considered and incorporated in design as well, and that services proactively minimise the extent to which those products are used to generate or produce material that may be unlawful or harmful. There is a range of others that I am happy to go through. One of the other specific ones is an additional expectation that services provide information about the number of active end-users, and the reasonable step that be specifically end-users in Australia, and disaggregated into children and adult end-users as well.

Senator HANSON-YOUNG: In terms of separating that data into children and adults, when you say 'children', are we talking about the traditional term of under 18?

Mr Irwin: I believe that's right; yes.

Senator HANSON-YOUNG: Are these amendments a disallowable instrument?

Mr Irwin: That's right.

Senator HANSON-YOUNG: They have been tabled in the house today?

Mr Irwin: They have been registered on the federal register. It is a matter for the tabling office in both houses, but the next available—

Senator HANSON-YOUNG: But the clock will start ticking—

Mr Irwin: once they are tabled, yes.

Senator HANSON-YOUNG: The companies that will be affected, reading the news this morning, are a pretty broad sweep. Do you have specific companies in mind that will be caught by this? It was pretty vague and pretty broad. I am trying to work out who is in and who is out.

Mr Irwin: I am happy to give you a picture of that. It ties to the definitions within the act. The act divides the online industry into eight sections. The BOSE applies to social media services, which is self-explanatory; relevant electronic services, which is broadly your messaging services, WeChat and so on, but also includes online gaming; and designated Internet services, which includes websites—it is broadly the catch-all category within the act.

Senator HANSON-YOUNG: What about streaming services?

Ms Gannon: I'd have to take that on notice and get out the legislation and double-check that; I'm sorry.

Senator HANSON-YOUNG: Could you take that on notice.

Ms Gannon: Yes, of course.

Senator HANSON-YOUNG: That's the question that I had in my head. When the reporting today talked about apps, I wondered whether that meant streaming services.

Ms Gannon: I'd like to check that. As Mr Irwin said, the Online Safety Act covers the field, but the Basic Online Safety Expectations apply to three of those eight categories, and I want to make sure that we get that right.

Senator HANSON-YOUNG: Thank you. I'd appreciate that. How much work has been done in formulating these new rules, comparing them to the new Digital Services Act in the EU? Have you compared them and any other international examples?

Mr Irwin: On an ongoing basis, as Ms Gannon raised, we, for example, work closely with UK colleagues and look at their recent legislation, and we did examine the EU legislation. As I highlighted as well, we ran a consultation process on this that started on 22 November last year.

Ms Gannon: I think what I'd say is that the Australian and EU starting points are very different. While we do have regard to it and we do look at it, in the EU and the UK they have a duty of care approach, whereas Australia's approach is to have a complaints based scheme. If you like, this is the Australian scheme kind of dipping its toe in the duty of care or systemic approach. We do have regard to that approach, but because the BOSE is situated in the Australian Online Safety Act it is to an extent limited by the legislative framework that it sits in. We look at it, but it's not a driver for the policy work that we do.

Senator HANSON-YOUNG: Could I ask the minister whether the government is considering a more front-facing duty of care approach versus the complaints based approach.

Senator Carol Brown: I don't have any information regarding that here, unless the department can help.

Senator HANSON-YOUNG: I think it's a question for government, as opposed to the department. I think the department is restricted because there is one approach that's been developed versus another.

Ms Gannon: In this case, we are consulting at the moment on a review of the Online Safety Act, and within that issues paper we are specifically seeking submissions on the duty of care approach and different approaches to online safety legislation.

Senator HANSON-YOUNG: But at this point the government hasn't given you an indication that it will take a duty of care approach.

Ms Gannon: The review hasn't yet made recommendations to government.

Mr Chisholm: It's in the terms of reference for the review.

Ms Gannon: We do have it, yes.

Mr Chisholm: The duty of care is actively being looked at in that review.

Senator HANSON-YOUNG: A decision hasn't been made yet?

Mr Chisholm: That's correct.

Senator HANSON-YOUNG: I think a lot of people are worried about how young people are being used by these big platforms—manipulated and drawn down the rabbit holes of content—but the reason that the companies are able to do this and make massive profits off our children's engagement on their platforms is that they use their data, they sell their data and they manipulate their data through algorithms. What parts of what has been announced today will restrict the selling of children's data?

Mr Irwin: I'd note that within the Attorney-General's portfolio there's a privacy review ongoing and that, as part of that, they're considering a children's privacy code. I think that question would be best directed towards them.

Senator HANSON-YOUNG: But this regulation, to date, doesn't go to the selling of minors' data, does it?

Ms Gannon: To clarify: the Basic Online Safety Expectations are a transparency mechanism and the eSafety Commissioner can seek reports from industry on what they are doing to meet those expectations. It doesn't regulate the sectors directly.

Senator HANSON-YOUNG: No. It's a set of expectations of engagement.

Mr Irwin: That's right, yes.

Senator Carol Brown: Many of the issues that we've been talking about will be dealt with by the joint select committee.

Senator HANSON-YOUNG: Of course. We'll have you back in front of us, I'm sure.

Senator Carol Brown: I can't wait, Senator!

Senator CADELL: I have a couple of points about age verification and the trial. What is the scope of the trial that we're talking about? Will it be on social media or is it only on websites? What is the scope of the trial and

where will we trial it? With Senator Hughes, I infamously looked at some bad stuff last time we were here in estimates, so will it stop me doing that?

Ms Gannon: The age assurance trial is going to examine technologies that are currently available in order to test how effective they are and how they interact with other frameworks, like security and privacy. It will look at how those technologies work with existing systems. That might be points in the tech stack, whether you're looking at ISPs or whether it's social media.

Senator CADELL: So it will include social media?

Ms Gannon: Yes, and different types of services. We will also be providing advice, of course, to government on the next steps.

Senator CADELL: Are there recommended ages across different things at the moment, such as 18 for gambling and pornography and 13 for social media? Leo, at home, who's a 10-year-old, is probably trying to hack in. I had two emails from him about trying to get on *Fortnite* yesterday. It's only for age 13 and over, Leo. What are we looking at across different things?

Ms Gannon: In the first instance, the trial is looking at children's access to pornography. We're looking at pornography and then we will look at the age of 18 under the classification scheme. We are looking at a range of technologies and then at different ages and the effectiveness of technology below the age of 18. We are still working on that. Because we will be looking at social media, we're looking at the age at which that's appropriate. There's been a lot of discussion about that over the last few weeks—and well before that. There's wide agreement that there should be age limits on social media. There are different views on what that age should be. As the minister indicated before, we'll be doing some consultation and research to really nail down what that age should be and then trial the available technologies to assess their effectiveness.

Senator CADELL: So age is a work in progress and platforms are largely open to things. We've heard about the stage 2 stuff in the announcements today. We're just having a crack at everything and seeing how it works.

Ms Gannon: As we've said before, the Online Safety Act covers the full technology ecosystem, so it's about what controls are appropriate and effective at different points.

Senator CADELL: It's too late to save me. I've turned 13, so I'll be dancing to bad things now. I wish it had come in a couple of years ago.

Senator Carol Brown: It is really important that we consult, though, when we're talking about determining the right age.

Senator CADELL: That's determining the right age. Mr Irwin, you quoted from an A3 document about the impact on the algorithm stuff. Is that a document that can be tabled? Is that what's been released, or is that—

Ms Gannon: No. It's an internal reference document.

Mr Irwin: It's an internal working document.

Senator CADELL: Is it possible to get a copy of that?

Ms Gannon: We'd need to get a version that doesn't have personal notes on it.

Senator CADELL: That will be fine. As we go forward with the trial, I'm sure that this question about it will come up more. Ms Inman Grant was here when I found out that things had changed last time. I am talking about dates. In February estimates there was no movement on the trial moving forward. It was still in the thought processes; it was still a distraction. What time frame do we expect the trial to go over, and when do we expect to hear back from it?

Ms Gannon: Before I answer your direct question, I just want to clarify this. When we were here in February, we made it clear that we were scoping this trial. We have been scoping this trial since the government provided its response in August. There has been active work since March last year on how to take this work forward.

Senator CADELL: I understand that, but I sensed frustration because I believed that it was scoped. The evidence that was given to us was that it had been ready to roll out for some time. I thought it was scoped and ready. I think there was a government decision not to roll it out, from the evidence that we got. What is the time frame now and what is going forward?

Ms Gannon: We don't have a firm end date for when the trial will be complete, but I'd note that we've been funded for the financial year 2024-25 to do the work, so that's the time frame that we're working with at the moment. If we've got a firmer time, we'll report back.

Mr Chisholm: We're quite keen to ensure that industry participates in both this process and the phase 2 codes process that the eSafety Commissioner is doing. These processes will operate in parallel. As Ms Gannon said, we don't have a firm end date, but we've been funded for the 2024-25 financial year for the development of the trial.

Senator CADELL: Is it an opt-in program for platforms like Instagram, TikTok and those sorts of things? Do they have to participate and we can enforce it, or is it—

Ms Gannon: Do you mean the trial?

Senator CADELL: For the trial.

Ms Gannon: I want to be clear that we're not necessarily looking at brands; we're looking at the types of technologies that they use. Different companies and different platforms have different age assurance technology. What we'll be doing is looking at how effective they are.

Senator CADELL: So there will be no active trial; we'll just be examining their systems.

Mr Chisholm: And potentially other available systems, seeing what technology is available to be adopted by industry, to make sure that it's effective, as Ms Gannon said. That includes to prevent or manage potential circumvention by users and the range of important privacy and other considerations that we'll need to take into account. But it's focused on the technology, rather than—

Senator CADELL: And whether Tor browsers or VPNs or whatever can get around them and those sorts of things.

Ms Gannon: That's right. We've been clear that, in doing this trial, one thing we will be looking at is people's willingness to use the technology. As you've indicated, there's no point in doing this and then identifying a gold standard that nobody is willing to use. We want to understand people's willingness to use different technologies. Probably over the last 12 to 18 months, we have seen shifts in people's willingness to hand over data to big companies, and that may affect their willingness to engage with different types of age assurance technologies.

Senator CADELL: This is somewhat concerning for me. I think there was evidence in the past that some adult content companies had run a trial and then suffered a loss of market share because others hadn't done that, so they lost revenue and ditched age verification. I think that's reasonably understandable, from a commercial point of view. If these companies aren't running systems at the moment, how can we check the systems that they're running?

Ms Gannon: I think the question that you're raising highlights the complexity of this issue. This is why we've been working on it quietly for a while now, trying to work through these issues. I said before that we're looking at technology that might apply at different points of the tech stack. It may be that some technologies that apply at a different point are more effective because people can almost set and forget; they can put them in place. That might be at the ISP level, for example. These are exactly the sorts of issues that we need to work through in the trial and why it is so complex.

Senator CADELL: The trial isn't actually running any technology or putting stuff on; it is just examining what works and what's out there. We're sample potting.

Ms Gannon: It's examining technologies that are currently available and testing how effective they are when you assess them against criteria like their effectiveness in protecting from harm, as well as security, privacy and people's willingness to use them.

Senator CADELL: But we aren't creating technology to roll out as a trial, as part of this.

Ms Gannon: No.

Mr Chisholm: We're certainly assessing their effectiveness. Ms Gannon will correct me if I'm wrong, but, to the point about industry and their engagement, they will need to engage with the phase 2 codes process, which will be legally enforceable.

Ms Gannon: Yes.

Mr Chisholm: The BOSE sits over here and then you've got the phase 2 codes, so they're going to have to engage both with the trial and its assessment of technology effectiveness and with the eSafety Commissioner on the phase 2 codes, which will prevent children's access to class 2 content like pornography.

Mr Irwin: Just further on that point, the BOSE itself includes a core expectation to ensure that technological or other measures are, in effect, to prevent access by children to class-2 material; broadly, that is pornographic material. That enables the eSafety Commissioner to issue a reporting notice to say to platforms, 'What are you doing to meet that?' Then there are the codes, which are the responsibility of the commissioner, and that's when the enforcement of the specific 'you will have this' comes into play.

Senator CADELL: It's pretty hard, isn't it, because if I'm playing an MA or PG game on Twitch or Steam, as soon as I go to an online content all bets are off, aren't they, as to what can be shared, what can be said and what can be done regarding anything over a stream?

Ms Gannon: Computer games are regulated under the classifications.

Senator CADELL: I understand. The game can be PG and have the right rating or ranking but, as soon as you're online, it's quite a minefield with what other people do and share.

Ms Gannon: That's why the risk profile is different, yes.

Mr Irwin: That's right. I would point out that some of the complaint schemes available under the eSafety Commissioner would apply in those circumstances as well.

CHAIR: Senator Pocock.

Senator DAVID POCOCK: I'm keen to go back to some of those questions on gambling. Firstly, I want to clear up the time line for the response. The Murphy review was handed down; the government said that they would respond within six months and it's 12 months on 28 June. Will the government's response be released before the 12-month anniversary?

Mr Chisholm: The timing of the response is a matter for government. I have no reason to believe that the timing has changed.

Senator DAVID POCOCK: Changed from?

Mr Chisholm: You mentioned the anniversary date, so as in—

Senator DAVID POCOCK: We were told that it would be within six months. I'm just saying that the 12-month anniversary is coming up, so are we going to—

Mr Betts: That's a matter for government. We're in the hands of cabinet.

Senator DAVID POCOCK: So the response has been completed and handed to cabinet?

Ms Gannon: We provided advice to government. That was a formal government response, and it informed the cabinet's consideration. But as we've said, the timing of that—

Senator DAVID POCOCK: Is that response drafted by the department or the ministerial office?

Mr Chisholm: It's our advice.

Senator DAVID POCOCK: So it's your advice. I'm just trying to understand.

Ms Gannon: The committee made, I think, 31 recommendations and, of those, nine sit with the communications portfolio. Work on the government response itself is being led by the Department of Social Services. Obviously, we are working very closely with the Department of Social Services on that government response; they have the carriage of it, and the timing of it is a matter for government.

Senator DAVID POCOCK: And responsibility for the nine recommendations sits with a single minister, so I really look forward to the response. As I said earlier, some of the minister's dealings with the gambling industry have been widely reported, such as taking donations from Sportsbet, with her admitting that, while no rules were broken, people expect better. We've since seen, in the *AFR* report, that she was taken out to what they described as 'a lavish meal with the gambling industry for her birthday'. I'm interested in whether Minister Rowland has had a meal with the Alliance for Gambling Reform. Minister, maybe you could take that on notice.

Senator Carol Brown: I don't agree with the way that you're categorising—

Senator DAVID POCOCK: I was just quoting the *AFR*.

Senator Carol Brown: What were you quoting?

Senator DAVID POCOCK: *Australian Financial Review*.

Senator Carol Brown: There's a problem.

Senator DAVID POCOCK: Are they not a—

Senator Carol Brown: I'm disagreeing with the way that it's been categorised. But what I can say is that the minister has not met with gambling representatives since the release of the report, if that answers your question.

Senator DAVID POCOCK: She hasn't met with any gambling representatives?

Senator Carol Brown: That's right.

Senator DAVID POCOCK: Apart from the meal, which was after the report; is that not a meeting?

Mr Betts: The minister's meetings were disclosed through an FOI that was released on 14 December last year.

Senator DAVID POCOCK: There was a meeting after the report. Minister, did you want to correct the record?

Senator Carol Brown: There was no meeting after the report, so my statement stands. The minister has not met with the gambling representatives since the release of the report.

Senator DAVID POCOCK: So going out to lunch with people from the gambling industry is not a meeting?

Senator Carol Brown: I don't know—

Senator DAVEY: It was a social interaction!

Senator Carol Brown: My understanding is that the event that you're referring to was prior to the release of the report, so maybe that negates—

Senator DAVID POCOCK: I'll check the date on that. But maybe just on notice then, I'd ask whether the minister sponsors any passes to any persons currently working within the gambling industry and whether the minister has accepted any further donations from the gambling industry since the election? I just want to go back to the Pick'Em app that we discussed briefly. You said that it was dishonestly advertised as an NRL product and was actually a Sportsbet product, and that it was advertised on television without the use of disclosures. Minister Rowland said that it was deeply concerning. I just want to clarify whether Sportsbet will face any penalties for failing to use appropriate disclosures.

Ms Gannon: Senator, since we last spoke, I've confirmed that platform did cease operations in 2022. As to whether it breaches any of the existing regulations, that would be a matter for ACMA.

Senator DAVID POCOCK: They've said that it's not within their remit.

Ms Gannon: Then I think—

Senator DAVID POCOCK: So nothing?

Ms Gannon: No. Then, at that point, we look to the government's response to the committee report.

Senator DAVID POCOCK: Minister, why is it that, if someone gets caught speeding, they get fined but, if the gambling industry breaks the rules, they get a frown and a few disappointing comments and then we crack on?

Senator Carol Brown: As you know, we will soon be releasing our view around the Murphy report, and there are a number of recommendations in that report.

Senator DAVID POCOCK: Earlier, Senator Bilyk mentioned BetStop.

Senator Carol Brown: I'm sorry; who mentioned it?

Senator DAVID POCOCK: Senator Bilyk asked a question about BetStop, and I think you said that about 22,000 people had signed up. It was reported in the *Sydney Morning Herald* recently that some people registered on BetStop are still placing bets and still receiving marketing information, and I understand that there's an issue with wagering operators not sending information that could be accepted by BetStop. Has this issue been resolved?

Ms Gannon: The ACMA is responsible for BetStop, and I'd suggest that you direct those questions to ACMA.

Senator DAVID POCOCK: So you're not aware of whether or not they've been resolved?

Ms Gannon: I'm not aware of that; I'm sorry.

Senator DAVID POCOCK: The minister spoke about the success of BetStop. Minister, given the reporting that people who have signed up to BetStop are still able to place bets—it's kind of in the name 'BetStop'—and getting gambling advertising, do you want to correct your remarks about BetStop being successful until we hear exactly what the issues are from ACMA?

Senator Carol Brown: No, I don't.

Senator DAVID POCOCK: So the minister's view is still that BetStop is successful?

Senator Carol Brown: If you want to ask that series of questions to ACMA—

Senator DAVID POCOCK: I'm asking you about the assertion that you made that they were successful, despite our knowing that people who have signed up with BetStop are still able to bet?

Senator Carol Brown: It is an important part of the government's initiatives to reduce harm. The information that I have here is that already over 22,000 Australians have registered to voluntarily self-exclude from online wagering.

CHAIR: You've got ACMA coming later.

Senator DAVID POCOCK: Sure, but I have a few more questions on this issue. Were the regulations for BetStop designed by the department?

Ms Gannon: I assume so. We're working very closely again with the DSS and ACMA.

Senator DAVID POCOCK: Surely, if something is not working, they'll come back to you to say, 'Well, actually this isn't working; we need to update it and sort out these glitches,' or 'loopholes,' and that hasn't happened?

Mr Chisholm: We're aware of the reports. It's administered by ACMA, and you'll have the opportunity to—

Senator DAVID POCOCK: But you helped design it.

Mr Chisholm: If there's a question about whether or not participants are not operating in accordance with the scheme, the agency with responsibility for checking those things will be here today to answer questions.

Senator DAVID POCOCK: Sure, but I just want to check. ACMA haven't come to you and said, 'Hey, the design of the scheme probably needs to change,' or have they? That's probably what they'll say to me this afternoon.

Ms Gannon: I'd say that, looking at this issue, there are three possible issues. It may be that people have registered for three months and thought that they registered for a lifetime, for example. There's always the chance that there's a technical problem, and that information hasn't been raised with us.

Senator DAVID POCOCK: So ACMA haven't reached out about it?

Ms Gannon: Not on this. The third category of issue might be the regulatory design. We're doing a review of the BetStop scheme to commence by August this year and it will look at all of those issues to, as I said before, test that it's working as it was intended. So we do have a mechanism in place to test that.

Senator DAVID POCOCK: I understand that there's a real political dimension to this. Minister, I'd just say that, talking to people in this space, this has very real consequences for people in communities across the country. I'm just so concerned that we have a Labor government that seems to be putting off bringing forward tough policy on industries that are causing so much harm, and we're seeing reforms sort of slowly being kicked down the road, hopefully, to be part of the next election, I guess. That is what we can deduce from this. I would urge the government: bring your courage to this fight.

Senator Carol Brown: I can assure you that we are committed to addressing the recommendations from the Murphy report just as much as you are, and we are considering those recommendations. We've had this discussion before. We want to get this right and we don't want to put in place a regime that hinders rather than helps the objective. I understand where you're coming from, but I can assure you that the government is doing all it can to make sure that the policy response is right.

Senator DAVID POCOCK: And the government understands the urgency?

Senator Carol Brown: Yes, we do, but the most important part of government is to make sure that the policy response is right.

Senator DAVID POCOCK: Right for whom?

Senator Carol Brown: Right for the objective of minimising harm.

Senator DAVID POCOCK: For Australians?

Senator Carol Brown: Yes.

Senator DAVID POCOCK: But the problem that I'm hearing is that the Murphy review didn't take a harm minimisation approach. He was so clear with a whole bunch of recommendations and the phasing out of advertising. But we're hearing 'harm minimisation'. What I'm hearing from people who are working with problem gamblers, people whose lives are being destroyed, is that is not the approach that they want.

Senator Carol Brown: I don't know whether this helps, Senator Pocock, but I've been advised that, this morning, AUSTRAC has accepted an enforceable undertaking from Sportsbet Pty Ltd to uplift its compliance with Australia's anti-money laundering and counterterrorism-financing laws. But I can say that I'm also advised that ACMA has not raised any of those other issues that you've raised with us, but we can talk to them.

Senator DAVID POCOCK: Sure. I'll chat to them later.

CHAIR: Senator Henderson.

Senator HENDERSON: Which official has direct responsibility for the age assurance trial?

Mr Chisholm: We do.

Senator HENDERSON: The two of you; thank you. Will there be an actual age verification process as part of the trial? Will social media platforms have to trial age verification at the front door, before people can access the site? I'm thinking of Instagram or TikTok, for instance.

Ms Gannon: I note that, in your language there, there's a really important point. The eSafety Commissioner's roadmap was about age verification and, since that's come out, we've seen a move internationally towards age assurance, which is a broader suite of technologies. Age verification is very specific and precise. In verifying someone's age, you effectively need to know who they are, and that gives rise to security and privacy issues, and it probably has a higher risk of people trying to bypass it, for those reasons.

Senator HENDERSON: I want to understand: are you conducting an actual trial of this technology by asking social media platforms, like Instagram and TikTok, to implement this technology? Is that going to be part of the trial, or is this just a study?

Ms Gannon: The department will be undertaking a trial to examine technologies that are currently available, to test their effectiveness.

Senator HENDERSON: Just to be very clear, you can say that you're undertaking a trial, but what I'm asking is: will social media platforms be required to implement age assurance or age verification technology, as part of the trial?

Ms Gannon: They would be required to do that as part of the phase 2 industry codes, which are still subject to development, which is why we're looking to have the trial inform the enforcement of those industry codes.

Senator HENDERSON: So the answer is no. Under this trial, there'll be no requirement on any social media platform to implement age verification or age assurance technology; is that right?

Mr Chisholm: Senator, this goes back to—

Senator HENDERSON: I'm sorry, Mr Chisholm; I'd like to clarify that point with you, Ms Gannon.

Ms Gannon: That goes to the design of the trial. It's about providing advice to government.

Senator HENDERSON: It's about providing advice to government.

Ms Gannon: Yes.

Senator HENDERSON: Just to be very clear, no social media platform will be required, as part of a trial, to implement any of this technology whatsoever.

Ms Gannon: They are required to do things like that under section 138 of the Online Safety Act, about the phase 2 industry codes.

Senator HENDERSON: But that hasn't been implemented yet, has it? I'm talking about this so-called trial.

Mr Chisholm: They are operating together. The phase 2 work undertaken by the eSafety Commissioner will result in compliance obligations for the sector, and the trial is being done in such a way that it can inform that process, so that the two are able to link up.

Senator HENDERSON: So it's more of a study than—

Mr Chisholm: It's a trial.

Senator HENDERSON: It's called a trial.

Mr Chisholm: Yes.

Senator HENDERSON: The problem with the language that you're using, and why I'm seeking clarification, is that it's clear that no social media company under this trial will be required to do anything, so there will be no requirement to implement any technology to verify or provide assurance as to someone's age.

Mr Chisholm: We're undertaking the assessment process that the term 'trial' implies, to ensure that the technology is effective for age assurance. That's really important; we want to make sure that it works, and some of the points that the witnesses were raising before about making sure that they can't be circumvented—

Senator HENDERSON: Mr Chisholm, I would ask you to answer my question, because it looks as though you are evading answering my question.

Mr Chisholm: No. I'm actually trying to help to explain how these processes work.

Senator HENDERSON: No, you're not.

Mr Chisholm: We've actually answered the question about the nature of the trial. So the trial is—

Senator HENDERSON: I would ask you to be very clear in your response. Is it the case that no social media company under this trial will be required to do anything?

Mr Chisholm: The trial is not a law; the trial is a trial.

Senator HENDERSON: I'm not asking whether it's a law. Will they be required to do anything, as part of this trial?

Mr Betts: They're not required to adopt technology unless and until it's been tested, and that's what the trial is there to do.

Senator DAVEY: But how do you test it in real time if you're not having someone, a social media company, agreeing to actually test it?

Senator CADELL: It's a study, not a trial yet.

Senator HENDERSON: It's a study; it's not a trial.

Mr Chisholm: There are strong incentives for the industry to participate in the trial because, ultimately, the phase 2 codes will result in legal obligations on them in relation to access to pornography.

Senator HENDERSON: Are social media companies being required or being asked to participate in testing this technology, as part of this current trial?

Ms Gannon: We will be working closely with industry as a whole, but they won't be undertaking the trial; we will be.

Senator HENDERSON: Thank you, Ms Gannon, for at last answering the question. If there isn't going to be any social media company participating in this trial, how will you know whether this will work?

Mr Chisholm: I'm not sure that 'not participating' is the right phrase.

Senator HENDERSON: 'Implementing', as Ms Gannon has just confirmed. How then will you properly test this technology, if you're effectively running this as a desktop study operation?

Ms Gannon: I'm not sure that I understand your question; I'm sorry. We will be working closely with social media and a range of industry players, but this is about an independent assessment of their technology to inform the regulator as to whether it's effective. It's not about social media testing its own technology.

Senator HENDERSON: I'm sorry; we're going in circles.

Ms Gannon: Yes, I'm confused.

Senator HENDERSON: I think you answered the question before. What's very disappointing is that the Prime Minister made the announcement that there would be a trial of age assurance technology, which would require social media companies to trial how this technology would be implemented, and they're now off the hook. There is no such technology being implemented on any social media platform—

Ms Gannon: I disagree. They are bound by the Online Safety Act, which includes industry codes, which will require measures like age assurance to prevent children's access to class 2 content. That requirement already exists under law and would be implemented through the phase 2 industry codes.

Senator HENDERSON: Anyway, we are, as I say, going around in circles. I think that, based on the Prime Minister's announcement on 1 May, Australian parents would be disappointed to know that this is a research exercise rather than the implementation of the latest technology so that children who are 11 or 12 cannot sign up to a social media platform, which, as so many parents know, presents very substantial risks. When will parents be given the assurance that, under this government, children will be better protected online?

CHAIR: I'll just give you notice that we'll be moving on in about two minutes, Senator Henderson. This is a complex system and, hopefully, many of the parents out there in Australia will grasp the complexity of this.

Senator HENDERSON: Ms Gannon, could I ask you to address that question?

Mr Chisholm: Very briefly, before Ms Gannon does that, the government supports age limits for social media. We're consulting closely with experts, researchers and industry to ensure that the technology that is tested as part of the trial is effective and gets the balance right. There is a strong incentive for industry to work with us on this process, given that, as Ms Gannon said, at the end of the day, there will be legally enforceable obligations related to this coming out of the phase 2 process.

Senator HENDERSON: Thanks very much.

Senator Carol Brown: Chair, I have some answers to a question that Senator Hanson-Young asked around the anti-siphoning and prominence bill.

CHAIR: Perhaps we could do that directly after lunch, purely and simply because she's not in the room; otherwise you may end up having to do it twice.

Senator HENDERSON: Chair, I have a housekeeping issue.

CHAIR: Yes.

Senator HENDERSON: Through you, could I ask the secretary whether there's any update on those responses to questions on notice?

Mr Betts: They've been tabled.

Senator HENDERSON: They have been tabled, Secretary?

Mr Betts: That's my understanding, yes.

CHAIR: Senator Pocock?

Senator DAVID POCOCK: I want to ask a few more questions on age assurance technology. I was also under the impression that there would be an actual trial. Is one of the age assurance technologies that you're assessing the click box that says, 'I'm over 13,' or 'I'm over 18'?

Ms Gannon: We are looking at the technologies that are currently available and being used at the moment. At this point we haven't shortlisted technologies to actually be trialled.

Senator DAVID POCOCK: It seems to me that none of the technology being implemented by the social media platforms is working because it's not really in their interests for it to work, in many ways. They will refute that, but that's my take on it. Have you looked at age gating at a device or operating system level; is that part of this trial?

Ms Gannon: As I said before, we're looking at age assurance technologies that would apply across the tech stack. There are different technologies being applied by different types of companies for different purposes. We're looking at what the full suite of those is and which ones would be the best to test. We're also looking at what they're doing in the UK. They've brought out guidelines on the industry codes that really go into what, in the view of the UK regulator, makes for an effective age assurance technology; so we're looking at those. We don't have a short-list of technologies being trialled just yet.

Senator DAVID POCOCK: Do you know whether device-level or operating-system-level age assurance is in the mix? I know that you've said that you don't have a short-list, but—

Ms Gannon: I wouldn't rule it out. I don't want to imply that it's shortlisted, but it's in the mix because it's a technology that exists and that people look to.

Mr Irwin: Senator, going to your question around the self-declaration of age, as Ms Gannon said, the UK have issued some guidance, including guidance around what they would consider to be highly effective and what they consider would not be capable of being highly effective, and self-declaration of age is in that 'not effective' category in the UK.

Senator DAVID POCOCK: How are you actually assessing the effectiveness of this? Talking to researchers and people who deal with social media companies, essentially, there are black boxes where you don't know much about the algorithm and you don't really know what's happening behind the scenes; we know that people under 18 are being served alcohol and gambling ads very frequently. How are you actually assessing whether it's working?

Ms Gannon: As we've said, we're looking at the effectiveness of the technology across different criteria, and one of those is whether it works to the level of certainty that it says it does.

Senator DAVID POCOCK: How do you do that with social media? Say Meta is using this type of age assurance technology; how do you see whether that's working, when their data is usually secret?

Ms Gannon: We expect to be going to a third-party provider to test the technologies against the criteria, so it will depend on the external provider's methodology and then assessing tenders that we would expect to do. We'd look at their methodology and whether it satisfies these kinds of considerations.

Senator DAVID POCOCK: Who will that third-party provider be?

Ms Gannon: We'd expect that to be a competitive process, and there are companies that do it, but obviously that competitive process is yet to be done.

Senator DAVID POCOCK: So you'll say to a third-party company, 'We want you to test Meta's age assurance technology,' and they will then have to develop that technology or clone it?

Ms Gannon: It's technology that already exists and, as Mr Chisholm said, it would be in their interests to participate in the trial, given that it's linked to the enforceable industry codes under the Online Safety Act.

Mr Chisholm: We do need a technical expert to help us to do this. We're a policy agency but, to test the technology, we need to engage someone who's very literate with the system design and the technical specifications.

CHAIR: Perhaps there's some value in us organising a separate briefing. I feel that we're going around on a lot of these things, and there's a lot to understand and unpack; would that be of value?

Senator DAVID POCOCK: I'm sure that would be useful. This is all under that \$6.5 million?

Mr Chisholm: Yes.

Senator DAVID POCOCK: What is the delivery date for that?

Mr Chisholm: We were discussing earlier that we don't have a delivery date, but we've been funded to do the trial for the year.

Senator DAVID POCOCK: To 31 December?

Mr Chisholm: I'm sorry: over the budget year, so that is 2024-25.

Senator DAVID POCOCK: So probably into the next term of government.

Mr Chisholm: We've got to do this trial with some haste because we are very mindful of the phase 2 codes process that sits with the eSafety Commissioner, so there is absolutely no way that we can let the trial tick over that long.

Senator DAVID POCOCK: On the incentive for social media companies to get on board—I would love to see them take this very seriously and work with you on it—currently, if someone signs up for social media at 11 years of age, what is the possible penalty on the social media company? Thirteen is the legal age, which I think is too low, but, say they sign up at 11, what is the potential penalty on a social media company?

Ms Gannon: I'm not sure that there is a penalty in Australia. My understanding is that the 13-year-old age limits are determined by the US government privacy law that sets the age at which data can be collected.

Senator DAVID POCOCK: So we don't even have our own?

Ms Gannon: No.

Mr Chisholm: Hence the Prime Minister's comments about the importance of age limits.

Senator DAVID POCOCK: Under this code that you're hanging over them, what will the penalty be? Or is it the case that, because we don't have an age, there can never be a penalty? Is this a gap in our laws?

Ms Gannon: No. The codes are legally enforceable, and penalties apply to noncompliance.

Senator DAVID POCOCK: So if an 11-year-old signs up, what is the penalty on, say, Meta?

Ms Gannon: I'll need to remind myself of the penalty scheme.

Senator DAVID POCOCK: Maybe you could take that on notice.

Mr Irwin: For a company breaching a code, it is \$782,500. So, if the eSafety Commissioner puts it into the code and there is a breach, that would be the fine.

CHAIR: Most of you have been invited to briefings around this issue but haven't necessarily taken up that offer, so we might pursue this as a committee. We have been going around on this issue of the trial quite significantly. Having been to some of the briefings, I have heard some important things that have clarified my mind, so I encourage everyone to attend that briefing when we put it on. If we look at it from the other side of the coin, what are the risks of rushing into a solution of this magnitude with an issue so important without being crystal-clear about what we are doing and without trialling it and testing it?

Mr Chisholm: The risk is that it won't work, given how complex this is. Governments around the world are grappling with this issue. As Mr Irwin said, we have been working closely with our UK counterparts on some of this, and they have been very forward-leaning. The risk is that it just won't work if we don't test it. At the point the government decides to move forward with an enforceable requirement, we want to make sure the technology works. The other risk is that, if it is not tested and we don't undertake this sort of analysis carefully, we will have users move away from these platforms and seek to drive the content into other places which the technology won't be touching—the dark web and all that sort of thing. So we want to make sure that through the trial we develop technology that the industry can work with because there are risks that not only will it be ineffective if we don't do that, but also we will end up seeing worse outcomes. People will just find ways around it, because people are pretty good at circumventing these things, just clicking and continuing on. So it is complicated.

Ms Gannon: The other risk is that families, parents and carers will have a false sense of security about the technologies they have in place and may place undue trust in a system, thinking that their children are being kept safe when actually their children can bypass it easily or it just doesn't work and is not effective.

CHAIR: We don't want something that on paper sounds okay, but in reality doesn't do what it claims to do.

Ms Gannon: That is a risk.

Mr Irwin: It also contributes to that 'willingness to use' point. The privacy and security risks are important, particularly in relation to access to pornographic material and when handling children's data. That is precisely

why we have formed a cross-government working group to engage with our colleagues in the Attorney-General's Department, the home affairs department, and other departments on this.

Senator SHOEBRIDGE: In November the minister announced an early review of the Online Safety Act, and in December the department commenced consultations on amendments to the Basic Online Safety Expectations. At the same time, the Office of the eSafety Commissioner has been out consulting on draft standards for services covered by the Online Safety Act in relation to class 1 material. Now the government has announced the mandatory age assurance trial. Meanwhile, industry is engaging with eSafety about a second tranche of codes in relation to class 2 material. I have counted at least five reviews and consultations happening simultaneously that cut across each other. As part of what the chair is asking, if you have five consultations and reviews happening simultaneously which all impact on each other, how on earth are we going to get coherence? Who is making it coherent?

Mr Chisholm: Before officials step through some of the points you have made there, on the interaction between the phase 2 codes and the trial, we work closely with the eSafety Commissioner. It is important that we conduct this trial in such a way that it is able to inform how the phase 2 codes are implemented. We are confident that will work well together.

Senator SHOEBRIDGE: But the eSafety Commissioner hasn't completed that; it is still consulting with industry on the second set of codes in relation to class 2 material—

Mr Chisholm: We will make sure that we continue to work closely with the commissioner on that.

Senator SHOEBRIDGE: And the Online Safety Act review is midway through.

Mr Chisholm: That is a broader set of issues. There will be a more comprehensive set of recommendations about the Online Safety Act. We ran through some of the issues Ms Rickard is looking at; again, we see that as complementary.

Senator SHOEBRIDGE: The Basic Online Safety Expectations review is happening at the same time.

Mr Chisholm: Mr Irwin might be able to help you with that.

Senator SHOEBRIDGE: It is almost like a description of 'incoherence'.

Mr Irwin: The Basic Online Safety Expectations review consultation has concluded. The updated instrument was registered today to take effect tomorrow. So that element has concluded. But to Mr Chisholm's point, it is about where things sit within the overall framework and what level of the framework they are operating at.

Senator SHOEBRIDGE: When I looked last night, I hadn't seen that review was to be registered today, but it goes to show how dynamic this is. What I looked at last night was outdated when I asked you this morning, and you are trying to piece these altogether.

Mr Betts: I think 'dynamic' is a better description than 'incoherent'. Things are moving at pace. This is a major public policy issue, which the government is responding to on multiple fronts.

Senator SHOEBRIDGE: Who is in charge of it?

Mr Betts: The Minister for Communications is in charge of it, although there are touchpoints with other parts of government. Our department is coordinating a significant part of that workload with agencies like ACMA and the eSafety Commissioner.

Mr Irwin: I add to that coherence point that we have also convened the Online Harms Ministers Meeting. That has had two meetings which involve the minister talking to her counterparts across the Commonwealth to make sure that everything is lined up across Commonwealth portfolios.

Senator SHOEBRIDGE: I will move on to another point. An independent report, I think by Reset, that looked at the DIGI code on misinformation—which is the voluntary industry-based code from the lobby group DIGI—labelled it 'a complete failure' because 'it is voluntary, there is no adequate reporting and there is no enforcement'. Does the government still intend to embed that code into regulation, despite what independent viewers are saying about it?

Mr Betts: You have moved on to misinformation and disinformation here.

Senator SHOEBRIDGE: Yes.

Ms Gannon: The government has been clear that it intends to legislate misinformation and disinformation online and platforms' transparency and how they handle seriously harmful misinformation and disinformation online. Views such as those mean that the government is looking to legislate in this area. The government has consulted on a draft bill. We received a great deal of feedback on that bill, which we are working through, providing advice to government.

Senator SHOEBRIDGE: Can you provide some assurance that the lobby group DIGI's code—DIGI is those nice people in Meta, Google and Microsoft who have a very vested interest in an effective code—won't be the basis?

Ms Gannon: We are revising the policy settings in light of the consultation that has been undertaken. I understand the issue you're raising, but there is a limit to the extent to which we can discuss the government's approach going forward.

Senator SHOEBRIDGE: Are you still engaged with DIGI as one of the key stakeholders?

Ms Gannon: We talk to DIGI and a number of stakeholders on issues across work in the department.

Senator SHOEBRIDGE: Can you let us know on notice who the other stakeholders are with whom you are working, in addition to DIGI?

Ms Gannon: Of course.

Senator SHOEBRIDGE: This question is perhaps a little oblique. In New York, the Bossware and Oppressive Technology Act was recently passed. It was designed to protect workers from some of the most troubling harms caused by on-the-job surveillance called 'bossware' and 'automated employment decision tools'. I assume you are familiar with bossware—hopefully not in your workplace but outside of it. Is any reform being looked at in relation to protections from bossware and these AEDTs, automated employment decision tools? Is that part of any of the work the department is doing?

Ms Gannon: That might be a question for the department of employment.

Mr Chisholm: It is probably more a question for the department of employment and workplace relations. Given the sorts of technologies you are referring to—

Senator SHOEBRIDGE: These are surveillance technologies employed in workplaces.

Mr Chisholm: Yes, we would work with them as well as AGD, if that was something that was being developed.

Ms Gannon: I could only think that there may be an intersection with the Attorney-General's Department on privacy.

Senator SHOEBRIDGE: My guess is that I am going to bounce between different agencies over the next seven days about this; you are the first Uber off the rank. Have you had any engagement on this issue?

Mr Chisholm: I don't think so. I apologise for referring you to DEWR, but it would likely come from a workers' rights perspective and hence that would be the originating agency to consider it.

Senator SHOEBRIDGE: But sitting there now, so far as you understand, this isn't work that the department has been engaged on in collaboration with DEWR, for example?

Mr Chisholm: I am not aware of our having worked with DEWR on that at this stage, no.

Senator SHOEBRIDGE: And there has been no review of the New York Bossware and Oppressive Technology Act, the BOT Act?

Mr Chisholm: There may have been within government, and we can certainly check.

Senator SHOEBRIDGE: Could I ask you to take that on notice, then?

Mr Chisholm: Yes.

CHAIR: We will now break for lunch and return with the eSafety Commissioner. We will release witnesses for outcome 5; thank you for your time this morning.

Proceedings suspended from 13:13 to 14:16

CHAIR: We will now resume.

Senator Carol Brown: Chair, is this the point where we can provide an answer on notice?

CHAIR: I'm happy to take an answer on notice before we go to the eSafety Commissioner.

Senator Carol Brown: I am providing more information on Senator Hanson-Young's questions in relation to antisiphoning. The senator asked whether Foxtel had been consulted. The government conducted extensive consultation on the bill with a range of parties, including Foxtel. The government released three papers for public consultation and invited public submissions, including a submission by Foxtel Group. They are available on the department's website. In terms of the interests of Foxtel and Murdoch in relation to the prominence and antisiphoning bill, it's a matter of public record that the peak body for Australia's subscription television sector, ASTRA, had strong concerns about the government's proposed prominence framework and ran a campaign on the

issue. It's also a matter of public record that Foxtel opposes the continuation of the antisiphoning scheme, asserting that it is no longer an appropriate regulatory mechanism, owing to its effects on competition. The government does not share ASTRA's or Foxtel's views and now has a bill before parliament to legislate a prominence framework and extend the antisiphoning scheme to subscription streaming services.

Senator Hanson-Young asked about the availability of sports coverage on free-to-air television via an aerial and via BVOD services. The vast majority of Australians have access to free-to-air television; 98 to 99 per cent of Australian households are able to receive terrestrial television services via commonly available reception equipment. The figure of 99 per cent is currently stated on the Free TV website. Australians also watch BVOD services.

The department's television and media survey 2023 shows that watching through a broadcast signal and antenna was the top response for how Australians most often access free-to-air television. It also showed that 61 per cent of Australians had used a broadcast signal antenna to watch free-to-air television in the past seven days. It is incorrect to interpret this finding to mean that only 61 per cent of Australian households have access to broadcast television via an antenna. RMIT research from 2022 found that multi-platform engagement is the dominant trend, with 75 per cent of Australian smart TV users using both broadcast services and BVOD, with only six per cent of smart TV users using only BVOD.

Evidence from the recent rights deals highlights that, where a free-to-air broadcaster is able to acquire a broadcast right, they also secure online rights for their BVOD service. For example, the Nine Network has the rights, including streaming rights, to the Australian Open until 2029, to the Olympics until 2032 and to the NRL premiership until 2027. The Seven Network has matches of the AFL premiership to 2031, with streaming rights, as well as international cricket matches played in Australia to 2031, with streaming rights.

There was also a question about free access for children who want to be the next captain of the Matildas who can't afford a Kayo subscription. In September 2023, Minister Rowland amended the antisiphoning list to include future matches of the FIFA Women's World Cup. The minister wanted to make it more likely that Australians would be able to watch the Matildas for free in 2027, and future FIFA Women's World Cup tournaments, before the bids for rights to the 2027 World Cup close. The government's antisiphoning prominence bill, as well as its additions to the antisiphoning list, make it more likely that Australians will have access to coverage of the Matildas on free-to-air television.

Senator HANSON-YOUNG: I definitely got under someone's skin, didn't I?

CHAIR: We are going to move directly along.

Senator HANSON-YOUNG: No guarantees, but 'more likely'.

CHAIR: I remind everyone that we are conducting this session in a respectful fashion. That is how I will be managing this session.

Office of the eSafety Commissioner

[14:21]

CHAIR: I welcome officers from the Office of the eSafety Commissioner. Ms Inman Grant, would you like to make an opening statement.

Ms Inman Grant: I would like to make a statement, if the committee will permit me to do so.

CHAIR: Absolutely. Please go ahead.

Ms Inman Grant: I think we all know that the internet can be a wonderful but sometimes dangerous place—a place where our children can create, connect and explore but also where they may be targeted by predators or bullies and exposed to horrendous abuse and graphic violence through social media. This includes graphic and high-impact footage of people being blown to pieces in wars or terror attacks, shootings and stabbings, brutal fights designed to degrade, and multiple forms of sexual violence. Study after study has shown that exposure to violent content makes children feel unsafe, disturbed, frightened, saddened and shocked. They are seeing this content in primary school and they feel guilty for watching it. Some struggle for many years to forget what they've seen, while others see the violence becoming an increasingly normalised part of their daily online experiences. Medical and mental health professionals indicate that this leads children to become socially withdrawn and desensitised to violent content and, in some cases, adopting violent behaviours of their own. Both research and experience demonstrate that vulnerable children, including those from disadvantaged backgrounds, those with pre-existing mental health issues, trauma victims and neurodivergent children, are most at risk of online manipulation.

Exposure is negatively impacting how our children view the world and their expectations for the future. In the past six weeks alone, from Sydney to Perth, we have seen how this online brutality is spilling over into real-world harm and violence. eSafety's purpose is to help safeguard Australians from these kinds of harms and to promote safer, more positive online experiences. Our legislated role is to balance the needs of community and industry through coordination, education and regulation. We help Australians maximise the significant benefits of online engagement whilst minimising the risks.

Numbers across our reporting schemes have surged, as Australians increasingly look to us for exactly this kind of help. We are listening to their concerns and providing the protections that they want and need. In the year to May, complaints to us about cyberbullying of children were 311 per cent higher than in the same period four years ago. Complaints about image based abuse or the non-consensual sharing of intimate images and videos were 242 per cent higher. Reports of illegal and restricted content were 111 per cent higher. Last year alone, eSafety investigators looked at 33,000 URLs in total. The vast majority of this concerned child sexual abuse material but, as with violent and extremist content, every instance of child sexual abuse material was hosted overseas.

It's important to remember that behind each report is a real human story, a person who needs help and who may be in intense pain, very often a child. This is why we measure our success through the lives that we positively impact, not in the number of reports or notices that we issue. There is no question that this is a difficult, complex and contestable space, but it is important to clarify that we are not arbiters of speech online; nor are we proactively monitoring the internet. Parliament empowered eSafety to investigate and remediate the online harms reported to us by distressed Australians.

We have a high level of successful remediation of cases of cyberbullying, not only removing the content designed to ostracise or humiliate the child but also working directly with parents and schools. By providing wraparound support, we recorded 3,700 click-throughs to Kids Helpline last year to provide mental health support as well. Some parents told us that, in a real sense, by providing relief from serious and targeted online abuse, we literally saved their children's lives when they felt hopeless and had nowhere else to turn.

Compassionate citizen service is a key aim, but we're also using our systems and process powers to ensure greater degrees of transparency and accountability from industry. Six of eight industry codes around illegal content are now in place, setting an important and leading global precedent. Soon, mandatory standards will be tabled before parliament. We first published regulatory guidance on the Basic Online Safety Expectations, or the BOSE, in July 2022, with the minister affirming and expanding the BOSE determination today, strengthening these significantly at a time when technology companies are becoming more opaque.

We have now issued 19 transparency notices, covering 30 major online services, all domiciled overseas. Legal compulsion to reveal what these companies are or are not doing to keep Australians safer online is critical to holding them transparent and accountable and for driving meaningful change. Rigorous evidence based research and resources are also critical to eSafety's mission. These help Aussie kids better explore the internet without fear, empower parents to better guide their children, and arm educators with the digital literacy tools that they need.

In the past year, more than 2.5 million unique visitors engaged with our online resources—a 57 per cent increase over the previous 12 months. We've reached another 3.5 million Australians through our webinars, our Be Connected program and online safety education providers. We also work with a broad range of partners. Just today, we announced a new protocol with the Electoral Council of Australia and New Zealand to help ensure that Australian election workers are protected from threats and harassment while performing their vital duty of upholding our most basic democratic right: the right to vote. To that end, it's really important to note that there is a dark thread of suppression that drives online hostility, threats and intimidation, which is designed to chill speech, undermine democratic debate and silence the target. This is what we fight against every day with our Adult Cyber Abuse Scheme and our social media self-defence training.

Indeed, as more Australians turn to us for support, we must continue to elevate safety standards across the platforms that they use every day. This means anticipating new risks and providing specific guidance for platforms to pivot from being 'dangerous by design' to 'safety by design'. This is particularly important, as we've seen generative AI create more vectors for synthetic child sexual abuse material and deepfake image based abuse, and as our children start to wander into the high-sensory, hyper-realistic worlds of the metaverse, where harms will be happening in real time in private spaces. The platforms that are monetising Australians' online lives and personal data need to employ the same safety standards and safeguards that we expect of physical goods like toys, cars, medicines and food. Our future national wellbeing and safety depend on it. We thank you for your support and look forward to talking to you further about our work.

CHAIR: Thank you very much. That was very informative. I'd like to start with one thing that is bothering me. We've seen a lot of commentary presenting you, personally, as some kind of Orwellian figure issuing dictates and determining what people can and can't say, do or look at. Can you step out for us exactly what your role is in relation to that?

Ms Inman Grant: Sure. I think it's really important to note that eSafety was not set up and does not operate as a censor. We do not have the powers or, frankly, the resources to be proactively monitoring the internet. So, no, we're not sitting in a dark room somewhere, pushing a red button, deleting content from the internet. We are certainly not using social listening tools, like Meltwater, to measure anything other than how eSafety's conversation is being recorded. A number of government agencies use these tools; it's a key brand and marketing tool. There are no names or searches for Australian individuals; that is deliberate misinformation. As I said in the opening statement, we primarily respond to specific complaints from the public; there are tens of thousands of them each year, and this is increasing, as I indicated. Without us, Australian children and their parents, and even adults, would have nowhere to turn. We were set up by parliament to serve as a safety net for when social media companies fail to enforce their own policies consistently and effectively. In very few other jurisdictions in the world are these kinds of services provided. I would also note that, of course, parliament made the collective decision—there was a unanimous vote to pass the Online Safety Act 2021 in both the Senate and the House—that freedom of speech is incredibly important, and these were constructed very specifically to make sure that the thresholds were very high in terms of being above defamation; and political commentary is, of course, exempted from consideration.

But, effectively, parliament decided that, where online discourse veers into the lane of serious harm, an independent regulator will be designated to investigate and assess, in accordance with the thresholds, and take a range of remedial actions, graduated and discretionary, to make sure that harm is not done to Australians. So it's a delicate balancing act. As I've said, there is a lot of misinformation about our role here. As I also said in my speech, freedom of speech does not mean freedom from consequences. We have seen this dark threat of suppression, where threats, intimidation and abuse are actually used to silence and chill a target.

I don't have to tell any of you, particularly any of the female senators here, that the way that online abuse manifests towards women in the public eye is very different from that towards men. It's sexualised. It's violent rape threats. It's about age, appearance, supposed virtue and fertility; you name it. It even goes to the traditional maternal role and 'why are we not back in the kitchen?' So there's a lot to be answered for, and I'm very proud that we can play a role in safeguarding Australians. I'd like to just add that is our primary role. We're here to safeguard Australians. It's remarkable that, because we've had very strong laws in place around our online content scheme for more than 22 years, none of this illegal content is hosted in Australia.

Almost all of the content—the child sexual abuse material and terrorist content—is hosted on sites overseas. It's shared and goes viral on platforms and social media sites based overseas. We know that the internet is global, that there are complex structures and that laws are national. We have no designs on monitoring the global internet or globally censoring what Americans, Norwegians or anyone says; you will not find a single statement that I have made, in written or verbal form, which aspires to that goal. The simple fact of the matter is that none of these platforms have servers in Australia. In Australia, I don't have the option of saying, 'Remove this content from servers.' The content sits largely on servers in California; it sits in one place. The general practice of all of these companies is to remove illegal content, like terrorist content or anything inciting crime and violence and child sexual abuse material, and its removal prevents the circulation of this content from continuing to be live.

We know already that there's a tsunami of this content and that we're never going to sterilise the internet. But I think it's really important just to underscore that we respond to reports from Australians; we respond to their concerns. My job is to minimise their harms while promoting the benefits of the technology; unfortunately, it isn't to safeguard others.

CHAIR: That's very helpful. We have seen commentary questioning your decision-making in relation to takedown notices for comments made about an Australian transgender person. Could you just talk us through your decision-making process and how that works and what your involvement actually has been in this.

Ms Inman Grant: As you may know, I think the particular case that you're referring to relates to the Adult Cyber Abuse Scheme. As you also know, I have delegations and can't be involved in every single investigative decision. With the tens of thousands of reports that we get every day, I am running a very broad and diverse agency. As it happened, unfortunately, when that decision was made, I was in a hospital with my mother overseas who was in congestive heart failure. Because there has been misinformation in the media and elsewhere, I would also say about the Australian individual who made the complaint that I know of them personally and there was a conflict of interest. I'd like to say up-front that, of course, we are going to help any Australian individual who is

experiencing serious online harm that is causing them serious emotional and psychological distress. If they report to the platform and the platform doesn't respond then we take pretty standard actions in terms of always working with the platform, informally first in understanding the platform. I'll turn over to Mr Dagg to talk through the two-pronged objective test, but I would just say that, with respect to the individual in question, I've never met or spoken to him in person. He does run a peak LGBTQI+ body. Some on my team, in developing our learning lounge materials for the LGBTQI+ community, did engage ACON and other organisations in developing those materials. But perhaps I can turn this answer over to Mr Dagg to talk you through how some of these decisions were made.

Mr Dagg: We run a complaints-based investigation framework made up of four different investigative schemes that are expressed in the Online Safety Act. All three of those schemes—child cyberbullying, adult cyber abuse and image-based abuse schemes—require a complaint from a person who has been targeted or directly affected by the particular form of content that's at issue within those schemes before we can begin investigating. Actually, there's a step prior to that, which is that they need to provide evidence that they've first complained to the relevant online service and that service hasn't taken action. Once that fact is satisfied, we can consider investigating. In the case of investigating, we apply the various statutory criteria—they're expressed in the act—and examine the facts and any other relevant circumstances, including context. Some of those schemes allow us to take into account all of the circumstances of a particular matter before deciding whether or not the statutory threshold is met. If it is, our first preference is, generally, to approach the service provider informally to request removal. We've found that to be a far faster and more effective way to have harmful material taken down, rather than going through the process of crafting and then issuing a formal notice, but we hold that option in cases where we see particularly egregious harms or where there has been no response from the service provider in response to our request for removal. All of this is laid out in our regulatory guidelines for each of the schemes. In the case that a service provider doesn't take voluntary removal action against their own terms of service, we'll consider issuing a removal notice under the act, which is the compulsory removal notice and which is backed by civil penalties.

CHAIR: That's very helpful. Senator Shoebridge.

Senator SHOEBRIDGE: Thanks again for appearing here, Commissioner and your team. Could I just start on one aspect of age verification. What's your engagement with the trials that are happening?

Ms Inman Grant: As you know, we spent about two years doing a very deep and extensive consultation on the age verification roadmap. We looked at a range of technologies and made a series of recommendations to the government through the roadmap; that was tabled in March 2023 and the government made a further recommendation. We continue, of course, to keep a close eye on developments in the age verification technology and policy space. For instance, we're working closely with the UK's Ofcom and the Irish Online Safety Commissioner, who are always also looking at age verification, as well as the French through the Global Online Safety Regulators Network. But we also have been participating in trials, such as uConsent and a recent summit that was held in the UK around age verification technologies. In fact, today, a fairly extensive set of recommendations and assessments of age verification tools has been put out. We're working closely with the department, and they have indicated today that they will be managing the age verification trial; we will be part of the cross-government group that they put that on. You'll also recall that, when the minister put the government's response in place with respect to the age verification roadmap, she asked that I concentrate on implementing phase 2 of the industry codes. We made a determination with the industry in July 2021 that we would tackle the phase 1 codes, which was largely because illegal content systems are dealt with differently by the tech companies, and subsequently we would work on phase 2.

Senator SHOEBRIDGE: And you are part of the consultation group for the age verification trial that has been announced?

Ms Inman Grant: That is right.

Senator SHOEBRIDGE: Who in the department do you understand to be heading up the actual trial itself?

Ms Inman Grant: I believe that Andrew Irwin, with whom you spoke earlier today, will be taking a lead on that.

Senator SHOEBRIDGE: Do you have any understanding of whether they have engaged with particular platforms or sites in order to conduct the trial? Do you know whether it has got to that point?

Ms Inman Grant: I think that's a better question for the department but, as you know, it's very much in its infancy. I think it was just this week or last week that we had our first inaugural meeting. So I think the department took the right step in terms of making sure that the right government agencies were all in the room, but I imagine that will be something that they will be doing in short order. We have continued to speak to, of

course, the industry associations and individual technology members about the phase 2 codes, which also go to preventing access to harmful pornography.

Senator SHOEBRIDGE: I can't work out the coherence in your doing the phase 2 codes work, which is about putting the obligation on the platforms to prevent harmful access at the same time as there's an age verification sort of barrier being proposed at another point. They seem to be pushing in different directions. The work that you're doing is putting the obligations on platforms; the age verification seems to be putting in place some kind of technical barrier. Am I misunderstanding how those two things work?

Ms Inman Grant: With respect, I have a slightly different view, which is that we are using the codes, and they are the industry's codes. We've been engaging with them on the phase 2 codes since November of last year, and we will have expectations that they will put protections in up and down the technology stack. So we will expect the phone providers to do all that they can to protect children from access to pornography and the related operating sites; we will expect the app stores to work as an appropriate share point; and we will ask the social media sites and the search engines to do what they can. None of that should be dependent upon the outcomes of the trial. But, of course, as things become available, it depends on how the trial is designed as well. As the department noted, they will be testing technologies; but what is also important is how it is designed. For instance, in France, when they ran a technology trial, they focused purely on the nature of global porn sites to put age verification in place. That created so much friction that French users just went to sites like X Corp and Reddit on social media, because social media has porn all over it, and to rogue porn sites. So part of the idea of design is: what is the Australian context, and where do we need to be requiring these companies writ large? We know that 60 per cent of Australian kids do access pornography from social media and not just from porn sites. So that is what I think will be in the design. But I also think all of these companies in the technology ecosystem now should be reading the global tea leaves about what governments expect of them around age verification and protection from privacy, and they should be thinking about what is most appropriate for their platforms and the sector.

Senator SHOEBRIDGE: I appreciate the detail in your answer. The French example shows how, in the digital world, if you put a gate up at some point, there are so many pathways around it; you could put in a VPN and avoid jurisdictions.

Ms Inman Grant: I know about VPNs.

Senator SHOEBRIDGE: I know you do. There are so many pathways around any one gate; any kind of trial will just be placing a gate somewhere in this digital landscape, and users, platforms and malevolent players will all just find a hundred pathways around. That's the concern that's been raised with me, more articulately than I put it to you, about where this age verification will go.

Ms Inman Grant: What if they are creating a roadmap for where the best kind of gates are? We will never get perfect synergy. In our roadmap we never said, 'This will be the panacea or the silver bullet.'

Senator SHOEBRIDGE: 'I, Commissioner Inman Grant will fix the internet.' You have never said that; I accept that.

Ms Inman Grant: I have never said that. With respect to where I think the strength of the codes is, people are talking about social media writ large, but we know kids aren't using social media in traditional ways anymore; they are using ephemeral media, messaging services, group text and short-form reels.

Senator SHOEBRIDGE: How can you have a trial that is covering such a wide ambit of young people's engagement on social media? How can any trial really hope to cover just that list that you gave then?

Ms Inman Grant: I think that's why the codes and the age verification trial will complement each other. The choice for us, when we were putting together the roadmap, was that we either tested it and tried to design a trial in a way that was going to be most efficacious, or we moved right to a mandate, not knowing what that looks like. I believe, again, that these will be the industry's codes. We have given them very strict guidelines—

Senator SHOEBRIDGE: Commissioner, that's the work that your office is doing. Parallel to that, there is this age verification trial, which is where my question was directed. Your work is looking at the whole environment. An age verification trial, though, runs the risk of touching on one of the many elements you've just listed as to how young people engaging with social media engage online.

Ms Inman Grant: I would leave that question to the department. They will be designing and deploying the age verification.

Senator SHOEBRIDGE: There is an Alexei Sayle joke where he steps forward and says, 'Japanese researchers have been researching cancer and they've come up with this paper hat.' He pops it on his head and says, 'But they stress it's not a cure.' That strikes me very much as the age verification: it is not a cure.

CHAIR: We will take that as a statement. We will now go to Senator Liddle.

Senator LIDDLE: On the issue of age assurance trials, the Albanese government earlier this month finally announced its age assurance pilot, following calls from the coalition. Today my colleagues heard from the communications department officials that social media platforms would not actually be asked to test any technologies, and indicated they would not be developing any technology to trial. Did you, in your engagement with the government, indicate that social media platforms were essential contributors to deliver the desired outcome from any trial of limiting children's access to adult content on social media?

Ms Inman Grant: Social media was certainly in the frame of our recommendations. We've actually seen a number of social media companies trialling in Australia. I don't know whether they are with the trial, but Meta was going to be trialling Yoti, which is one age verification technology here in Australia. Of course, social media has to be part of it. What is complex—I'll hand over to Mr Dagg—is that we saw with the doxing of the Jewish creatives how complicated 'social media' has become in terms of short-form videos, stories, different messaging platforms and threads, and the ability to use URL shorteners like Bitly to pass information. Once we got that removed, QR codes and scans can be used.

Even looking at the definitions in the Online Safety Act review, we will be looking at the eight different subsectors that we're dealing with now that have collapsed. Since 2021, we are seeing a convergence. Messaging isn't separate from short-form videos, from what we conventionally think of as being social media, where you are posting images and that sort of thing. Again, I expect social media will be part of the frame. Certainly, when we were doing the consultations and working on it, social media probably had a much bigger role in the child's everyday usage.

Mr Dagg: In the phase 2 codes process, which will commence shortly after we register our phase 1 standards, the social media services sector will be one of the sectors required to submit a code for the eSafety Commissioner's review and registration. Age assurance requirements may be part of the mix of measures that are brought forward through that code. I stress that this is the industry drafting the codes for the eSafety Commissioner's review. There will be a wealth of other measures that need to be considered as to whether or not they are appropriate to meet those community safeguards that go beyond and to either side of just age assurance.

Senator LIDDLE: How critical is their involvement in this to get the desired effect of helping to protect young people?

Ms Inman Grant: Again, it is critical. I can't speak to every platform or sector that will be covered by the age verification trial. I've seen the department specifically say social media companies will be part of the frame. They are certainly a sector that we will be targeting through a second phase of the codes. Of course, we have codes that were submitted by them in terms of the phase 1 codes and standards; so, yes, absolutely.

Senator LIDDLE: I want to go to the topic of sextortion. It has been reported today that the Australian Centre to Counter Child Exploitation receive 300 monthly reports of sextortion. We are seeing some pretty horrific stories about children being exposed to that. Law makers would agree that more needs to be done. Can you advise what action you are taking to advance legislation to address child exploitation in that way?

Ms Inman Grant: We saw a tripling of reports of sexual extortion last year. We started putting out advisories around sexual extortion back in 2017, and have been very active in continuing to get that messaging out. As you would have seen, and probably heard, from the AFP, we work very closely with them. The standard age at which young men tend to be targeted is between the ages of 16 and 24. Probably the vast majority are between 18 and 24, so they are actually adults. We cannot refer those adult reports to the Australian Centre to Counter Child Exploitation, just those between 16 and 18. They say that an ounce of prevention is worth a pound of cure here. We're actually talking about organised criminals weaponising platforms like Instagram and Snapchat, for instance, literally colonising their platforms by creating thousands of fake and imposter accounts, using fake images, and using very well-worn scripts to engage and groom them.

We've all seen and heard the tragic stories of how quickly sexual extortion can start in a teenager's bedroom, for instance, through an initial contact and escalate to a child taking a life within a four-hour period. That's how distressing it is. That's why the prevention and education messaging is so important to encourage parents to be aware of it, to talk to their kids and let them know they can come to them at any time, even if they are young adults. It is about telling young people to collect evidence and report to the platform, but not to pay, because they will continue to pay back, and to block and not respond.

The biggest message we give to them is: disclose; talk to someone. These criminals are very hardened. They know how to turn something that is sexy and flirty. Once they get a masturbatory video or some sexualised content from young men, they will immediately start threatening them with sharing with their friends. For

instance, on Instagram, follower lists are public. They can very clearly identify who the girlfriend is, who the father is and who the mother is. Again, they use guilt and shame. They say, 'How much money can you give us?' We've had young people come to us who have been out \$10,000, because once you pay, they come back.

I would also note that the platforms have a huge role to play here. My view is that they're not doing enough. We currently don't have any specific tools in the Online Safety Act to deal with sexual extortion. We have given the platforms very clear feedback on where we think they could effectively reduce recidivism, which is the consistent creation of fake and imposter accounts for the purposes of targeting children and colonising their platforms, and other steps we think they could take—for instance, using AI or natural language processing on these well-worn scripts that these criminals are using.

There is a lot of work to do here. I spoke with the minister about the online safety review and making sure that we have some provisions so that we could tackle sexual extortion from a regulatory perspective. We have asked a number of questions through our Basic Online Safety Expectations about what they were doing to prevent sexual extortion. In my view, the platforms are not doing enough.

Senator LIDDLE: You mentioned that you can refer 16- to 18-year-olds to the ACCCE, but there are also the 18- to 24-year-olds.

Ms Inman Grant: Sorry; 16- and 17-year-olds, who are technically minors. Mr Dagg can talk through how that protocol works.

Mr Dagg: About 25 per cent of all the reports of image-based abuse that we receive are made by those who are under 18. We recognise the urgency of referring those to police for investigation as quickly as possible. That's a very important component of our partnership with the Australian Centre to Counter Child Exploitation. The age range of those being targeted via sexual extortion, as the commissioner said, also extends out to those who are in their mid-20s. We work with police in other ways to share information about what we're seeing, including through the provision of intelligence reports and through the joint policing cybercrime centre.

Senator LIDDLE: You mentioned that currently we don't have the legislation in place that enables some greater protections for those people from sextortion. What work are you doing right now to inform legislators regarding what is potentially possible, reasonable and feasible to protect children and families?

Ms Inman Grant: We will be putting in a submission to the Online Safety Act review. We will be pointing out where we think some more efficacious powers might lie, so that we can further safeguard young Australians from this insidious form of crime. As I said, once a young person is ensnared, we can take remedial actions to try and remediate the harm. For instance, we use our image-based abuse scheme to take down from the internet intimate imagery or videos that have already been posted. But, as we know, by that time the harm has been done, so education and prevention efforts are important. It is my understanding that the reviewer of the OSA, Delia Rickard, will be looking at those issues through her consideration of the Online Safety Act.

CHAIR: We will go to Senator Chandler.

Senator CHANDLER: Ms Inman Grant, the eSafety website lists refusing to use a trans person's preferred pronouns online or posting a video that deadnames them as an example of gendered hate and says that deliberately misgendering someone online is a form of gendered violence. How do you justify these statements in a country where a male rapist and child sex offender could be placed in a women's prison and access women's facilities?

Ms Inman Grant: I fail to see the connection to that specific incident, Senator. That's drawing a long bow, I would say. I will hand over to Mr Dagg, who has responsibility for the education and prevention information on our site.

Mr Dagg: The resources you are referring to have been informed in significant part by our consultation with the LGBTIQ community, who have told us about the impact of misgendering and deadnaming on trans members of that community. The resources reflect that kind of advice.

Senator CHANDLER: Did you consult with any women's rights groups to understand how it might impact upon them to be in a position where they can't call out male sex offenders being placed in a women's prison and access women's facilities in an online space because the eSafety Commissioner has a position that is gendered violence?

Mr Dagg: Like the commissioner said, that is drawing an extremely long bow. The resources we have created don't go to any judicial decisions made to place a particular person within a particular correctional facility; that is a matter for the judiciary. If you are interested in understanding the nature of the consultation and process that we went through to develop those resources, I am happy to take that on notice and return to you.

Senator CHANDLER: I might put some questions on notice around that because I would be interested to know. I am guessing, given that you have referenced it as seemingly a long bow to draw, that you are not aware of the case I have referred to. I have spoken about this in the Senate before: a man who was previously convicted of raping his six-year-old daughter committed a serious sexual assault on a woman in Australia and was referred to as a 'woman' by the media and the court, before being placed in a women's prison.

Ms Inman Grant: What does this have to do with online safety, Senator?

Senator CHANDLER: Is it the eSafety Commissioner's position that referring to a male rapist as a 'man' or as a 'male' in an online forum, posting about it on Facebook, is 'misgendering' and a form of violence?

Ms Inman Grant: I will take that on notice. I am not required to provide a personal opinion—nor would I—in a case like that; nor would I make an on-the-spot judgement about a particular live investigation without the proper investigations being done. I will not be drawn on that, Senator.

Senator CHANDLER: Ms Inman Grant, am I, or is any other Australian, at risk of the eSafety Commission taking action to have social media posts removed if we refer to a male sex offender as a 'man'?

Ms Inman Grant: Specific provisions in the Online Safety Act go against political commentary and that is what I believe you are talking about. What we are looking at—and in the case that was raised earlier, which is now before the AAT—is assessment of the content. It only goes to serious harm and whether the post or posts were intended to menace, harass, and cause offence to the Australian individual by an ordinary reasonable person in all the circumstances; so a very high threshold. Of all the valid ACA complaints—adult cyber abuse complaints—that we receive, only six per cent result in formal notices. When those thresholds have been met, you know that there are serious attempts to not merely cause emotional and psychological harm to an Australian person. Again, you want to engage me in political debate. I am not going to censor any political commentary about trans or anti-trans material; that is not my role.

Senator CHANDLER: But your website clearly states that 'misgendering someone online is gendered violence'. So you are saying that there is a risk that somebody who does so—

Ms Inman Grant: Most of the social media platforms have within their hate speech policies content around gendering and misgendering and deadnaming. If we are going to talk about the online context from the Trans Justice Project, nine out of 10 trans Australians have experienced serious hate or violence online. The proportion of harm which that particular community experiences is off the charts vis-a-vis others. Back to the context that Mr Dagg noted: we have to consider that in looking at the vulnerability of specific communities.

Senator CHANDLER: Sure. I am a woman who has spoken out about these issues in the online space before, and I have copped my fair share of abuse, too.

Ms Inman Grant: I am sorry to hear that.

Senator CHANDLER: I am not sure I necessarily have the same protections in place.

Ms Inman Grant: Absolutely you do, Senator. If you reported serious cyber abuse to the platform and they didn't take action, and you reported it to us, we would look at that with the same lens and would like to help you, if you were experiencing serious harm as a result of that abuse.

Senator CHANDLER: The test in legislation is that a reasonable person would have to conclude that it is likely that material was intended to have an effect of causing serious harm to a particular Australian adult; is that correct?

Mr Dagg: Yes, that is correct. That is the first limb of the test.

Senator CHANDLER: Do you think that a reasonable Australian would agree that women are entitled to refer to people who are male, and who seek access to female facilities, as 'male'?

Mr Dagg: We are going back to the example you were citing before, Senator, the facts of which I am not familiar with. The test is one about establishing whether or not the material is intended to cause serious harm. I don't think anything could be read into that test that would suggest that engaging in a debate about a person's presentation would necessarily meet that bar. Again, it is difficult to work in a hypothetical sense at Senate estimates. Providing an answer in any definitive way requires us to review the material and take careful considered assessment of facts and apply the relevant law to the facts. It is difficult for me to be definitive either way, given your hypothetical.

Senator CHANDLER: It is difficult to be definitive either way. The reality is, as I was saying in previous questions, you can't say with any certainty whether or not an individual who talks about these issues in an online space does so with zero risk of having that material removed or having legal action taken against them for doing so.

Mr Dagg: I would respond in two ways to that. First, the eSafety Commissioner does not have a role in relation to hate speech. It is not a specific component of our act and it is not referred to as an element we need to take into consideration in relation to adult cyber abuse. The second is, when the definition of what constitutes 'seriously harmful' is considered, you will see that it excludes—I am using the language of the act here—'mere emotional responses such as fear and distress'. We are not talking about material that is intended to upset a person. We are not talking about material that is intended to simply offend a person. We are talking about material that is intended to cause serious harm and is menacing, harassing or offensive in all the circumstances. There is a lot for us to unpack in that test when we are going through the process to determine whether or not we judge material to be adult cyber abuse material, and so amenable to our removal powers.

Senator CHANDLER: I don't think I am any clearer about the level of risk that individual Australians have to subject themselves to in engaging in these debates in online spaces.

Ms Inman Grant: Are you implying that we are taking down political commentary?

Senator CHANDLER: No. What I am getting across is that we are having a conversation trying to determine where the boundaries are and the eSafety Commission is saying, 'It depends.'

Ms Inman Grant: No, the serious harm thresholds are laid out very clearly in the law and in the Adult Cyber Abuse Scheme, and we follow those. We take a reasoned approach. Six per cent of all valid complaints end up in a removal notice; a very small portion meet that threshold. So we take that threshold seriously, and we use discretion. Again, it is possible that some of your posts, or other posts, are being taken down because they violate a platform's terms of service and someone has reported something they find to be offensive, but it isn't something that was initiated by us.

Senator CHANDLER: But the advertised position on your website on misgendering and preferred pronouns is that women have to use—

Ms Inman Grant: We have 1,200 pages on our website, Senator. You can take a sentence and probably interpret it in any way you would like, but I don't think that tells the whole story of how our investigations are run and how we utilise our investigations.

Senator CHANDLER: Perhaps some information on that on your website in relation to some of those statements—

Ms Inman Grant: There is tonnes of information that we are happy to point you to, including our regulatory guidance.

Senator CHANDLER: That's all from me. Thank you.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: I am following up some of Senator Shoebridge's questions in relation to age verification and the trial that I understand is happening. We now have this new parliamentary joint committee that is going to be looking at a bunch of these issues. I am sure we will have lots more time to have you in front of us through that inquiry. In your role, I am interested to understand what you think the impact is for young people to be able to use social media safely without feeling as though, just because they are on TikTok or Instagram or Snapchat, and they are hearing about the fact that there is an age verification trial, somehow they are being targeted, that they are doing something wrong; the onus is on the young person, as opposed to the platform or the corporations which are using their data and manipulating them?

Ms Inman Grant: That is a really interesting perspective. I believe that at the beginning of the age verification roadmap—Ms King may be able to verify this—we surveyed young people about what they thought about age verification. We asked them questions about what they felt about online pornography. We have some forthcoming research around men and boys that we will soon release. It was interesting, in that young men themselves sometimes find online pornography offensive and misleading. In other research we have done they think it makes sense that those under the age of 16 have limitations on access to content. Our research has shown that the average age at which an Australian child comes across porn online for the first time is 13. By the time they are 16, the vast preponderance have seen it. We have a youth advisory council. This seems like an interesting area to further pursue with them, and how we mention to young people what the government is trying to achieve and how best we achieve it in a way that is empowering for young people. I want to make sure, again, that we are reading the national room and we are seeing all this about social media bans and what is the right age and what kind of digital abstinence tools we should be putting into place. There is a lot of research out there. A lot of it is conflicting. Most of it is correlation, rather than causal. We have to think about how we harness the benefits of the technology. Young people, particularly those who are from disadvantaged backgrounds or Indigenous or who identify with a disability or who are LGBTQI+ tell us that they feel like they are more themselves online than

they can be in real life. Our gaming research showed that kids feel like it is helping them problem-solve, it is helping them to manage stress. They want their parents to be more engaged and ask them questions.

When we are looking at these things, we have to think about how we harness the benefits and minimise the risks. It is a natural reaction that we'll seek to ban or deny children because we are concerned about what they might do or what they might come across. We also have to consider the individual child. If you look at our guidance on when is the right time to give your child a smartphone, there is guidance in terms of when you should be on social media sites. Right now it is 13; we know that is an arbitrary number. Our colleagues in the UK in Ofcom found that 38 per cent of parents of tweens, children between the ages of eight and 12, helped their children lie to get on social media sites early, which I think is interesting. We shouldn't be blaming parents for that because kids are getting online younger. This is how we need to empower them. It really depends on the individual child as to what is the right age. What are their individual circumstances? Are they in out-of-home care? Do they have engaged parents? What kind of access to technology do they have? Do they have underlying mental health issues? What kind of content are they looking at and what is the quantity and quality? Are they balancing their online lives with sport and interpersonal connection? It's going to be really hard for us to establish that evidence base about what the right age is. We've been talking with the National Mental Health Commission about what we should be doing to make sure that we get that evidence in place.

Senator HANSON-YOUNG: It is good that you are thinking about all of that and have access to, in particular, young people's perspective on this. What a lot of young people are hearing is that the government wants to take their mobile phone off them or cut them off Instagram or shut down Snapchat, when actually it's these platforms that are using the content, using these children's data, selling it to advertisers and manipulating it through algorithms. Surely they are the ones that need to be held accountable and responsible. We have age verification in the real world as well. You can't just walk into an 18+ nightclub without your ID. You may have a fake ID—that's how you get around that gate—but generally there's a view that there are some places that minors shouldn't be able to access. A suggestion from some politicians that kids need to be banned from social media is sending the wrong message. It's blaming the young people, rather than the corporations that are making bucketloads of money off the back of their data.

Ms Inman Grant: This is exactly why we have been advocating safety by design since 2018. Right now, as I said, we have dangerous by design or surveillance by design. I go back to my early days in the tech industry in Washington DC, in 1995 and 1996, when the Communications Decency Act, section 230, was put in place, 10 years before there was any social media. That provided intermediary immunity to these companies, who weren't even thinking about user-generated content in this way. You'll see companies say, 'Oh, we have put 40 different parental controls in place. We're really safe.' That just goes to show me that safety was never a primary consideration, if you have to retrofit 40 different parental controls. Maybe we have to go back to square one and look at how these were created in the first place—not with children's best interests in mind. This is why it is great to see the determination.

Senator HANSON-YOUNG: Can I ask you about that? I was asking the department about this earlier today: the difference in emphasis. If you take the EU's Digital Services Act, coming from a duty of care perspective, versus a more complaints and compliance perspective, do you think it's time that we consider whether we've got that balance right and whether duty of care needs to be more front and centre?

Ms Inman Grant: That is something that was in the issues paper and that I know the reviewer is interested in looking at. In the context of both the Digital Services Act and the UK's Online Safety Bill, risk assessments and safety by design are critical to achieving that duty of care. It's just like the embedding of seatbelts, airbags, anti-lock brakes and all of the safety interventions we take for granted in cars today. In the 1960s, none of those were there until Ralph Nader wrote *Unsafe at Any Speed* and went to parliaments and congresses all over the globe, and we had to legislate for seatbelts to be invented, to bring the road tolls down. The car manufacturers pushed back vehemently. Of course, now they compete on safety standards. With this technological exceptionalism, they've been lobbying for years and years, saying, 'Don't rein us in. Don't stem the innovation and economic promise that we're bringing. If you regulate us in any way, you're going to quash that innovation.' I actually think innovation can stimulate and should be used in ways to make their platform safer. They certainly have the financial resources, access to those technologies and the best minds in the world to be able to do that. If there's a will, there's a way. It's more like there's a way; we need to see more of the will. Maybe that is through new and improved legislation.

Of course, we do have systemic powers through the Basic Online Safety Expectations. We've been in deep conversations with DG Connect, the part of the EU that is administering the Digital Services Act. They have very

granular requirements of the platforms, and particularly the VLOPs, the very large operating platforms, to provide that.

The way that we do transparency is particularly useful because we're not allowing the companies to spin the numbers. We're asking very targeted, specific questions that they haven't wanted to answer for years and years. There are some parts of what we do that we need to keep, that are world-leading and best in practice. But we have seen some leapfrogging by the Europeans and the UK, and we should take the best of those to look at fully strengthening the next version of the Online Safety Act. I think our minister is right on board with that.

Senator HANSON-YOUNG: Thank you.

Senator BILYK: Before we go to the next person, can I ask for clarification? Commissioner, can you explain to us what class 1 material is and what kind of material is included in that definition?

Ms Inman Grant: I won't speak to the current case before the Federal Court.

Senator BILYK: No, just broadly.

Ms Inman Grant: Class 1 is illegal content, refused content. Just to give you a sense of the content, we're talking about the worst of the worst. It's anything that deals with drug use or addiction, terrorist content, crime, cruelty, violence, or revolting, abhorrent phenomena. Again, I'm looking at some of the definitions used in the classification act, which are based on morality and obscenity. The way that commercial movies, books and music are produced is very different from the class 1 content that we are having to deal with and stem the virality of in real time. It's user-generated content that is livestreaming violence, rape, torture and terrible things like bestiality, necrophilia, instructing in crime and violence. It's the worst of the worst content. We have got to tackle that first. Again, the whole debate about social media bans is around really serious issues, including how this is affecting young people's mental health.

In my opening statement, what I wanted to get to was how the worst forms of violent content, class 1 content, are leading to deep distress, deep damage to young people. If we don't tackle the most harmful content first and have the reasonable expectation that the technology companies will do the same, then even the broader steps we're looking at to try and improve the intersection between adolescent technology use and mental health are going to be very challenging indeed. Did you want to add anything on the class 1 content?

Mr Dagg: No, Commissioner. You covered it pretty comprehensively.

CHAIR: We will go to Senator Antic.

Senator ANTIC: Earlier, you talked to my colleague Senator Chandler about this business of misgendering and how it was at least informed by your discussions and consultation with LGBTI groups. Have you had consultations with any other groups or bodies—like Christian groups or school groups—to see what they find harmful and alarming?

Ms Inman Grant: Absolutely. Would you like me to take that on notice and provide you with a list of those kinds of groups?

Senator ANTIC: Yes, please; that would be good. The reason I ask is that you have talked a lot about children's safety. That was the genesis of the role. We often see posts online involving children and drag performers—the drag queen story time type posts. Have there been any removal notices for those? Have they been sanctioned? Do you think they are appropriate for children?

Ms Inman Grant: I don't recall that we have received any specific reports around that. I am thinking about the criteria—and my colleague can validate this. When we look at youth based cyberbullying, it's about targeting an Australian child with threatening, harassing, intimidating and humiliating content. I don't think that fits the threshold of any of the schemes that we have.

Mr Dagg: I would tend to agree, working in a hypothetical sense, without the opportunity of reviewing the material. Material about the drag queen story time would not meet any thresholds.

Senator ANTIC: There are a lot of parents who would disagree with that and find it very threatening and intimidating for their children. I am intrigued as to why it is that, perhaps on one hand—they are very subjective matters; I accept that—misgendering, for example, would create a threshold but something like that would not.

Mr Dagg: Can I just clarify: the operation of the child Cyberbullying Scheme is directed towards dealing with complaints about material that intends to have an effect on a particular Australian child, rather than a group of children. Even accepting the premise of your statement, the child Cyberbullying Scheme wouldn't be applicable to concerns about groups of children.

Ms Inman Grant: This is where the balance of empowering parents with the information that they need to be engaged in their children's online lives, to use parental controls, is really important. As I said at the beginning, we are not policing all of the content of the internet. If it doesn't meet a harm threshold within our legislation—

Senator ANTIC: If, for example, a picture was posted by a school that had an event and a parent's child was in that photo and they were distressed by it, would that be the sort of thing which meets the threshold for removal?

Ms Inman Grant: Unless it was designed to harass, intimidate or humiliate a specific Australian child, I don't think that would meet the bar of any of our schemes.

Mr Dagg: We would need to take that complaint.

Senator CADELL: It has to have motive? It couldn't incidentally harm someone; it has to have motive to do that. Is that correct?

Mr Dagg: There needs to be a factual basis for us to be able to ascertain that the material was intended to have a particular effect on an Australian child.

Senator ANTIC: Part of the problem is that the online world is full of that sort of conduct that is vitriolic and designed to harm. Trolling is exactly that. How routinely do you take down posts which refer to people as white supremacists, RWNJs—right-wing nut jobs—neo-Nazis, conspiracy theorists or anti-vaxxers? Do you deal with those sorts of complaints? Have you had people who have complained about those?

Ms Inman Grant: We don't label Australians, whether they're the perpetrators or the complainants. Again, I think back to this conversation that we've had about adult cyber abuse. There's the two-pronged objective test that we apply. We are looking at serious intent to harm, and menacing, harassing and offensive behaviour.

Mr Dagg: If your question is about whether or not we have dealt with complaints that are about material that uses those terms, I would have to take that on notice. I would say that, without being afforded the opportunity to review the specific material, simply labelling a person a thing, regardless of what that might be, would probably not meet the threshold because, as the commissioner—

Senator ANTIC: How can that be? If someone is being labelled a man when they say they're a woman, is that not one and the same?

Mr Dagg: I don't think we said before that labelling a person as another entity—

Senator ANTIC: Or misgendering.

Mr Dagg: Misgendering may not necessarily meet the threshold by itself. It is important for us to go back to the conversation with Senator Chandler. Material that produces straightforward feelings or is intended to produce a feeling of distress or fear or some other basic emotion, if I could put it like that, isn't the kind of material that is caught by the section. It must be intended to cause serious harm.

Senator ANTIC: I take you to an article from the *Courier Mail* of 28 April 2018; it may have been syndicated. I can tender a copy. There was an interview, I think, Commissioner, with you, where you say you were fresh out of university. You don't say this, but it was reported that at the dawn of the 1990s you were offered a position as a case agent with the CIA, and you self-described as 'mission driven.' Is that true; you were offered a role with the CIA?

Ms Inman Grant: I did a number of interviews out of university. One was with my hometown congressman on the hill. Another was with the CIA. I was an international relations major. I was interested in public service and I took the role with my congressman. Is there a conspiracy theory coming here?

Senator ANTIC: No. I am just wondering: you have never worked with the CIA?

Ms Inman Grant: No, I have not.

Senator ANTIC: You don't have any interaction with the intelligence services through your role?

Ms Inman Grant: I do not.

Senator ANTIC: Once again, saying 'conspiracy theory' is very hurtful.

Mr Dagg: We have contact with a number of Australian government agencies in a way that's appropriate to the role, functions and powers of the eSafety Commissioner.

Senator ANTIC: But you have no contractual relationship with any of them?

Ms Inman Grant: No.

Senator ANTIC: Do you still hold US citizenship?

Ms Inman Grant: I hold Australian citizenship first. And, yes, I still hold my US passport. I represent the Australian people in this role as the eSafety Commissioner.

Senator ANTIC: Sure. You don't need to be defensive about it. It is just a question.

Ms Inman Grant: It's an interesting line of questioning.

Senator ANTIC: No, it's not. I am interested—

Ms Inman Grant: I am looking forward to seeing where it goes.

Senator ANTIC: You gave that interview, didn't you? You offered it. You said that you were offered a role. How does that come about? Do you just get offered a role with the CIA?

Ms Inman Grant: There is a very long process, including a polygraph test. You have to be of very high moral character and standing. You are asked about every bad thing you've done in your life, and you have to take a polygraph test about it. Listen, I decided that was not—

Senator BILYK: So does the minister.

Ms Inman Grant: It was interesting. I specifically remember the person telling me, 'We're looking for people with high moral fibre but then you have to lie to all your friends and family if you do it.' I just thought this is not the world I want. I'm an open person. I want to serve in government. I want to make a difference in the world. I've obviously taken a very different path.

CHAIR: We will now go to Senator Pocock.

Senator DAVID POCOCK: Thank you for your time. I come back to something that, hopefully, may be more relevant. In the 2022 estimates I asked about your ability to monitor social media companies and the impact they're having on the mental health of young people. I understand that this is a fast-evolving space, as you've said. Since then we've seen further research published. Jonathan Haidt's recent book *The Anxious Generation* references a lot of this research looking at the impacts of social media and a screen-based childhood, such as a 145 per cent increase in teen girls and 160 per cent increase in teen boys suffering major depression episodes between 2010 and 2020; a 134 per cent increase in anxiety for college students over the same period; an 81 per cent increase for girls and a 51 per cent increase for boys in mental health hospitalisations. Based on this evidence, Haidt recommends no smartphones before high school, no social media before the age of 16, phone-free schools, more independence, free play and responsibility in the real world. Given all the data that is emerging, I am interested in what your current position is in relation to this and the impact that social media is having on young people's mental health.

Ms Inman Grant: Thank you for the question. I go back to some of the earlier conversation where we actually need very specific Australian evidence.

Senator DAVID POCOCK: There is some Australian evidence in Haidt's book.

Ms Inman Grant: There is some that we have captured. For instance, 28 per cent of young people between the ages of 14 and 17 were exposed to content that promoted unhealthy eating. I think that over 71 per cent of young people have experienced contact with seriously harmful content. I think it's indisputable, particularly for any of us as parents, that there is a range of risks that need to be managed. I actually agree with some of Mr Haidt's recommendations about building resilience in children and making sure that there is more balance. In considering what the right age is for young people, I still believe it does depend on a child's individual circumstances. Putting on my regulator hat, I think the question is: what is the evidence that we need to choose the right age? What are the right interventions we need to take? How do we then make sure that anything we do is implementable, measurable and something that can be readily enforced? I also say that I really appreciate all the political leadership we've seen from the premiers in this area. As you would also have seen, different ages and proposals are being proposed across different states.

Our experience, through research and engaging with children all around the country on an almost daily basis, is that kids from Queensland don't necessarily experience technology or harm differently from kids from Tassie or the ACT. So I think that a more workable plan would be at the national level, and I think that will be looked at in a number of ways.

I also think that one of the hardest or biggest challenges we have is actually in reaching parents and empowering them to, like I say, be engaged in their kid's online lives and help them navigate this really difficult area. For instance, one of our earlier adult surveys or parent surveys indicated that 95 per cent of parents told us that online safety was the toughest parenting challenge they had; yet only 10 per cent sought out information about how to manage it until something went wrong. I think we want to get to this place where we are talking

about digital hygiene. We teach kids to wash their hands and brush their teeth. What are the things we need them to be doing around technology?

I remember being very ridiculed in 2021 when we released online guidance for parents of under five-year-olds. The guidance was to be safe, be kind and make good decisions and ask for help. That was because 42 per cent of two-year-olds had access to a digital device, and by the time they were four it was 91 per cent. So as parents we were handing over the devices. We can't leave our children to their own devices on their devices. So how do we keep them safe? How do we set up family technology agreements? How do we talk to them about these types of things? It has to start in the home and then be continued into the school.

Of course we've got Tools For Schools and all sorts of things. We are at that stage where the first digital native babies are now young adults. It is interesting that we're seeing all these impacts, including young people saying, 'You shared too much about me when I was a young person.' Where I was ridiculed was when I said that part of the guidance was that parents should model good behaviour for their children around consent. So if you're taking a picture of your child on their first day at school you obviously want to make sure that there is not a lot of personally identifiable information; that you're asking them whether it's okay to take a picture and post it to a social media site. I think the headline was, 'eSafety Commissioner tells three-year-olds they have to ask for your permission to take your photo', which of course wasn't the point.

Thank goodness for people like Chanel Contos who has brought forward the whole issue to consent. There are a whole bunch of different layers of consent that exist there. There is respect, responsibility, building digital resilience and critical reasoning skills that are all key to that. The last thing I would say is that some of the best research we have seen thus far, which looks at the intersection and the steps that can be taken around adolescent technologies and mental health, is from the National Academy of Sciences, as well as guidance that the American Psychological Association.

This research talks about all of these interventions that we've been pushing for years: changing the design of platforms so that the best interests of the child is there; making sure that we are harnessing the benefits and using the good but getting rid of the bad—a whole range of interventions. I do think it would be beneficial if we had really specific and longitudinal data about evidence for children. I think about what children are experiencing in the US—gun violence, fentanyl crisis.

Senator DAVID POCOCK: My concern, based on the best available evidence, is that it seems like there is a pretty strong correlation, and that if we are just going to wait for more data what are we doing to young people now? We can talk about safety and seatbelts and all those sorts of things, but we also don't let young people under 16 drive a car because we know it's dangerous.

Ms Inman Grant: Right. The Australian government set up the first online safety regulator; we're almost nine years old. As I said, we're trying to remediate harm the best we can. I think we had 2.5 million visitors to our website; and, of course, our target is Australians. We have some of the best evidence-based rigorous guidance in the world. We've got lots of overseas visitors who use our materials all the time.

Senator DAVID POCOCK: You mentioned earlier putting requirements on app stores and trying to address it that way. I've been advised that if you simply type in 'undress' into the app store it comes up with apps that say they can make photos look raunchy or sexy. The next step is obviously deepfake porn. It seems to me that this will have—potentially we're already seeing it—horrific consequences for the mental health of young women in particular. I am interested in what is being done in this space to stop this from happening before it becomes widespread.

Ms Inman Grant: One of our concerns about the app stores today is that most of them have policies that say that pornography isn't allowed on your app. We had one of the platform companies in. We said, 'We are able to access Twitter and Reddit and they have porn all over it'. They said, 'Oh, you shouldn't be able to access that from Australia.' I'm like, 'Well, here we are.' There's a huge disincentive right now for the app stores to follow their own—

Senator DAVID POCOCK: What do you need to be able to force them to do that?

Ms Inman Grant: We will need to start looking at codes violations. The point I was going to make is that they collect 30 per cent from every transaction that happens on a social media site. When I was there, Twitter was designed to be viral; a great place to raise money for good causes. But even for charitable giving, Apple would take a 30 per cent cut of every single transaction. Think about the force multiplier of deplatforming an app and what that would mean to the revenue.

Senator DAVID POCOCK: Where is the urgency here? We see just how quickly generative AI, deepfakes and voice clones are moving.

Ms Inman Grant: There is a huge sense of urgency.

Senator DAVID POCOCK: What do you need to make that happen? Earlier Mr Dagg said that industry was drafting the codes. Is industry drafting these codes?

Ms Inman Grant: That is the way the legislation is designed. We are about to table some standards that actually go precisely to this question about deepfakes and AI while you tap that app.

Mr Dagg: That is right. The standards that we'll be registering in the next couple of weeks are the final regulatory piece of the puzzle for our phase 1 codes and standards work.

Senator DAVID POCOCK: How enforceable are they?

Mr Dagg: They are directly enforceable. Failure to comply with the standards provision is itself a civil penalty provision. Providers of a range of generative AI services, for example the kinds of services that are provided by websites, that are consumer facing, that allow for images to be 'nudified', if we could use that term, and the kinds of services that can produce adult pornographic synthetic material using a text prompt, will be designated high-risk generative AI services and will be subject to a number of requirements around having effective terms of service and effective complaints mechanisms in place, and putting some guardrails in place to make sure that they can't be used, for example, to produce child sexual abuse material. The extent to which those services—

Senator DAVID POCOCK: What about one step back from child sexual abuse material? Surely making deepfake pornography of someone else—

Mr Dagg: Yes. That is actually captured under our image based abuse scheme. A person who has been targeted by deepfake pornography can complain to us. We can take action through the scheme to achieve removal of that material, which is compulsory, and backed by civil penalties. In addition, if we are able to identify a perpetrator, we can require that person to take remedial action—for example, deleting or removing any material in their possession or control. The Online Safety Act does already provide protections for Australians. It has done so through various iterations of that scheme since late 2018.

Ms Inman Grant: We've also taken remedial action through Federal Court proceedings against an Australian who was creating deepfakes of well-known women, including sexual assault survivors. We are taking those actions. The government has just announced the criminalisation of using AI to create things like deepfakes. While these pieces are starting to come together quickly, I get your sense of urgency; we feel the same way, too. Because we were thinking about deepfakes back in 2021, the Online Safety Act does allow for us to capture synthetic material, whether it is image-based abuse or CSAM, even in bullying cases, where we have seen young boys using a freely available app on their smartphone to create sexualised deepfake videos of their classmates. Those are already coming in and we're taking action.

Senator DAVID POCOCK: On notice, can you provide how many complaints you have had, to do with deepfake?

Ms Inman Grant: Yes.

CHAIR: We will now go to the afternoon tea break.

Proceedings suspended from 15:46 to 16:03

CHAIR: I will just take a moment to update people further along in the program and anyone else who's interested. The committee have made a couple of decisions about the remaining agenda for the day. We would like to advise that SBS and the Classification Board are now released, and questions will be put to them on notice. There will also be a spillover for the Australian Postal Corporation and NBN Co Limited, and they will be advised of an alternative date by the secretariat. We will now return to questions of the eSafety Commissioner.

Senator SHARMA: I would like to ask about age verification. Your roadmap for age verification is from March of last year; is that right?

Ms Inman Grant: March 2023, after the 2021 inquiry and two years of consultation.

Senator SHARMA: In that roadmap for age verification you recommended the trialling of a pilot.

Ms Inman Grant: That's correct.

Senator SHARMA: What was the government's initial response to that?

Ms Inman Grant: They declined to take up the pilot at that time, which is a decision that has been reversed; they are moving full speed ahead.

Senator SHARMA: I have the letter here which the minister wrote to you, and which was released under FOI, saying that she was concerned that conducting a trial of age assurance technologies may unnecessarily distract

industry from developing and delivering new and strengthened codes. What has changed since then? Has industry developed new and strengthened codes?

Ms Inman Grant: While the codes and standards work continues, the technologies have also markedly improved over that time. We raised concerns in the age verification roadmap about the balance of security, privacy and safety. I would have to refer those questions about the government's decision to the department and the government.

Senator SHARMA: When did you get advice that the government had changed its mind about the pilot for age verification?

Ms Inman Grant: The Prime Minister held a National Cabinet where they discussed a range of critical issues around online violence, online misogyny, and domestic and family violence. That was when the decision was made to employ the trial.

Senator SHARMA: So that was on 1 May this year?

Ms Inman Grant: That sounds about right.

Senator SHARMA: Were you advised beforehand that the government was planning to go ahead with your recommendation for a trial?

Ms Inman Grant: I may have been advised by the department—no, I was not. The reason I remember is that Micaela Cronin—who was at the National Cabinet—and a number of other women were with me, and they had been told they had to keep things quiet. That is why I did not know. I am trying to walk through the sequence of events.

Senator SHARMA: That is all right. So you were surprised by the Prime Minister's announcement on 1 May; you had no forewarning of it?

Ms Inman Grant: We continued to have discussions with the minister, who has always been concerned about children and online safety. We had subsequent discussions as the codes and standards process was moving along and as the technology was getting better. In some ways, I was not surprised; I was pleased.

Senator SHARMA: How have we gone from it being an 'unnecessary distraction' to now a lead announcement item? Did you get an explanation for that, about what has changed?

Ms Inman Grant: That was not a line of inquiry I pursued. I recall from the letter that they wanted us to focus on implementing the phase 2 codes. We are close to putting the standards before parliament for phase 1, and we have been engaging with industry around the phase 2 codes since November. We will soon get them a paper that highlights our expectations for each sector, and we will ask them to commence work on that.

Senator SHARMA: I turn to funding for the office of the eSafety Commissioner. The funding outcome for 2023-24, according to the most recent set of budget papers, was \$52.7 million. Have I got that correct?

Ms Inman Grant: I will defer to Ms King.

Ms King: That is correct.

Senator SHARMA: In 2021-22—this is going back a couple of budgets—the funding was \$53.9 million; have I got that correct?

Ms King: I don't have that in front of me.

Senator SHARMA: I got it from the budget papers. Does that sound right?

Ms King: I would have to take those specifics on notice.

Senator SHARMA: From what I understand, even though the mixture has changed between base and program funding, the overall funding envelope for the office has basically remained the same, at a little north of \$50 million, over the last three years.

Ms King: That is correct.

Senator SHARMA: Finally, for my own benefit more than anything else, because I am quite new this, I want to understand more about the regime around removal notices. I saw in your annual report from last year that there were three class 1 removal notices. Have you got figures for this financial year to date on how many removal notices you have issued and the characterisation of them? Is it either class 1 or class 2, refused classification—

Ms Inman Grant: We have four different schemes. Mr Dagg will talk through the removal notices for each of those.

Mr Dagg: We can take on notice a breakdown of removal notices issued over the last financial year and up to the most recent quarter. As the Commissioner has said, removal is a power that is provided for under each of the

four schemes. Different thresholds need to be engaged before a removal notice can be issued, but they all have similar effect, in that they require removal of the relevant material within 24 hours, and they are all backed by civil penalties.

Senator SHARMA: For the ones for refused classification, that's under section 106 of the act. Is that right?

Mr Dagg: Section 109 is the removal power. Section 106 is the definition of class 1 material.

Senator SHARMA: The categorisation of it?

Mr Dagg: Correct.

Senator SHARMA: How many have been issued this year under section 106, under 'refused classification'?

Mr Dagg: I do. It is a bit complicated because it is split between service providers like websites and hosting services. Rather than garble the answer and take you through a mind-numbing degree of detail, taking that on notice will make it easier for us to explain which services were engaged with removal services and why.

Senator SHARMA: I am happy for you to take that on notice.

Ms Inman Grant: The investigations team does an incredible job. When sites are hosted in hosting environments that are set up for the purposes of, for instance, hosting child sexual abuse material or rogue porn sites or gore content, they do a very good job of moving up and down the stack and providing notices upstream to hosting providers, some of whom are also known to be resistant to removal. That is why a complicated explanation goes with each of them. Then we have link deletion notices. When those fail, we send them to the search engines to de-index harmful content.

Senator SHARMA: Under sections 106 and 107, the definition is the same as used for the classification board; is that correct?

Mr Dagg: No, that is a connection between part 9 of the act and definitions of class 1 and class 2 materials. Class 1 material is any material that has been, or will likely be, classified by the classification board as refused classification. As the Commissioner was explaining earlier, that can be anything from pro-terror material to child abuse material to content that instructs in matters of crime and violence. Class 2 material again is declared in reference to the classification scheme. It is material that likely would be classified, or has been classified, R18+ or X18+. It is primarily adult pornographic material that falls within that category.

Senator SHARMA: And the Online Safety Act has a provision for you to consult or seek advice from the classification board in respect of those definitions?

Mr Dagg: That's correct.

Senator SHARMA: Does that happen regularly?

Mr Dagg: It happens when we want to get some views about novel issues. For example, we recently approached the classification board for their views about how they are treating synthetic material that is being produced by generative artificial intelligence, whether or not that could be classified X18+ if it shows actual sexual activity. We were thinking that if it is actual sexual activity between consenting adults, then what is depicted there is a synthetic representation where there are no consenting adults per se. We wanted to get some advice from the classification board on that front.

Ms Inman Grant: Going back to an earlier point, it is worth noting that, when we request something from the classification board, it takes an average of 28 days; for an expedited version it takes five days. As you can imagine, when we are investigating, let's say, livestreamed class 1 violent content that is going viral quickly, we don't have the luxury of that kind of time.

Mr Dagg: Let me emphasise: under the Online Safety Act we are no longer required to have a Classification Board decision before we take an action, as was the case under the Broadcasting Services Act, when the online content scheme was in the earlier legislation.

Ms Inman Grant: You can imagine what that would look like with 33,000 investigations of URLs last year.

Senator SHARMA: Is there a review mechanism for a removal notice? The Classification Board has a review board to review its decisions.

Ms Inman Grant: We have multiple layers. There is an internal review process. All of these are built into the Online Safety Act. A complainant can have that reviewed or take it to the Administrative Appeals Tribunal. It can be taken to the ombudsman or the Federal Court. There are about four clear mechanisms.

Senator SHARMA: So the removal notices fall within the jurisdiction of the new Administrative Review Tribunal, or the old AAT?

Mr Dagg: There is an internal review mechanism which is predicated on the same grounds for appeal to the Administrative Appeals Tribunal for a merits review. A decision made by the eSafety Commissioner is absolutely reviewable by the Administrative Appeals Tribunal on a merits basis, and errors of law are compelled to the—

Senator SHARMA: The Federal Court—that is administrative law.

Mr Dagg: Administrative law—yes.

Senator SHOEBRIDGE: I am sorry if you covered this in some detail while I was away. Could you give an update on where you are at with those nice people in X?

Ms Inman Grant: As you would understand, I can't speak specifically about the litigation that's live and in court today.

Senator SHOEBRIDGE: Rather than the legal to-and-fro, could you speak to where it is up to from a procedural point of view?

Ms Inman Grant: I will turn that over to Toby. I will say that we have a very full dance card with X Corp. It is not just the current court case that's underway, around the Wakeley stabbing. We've got other matters that X Corp have brought to the AAT. In terms of our BOSE, our TVEC notice, which is a transparency notice, my belief is that if you're about free speech absolutism, being open and transparent should be part of that.

Senator SHOEBRIDGE: You'd almost think not being transparent is kind of hypocritical from a platform that preaches free speech, wouldn't you?

Ms Inman Grant: I will let that stand as your comment. They are also challenging our BOSE notice. That was a letter about taking down all of our online hate report so that the transparency notice was no longer reviewable by the public. They have brought a challenge to the AAT around the adult cyberabuse case we have brought, or the former removal notice that we sent around Billboard Chris, which has been the discussion. There is a further AAT removal notice issue. It's also been raised by Billboard Chris himself and the Free Speech Union. Earlier on, when we issued the Basic Online Safety Expectations transparency notice around what X was doing to combat online child sexual exploitation, as you may recall, they did not respond and we filed them a service provider notification and found them to be in noncompliance. We also gave them an infringement notice of \$610,000. I recall the comment you made about wet lettuce. They did not pay that fine. They issued a judicial review around that decision in the Federal Court. We then brought proceedings against them for failure to comply and to pay the infringement notice. There are a fair number of pieces.

Senator SHOEBRIDGE: How many legal proceedings are there, one way or another?

Ms Inman Grant: There are six.

Senator SHOEBRIDGE: How many of those are at the behest of your office? In how many of those are you the applicant and in how many is X the applicant?

Mr Dagg: X is the applicant in relation to the AAT matters. There are three AAT matters that have been initiated by X Corp. X Corp is also the applicant for the judicial review of the decision to pursue a civil penalty for noncompliance with the BOSE notice.

Senator SHOEBRIDGE: So four matters are X Corp and two matters are your office, in terms of the applicant.

Mr Dagg: It is a little bit complicated because the Billboard Chris matter, Chris Elston, relates to a notice that the eSafety Commissioner provided to X Corp in relation to a post made by him on that account. He has sought review in the AAT, as has X Corp, so they are being run on parallel tracks.

Senator SHOEBRIDGE: Is there a review being undertaken internally, based on this kind of litigation experience, that is designed to identify improvements, clarifications, additions that are required under the Online Safety Act or otherwise to bolster the office's powers or just to make the powers that were intended more effective? Is there a review underway?

Ms Inman Grant: Yes; absolutely. The Online Safety Act review will be looking at all of those things, including penalties, enforcement powers and—I am hopeful—even business disruption powers.

Senator SHOEBRIDGE: That is the review that kicked off in November of last year; is that right?

Ms Inman Grant: That is right.

Senator SHOEBRIDGE: What stage is the review up to?

Ms Inman Grant: I think the issues paper was released earlier this month. That is due at the end of June, if I recall correctly. I think a final recommendation will be due at the end of October.

Senator SHOEBRIDGE: It is basically 12 months, from beginning to end, until we get a recommendation. I know you are not doing the review. That is being done by the department; is that right?

Ms Inman Grant: That is being done by Delia Rickard, the former deputy chair of the ACCC.

Mr Dagg: I can clarify the dates. You are right: the consultation work closed on 21 June.

Senator SHOEBRIDGE: Would you say that getting the right powers in place is urgent? Given what you are seeing across all different platforms, and given the way that X in particular is thumbing its nose at regulators, would you say this is urgent business?

Ms Inman Grant: I think it is urgent. The government moved the review up because it is more urgent. It is also very complex, and we want to get this right. There are so many things that need to be done to strengthen the act, frankly.

Senator SHOEBRIDGE: One of a number of concerns that I have about the matter is that, whatever is completed in this review process, by the time we've reviewed it, the government has considered the recommendations, the recommendations have been presented to parliament, parliament legislates the recommendations and you are then in a position to implement the recommendations, it will be 2025 and the world will have moved on. In a good world, it will be 2025, and even by that stage the world will have moved on. Is there some kind of ongoing review mechanism to have a continual watching brief in this space? Otherwise, we are constantly legislating for 2018 or 2022 or 2024.

Ms Inman Grant: I am in constant discussions with the minister and the department. An example would be that there was a sense of urgency around funding to provide for legal resourcing as a result of the litigation, which in some ways was foreseeable with X Corp because that is how they tend to act.

Senator SHOEBRIDGE: I know my colleague Senator Hanson-Young touched upon the steps that are being taken to protect children. In terms of algorithms that are designed to target children in particular, exploit their data and then target them and drive them down sometimes quite extremist lines, sometimes to offensive materials, what are you able to do, do you think, through the online safety codes, to get some transparency on and some control of algorithms? Where are the limits of your powers in that regard?

Ms Inman Grant: I would point to the record: a position statement we put together on recommender systems and algorithms specifically, followed by one on generative AI. These are complex areas. We have used our transparency powers to ask questions of a number of companies, including TikTok, about how they are preventing their recommender systems from sending people down rabbit holes. I don't think we got the fulsome information that we need. I think we are going to need a different set of tools. I am not saying that we need to break the black box, but under Kathryn's leadership we are trying to build the right capacity to do more algorithmic regulation and to measure outcomes. As I said in my statement, companies are becoming increasingly more opaque. This is why they are responding to transparency in this way.

If you go back eight years and you look at Meta's acquisition of CrowdTangle, which was used as a social research tool to monitor in real time the toxicity and the bad things happening on the platform, they took the novel approach of acquiring it and then deprecating it. Of course, they are being investigated by the EU around that.

One of the first acts you saw the new management of then Twitter and now X take was to take the Twitter data hose, which had been used broadly by NGOs, academics and researchers to measure things like online hate and extremism on the platform, and put it out of reach. It is US\$40,000 a month. Reddit followed suit, suing NGOs who scrape data or criticise the platform.

There's a great article I think you would like by Vittoria Elliott, in *WIRED*, titled 'How X is suing its way out of accountability', published on 15 August 2023. We are seeing this play out in real time. They are using a bunch of different tools to make themselves more opaque. We need to leapfrog them and be given more tools to make sure that they are more transparent.

Senator SHOEBRIDGE: If you compare the environment for a regulator here to the environment in Europe, where the Digital Services Act applies, do you see the same? Is there enhanced transparency? What's happening in Europe? Has the legislation there lifted the game?

Ms Inman Grant: We have been in deep conversations with the Europeans. They have a lot of strength. They've got a lot of lawyers who have experience in taking on big tech. But they've also never worked in the fast-moving world of online harms before. I think that is very challenging. A lot of their DG Connect folks come from the antitrust world, where you're working from laws that have been in place since the late 1800s, like the Sherman Anti-Trust Act. We are taking very complementary approaches to transparency. They are asking very detailed questions, periodically. We are asking very specific detailed questions. We're cross-referencing. That's very

helpful. They, of course, have 27 nations behind them. They are a regional economic bloc with tremendous power. We have observed that some of these players are much more willing to listen to or respond to the European Commission than they are to Australia.

Senator SHOEBRIDGE: A number of stakeholders in Australia are saying, 'Yes, they have the economic power; yes, they can put in place arrangements; yes, they can force certain arrangements on some of the big players because of their sheer size, so why don't we piggyback on that?' Why don't we get a bit of that and just say, 'Actually, we'll have a bit of that transparency as well,' using the same models, the same rules, the same things set up here? Wouldn't that make your life much easier?

Ms Inman Grant: That's something that is being very closely looked at: how can we take the best elements of the Online Safety Act in the UK, or the DSA, and supplement our broad processes and systems power? I anticipate that's how things will be enhanced. I would also say that one of the most important things we do is remediate that harm in real time through our complaint schemes.

We have just put out a statement with the other regulators that are part of the Global Online Safety Regulators Network on regulatory coherence, making that very key point that we will never have identical regulatory and legal regimes, but what we are trying to do is help companies understand that, where they comply here they are also in compliance here, and we are working on a really exciting regulatory index. So I think the government has the finger on the pulse here and is looking at the best aspects of some of these other government arrangements.

Senator SHOEBRIDGE: Maybe.

CHAIR: Thank you.

Senator CADELL: Coming in last, I assume that all the good questions are taken, but I have listened to everyone and I have written down a whole lot of notes and am a bit all over the shop—so, sorry about that. When we talk about age verification and user access specifically, I must say I am disappointed in what I've heard today about the scope of the trial, which seems to be more an examination than any sort of testing. We are looking at who does what and what works or otherwise.

Senator Carol Brown: It is an assessment of social media and the tools that they use as well, as you know, which is critically important.

Senator CADELL: Yes, I understand that. I get that. I guess this is a first step on what works. I said to Senator David Pocock earlier maybe he and I get 10 mates, put them in a basement, they access adult sites all day and we will get paid five million bucks. Aside from that, there are many things with technology that we need to do to help children with in regard to their social media. We are talking about communications and other things. I will mention some of the things I have personally experienced—firstly, the peer pressure on kids. If there isn't a fixed age that is enforceable, an 11-year-old picks it up and is the coolest kid in the world, and if you don't get it you are not cool. And these pressures under 13 are a hard thing to fix. One I am hearing about a lot is co-parenting, when there is a permissive parent versus one who isn't. That is used to upset the whole household, with, 'My dad lets me,' or something like that. It is a real problem without standards, where a device can be sent home to another parent that has Snaps, Twitter and all these things available. What are we doing in that space, away from technology, where we can help those who want to do the right thing? I did not quite get your statistic. Did you say that in the UK 38 per cent of children have assisted their children in lying about their age to get—

Ms Inman Grant: To join social media sites before the age of 13.

Senator CADELL: I do not think it would be different in Australia with those sorts of pressures.

Ms Inman Grant: Hey, my children just entered 7th grade. but last year they used to say, 'Mum, it sucks to have you, our mum, as the eSafety Commissioner. We are the only two kids in 6th grade that don't have a phone.' I thought it was going to be a really good idea, because they were not able to join in the group chat that all of grade 6 was doing, to give them my phone number. So I was getting all the messages. But it resulted in me having a lot of conversations with some of my kids' friends and some of my kids' friends' parents. It is like, 'I'm sure you don't talk like that around the house.' I think that almost the reverse peer pressure is real: 'Mum or Dad, I'm being left out. Everyone has a phone,' or, 'They are organising on Instagram.'

It is interesting to see what is happening in terms of movements in other countries. There is one called Wait Until 8th, where they are trying to get all parents to agree to not let their children have phones or be on social media until they are in 8th grade. I'm not sure that is something that you can necessarily legislate. The starting point—and I said this today in an article that Clare Armstrong wrote about the BOSE determination—will be with our BOSE powers being able to ask these companies to tell us how many Australian end users are children or adults on the sites. We do not know if they know. We had one platform tell us that they can look at 85 different signals or indications of how old a person is, and whether a child might be a child. These were things like,

generally speaking, that 11-year-olds talk to other 11-year-olds, or if the child or somebody comes on the site and they use it, age-gating, which is they basically ask. And they actually allow people to change their age, which, of course, is an indication that they are lying about their age, but I'm not sure why they enabled that in the first place. But there are a whole range of indicators whereby they should know how many underage people they have on their platform.

I don't know if you could say this is wilful blindness, but we have to start there. Until these companies have effective age assurance systems in place, it is going to be hard to do anything like a ban. How do you implement that? How do you measure it? How do you enforce it? I think we are taking the right steps to get there, but I think we also have to recognise that this is not going to be a snap thing that happens overnight.

In terms of co-parenting, that is superhard. I am a child who grew up in a situation where my parents divorced when I was five, and I was going between households, and I was just reflecting on how I got to eat all the junk food and watch the MTV that Mum would not let me do, and that is what we see happening. You are trying your best as a single mum to make sure that you are setting guardrails, and then, when the child gets a shiny new iPhone, it is very hard.

Senator CADELL: Yes, 'You can download whatever apps, and I'll help you lie and it's all good.'

Ms Inman Grant: So there is no question that this is an extremely fraught challenging area, and this is why we are trying to empower parents. We even have a grandparents guide, because 25 per cent of Australians rely on children's grandparents to take on the caring responsibilities, to give them a sense of how the children might be using the technologies and what they should be doing to try to be more alive to how they might be trying to get around certain things or how to engage with them in those conversations.

Senator CADELL: You gave an analogy about seatbelts in vehicles and legislation and how we go forward. I know that it was Volvo that came up with the three-point harness and they did not patent it, so the world could be safer, so well done, Volvo, back in the day. When we go to the internet, if we are trying to stop things coming to Australian viewing—Australians view harmful devices under the ratings guide—should we stop, and how do we stop, when people are taking active measures to avoid the things that we are setting up? I don't think too many 13-year-olds are going to use a proxy server or a VPN—oh, now they can; they can download one on their phone pretty easily. It is like going under your car and disabling the air bag. If an accident happens, you kind of deserve it. Where do we draw the line with the rest of the world—what they can host, what they can't host—to protect Australians from people who willingly and knowingly want to drive outside the lines?

Ms Inman Grant: This is fundamentally what the litigation against X-Corp is all about. We have a designation around class 1 content. We obviously engage with all the social media sites. Remember when the stabbing happened—if I can bring us all back to where we were. This was two days after Bondi. I don't know if you saw that absolutely gut-wrenching op-ed from the mother of Jade Young, one of the women tragically struck down in that. She found out about her daughter's death by seeing images on social media of her lying on the cold, hard ground getting CPR. This is the type of harm that we are trying to—

Senator CADELL: So a woman saw her own daughter, live, getting CPR at the site?

Ms Inman Grant: That is how she found out that she was likely deceased. So, when we are talking about a gratuitously violent, high-impact stabbing or an attempted murder that was deemed a terrorist attack by the New South Wales police commissioner, which resulted in a riot, we had reason to believe that, by going to all the platforms, they would do everything in their power to stem that kind of horrendous, illegal content. And, for the most part, they all did. Snap did, Google did, and YouTube and Microsoft. We had concerns about Meta. It was spreading very quickly, but when we issued a removal notice there they responded within an hour.

Senator CADELL: For the whole world?

Ms Inman Grant: Yes, because this content isn't hosted anywhere in Australia; it is hosted on servers in California. So, if they remove the content, it is removed from servers there, so it is removed for the whole world. So, yes, they removed it for the whole world, because that is what they do with illegal content. There is no business value for them to have child sexual abuse material and terrorist content there. Again, I think that is what this whole struggle is all about. My job is to protect Australians from seeing harmful content that we wouldn't allow on broadcast TV. Of course, you can't clear it all, but we do expect responsible companies to be taking action, and we had a reasonable expectation. In fact, X took down a compilation video with the Bondi stabbing content, the Wakeley stabbing, and the terrible killing of two Victorian police officers a couple of years ago. They took it down a couple of days before. I am also looking here at the Digital Services Act transparency guide prepared by X-Corp for the European Commission, where they said that they took action on 226,000 items of content following reports of illegality. It said: 'We globally deleted 40,000 items of content reported by the

European Commission and withheld access to 62,000 of those items. The median time to resolve illegal content notices during that reporting period was 2.7 hours.'

That was our reasonable expectation, because all of the other companies, including Telegram, who removed the content at our request, would do so. We also expect that, based on X-Corp's own statements. Nick Pickles, who is the global director of policy and government affairs, said to an Australian committee on foreign interference on 21 July, 'We also think this strikes an important balance to protect free speech, where you have this content that will always be removed. Think the most serious violations of our rules, such as terrorist content and child abuse content.' And then the CEO of X said to the European Commission on 11 October, 'Our service has clear rules that prohibit violent and hateful entities, perpetrators of violent attacks, violent speech, sensitive media and the synthetic and manipulated media policy. For the avoidance of doubt, we strictly adhere to our policies concerning illegal content and we continue to remove illegal content, including terrorist content, from our platform.' So it was a reasonable expectation when we made those requests, informally and then formally, that they would respond. Instead, they threatened to sue us. So we beat them to the punch.

Senator CADELL: Was the difference that that was classed as a terrorism act? I watched on a Ukrainian inquiry; I gathered a lot of stuff, live footage. X has a lot of people putting up where there are deaths in the Ukrainian conflict. Is the difference between a death and an attack the context around that?

Ms Inman Grant: The context is always critical, and, of course, you look at newsworthiness. But if you look at what is on the broadcasting channels today—of course, because they have been regulated for years by the ACMA, very effectively—you can still show up to that point of gratuitous violence and high impact that is not actually damaging and distressing people and allowing them to see things that you can't see. The other thing about the internet is that there are not necessarily any interstitials; it is available 24/7, when children can access this content, without parental supervision, without support. So all this is really critical not only to compliance with our laws but also to the public safety, health and welfare of Australians. As I said earlier, you will see nowhere where I called for global censorship. We just asked them to do what they do as a standard practice with illegal content.

Senator CADELL: On Senator Shoebridge's point, it would be better for platforms as well if there was some delineation of common themes across the world. It would make it easier for their compliance, would it not, if there was some base level of understanding—you would not call it a moratorium or agreement—

Ms Inman Grant: Like almost a convention?

Senator CADELL: Yes.

Ms Inman Grant: Right now, New Zealand has similar laws in place, following Christchurch. You have a terrorist content online law that the European Commission passed where they require removal of terrorist content within 24 hours. You have the European DSA. So there are a number of things. For example, we are a hotline for child sexual abuse material, and we work with 45 other hotlines around the world to get this terrible content of child sexual abuse material removed within three days, and Interpol has a database. There is something called the GIFCT, the Global Internet Forum to Counter Terrorism, which holds a database that the companies own—I think there are about 31 companies—where they share some databases, but it is not as extensive and it is not practised in the same way that we see child sexual abuse tackled.

Senator CADELL: One last thing. It would not be the eSafety Commissioner without me doing something that causes my office concern. You were talking about the permissive hosting environments, sextortion and these sorts of things. Given the difficulty with places that don't want to help there, what can we do? When I was state director of the party, I used to tell all my MPs—and some of them actually listened—'A dick pic is forever. Once it goes out, you lose control over it.' What do we do to these permissive environments that allow this or that? We can never stop that, can we?

Ms Inman Grant: We are definitely reaching a tipping point where we are starting to see governments act and regulate in this space where they haven't before. I think that was really brought about because of concerns about AI safety and seeing the AI companies doing exactly what the social media companies did in terms of moving fast and breaking things, trying to get the technology out there and get leadership and thinking about the guardrails after the damage has been done. Of course, if the US was in this space there would be a massive difference, and one of their house committees has just marked up the children's online safety act.

Senator CADELL: Aside from children, adults or everyone, sexploitation happens across the board, doesn't it?

Ms Inman Grant: It does. Again, I think you are starting to see a lot more joint global action. We were ahead of the game by almost nine years in most cases, but we are starting to see some real efforts around the globe.

There are always going to be permissive hosting environments and governments that are not going to be able to act. This is the challenge. The internet is global; laws are local. It was built to be distributed, and it is more than 30 years old, and it is really hard to ratchet back and put real constraints, either technically or from a legislative perspective. And then you have all these companies that have amassed tremendous wealth and power, much more than many nation states. So I believe it is going to take a joint effort of governments around the world to counter that stealth, wealth and power.

Senator CADELL: Thank you.

CHAIR: I just have one question, and Senator Payman has one, and then we are done. My question is actually to the assistant minister. There has been a lot of conversation throughout the day around the inclusion of social media and the age assurance trial. Can you just give us the government's perspective and plans on that?

Senator Carol Brown: Sure. The government support age limits on social media and has funded, as we have talked about, a trial of age assurance technologies in the market to assess their effectiveness. That includes an assessment of age assurance technologies used by social media companies, and the government is currently designing the trial through a cross-government working group, which includes the independent eSafety Commissioner. We have always said that the trial will help inform the existing work of the eSafety Commissioner to develop new and enforceable industry codes.

CHAIR: Thank you very much.

Senator PAYMAN: Commissioner, why did you refuse to register two of the industry codes and decide to make standards instead, and when will we see those new standards be registered?

Ms Inman Grant: Thank you for the question. As you know, the first set of phase 1 codes dealt with illegal content, primarily child sexual abuse material and pro-terrorist content, and it was a much longer and more protracted process than we expected. The basic fact of the matter is that, when I first received them, none of them met appropriate community safeguards, so I sent them all back and they were redone. Six are in place now. I did not believe that the broader categories of designated internet services and relevant electronic services met appropriate community safeguards, and that is why we went forward with the standards. We consulted on those standards. We are very close. We really take the community and industry feedback very seriously. We built upon the work that they had done through the previous codes, but there were certain areas, as Mr Dagg discussed, where we did not feel that open AI and some of the downstream generative AI high-risk services had enough safeguards, and we are also dealing with other issues around technical feasibility.

Senator PAYMAN: Thank you, Commissioner. Thank you, Chair.

CHAIR: Thank you, Commissioner. We appreciate your time this afternoon. We will let you go and hope you enjoy the rest of your day. I will now call officers from the Australian Broadcasting Corporation to the table.

Australian Broadcasting Corporation

[16:51]

CHAIR: Welcome, Mr Anderson. Do you have an opening statement that you would like to provide?

Mr Anderson: Yes, I do have a short opening statement I would like to read, please.

CHAIR: Please go ahead.

Mr Anderson: I welcome this opportunity today to address with the committee a recent issue that I'm sure I'll receive questions about today. Laura Tingle is among the most respected and admired journalists and political commentators in the country. Her reporting across broadcasting and print platforms across numerous media organisations has been characterised as candid, honest and accurate. She is valued and admired by her ABC colleagues and the public. Like all ABC journalists, Ms Tingle understands that the ABC is held to a higher standard than other media organisations. The higher standards the ABC editorial policies demand of our journalists is necessary for a public broadcaster with legislative requirements for impartiality and accuracy. It is also the bedrock of the trust Australians place in us. The ABC's director of news, Justin Stevens, has explained in a public statement why recent comments by Ms Tingle during a panel discussion at the Sydney Writers Festival would not have met our editorial standards if they had been made on an ABC platform. He has reminded Ms Tingle of her responsibilities to our editorial policies. As 7.30 Chief Political Correspondent, Ms Tingle is required to ensure her comments, even at an external event, have sufficient context to support the statements made. Contrary to some media reports, the issue Mr Stevens raised with her was not a response to Ms Tingle calling out racism in Australia. The issue was that the public comments at the Sydney Writers Festival did not provide the relevant context and explanation to support her analysis of the opposition's post-budget policy position on immigration. In a separate statement, endorsed by Mr Stevens, Ms Tingle has provided the context

that sits behind her analysis, and our audiences are the better for it. Mr Stevens leads the largest news team in the country. They both do an outstanding job in keeping our country informed, engaged and able to understand the key issues that drive our national debate.

Australians expect the highest standards from our journalists because they need and demand information they can trust. Journalists like Ms Tingle and Mr Stevens come to work every day with this responsibility at the centre of everything they do, and they do an excellent job. I am grateful for the professionalism and dedication they bring to their respective roles. Their hard work reflects their overall ambition to provide Australians with the news, context and analysis that they need. Australia is not unique in coming to terms with issues such as racism, the cost of living or immigration. These are issues being debated around the world, as they should be. A mature nation, regardless of political views, should be able to discuss such issues in a respectful and intelligent way. The ABC's role, and the work of our journalists like Ms Tingle, is to help facilitate those debates on our platforms.

Finally, Ms Tingle does not deserve the ferocity, and, frankly, vicious attacks that we have seen this week. I now welcome any questions that you may have.

CHAIR: Thank you, Mr Anderson. On the topic of racism, last year you announced a review into how you could better support staff who were experiencing racism. I wonder if you could take us through where that review is up to now.

Mr Anderson: I am happy to, Chair. When we undertook that review, we were searching for someone to lead it. I think I have explained before that it is Dr Terri Janke that is leading that review. That commenced in October, certainly with preparation work. That has continued with consultations with ABC staff, both present and past. My understanding is that about 100 people have participated in that, and we are on track for that report to be delivered to the ABC, according to my understanding, at the end of July. We will have the chance to review it. We will then certainly make it available. I have asked for an anonymised report with findings and recommendations that are peer reviewed, and that will happen, and it will be made available to ABC staff, along with our response to it, and then made publicly available as well.

CHAIR: Do you anticipate that this will give you a sense of the prevalence of the racism that staff are facing?

Mr Anderson: We initiated this review really to have a look at what systems we had in place, and how effective they were. To be frank, I was concerned that, if there were issues, if there was any barrier to people coming forward to report issues that had happened to them, this is racism that they experience as staff members. It is truly an independent report. I have no indication as yet what the findings or recommendations will be, other than that many interviews have taken place. I have done an interview as well, as have members of my leadership team and staff throughout the organisation. So we expect that to come. I do expect that to give me more insight into what else we can do to make sure that, if anybody does experience racism, they are supported appropriately, and, if that happens within the organisation, that people have confidence that, by coming forward, the situation will be better for doing so.

As I said, it is a confidential review, in that it sits adjacent to the ABC, performed independently by Dr Janke and her associates, so that people can have confidence that, whatever evidence they provide or whatever they speak about, it will remain in confidence.

CHAIR: Thank you very much. I do have further questions, but I will wait until after July, when we see the report.

Senator HENDERSON: I refer to Laura Tingle's comments at the Sydney Writers Festival. What is your response to the comment when she said, 'On the night of Peter Dutton's address in reply to the budget, I was sitting there with this terrible chill running through me thinking, "Okay, we're back into this territory."' Does this meet your editorial standards, no matter where she was?

Mr Anderson: I will answer that question more broadly first. Again, respecting that Laura Tingle has done an excellent job on our platforms, when speaking off platform, for any journalist to make statements that are not qualified by context and analysis, that becomes problematic, in that you are not applying the same rigour that you would otherwise on your own platform. Ms Tingle expressed regret when she provided the explanation of what sat behind her off-the-cuff remarks in a conversation during the writers festival. For comments that are unqualified, that does then raise questions when they are lifted, reported by other media outlets and then widely circulated. That does become an issue. I think Ms Tingle has gone to qualify those statements in statements that she released yesterday. With regard to her concern about where some of this discourse might lead—

Senator HENDERSON: I just want to return to the question, because Justin Stevens said in his statement, 'The ABC's standards serve a vital role. Laura has been reminded of their application at external events as well as in her work, and I have counselled her over the remarks.'

Mr Anderson: Yes.

Senator HENDERSON: So he is saying those comments are not consistent with your editorial standards.

Mr Anderson: I think I am saying the same thing, Senator. I agree with Mr Stevens's statement yesterday and I agree, if they were on an ABC platform, they would not meet our editorial standards.

Senator HENDERSON: But you have just contradicted what Mr Stevens said, because he was saying that they were not consistent, and she was counselled.

Mr Anderson: I agree. They would not have passed the test for our editorial standards had they been on our platform. I agree with Mr Stevens's statement; I am not in contradiction with that at all. I am just pointing out the problem that exists once these statements are made off platform without the rigour of context and analysis.

Senator HENDERSON: Mr Anderson, I'm sorry, but Mr Stevens has made it very clear: 'Laura has been reminded of their application at external events'—the editorial standards. And you have just said that they do not apply at external events. So who is correct—you or Mr Stevens?

Mr Anderson: Mr Stevens is correct, but what I would say is that we do have obligations on our staff that they don't do anything publicly off platform away from the ABC that would otherwise undermine their ability to meet those standards when they are at work. And Mr Stevens is correct in his statement.

Senator HENDERSON: So would you like to correct your opening statement?

Mr Anderson: No. I think I am in agreement with both Mr Stevens and what I had in the opening statement.

Senator HENDERSON: I will take you to other comments Ms Tingle made:

I had this sudden flash of people turning up to try to rent a property or at an auction, and they look a bit different—whatever you define different as—and he has—

'he' meaning Mr Dutton—

given a licence for them to be abused where people feel they are missing out.

Mr Anderson, that is a disgraceful statement for any reporter to make in any context in any environment, let alone your chief political reporter for your most prestigious daily current affairs program.

Senator HANSON-YOUNG: What did you think people thought when Peter Dutton said those things? What message was he trying to get through? The dog whistle was a foghorn.

Senator HENDERSON: Mr Anderson, could I ask you to respond to that please?

Mr Anderson: Ms Tingle has expressed regret at the way that those comments were summarised and truncated, and I agree with her that was a mistake. I think it was a misstep for those comments to be made the way that they were—again, unqualified. I think that, if you look at Ms Tingle's reporting, she has laid out what was Mr Dutton's budget reply speech and laid out caution with regard to that, and I think that, by summarising it in that fashion, in those comments at the Sydney Writers Festival, it was a mistake.

Senator HENDERSON: Mr Stevens says in his statement that Ms Tingle was counselled over her remarks.

Mr Anderson: Yes.

Senator HENDERSON: How was she counselled?

Mr Anderson: She was counselled directly by Mr Stevens.

Senator HENDERSON: Is Mr Stevens here?

Mr Anderson: Mr Stevens is not here.

Senator HENDERSON: Why is Mr Stevens not here?

Mr Anderson: Mr Stevens is usually not here. He has only ever been here once.

Senator HENDERSON: Well, he was here at the last estimates.

Mr Anderson: I do not believe so.

CHAIR: No, he wasn't.

Senator HENDERSON: Or was it the one before?

Mr Anderson: It was a year ago.

Senator HENDERSON: The last budget estimates.

Senator HANSON-YOUNG: And he was specifically called. If you did not call him, you did not call him.

Senator HENDERSON: Just to go back, so you don't know exactly how Ms Tingle was counselled?

Mr Anderson: I have been advised by Mr Stevens that he has directly counselled Ms Tingle over it, yes.

Senator HENDERSON: Do you know whether she was paid to attend the Sydney Writers Festival event?

Mr Anderson: I'll confirm on notice, Senator, but I do not believe so. What I can say is that, for anyone to attend these festivals, they need to seek approval in advance. That did happen, the sign-off of this attendance for this sort of work, which we consider would be outside work, regardless of whether it is paid or otherwise. Approval was sought by Ms Tingle and approval was provided by Mr Stevens. All of that work is provided by the director after endorsement by the department head. That did happen, but I do not believe that Ms Tingle was paid for that.

Senator HENDERSON: Are you embarrassed by what has happened, Mr Anderson?

Mr Anderson: I am not embarrassed by it. I wish it hadn't happened, to be honest with you, Senator. I think Mr Stevens's note sets out a number of things. Firstly, he states quite clearly that error by Ms Tingle, that she regrets, is not something that we expect to see from our journalists, and that is to make unqualified statements that are sitting out of the context and analysis that we would otherwise do. That is there for all of our journalists. That is to abide by what are our impartiality standards. They are rigorous, they apply to the ABC like they apply to no other media organisation, and we need to be very careful, across the board, for the ABC to ensure that whatever we say outside of an ABC platform does not undermine our ability to maintain impartiality when we are doing our work on an ABC platform.

Senator HENDERSON: But this is not an isolated case in terms of Ms Tingle making very damning comments in relation to the coalition. Are you aware of the comments that she made on the *Insiders* program on 19 May when she made reference to Mr Dutton's budget reply, where he made a very strong commitment to reduce immigration in this country, and she said, 'The hot buttons he is pressing are very dangerous for our community.'

Senator HANSON-YOUNG: Well, she is right; they are.

Senator HENDERSON: She again was very disparaging of Mr Dutton—

Senator HANSON-YOUNG: Bingo!

Senator FARUQI: When she reported facts.

CHAIR: I am going to call order.

Senator FARUQI: Dog whistling.

CHAIR: Senator Faruqi! Thank you. We will have order in the room. Senator Henderson, you have two more minutes on your block.

Senator HENDERSON: Was any action taken in relation to the comments she made on *Insiders*, which were not all that dissimilar from comments that she made at the Sydney Writers Festival?

Mr Anderson: I did not see that *Insiders* program. I did not see her appearance, but Ms Tingle has published something similar to that previously that I have read that I believe stands up to scrutiny, given the context and analysis that sits around it. So I don't have any issue with anything that Laura Tingle has published with regard to either what the government has put forward or what Mr Dutton did in his reply speech. What I will say is that, as you know, our political commentators are there to specifically analyse and critique what the government says and what the opposition says and to put forward what they say and analyse to the Australian people. And I think Ms Tingle has done that in her other reporting. That was not done at the Sydney Writers Festival.

Senator HENDERSON: I just want to draw your attention to the very strong comments from the new ABC chair, Mr Williams. He made very strong comments about the importance of impartiality at the ABC. He said, 'If reporters fail to observe impartiality guidelines, they should leave the organisation.' Have you spoken with Mr Williams about his view in relation to this incident?

Mr Anderson: I briefed the chair this week, obviously, with regard to the situation that we have. I have not sought counsel from the chair. The chair has not provided me with advice, and conversations between the chair and MD should stay confidential anyway. But I am aware of those comments that the chair made early on. I believe the chair is right with regard to the harsh and rather inflexible impartiality standards that we have. They are important to the ABC and who we are and what we do.

Senator HENDERSON: So, on the test set by the new ABC chair, should Laura Tingle leave the ABC?

Mr Anderson: I don't believe so, Senator. I don't believe that Laura Tingle should leave the ABC. Again, what Ms Tingle said, in conversation, off the cuff, at the Sydney Writers Festival, she has regretted not having context and analysis with. But in terms of everything else that she has reported on platform, I think that journalism stands the test of scrutiny.

CHAIR: And we will rotate the call. Senator Hanson-Young.

Senator HANSON-YOUNG: I will actually defer to Senator Faruqi because she might have to go back to another committee.

Senator FARUQI: Thank you very much, Senator Hanson-Young, and good afternoon, everyone. Mr Anderson, I understand that the racism review being conducted by Dr Terri Janke is ongoing and, according to the media reporting, I think it was announced in October 2023 and consultation on the review had only just started in March 2024. So where is the review up to?

Mr Anderson: There was a delay in getting going, because Dr Janke was busy with the Voice to Parliament referendum, so it did not get going until October. I believe they are pretty much at the end of the consultations, so they will put together the report, their findings and recommendations, which will be peer-reviewed. It was due at the end of June. Because of the nature of the consultations, which are more one to one than one to many, which is understandable, they asked me if they could take longer and I said, 'Yes, of course.' It is important for them to take their time and make sure that it is done thoroughly. The end of July is when I expect to receive a report for us to contemplate. Then we will turn that around pretty quickly. What I would like to be able to do, working with Ms Amorelli here, our new chief people officer, is work on how we implement that across the organisation—of course, not knowing what the recommendations are yet, but we want to be able to get back out to people pretty quickly.

Senator FARUQI: From what I've read in the media at least, it seems that the review has a pretty narrow focus on systems and processes to respond to experiences of racism. I am just wondering whether the terms of reference also include prevention of racism within the ABC in the first place.

Mr Anderson: To be honest, Senator, I expect to receive recommendations that would include prevention, and people's experience if they have experienced racism at the ABC, either within the organisation or from outside the organisation, for those staff that are currently present as well as for those that have left. Yes, the terms of reference are that broad, in that I am really looking for a way forward to be able to support our staff, to ensure that racism doesn't happen within our organisation in a way that is better than we already have. That is what I am committed to, so I am very much open to those recommendations coming from Dr Janke.

Senator FARUQI: Is it possible for you to table the terms of reference of that review?

Mr Anderson: Certainly, Senator.

Senator FARUQI: That would be great. And you said you are looking at it being completed by July this year; is that correct?

Mr Anderson: Again, it is Dr Janke's timeline, and I am respectful of that independence. I think there are probably a few things that come before that, but I am expecting that report, in a form which can actually be handed over and distributed thereafter, to be at the end of July, yes.

Senator FARUQI: And will you publicly release that report?

Mr Anderson: Yes. I have given the undertaking from the moment that we announced it that we would.

Senator FARUQI: And I understand that an internal review is also being conducted into racism at the ABC. What is the status of that?

Mr Anderson: I do not know of another internal review with regard to racism with regard to the ABC at the moment.

Senator FARUQI: So there isn't any internal review that is happening within the ABC?

Mr Anderson: There are always reviews, Senator, but—

Senator FARUQI: Particularly on racism in the ABC?

Mr Anderson: I don't have one specifically to racism other than what we are doing with Dr Janke's review.

Senator FARUQI: So there is only Dr Janke's and there is no other internal review that staff may have been asked to do.

Mr Anderson: On racism? No. there are other surveys that we have had in train. There is one in train right now, but there have been other surveys.

Senator FARUQI: I know that there was a survey before, but there is no review at the moment internally being done by staff. No? Okay. I understand that the ABC plans to conduct annual pay equity analyses across the groups of gender, Indigenous, CALD and people with disability.

Mr Anderson: Yes.

Senator FARUQI: Have these reviews commenced?

Mr Anderson: I was asked, as part of our EA negotiation and, more recently, by the MEAA, to do an examination of pay equity disparity that might involve minority groups at the ABC. Ms Amorelli?

Ms Amorelli: That work is underway. We have about 54 per cent of staff having responded with the demographic data that we require in order to run that. We have done a push more recently to try to get that number up, and the analysis is underway at the moment, and we will be able to report on that quite soon. We are, though, limited in terms of the percentage of staff that have provided that demographic data to us, and it is sitting at about 54 per cent, but we will do the analysis on that.

Senator FARUQI: And when will it be completed?

Ms Amorelli: I think we will have that by the end of June.

Senator FARUQI: And will that be made publicly available?

Ms Amorelli: We will share that data with staff and the unions as part of the side letter of the enterprise agreement.

Senator FARUQI: So not publicly available.

Mr Anderson: It depends on the detail. Why don't we take that on notice for you, because I worry about the level of detail that then provides information on individuals that I wouldn't want to release and be in breach of the confidentiality obligation that we have to them.

Senator FARUQI: Sure. If you could take that on notice, that would be great. Minister, I have a question for you. The ABC has a pretty comprehensive diversity, inclusion and belonging plan, which states that diversity, inclusion and belonging are at the heart of everything you do and which sets employment diversity targets. Are you aware of the diversity of the current ABC board?

Senator Carol Brown: I don't have that information here with me. I can take it on notice if you like.

Senator FARUQI: Okay. Are there any First Nations people on the ABC board? Do you know?

Senator Carol Brown: Sorry, I do not have that information with me.

Senator FARUQI: Are there any people of colour on the ABC board? Surely you are responsible for the ABC.

Senator Carol Brown: I would have that information, but I just don't have it.

Senator FARUQI: I might just ask Mr Anderson. Do you know, Mr Anderson, whether there are any First Nations people on the ABC board currently?

Mr Anderson: There are not, but we do have one board member who identifies as culturally and linguistically diverse.

Senator FARUQI: So one person that identifies as that. Any people of colour?

Mr Anderson: No.

Senator FARUQI: Any members of the LGBTQIA+ community on the board?

Mr Anderson: Not that I am aware of.

Senator FARUQI: Are there any people with disability on the board?

Mr Anderson: Not that I am aware of.

Senator FARUQI: Mr Anderson, you are on the board and you are quoted in the diversity, inclusion and belonging plan as saying, 'The ABC must inform, entertain and represent all Australians.' Do you think the ABC board currently represents all Australians?

Mr Anderson: I think in the actions that they do that they seek to represent all Australians—

Senator FARUQI: How can they, Mr Anderson, if there is hardly any representation on the board of any of those Australians, or maybe just one category of those Australians?

Mr Anderson: I will say that I think it is a high-quality board. You are right when it comes to representation of all members of the community, you would say no, but the board appointments are made by government. But I think that their commitment to make sure that we do reflect the nation back to itself is evident. It is evident in the board meetings that I've—

Senator FARUQI: The board do not, though, Mr Anderson. How can you say that? The board does not represent or reflect back to the community what the community looks like. Will the government make a commitment to ensure that the ABC board is diverse, Minister?

Senator Carol Brown: I can refer that to the minister, but we are a proud, diverse and multicultural nation—

Senator HANSON-YOUNG: Minister, there is a board position that is about to be vacant, in October. Will you take on notice whether the government will consider how they deal with their diversity issue?

Senator Carol Brown: I just did that, Senator Hanson-Young. I already took that on notice.

CHAIR: This is the final question, Senator Faruqi.

Senator FARUQI: Mr Anderson, how many lawyers make up the legal team which the ABC has engaged in the case against Antoinette Lattouf's unfair dismissal claims in the Fair Work Commission and the Federal Court?

Mr Anderson: We have retained the services of Seyfarth Shaw. There is one point person that I deal with, and there is one other person that I have seen—

Senator FARUQI: So there are only two lawyers that make up—

Mr Anderson: I am going to have to take that on notice, Senator, and get back to you.

Senator FARUQI: Thank you. And how much money has the ABC spent to date on these two cases?

Mr Anderson: I am going to have to get back to you on that, Senator.

Senator PAYMAN: Good evening. I have some questions about your channel of offerings and performance of your digital assets. On 9 May the ABC announced plans to introduce two new channels in June, ABC Family and ABC Entertains, as well as four new digital streams that will bring together kids, families and general entertainment titles. What is the reason for the new digital streams and where can audiences access them from?

Mr Anderson: Yes, we have done that. We have rebranded: ABC Kids, which is on during the day, remains unchanged with regard to what we would have there and timing. ABC Kids serves families well. In the evening, we will not have ABC TV plus. We will have ABC Family. We recognise that, as we age up through the evening, that makes more sense. New programs will come with regard to that change, as well as what we already have that would otherwise have commissioned through ABC Me, which is sort of more school-age content. This includes a version of *Hard Quiz Kids*, for instance. For ABC Me, that channel that now becomes ABC Entertains. That channel is not performing well at all; it has a very small audience share. Its effective audience is for school-age children that are at school. What we have done is we have kept our spend on children's content—that is, from preschool through to school age; that is the same. We will commission the same amount of content with the independent production sector. The way it appears through ABC iview and profiling, as well as those digital streams, is different. That allows us to have a greater breadth of content that sits on ABC Entertains that reflects the inventory that we have on ABC iview.

Senator PAYMAN: On that, what proportion of children audience watch the ABC on linear television versus iview?

Mr Anderson: It depends. I haven't got that right in front of me at the moment, between Kids and what has been ABC Me. But the Me channel has 1 per cent audience share; it is very low. ABC Kids is quite high. The preschool content on ABC Kids, there is a duality in audience performance that sits between broadcast as well as what is on ABC iview or through ABC Kids, whereas for the school-age content, ABC Me, it is not performing very well at all on either. But we will still make that available. We will still commission for it, and we hope to increase what will be audience share with ABC Entertains, as well as give an understanding of what content sits on ABC iview outside of what people know that is coming through on the main channel.

Senator PAYMAN: And how is the ABC's digital engagement strategy going? Are there any statistics or metrics you can tell us about?

Mr Anderson: I can. ABC News is bouncing back, for digital news. We recently polled second behind news.com to .au. For the month of April we were at 12.3 million and they were at 12.4 million. What we had seen, along with a lot of other digital news, is changes certainly in referrals from third parties, where they have their own news strategies so they are not referring as much to other digital news outlets. But we have seen—certainly with recent events and the news cycle we have at the moment, as well as we have sought to change our offering that sits on ABC News digital—that has come back. When it comes to logged-in users for ABC iview, that has been on the rise as well. That has gone up, I think, by some 20 plus per cent. I will confirm that to you on notice. Certainly the engagement time that we have on our digital offerings has increased as well, more recently. So, effectively, right now more people are engaging with our digital offerings for longer.

There is no doubt there is still decline in broadcasts, both broadcast TV and broadcast radio. That is a challenge everywhere, for all media organisations, and certainly a challenge for us. We are not complacent about that, but we need to, again, still make sure that we are there for audiences on digital as much as we are for broadcast.

Senator PAYMAN: Absolutely. On another matter, recently, National Cabinet was convened as part of the important national conversation around taking more action on violence against women and domestic violence in Australia. What coverage, programs or resources does the ABC have available on these issues?

Mr Anderson: I might in a minute go to Mr Fang to back this up, but I know that we have dedicated coverage to this, across all of our platforms, whether that has been on local radio, news, both broadcast and digital, whether it has been on flagship programs like *7.30*, and we have a history of doing this as well. But we have dedicated, in some period of time: *News Breakfast* more recently dedicated a whole week to this. It is important. We are an important part of making sure that the nation is informed and educated in all aspects of this. It is important that we keep asking questions of those in power to ensure that something actually is being done: what are the actual actions that are happening to arrest the crisis that we have at the moment in our country?

Senator PAYMAN: Thank you, Mr Anderson. Thank you, Chair.

CHAIR: Senator Henderson.

Senator HENDERSON: Mr Anderson, will you apologise to Mr Dutton for the comments of Laura Tingle?

Senator HANSON-YOUNG: If you don't want to be accused of racism, don't peddle it.

CHAIR: Order! Senator Hanson-Young.

Mr Anderson: Senator, I am quite regretful that these statements were made without the usual qualification that they would normally have, and therefore that actually hurt the ABC. I think Ms Tingle has suffered for it, and I think that, when these comments are put together sometimes, it allows for other people to take a debate into a different direction. I am generally sorry that happened. I wish it hadn't happened.

Senator HENDERSON: Are you sorry to Mr Dutton as well?

Mr Anderson: Well, Senator, I think when political leaders put things out for debate, the course that takes I can't be sorry for, because I can't be accountable for what is said off an ABC platform. So it is difficult for me to apologise for that.

Senator HENDERSON: Well, that's not true because Laura Tingle has been counselled for what she said at the Sydney Writers Festival.

Senator HANSON-YOUNG: Are Peter Dutton's feelings hurt, are they?

Senator HENDERSON: Chair, seriously.

CHAIR: Order! Senator Hanson-Young.

Senator HANSON-YOUNG: Seriously? Your leader is peddling rubbish. He wants this divisive debate. And you come in here and want to beat up on the integrity of a journalist. Get some integrity.

Senator HENDERSON: I would ask you to withdraw that comment.

CHAIR: Order! Senator Hanson-Young, I would ask you to please refrain from interjecting. This is Senator Henderson's time to ask questions. Please go ahead.

Senator HENDERSON: What I was saying is that Mr Stevens has made it very clear that Ms Tingle was counselled because of what she said at the Sydney Writers Festival. But the problem is deeper than this, Mr Anderson, because Ms Tingle also made some pretty damning comments at the Melbourne Writers Festival this month when she made some very complimentary remarks about the government and some very damning remarks about the coalition. A couple of years ago I raised concerns about a tweet that she published on social media in which she made some damning comments about Mr Morrison, saying, 'We grieve the loss of so many of our colleagues to government ideological bastardry. Hope you are feeling smug @ScottMorrisonMP!' The problem with this, Mr Anderson, is that there is repeated conduct of your chief political correspondent that shows that she has an inherent bias against the coalition. How is that tenable in her role?

Mr Anderson: Senator, the tweets that happened in 2020 were a separate isolated incident, and I think that was regretted at the time as well. I think it was, again, something that was ill advised, and I think Ms Tingle apologised for that previously. What I see more recently, and to your other question with regard to Ms Tingle's commentary, is that has, again, stood scrutiny on ABC platforms, and her most recent qualification that she has put out yesterday suggests that political leaders, by their comments, give licence for others to express their opinions which they might otherwise not express, but that does not make them racist. So, to your original question about an apology to Mr Dutton, it is difficult for me to apologise for a discourse that has happened—

Senator HENDERSON: I am not asking about that, Mr Anderson. I am asking about the conduct of your chief political correspondent. And I also pointed you to the comments that she made at the Melbourne Writers Festival, where she made very derogatory comments about the coalition, very similar in fact to the sorts of

comments she made at the Sydney Writers' Festival. Has that been investigated and has she been counselled in relation to that incident?

Mr Anderson: I can't speak to the Melbourne Writers Festival, Senator. What I can say is what I said earlier: our political commentators are tasked to critique all sides of politics. Ms Tingle has criticised the current government over some of their policy with regard to what they are putting forward, and I think that political commentators will do that.

Senator HENDERSON: Mr Anderson, I just want to draw your attention to the Melbourne Writers Festival. Was Ms Tingle counselled in relation to those comments? Is it appropriate that she has made similar comments at another writers festival, and will you investigate that incident as well?

Mr Anderson: I am going to have to take that on notice, because I do not have any information with regard to the Melbourne Writers Festival sitting in front of me at the moment.

Senator HENDERSON: I can provide you with a copy of the article, which is in the *Australian*, 'ABC's Laura Tingle launches attack on Australia. We are a racist country.' That was published a number of days ago, on 27 May.

Mr Anderson: And, again, Ms Tingle has qualified those statements, suggesting that she was not saying that every Australian is racist but that we do have racism in our country and it has been prevalent for a long time. And that was what she clarified she was wishing to convey.

Senator HENDERSON: Has Mr Williams spoken directly to Ms Tingle?

Mr Anderson: I don't know, Senator.

Senator HENDERSON: Have you spoken to her?

Mr Anderson: I have not spoken to Ms Tingle directly. I have spoken to Mr Stevens.

Senator HENDERSON: Given the damage that this has done to the ABC's reputation, is there any reason why you have not spoken to her directly?

Mr Anderson: I would expect that a director would speak to their presenter directly. I think that has occurred this week. You have two statements that have been issued yesterday. The statement from Ms Tingle was endorsed by Mr Stevens, and, for me, the matter is resolved with her clarification that she has put out yesterday, and we are satisfied that she is able to continue doing her role, and satisfied that Ms Tingle understands—hence her regret, and I agree with her—with regard to the fact that her comments were generalised and not qualified.

Senator HENDERSON: The comments that Ms Tingle made, including that Mr Dutton gave people a licence to be abused don't require any context, I would put to you. I would also say to you that, on the way here to estimates, I ran into an employee from the ABC—of course I will not say who it is—and I can tell you there are many people in this building and working for the ABC that are very unimpressed, because, if you are saying that there are high standards applied to ABC journalists, it looks like Ms Tingle has got off scot-free with very little consequences, which has brought the ABC into disrepute. And other ABC journalists who work hard to be impartial every single day are standing here, including in this building, open-mouthed.

Mr Anderson: I don't think she's got off scot-free at all here. I think Mr Stevens's statement that went out yesterday to suggest that Ms Tingle's remarks at the Sydney Writers' Festival lacked context, balance and supporting information for her work and would have not met the ABC's editorial standards, and that she's been counselled on the matter would suggest that she's not got off scot-free. The fact that Ms Tingle has regretted this and then provided more context around her statements—

Senator HENDERSON: So Ms Tingle is also a member of the ABC board. Is it tenable for her to continue in that role?

Mr Anderson: Ms Tingle is an excellent board member, and it is not up to me; it is up to the chair of the ABC to decide whether or not any member of the board, including me in my position, is tenable or not. I am not going to second-guess the chair. I do not know. I just won't say. I don't know what he would say.

Senator HENDERSON: In light of the statutory obligations of the ABC, including section 8, which provides that it is the duty of the board to ensure that the corporation 'maintains independence and integrity' and:

... to ensure that the gathering and presentation by the Corporation of news and information is accurate and impartial according to the recognized standards of objective journalism ...

How can the board fulfil its statutory duties when one of its own board members is conducting herself in this way?

Mr Anderson: As the managing director, who sees Ms Tingle as a staff member—not as a board director, because I am not the chair of the board—I can only restate what I have said previously with regard to Justin Stevens, his statement, the fact that Ms Tingle has been counselled over this and she has expressed regret, that she has qualified what were off-the-cuff remarks during a conversation on a panel and that she regrets this, as do I. Then I think the matter has been dealt with.

Senator FARUQI: Mr Anderson, UN Special Rapporteur Francesca Albanese in a recent interview mentioned the dismissal of Antoinette Lattouf, stating that she had been smeared and vilified and that her treatment was an example of silencing of journalists. What kind of message do you think the dismissal of an Antoinette Lattouf sends to Muslim journalists or journalists of colour?

Mr Anderson: It is before the courts, as you know. Fair Work Australia has not handed down its decision after having heard all of the evidence. That is expected at any moment. There was a second filing, as you know, which is in the Federal Court, with regard to procedural fairness. As per our previous PII claim, I am not at liberty to discuss it further. What I will say is that we are defending ourselves against the allegation that Ms Lattouf—engaged for five days, paid for five days but did not present for two—makes; it had absolutely nothing to do with her race. That is what we are arguing in the court, and it is sitting before the courts at the moment.

Senator FARUQI: What do you make of the fact that Antoinette Lattouf was dismissed over a Human Rights Watch post stating that starvation was being used as a tool of war, when not only did the ABC report the exact same thing the day before, but now the ICC has issued arrest warrants for Israeli leaders for using starvation as a tool of war? Why was a fact deemed as a matter of controversy?

Mr Anderson: I will point to the previous PII claim that we have put forward and, if need be, take that on notice and resubmit the PII claim, if that is required. That matter is before the courts. I fully expect that, if this goes to trial, I will be called as a witness, and I will have to give my evidence then. But, because that is before the courts, as one of the elements of the PII claim, I do not want to prejudice those proceedings.

Senator FARUQI: I might go to the ABC Ombudsman report that was released on 19 February, which shows that 6,539 complaint issues relating to matters published or broadcast on the ABC that were raised in 2023 reflect a five-year high, with 51 per cent of all issues related to the genocide in Gaza. Of those, 58 per cent argued that the content was biased, being pro-Israel and anti-Palestine. And this 58 per cent figure does not include complaints relating to a *Q+A* episode from 13 November 2023. I am sure you have seen that report. Taking into account the *Q+A* episode, do you know what percentage of complaints about the ABC's coverage of Israel's war on Gaza considered that the content was pro-Israel and anti-Palestine?

Mr Anderson: Senator, I will defer to Mr Fang on that one.

Mr Fang: Senator, I would have to see those figures, because my figures from the ombudsman's office are slightly different. I am happy to go through those with you, if you like. Since the start of the conflict in regard to the Israel-Gaza war, we have had 3,939 complaint issues. Setting aside, as you say, the 1,974 issues from that single *Q+A* episode, the ombudsman said we have had 1,965 issues that have been complained about. Of those, 80 per cent relate to bias and a lack of balance, and 51 per cent suggest content that was pro-Israel and 47 per cent suggest the other side.

Senator FARUQI: So that 51 per cent doesn't include the *Q+A* episode, as I understand it?

Mr Fang: Correct.

Senator FARUQI: So what does that percentage become when you include the *Q+A* episode?

Mr Fang: I would have to take that on notice, I'm sorry.

Senator FARUQI: I am presuming that it would be much higher than that. From what I understand, the multiples relating to the *Q+A* episode were excluded. Why were they excluded? From where I sit they do distort reality and make it seem like the dissatisfaction was less than it is.

Mr Fang: I can't comment on that last part, but I would go back to the ombudsman's office that says that a number of these complaints were identically worded and this was the result of a campaign calling on people to contact the ABC.

Senator FARUQI: But that doesn't mean that the complaints weren't valid.

Mr Fang: That is correct, Senator, but, in terms of the way that the ombudsman has categorised those complaints, she has separated those out in terms of the issues.

Senator FARUQI: I understand that, but, yes, could you please provide that other percentage to me on notice.

Mr Fang: Will do.

Senator FARUQI: Mr Anderson, clearly the public does not think the ABC is doing a good job when it comes to reporting on Israel's war on Gaza. Does that bother you?

Mr Anderson: We take every complaint seriously. We don't dismiss it. It doesn't matter if it is part of what is an obvious campaign of people writing to us or just individuals off the cuff. I have mentioned previously that, due to our rather inflexible impartiality standards, when you are seen not to be taking any side you are against whatever side that your perspective is. I see that coming through in the complaints and from different perspectives. We do take the complaints seriously, particularly when we have made a breach of some description or we have had to resolve an issue of accuracy. Again, this is where the complaints actually help us. If we have an issue of accuracy, a complaint has come through and we can see that, and we can resolve this and we can verify it, we make the change. What I don't see is systemic bias one way or the other. What I do see is this evolving complex issue where nuance matters and words matter. We have worked very hard to make sure that we are accurately describing the situation as correctly as possible, and we need to continually learn from it. So we will update our guidance notes with regard to this ongoing coverage, as we need to. We develop those guidance notes in response to staff wanting them. So we continually learn about it as the coverage evolves.

Senator FARUQI: Yes, but, on top of the public, as you know, staff at the ABC also told you in November that the ABC's coverage of the war in Israel relied too much on Israeli sources and used language that favoured the Israeli narrative over objective reporting. Have you followed up with meetings with the staff on this?

Mr Anderson: I think I have had one or two meetings with the MEAA. I think Mr Fang has met with them more than I have. There are a couple of things that we have undertaken to take on board with regard to that, and we are always looking at the Israel-Gaza war and how that has moved to involve the region more and more over time. But there are certainly things that we have undertaken to go back to the MEAA with that we will go back with soon. One of those things is complaints, actually, and that is to have clarity over our complaints process and what happens when complaints come directly to me and where they go after that. Hopefully, what we have prepared will satisfy them when we get back to them, and, hopefully, that will be within the next week.

Senator FARUQI: I asked you earlier about another internal review that was happening, and you said a survey was being conducted at the moment. Am I right on that? Is there a staff survey that is happening, a staff engagement survey?

Mr Anderson: Yes.

Senator FARUQI: So that is currently happening. From what I understand, it was meant to close last week or this week but it has been extended and it has been changed in some way. Could you tell me a bit more about why it has been changed and how it has been changed?

Ms Amorelli: The survey hasn't been changed. We did extend the closing date in order to increase participation in the survey. It was due to close last Wednesday 22 May. We extended that date to Monday of this week, and then we kept it open for an extra day as we encouraged staff to complete it. But the survey wasn't changed in any way.

Senator FARUQI: Okay. So there were no questions added or removed from the survey?

Ms Amorelli: No, not at all.

Mr Anderson: Senator, if you mean from last time we did the survey two years ago to this time—

Senator FARUQI: No, the survey that was already happening—so nothing else.

Ms Amorelli: No. The survey opened with a set of agreed questions, and those questions remained unchanged during the course of that survey being opened.

Senator FARUQI: Okay. One last question from me: researchers have recently conducted a detailed study of the BBC's coverage of the genocide in Gaza and established that there was proportionately far less coverage of Palestinians being killed than Israelis and also that there was a clear difference in how language was used. For example, words like 'murdered' and 'slaughtered' were used in relation to Israeli victims and words like 'died' were used for Palestinians. Given the extent of public dissatisfaction and staff dissatisfaction with the ABC's coverage of this war in Gaza, will the ABC commit to a similar study?

Mr Anderson: Mr Fang, do you know more about the study that was conducted at the BBC?

Mr Fang: I'm not aware of the study at the BBC, no.

Senator FARUQI: It is a BBC study, by Jan Lietava and Dana Najjar.

Mr Fang: No, I haven't seen it.

Senator FARUQI: Could you have a look at it, and maybe provide an answer to the question. And I will leave you with one question on notice. At a meeting in January, union members at the ABC passed a vote of no confidence in you, Mr Anderson, and the motion stated that, to win back staff and public confidence, senior management had to do five things. Could you provide us with an update on how senior management is meeting, if they are meeting, any of those demands?

Mr Anderson: I will give you a response on notice, Senator.

Senator FARUQI: Thanks very much. Thank you, Chair.

CHAIR: I would like to very quickly go back to the issue with Laura Tingle and reference, for anyone who hasn't read it, the statement posted on Wednesday 29 May 2024 at 3.40 pm on the ABC website, where Ms Tingle unpacks the situation that unfolded and the challenge of being in a free-flowing multiparty panel versus being able to give the deep context that you would if you were on 7.30 or any ABC platform discussing the political issues of the day. I would like to reference that statement because I think it explains and unpacks to a quite deep degree where she was going with that. But it does lead us to this challenge, Mr Anderson: when you have a political commentator—that is their job; they are journalists with whatever outlet—political comments are made by whatever party or whatever independent, and I know I have seen plenty of comment from Laura Tingle that takes apart various policies from all sides of politics, how do people get that balance within their work and personal life and how do they manage their way through that? I ask because every time we have you in front of us there is something that someone has taken exception to somewhere along the line in terms of journalists providing journalistic comment.

Senator HANSON-YOUNG: There are a lot of precious, precious people over on the coalition side.

CHAIR: There are a lot of precious people across the board.

Mr Anderson: It is certainly a challenge. We remind our staff, particularly our journalists, that they shouldn't do anything that undermines their ability to meet the impartiality standards that we have when it comes to fulfilling their work. We try to make that as clear as possible. This serves as another reminder for all of us. This was an unintended consequence, certainly from Ms Tingle's perspective, given the statement that she has put forward. We do have a code of conduct that addresses this. It does address it with personal use of social media, and it is, effectively, what people say publicly and how that might affect their work. When we go to do training on this, when we go to make sure that people do understand it, there is a higher threshold here for ABC journalists than there is for others.

That adherence to section 8 of the act, read out by Senator Henderson previously, is that there shouldn't be a reason that people do not do it, and people need to understand it. So, if you were at another outlet, you can pretty much do whatever you like without it, but not at the ABC. And that adherence to the principles of objective journalism is that you simply don't take a side. That principle is there to say that you are reporting on the facts as they lie, you can provide context and analysis but you're not arriving at a conclusion that sits there. For our political commentators, they are quite experienced, they have licence to provide judgement, as long as they put context and analysis with it. Those elements are very difficult for our people to adhere to. Back in the day before social media and before all this, it was easier when those avenues weren't there. It is something that we have had to, with our staff, remind them of, that is possible, if they don't take care.

CHAIR: Why is it important that the ABC has independence from any sort of political influence or interference?

Mr Anderson: It is incredibly important. It is legislated. Our independence is enshrined in legislation, but that comes with the standards that we just talked about, and that is a commitment to impartiality and accuracy. You can then afford to have the independence. We are there to hold everyone to account, which is referred to by some as biting the hand that feeds, in that we receive money from the government. That is an investment, I think, in the ABC, which is an investment in the Australian people and an investment in democracy. It is incredibly important that we are careful with that, that we adhere to our standards, and we do it for the Australian people. We are a big part in political debate, in democracy, whether that be federal or state, and certainly throughout the next 12 months—or however long it is until we get to the next federal election. It is something that is important to us, and we will have strict and rigorous guidelines on what we are doing.

CHAIR: Thank you very much. We will go to Senator Sharma.

Senator SHARMA: Good evening. I want to follow up with this issue that has been a topic of discussion, but I want to say up-front that I appreciate that your journalists attract a high degree of public scrutiny, as is right because you are a publicly funded organisation, and I recognise that, for the most part, they attempt to do a good

and professional job in tough circumstances, so I do not want my following questions to detract from that general view. I want to turn to the counselling that you said Mr Stevens provided Ms Tingle. When did that take place?

Mr Anderson: It took place this week. I don't know precisely when, but it was certainly before Wednesday afternoon.

Senator SHARMA: Okay. And you mentioned that Mr Stevens, I believe you said, endorsed Ms Tingle's statement that she put out yesterday.

Mr Anderson: I understand that is correct, yes.

Senator SHARMA: Was he consulted on it? Did he approve it?

Mr Anderson: I believe there was consultation between Ms Tingle and Mr Stevens with regard to Ms Tingle's statement before that was released, yes.

Senator SHARMA: Okay. And was there also consultation and discussion about Mr Stevens's statement before it was released?

Mr Anderson: I can't confirm that. I don't know. I imagine so. I imagine Mr Stevens gave an indication to Ms Tingle about what he was going to say in his statement.

Senator SHARMA: Would he have sought Ms Tingle's approval for his statement?

Mr Anderson: No.

Senator SHARMA: But he would have consulted her, you would expect.

Mr Anderson: I expect he would have advised Ms Tingle about what was coming, yes.

Senator SHARMA: Did you provide any advice on what the counselling entailed? Was it a general discussion? Was it a suggestion that lines have been crossed here and they shouldn't be crossed again?

Mr Anderson: I can't speak to the exact nature of that conversation, Senator, because I wasn't part of it. But I think Mr Stevens's statement speaks for itself with regard to his position on the situation.

Senator SHARMA: Has there been discussion among the board members about that controversy?

Mr Anderson: I can't speak to that either. This has not been a formal—

Senator SHARMA: Aren't you a board member, Mr Anderson?

Mr Anderson: I am a member of the board.

Senator SHARMA: So have there been informal discussions amongst board members?

Mr Anderson: Not that I have been part of. It is quite possible that they have talked amongst themselves without me, but, with regard to this, my discussions have been with Mr Stevens, as I said, with regard to Ms Tingle as an ABC employee, not as a board member.

Senator SHARMA: Had you had a discussion with Mr Williams, the chair?

Mr Anderson: I did have a discussion with Mr Williams. I informed him about the situation, where we were up to and what was happening. I wasn't looking for approval, and it was with regard to what I was doing as managing director, or what I knew was happening with regard to Mr Stevens.

Senator SHARMA: Okay. Correct me if I am wrong here, but I think you said in answer to an earlier question that you were quite regretful about this episode and believe it has hurt the ABC. Is that correct? Is that what you said earlier?

Mr Anderson: Yes.

Senator SHARMA: How do you think it has hurt the ABC?

Mr Anderson: I think I also said I think it has hurt Ms Tingle as well. I think that what has happened is that people have taken those comments and turned them into other things. You can see today with regard to Mr Stevens counselling Ms Tingle over her comments with regard to Australia being racist. I qualified that in my opening statement. I needed to. So what happens is that, with comments like that are then re-reported and re-reported by other media organisations, you are dealing with misinformation that is hurtful to the ABC that needs to be countered. I will say that some media organisations have really taken this and run with it. There is also social media trolling happening for our people as well—again, all of which is hurtful to both individuals and to the ABC itself. That is why I, like Ms Tingle, am regretful that we are in the situation that we are in and would like to move on from the situation we have been in; hence the two statements from Justin Stevens and a Laura Tingle yesterday.

Senator SHARMA: And, in your view, has this episode undermined the ABC's reputation for impartiality?

Mr Anderson: I think in the eyes of some people it will have, in the way that this has been characterised and reported, and some people will find that it is confirmation for what they believe rather than for what the explanations are, so yes, of course. There are people who believe what they believe about the ABC. We must always think about what our obligations to the Australian people are, regardless of that, to maintain trust with the Australian people. Our trust with the Australian people sits much higher than for commercial media. It certainly sits much higher than social media, by a factor of greater than 10 per cent. I think we are at 78 per cent on trust with the Australian people. That trust is incredibly important to be maintained, so that is why we put such emphasis on maintaining our impartiality and accuracy standards.

Senator SHARMA: Do you believe it has undermined the perception of Ms Tingle's impartiality?

Mr Anderson: I can't speak, to that degree, on behalf of the Australian people. I would like to think that people can rely on Ms Tingle's reporting to date and rely on it into the future and judge her on that.

Senator SHARMA: Overall, and just taking in mind your chair's comments upon assuming office that the ABC should reflect a view that aspires to impartiality, do you think the episodes of the past week have reflected such a view?

Mr Anderson: Certainly those comments of the chair I agree with. Again, enshrined in legislation, our requirements for impartiality are inflexible. It is something that we should always have and aspire to. This incident has happened off an ABC platform, but if it was on an ABC platform it wouldn't have met our editorial standards. Hence we have the debate that we have at the moment and the clarifying statements by both Ms Tingle and Mr Stevens.

Senator SHARMA: If you have staff members that are concerned about the reputational or organisational impact of this, what channels do they have to express those views to senior management?

Mr Anderson: If internal staff still or may have issues about this, of course they can talk to their manager. On issues such as this, my experience is that people don't have any reservation in expressing their opinion about them internally, and I think they would otherwise be free to come forward and express it. Internally, they can certainly go to their manager, and they can upwardly refer it to me.

Senator SHARMA: Thank you, Mr Anderson. I want to turn, if I could briefly, to the cancellation of the Deborah Conway appearance earlier this year. There was media reporting at the time, in March of this year, confirmed by Deborah Conway in an interview, that her appearance on an ABC Victoria evening radio show had been cancelled because her unspoken support for Israel had been too controversial. Is that your understanding of what took place?

Mr Anderson: I have a broad understanding of this, in that Deborah Conway was booked and then cancelled and then rebooked later. Mr Fang, do you have more details on that?

Mr Fang: Yes, that's what happened. Ms Conway was due to be on a radio program, and there was a producer that was unsure about whether that booking should go ahead. The program was cancelled at the last minute. That was then referred up to the manager, in which case the decision was made that Ms Conway should be on the program. She was rebooked and appeared on the program a couple of days later, and the program also apologised, and that apology was accepted.

Senator SHARMA: Why was the producer unsure in the first instance about whether this appearance should go ahead? What's your understanding of why that was the case?

Mr Fang: My understanding is that they weren't sure about what was going to be the focus of the segment and what was going to be part of that segment. They made a decision that they thought they needed to refer that up to a manager.

Senator SHARMA: Because of a concern of controversy—because of the views that Ms Conway had expressed?

Mr Fang: I'd have to speak to the producer. I can take that on notice, if you like.

Senator SHARMA: If you wouldn't mind—if you don't know today.

Mr Fang: Yes.

Senator SHARMA: Chair, have I still got one minute?

CHAIR: You have one minute.

Senator SHARMA: I'll turn to the *Q+A* episode that aired on Monday evening of this week. Are you familiar with the one I mean? It aired on 27 May and was entitled 'Gaza, Ukraine and the public space'.

Mr Anderson: I'm afraid that sadly I didn't see it.

Mr Fang: Unfortunately, ditto—I was not available on the night.

Senator Cadell interjecting—

Senator SHARMA: This is quite a reveal! I'll cede my time then, given you didn't see it. I did have questions about the balance of the panel and the diversity of views that were expressed on that show.

Mr Anderson: Why don't we take that on notice for you, Senator? It's on my list of things to watch. I will go back and watch *Q+A* from Monday night. We'll take that on notice and we'll respond to you.

Senator SHARMA: Thank you.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: Mr Anderson, some people listening to the questioning in this room for the last hour or so may be forgiven for thinking that everybody in the country thinks that Laura Tingle did something wrong. In fact, there are a lot of people who are angry that Laura Tingle has been thrown under the bus here. A lot of people are disappointed that the ABC has had to cower to another News Corp pile-on. Frankly, how come calling out racism is somehow worse in this country than being racist? This is actually the fundamental problem that was the issue of discussion. Laura Tingle's statement does refer to this being a News Corp pile-on. Do you agree?

Mr Anderson: Yes, it was a News Corp pile-on, but I wouldn't agree to the fact that we're cowering. We're not cowering to News Corp. That's not why Mr Stevens took the action that he took, which, by the way, I agree with. But it was not as a result of the News Corp reaction. There are a lot of News Corp reactions, a lot of News Corp attention the ABC gets regularly every week—

Senator HANSON-YOUNG: News Corp are obsessed with the ABC, aren't they?

Mr Anderson: Yes, they are. But I'm not going to focus on that. What I am going to focus on is certainly Laura. What I attempted to correct today with my statement was that Laura was not counselled with regard to her comments to say that Australia is a racist country. That was not why—and I think that's clear in my opening, and perhaps that wasn't clear in Justin's statement. But that was not the reason that she was counselled. She was counselled with regard to, again, broad, unqualified statements with regard to the opposition's budget reply speech that were truncated and summarised for the purposes of that discussion that happened at the Sydney Writers' Festival. So it was not with regard to racism. I will say that I think that, given that racism does exist in our country—there's a reason that we have a bipartisan Race Discrimination Commissioner—it's sad, but it needs to be called out. It needs to be discussed, and people need to talk about racism in this country and the need to eliminate it.

Senator HANSON-YOUNG: We all have a role to play in that, don't we?

Mr Anderson: We do. Unfortunately there's a history of racism in this country that goes back a long way, and it still needs to be dealt with for the future. And I believe you do that through respectful discussion and debate with regard to how you eliminate it. I would have thought that that is possible to do. So, again, Ms Tingle was not counselled over her comment that Australia is a racist country, and I believe that she's qualified that in her statement that was released yesterday.

Senator HANSON-YOUNG: Thanks. News Corp are so obsessed with the ABC, and then they send their cronies in here to attack journalist after journalist after journalist, estimates after estimates after estimates. It is not a level playing field and it never will be. You're a publicly funded broadcaster, so you are under scrutiny and criticism that News Corp would never ever pass. Okay? Every time they go after you and your journalists, it's to suit their business model. It's not because they care about the integrity of your journalists or the message that is being sent to the community. It's because it suits their business model to destroy the ABC. Isn't it time that the ABC stopped platforming News Corp personalities and commentators on your own programs? Black-list them. They don't contribute anything to this actual debate. They're doing the bidding of their masters, and that's it.

Senator HENDERSON: That's a breach of section 8 of the ABC Act, I would say.

Mr Anderson: It is important for the ABC to cover a perspective of views that are held in this country.

Senator HANSON-YOUNG: So get some other people who have those views, and stop platforming News Corp's mouthpieces.

Mr Anderson: I don't for one minute want to detract from, at times, the harm of that attention they provide to our journalists. Yes, we're held to a higher degree of scrutiny, and, yes, that is for good reason, because we are the ABC. However, there is a point at which that turns into vitriol against individuals, which we don't reply with. I can ask as much as possible that that is kept in a discourse that doesn't go down to an individual level, but there is some behaviour out there that exists across commercial media—and, yes, that includes News Corp—that we see

coming at us. My job is to protect our people through this, as much as possible. I see time and time again, with regard to our people getting attacked, that there is focus, then social media lights up, the worst of society comes out and people are racially abused. There's misogynistic behaviour, and it's awful for our people.

Senator HANSON-YOUNG: They do tend to pick on the women, don't they?

Mr Anderson: If I was to go back over time, I would say, yes, there is a focus on women. But what I would say is that, for the call to deplatform other people, we don't deplatform other people, but we make sure that we have a diversity of perspectives.

Senator HANSON-YOUNG: Fair enough. From this whole incident of News Corp again going after—the pile-on—one of the country's most senior public broadcast journalists, Laura Tingle, what message has that sent to your staff? What is the staff morale in the rest of the team, as a result of this?

Mr Anderson: I can't speak to the staff morale. What I would say is that I think staff will always want to see us stand by them and pull behind them and see that, to ensure the good work that they do, management have their backs when it comes to these issues. That doesn't prevent there being critical feedback when things do occasionally go wrong and some mistakes are made. When it comes to Laura Tingle, as per my opening statement, Laura Tingle certainly has my continued backing to continue the good work that she does on the ABC—and has done in the past and will continue to do in the future. And I ask people to judge her by her work on the ABC platform.

I would say for any other staff, again, to exercise caution with regard to what they say off ABC platform. I can't control News Corp or any other commercial media organisation, but what I can do is ask staff to adhere to our standards and what we have in our code of conduct with regard to what we do, because anything else seems to get amplified pretty quickly. If it were a small misstep, it would be amplified to a bigger one pretty quickly.

Senator HANSON-YOUNG: All you need to do is look at what News Corp are doing to their own journalists. Apparently, they're outsourcing it to AI at the moment—job cuts all over the place. That's how dedicated they are to public interest journalism.

Mr Anderson: Senator, happily, I can't talk to what News Corp are doing.

Senator HANSON-YOUNG: No. Could I just change tack on the question of artificial intelligence. Have you got a team looking at the impact of AI on the access to content and the verification of information? This is moving fast; news companies are having to keep up with it. Obviously, we know that Meta's done a deal in relation to AI and that ChatGPT are looking at deals around AI in terms of news content. What does this mean for the ABC?

Mr Anderson: In a minute I'll throw to Mr Fang, but first I'd say that there are a number of things we look at with regard to AI. There is no way we would let AI replace what we have as the craft of journalism—that is, independent public journalism. That's important for the ABC. What we have looked at AI to do is to be a tool with regard to researching our own published information, which we know we can rely on. That could be surfaced as a research tool. We've looked at it with regard to language conversion for the Australian public. We've looked at that element. Of course we're worried about the ethics of AI, with regard to other open-source AI and how the ABC's content surfaces on it at the moment. We haven't done a deal, but there are some ethics involved with this, and you can then go into quite a broad spectrum of, 'What is the content that you look at?' Mr Fang.

Mr Fang: The ABC does have a steering committee, as such, that's looking at the impact of AI on the media and on the ABC. It is made up of a variety of people from content areas, as well as technology, legal and the like. This is pretty similar to what other international organisations are grappling with at the moment. That group has been working on a set of principles to help staff make sense of changes in AI. We also have a guidance note that is about the use of AI, which is an editorial policy note, essentially, that needs to and will keep evolving. We are not using AI in our content, and at the moment we are following what would be a disclosure principle, essentially. If AI were to be used, we would disclose that to the audience. As you pointed out, this is a fast-moving area and media companies like ours are continuing to grapple with that, and I think we need to work with others internationally and try to continue to update our principles and make sure that we're being clear with the audience about what we're doing and what we're not doing as well.

CHAIR: Senator Bilyk has just one final question before we go to the dinner break.

Senator BILYK: Mr Anderson, in 2022 it was reported that ABC news presenter Fauziah Ibrahim had maintained a couple of lists on Twitter. One was labelled 'Labor Trolls/Thugs' the other was 'Lobotomised Shitheads'. I understand she was counselled about her social media accounts at the time. Did the ABC receive any questions from coalition senators at Senate estimates about the perceived or actual bias or lack of impartiality of Ms Ibrahim, or did they let that issue slip?

Mr Anderson: I have enjoyed a long time at Senate estimates. I'm afraid I can't remember through the testimony of each individual one. I am going to have to take that on notice and get back to you. I'm going to back and have a look at *Hansard* and see whether or not we received questions on that.

Senator BILYK: I think I know the answer.

Senator Cadell: And what column everyone was in!

CHAIR: On that, we might suspend for the dinner break, and we will return with the ABC.

Proceedings suspended from 18:16 to 19:12

CHAIR: Welcome back. We will resume with the ABC, and we will go directly to Senator Hanson-Young.

Senator HANSON-YOUNG: Mr Anderson, I want to talk about the impact of Meta refusing to renew contracts under the news media bargaining code. Are you able to give us an indication as to what the financial impact of the decision of Meta to not renew the code—in the absence, of course, of them being designated—means for the ABC?

Mr Anderson: I think I've explained before that we're on strict confidentiality agreements with both Google and Meta with regard to not revealing the amount of revenue that we get from either one. But I can say, and reiterate, that, with the funding that we did receive, we went through with the undertaking that we had that we would invest in regional journalism. We invested in over 60 journalists to be in regional, rural and remote Australia. We put them in places where we already were to bolster areas, as well as in an additional 10 locations throughout the country. We think, particularly in the advent of the retreat of commercial media—because they can't afford to be there anymore—and the shutdown of other local papers, that it's important that we're able to gather, and have, local stories. For us it's a significant problem when we get to the full run rate of this. At the moment our current agreement—Ms Kleyn?

Ms Kleyn: Our current agreement expires in full in December of this year.

Mr Anderson: Yes, so we've got a partial financial year problem. We've got time to prepare ourselves for this, and no decision has been made about how we approach it. We do see it as a whole-of-ABC issue. Our presence in regional Australia is incredibly important.

Senator HANSON-YOUNG: And especially coming up to summer. In bushfire season, you need the ABC more than ever. It's going to be a killer season.

Mr Anderson: Together with the board, we'll look at what this means for us, for our total budget, and where we invest presently. It is, to use a double negative, a not insignificant amount of money that disappears from what is additional revenue that we've got coming into the ABC, and it is of concern. I will add that there is a certain audience that does come to the ABC via Meta at the moment. I do worry about the consequences if Meta were to sever those ties as well. So there's a relationship here, where they do benefit from our news and information—

Senator HANSON-YOUNG: They say no-one on their platforms cares about news; that's why they shouldn't do this. No-one cares. You're saying people do?

Mr Anderson: People do. What's probably changed is the behaviour of people seeking news and a behavioural shift on Meta that's moved away from what they set up, from what the revenue is for, over towards Instagram, Insta Reels and other things.

Senator HANSON-YOUNG: Of course, Instagram was never part of the original deal. There was a carve-out for that, right?

Mr Anderson: Well, I can't speak to the terms of the deal, but, as for how they've positioned this, they've made a commercial business decision that they're going to abide by the contract as it stands at the moment. They've already discontinued an element of what there is in Meta. We've still got news and information that sits with Meta through various things, whether it's on Facebook itself or whether it's through Instagram. And, yes, that money, as Ms Kleyn explained, expires later this year.

Senator HANSON-YOUNG: Have you got any figures—you may need to take this on notice. I'm particularly interested in the Instagram element of this. Obviously, I don't know the details of the confidential deal that you struck with Meta, but I do know, from when we were negotiating the legislation under the previous government, that the Treasurer made it clear that Instagram would be a carve-out, in the government's eyes, as YouTube would be from Google. I'm interested to know whether you've got any data that shows how users have changed or grown in relation to accessing ABC content on Instagram over the last two or three years.

Mr Anderson: Senator, we'll take that on notice and give it to you. What I can say more broadly is that, when I look at the data of different news providers with regard to the audience that they have that sits on Instagram,

they're all up, and the audience that would otherwise be sitting with Facebook are all down. That's my understanding. I'll confirm that on notice for you, but certainly, for the up component of this, we're looking at plus numbers in green via Instagram, but virtually every other news organisation is looking at that as well.

Senator HANSON-YOUNG: Okay. Do you have any research or analysis about how news articles are shared on these platforms in order to rebuke mis- and disinformation from users?

Mr Anderson: Certainly, from an ABC perspective, we do say, because we are independent, accurate and impartial, that we're a source of reliable news that people can trust. We are without commercial influence. There is a concern, I will say, because this year I think half of the global population go to the polls, that with the prevalence of misinformation, as part of any democracy goes, you want to make sure that you have room for everybody and a polarity of views. But you want to make sure that a public broadcaster is there as well. You want to make sure that, with those obligations to impartiality and accuracy with independence, people then have access to that information to inform themselves. What I can say is that there are many instances of the spread of disinformation or misinformation through social media channels, so using a social media channel to get a credible source of news is important.

Senator HANSON-YOUNG: It's always hard isn't it to think about the counterfactual—if you didn't have these things—without getting caught up in a hypothetical. I think about when we were at the height of COVID and there was a lot of misinformation and disinformation about the virus, and people all over the country were tuning in to Norman Swan and the information that was coming out of particularly *Coronacast* and generally the information that the ABC was putting out there to help inform people in terms of the public health issues. If Meta were to ban the sharing and posting of articles and fact based information from Doctor Swan in the middle of that, it would have been a disaster.

Mr Anderson: Yes, and you can extrapolate that to other times, like emergency broadcasting, where we're trying to get information to people. You want to make sure that you can do that on virtually any channel that you've got available to you so you can reach Australians in many different places. There are times when the ABC, as the national public broadcaster, is there to inform people in those moments of need, and people absolutely have to have access to it. When we were in the throes of doing a deal and Meta cut off certain news services, including the ABC, they actually cut off everything for the ABC. So anything with ABC in front of it disappeared, if people remember. It included ABC Kids and all sorts of things like ABC iView et cetera.

Senator HANSON-YOUNG: That was a big dummy spit.

Mr Anderson: It was, and it's happened overseas. The Canadians have had it happen to them, and it happened to CBC, the ABC in Canada. That was far more drastic for them. What I will say is that here in Australia we still have the ongoing relationship and commitment for the revenue through to the end of the year, and for the moment they are still carrying ABC services with that. I would hope that they do not sever those ties in the future.

Senator HANSON-YOUNG: Have you had any discussions with government about the impact on your broadcasting, particularly in the regions, once this revenue and this contract expires?

Mr Anderson: There have been discussions with government—constructive discussions to explain our situation as best we can given our confidentiality arrangements. When that announcement was made, Minister Rowland organised meetings with all of us, I believe. I was certainly on one of those calls, which was really to have more information go back to the government and other agencies that were seeking information as well. So we've cooperated with that as best we can while still complying with the confidentiality arrangements we have with both Meta and Google.

Senator HANSON-YOUNG: You haven't got a problem with Google. The contract with Google lasts longer and it's—

Mr Anderson: We haven't even really confirmed that. We weren't really allowed to confirm it. What I've said in the past quite cryptically but obviously is that we really are talking three-year terms or five year terms, and the Facebook deal is expiring later this year.

Senator HANSON-YOUNG: Have you quantified yet what that means if that money isn't found? If the money that is currently coming in from Meta isn't renewed or isn't found through another source, do you know how many job losses that would equate to?

Mr Anderson: I don't want to quantify that at the moment because it goes straight to what would otherwise be a cost, but no doubt it's multiple millions per annum—

Senator HANSON-YOUNG: That's a lot of journalists then.

Mr Anderson: and we've scaled up our operational cost. Operational cost is not just salaries, but, for the additional places where we are, there's an operational cost associated with them to make sure that we're kitted out and we've got a place for people to be. We just have to be quite judicious about how we meet that reduction in what is own-sourced revenue for the future. But we've got some time, so there's not a panic about that. It is something that is on our radar that we are looking at. We also want to see what any of these investigations that are started by government might produce by way of an alternative.

Senator CADELL: On the same issue, congratulations and thank you for what you did with regional, with that money. I appreciate how you're using that. It's been great. As we go forward, is it binary? Is it that they will cut you off and you won't be able to share news via that system? Is there a halfway house, or where is it?

Mr Anderson: Not yet. At the moment all we know is that the money runs out. They have not indicated that they would remove the ABC from their platforms; that has not happened. That has not been stated. In fact, what they've said is that, with regard to what was specific to Facebook, they're moving away from that but they will maintain what is effectively for us—for the ABC, and I'll just speak to us—a presence on Meta platforms, regardless. It hasn't changed; they've just said that they're not renewing the deal that we have.

Senator CADELL: They don't want to. There are all sorts of legislative and regulatory powers that could change that. I've found, across not just the ABC but also ACMA, that regional papers and stuff like that have very much valued the resourcing and the communities out there have valued it. Regarding the 60 staff that you've put on with the social media funding, how have they integrated into the ABC? Do they enjoy the regional coverage, and that sort of thing?

Mr Anderson: To be honest with you, there is concern over what that means. There are some people who were put on fixed-term contracts for the duration of the funding. I've said that it's a whole-of-ABC problem. I don't think it's as binary as people coming in then people leaving. I think that what we've invested in has been quite valuable, but we definitely have a challenge in front of us. We're not rushing to cut people out of regional Australia, but there is a funding challenge—that is, a part-year funding challenge for the next financial year that we're looking ahead to at the minute.

Senator CADELL: Is Meta the only one taking this stance at the moment?

Mr Anderson: Yes.

Senator CADELL: Do you think if they take this stance and they're successful that others will follow?

Mr Anderson: I think what is before the government at the moment is that the government have a facility with regard to designate under the code. We've also got, like other media organisations, another deal that is in place. That all needs to be taken into consideration. For us, we're certainly enjoying that partnership. That partnership is important for Australians. Those people who live in those environments, who don't necessarily come out of them, have access to ABC news and information and have access to our reporting. They don't have all of it, but they've got some of it, and they know who we are.

Senator CADELL: I'm asking for your experience as a news and media organisation; it's not just an ABC thing. In regional Australia, we've lost daily print papers everywhere. We're losing local voices in our towns across the country. This is one way to fix that. I don't want all the media, especially not towns and stuff, to be government funded. Is there anything we can do to restore active journalism in the regions that you can see, or is it a dying art if you're not paid for your product anymore?

Mr Anderson: Australia benefits from the ABC being through regional, rural and remote Australia. It's one of our jewels in the crown, as it were, to be that local. And for members of the community to be part of the ABC by a regional arm is important for those communities. It's also important to elevate stories out of regional Australia. It also helps provide context for those local communities when there's a national policy debate on something and what it means for them. We can't replace the newspapers that have left, because we don't do all the jobs that they were doing when they were serving those communities. I do think it's important, just from my perspective, that we maintain a regional presence and the regional presence that we've got. At the moment we don't want to withdraw people out of regional Australia. While I don't think there are expansion plans at the moment, there is a maintenance plan here that is incredibly important. It's not just serving in emergency situations; it is certainly there for all other times to celebrate life in regional Australia and to tell those stories, as well as in times of need.

Senator CADELL: As to that, I have to be a bit bipolar: I love the regional stuff—I'm a bit dubious about Sydney—and I thank you for what you do in the bush. That's fine.

CHAIR: Senator Bilyk.

Senator BILYK: I want to ask some questions in regard to the ABC's net zero plans. Ms Kleyn, I think these will probably come to you.

Ms Kleyn: Certainly.

Senator BILYK: I understand from the annual report that the ABC has set a net zero target for greenhouse gas emissions by 2030 and is committed to science-based targets for emissions reductions. Who has the responsibility for making progress on this commitment? Is the board involved?

Ms Kleyn: Yes, your statement is correct. We do have a target for net zero by 2030—scope 1 and scope 2. At the minute we are in the process of having science-based targets validated with the SBTi, which is the leading global standard for science-based target setting. We are still in that process for scope 3. We haven't yet had that completely confirmed, but we're quite confident. As you say, scope 1 and scope 2 lead to net zero by 2030.

In terms of the governance structure, we do have quite extensive layers of governance. Throughout the organisation we have business planning around meeting those KPIs. We then have a people-in-sustainability committee, which is being formed at a board level, to inform the full board around things like policies, our target setting and how we're tracking against meeting those targets. We've got a number of environmental policies in place. We've got social and sustainability elements embedded in our procurement policies. In the ABC internally, we have a sustainability working group. They're tasked with having that focus on meeting those targets. The targets are set around a range of initiatives, largely to do with energy procurement.

Senator BILYK: Do you know what the total greenhouse gas emissions for the ABC are? Do you know what activities are causing those emissions?

Ms Kleyn: If I refer to scope 1 and scope 2 first, the greenhouse emissions, as reported in the annual report at FY2023, were approximately 22,000 tonnes of carbon dioxide equivalent. That's mainly related to energy procurement. That is 93 per cent due to purchased electricity, and the remainder is basically gas and vehicle fuel. It's mainly around our purchased electricity. With regard to scope 1 and scope 2, we tier our approach with the measures in place. The first step is abatements: what can you do to reduce your usage? That can be anything, such as installation of LED lights or HVAC systems—whatever we can do with our buildings. We're in I think 72 locations across Australia. So there's a lot of focus on maintaining the buildings, our content facilities and our studios, and on how we can do that in a more energy-efficient way. We start with abatement. We've done a range of activities around installation of solar panels. I might have to clarify this, but that is in at least 17 of our locations. Where we can, we will also install batteries. The last thing we will do is purchase green energy. Obviously we would start with abatement, as I said, and then the purchase of green power.

Senator BILYK: How do you think you are going in reaching the target? You've talked to us about some of the things you're doing in step 1 and step 2.

Ms Kleyn: What we're doing?

Senator BILYK: How do you report your progress against targets? I suppose that's the real question.

Ms Kleyn: We have quite an extensive reporting methodology. We've had that in place for some time. We get an awful lot of data from our suppliers. It's real-time data and we're able to track directly. We've also been working really closely with government. We've had a lot of very helpful and meaningful consultation around target setting and around measurement so that we have uniformity.

Senator BILYK: You mean uniformity with other Commonwealth agencies?

Ms Kleyn: That's right—uniformity in the way we report.

Senator BILYK: That was one of my questions too.

Ms Kleyn: Absolutely. That's been a really good, meaningful consultation. It's quite complex. It's quite a complex and new area. There's a lot of data analysis. We've really been able to build the capability in-house, which has been really good. As I say, we've been recording this data for some time and you can see in our annual report that we've had a quite pleasing reduction since FY19, for example. We've reduced our emissions by 31 per cent in terms of energy consumption and we're following that trajectory quite well.

Through our initiatives and through targeting our activity, we've accelerated that reduction. In particular, we've had a focus on our Ultimo building, which has the highest energy consumption simply because of the size of the building. We have focused there on solar panels, abatement activities and the purchase of green power, so we expect to see quite a significant reduction through those initiatives, starting with Ultimo as our biggest premises.

Senator BILYK: You mentioned the issue around solar panels. I think you said 17 out of 72. Have you switched to hybrid vehicles?

Ms Kleyn: Yes, we have. We're progressively switching to hybrid vehicles. I think, on the last information I have, around 30 per cent of our fleet are now hybrid vehicles. That's an increase from around 2022, when we had about nine per cent of the fleet, so we are progressively switching to hybrid vehicles as we replace the vehicles and we work through that.

Senator BILYK: I presume those vehicles are leased, are they?

Ms Kleyn: That's correct.

Senator BILYK: So as the lease expires you're moving to hybrids.

Ms Kleyn: That's correct.

Senator BILYK: You mentioned scope 1 and scope 2 emissions. Can you tell me what steps you're taking to reduce emissions, and what about scope 3 emissions, for ABC suppliers? What are you doing to take steps to reduce those emissions, which, if I heard you correctly, are a major part of the ABC's footprint.

Ms Kleyn: That's correct, yes. With regard to our scope 3 emissions, we had baseline data from FY22 and the emissions were about 72,000 tonnes of carbon dioxide equivalent. We know there's been real progress in the reduction of those emissions. We don't report them in the annual report—we're not required to at the moment, but we track them internally. We're working really closely with our suppliers on those emissions. When we went to set our science based targets we had to very much consult with our suppliers to make sure that our target setting was accurate.

The bulk of those emissions are through transmission, so we know that our key transmission supplier partners are setting their own emissions targets, and we're seeing quite pleasing results amongst our suppliers in how they're reducing their emissions. We're able to see that we're tracking in the right direction as well and quite comfortable and confident with our own target setting.

CHAIR: Senator Henderson?

Senator HENDERSON: Mr Anderson, I want to ask about your TikTok journalist activities. Have you scrutinised or had any reports in relation to your coverage of Israel, Gaza or the Jewish community?

Mr Anderson: I would have to take that on notice. I don't have any information in front of me with regard to that. Mr Fang, do you have any information on that?

Mr Fang: What in particular?

Senator HENDERSON: The issue is, and I refer to a *Herald Sun* article by James Campbell—I'm sorry, I don't have the date—called 'Pandering to TikTok puts ABC in editorial minefield', raising concerns about TikTok ABC journalists. One of the problems is that when there is a story which leans or has an anti-Israel flavour about it, by reason of the TikTok algorithm those videos are going viral. With one particular video, there's been thousands of really concerning comments. I'm really worried about the integrity of your journalism. I'm raising concerns because perhaps, through no fault of the ABC, some stories are being magnified on TikTok. As we know, there are all sorts of issues with TikTok: it's owned by a Chinese company, and perhaps it has particular intentions in relation to how the algorithm works. Could you provide us with any information in relation to what I believe are serious integrity issues with your TikTok journalism?

Mr Anderson: I will take that on notice. I know that the team of journalists that we've got publishing stories to TikTok are talented journo's that have to abide by all the rules and requirements of the ABC. I haven't had anything brought to my attention, but—

Senator HENDERSON: No, but hang on, Mr Anderson: we've already had the issue with one TikTok journalism story—

Mr Anderson: There was one story which was problematic, and—

Senator HENDERSON: Which was more than problematic, and had to be significantly re-edited.

Mr Anderson: No, it wasn't up to our standard. It needed to be suspended, then updated and then republished. But I can think of one, and I haven't had any other one that's come to me since then. So I haven't had that concern raised with me, particularly on that subject matter, but we will get back to you on notice.

Senator HENDERSON: I would appreciate it. And could you also look at one particular story which received 1.2 million views and was very much an anti-Israel story. I am concerned about the way in which these stories are being amplified on the TikTok platform. You don't have any concerns about continuing to publish on TikTok?

Mr Anderson: The simple fact for us is that there are so many Australians that have taken to TikTok, that we believe we need a presence there. They know who we are. We need our independently produced journalism with

whatever else is there on TikTok. We think it's important to have that presence, but I am concerned by what you have raised and we will definitely try to find out what it is that is of concern at the moment.

Senator HENDERSON: You've got an Israel-Gaza reporting team. Do you have a reporting team dedicated to the war between Russia and Ukraine?

Mr Anderson: We do have editorial guidance that sits around what our major coverage is—Mr Fang?

Senator HENDERSON: I understand it's a specialist subunit within the ABC news TikTok team, called the Israel-Gaza Domestic Reporting Team.

Mr Anderson: I know that we've got people dedicated to the Israel-Gaza coverage, for reasons I've mentioned earlier. Everything we do about that is important and it's important we get it right. I know that exists in many areas of what we have for ABC News, and there are representatives that come together with regard to it. With regard to Ukraine and Russia, though, I know we did at the beginning. Whether we still have a unit that actually focuses on that, or whether we have that as part of what we would normally do with our normal editorial management, I can't answer you right now.

Senator HENDERSON: How are you safeguarding your users from the harvesting of data and other major privacy and security concerns which have been raised, such that members of parliament, for instance, and officials of the Australian government, have been told not to use TikTok on their devices?

Mr Anderson: We have certain restrictions internally within the ABC as well. We have our own policy, which is that we should not, as ABC employees, have TikTok on our phones, for those same concerns. We invest heavily in cybersecurity. When it comes to those people publishing to TikTok we do have a separate dedicated device that they publish from.

Senator HENDERSON: So TikTok is prohibited on the devices of ABC employees—

Mr Anderson: Yes.

Senator HENDERSON: and yet you have a TikTok journalism department?

Mr Anderson: Yes.

Senator HENDERSON: Don't you think that's a bit of a contradiction—

Mr Anderson: No.

Senator HENDERSON: given the obvious and significant security and data privacy issues that even you've recognised, clearly?

Mr Anderson: We've heeded the warnings that have come from Australian government agencies with regard to TikTok. So we've adopted what has been effectively agency wide, certainly, with regard to saying to people not to have TikTok on an ABC device or their own personal device. We've taken measures with regard to when we do it, noting what I said earlier that there is a very large portion of the population consuming news, information and other material from TikTok. We think we need to be there, so we've worked out a way that we can do it—to still publish responsibly to it—but not compromise ourselves in the meantime.

Senator HENDERSON: One of the issues that I've long banged on about is the inadequate social media policy you have. On many of these posts the comments have been turned off, yet there are some stories where the comments have been left on. Do you take responsibility for the comments on your stories? Under current Australian law, you are deemed to be the publisher.

Mr Anderson: Senator, we have moderation requirements on the material that we publish. Sometimes we don't have comments available. We do have comments available when it can be moderated, and when it can't be moderated we don't.

Senator HENDERSON: There's one particular story with over 2,000 comments. I would ask you to come back with more information—

Mr Anderson: I'll respond to you on that.

Senator HENDERSON: You're not reviewing that your TikTok journalistic—so called journalism—operations are safe, so-called, because, based on the evidence you gave last time, you don't need to be a qualified journalist to be working for the ABC on TikTok?

Mr Anderson: The training that we have for all of our journalists applies to the vertical video team, which does publish to TikTok. Those are experienced journalists that we have. That's my understanding with regard to those journalists that are publishing to TikTok. Again, they have all the same editorial standards that they have to meet when they are publishing, because it's an ABC publication on an ABC TikTok account, and it comes under the same scrutiny and the same editorial management that we would have anywhere at the ABC.

Senator HENDERSON: I'm looking at some of the comments now. I'm not going to read them all out, but there are really some disgraceful comments that the ABC is publishing on this one particular story. There are really grossly anti-Israel comments, even a comment I'm seeing now: 'Where's the leader of Hamas's son?' If you are going to operate on this platform, Mr Anderson, surely you've got to do so with requisite integrity, and that includes ensuring that you are not publishing these sorts of comments.

Mr Anderson: There's obviously what we're controlling, and then, when somebody re-posts other things that we have previously published, obviously that sits away from us and we don't have control.

Senator HENDERSON: No, you're deemed to be the publisher under Australian law. It's your post. The comments are deemed to be the publication of the ABC.

Mr Anderson: Senator, I will take a look at that and I'll respond to you on notice.

CHAIR: We'll rotate the call. Senator Hanson-Young you have the call.

Senator HANSON-YOUNG: Mr Anderson, we were talking earlier about the impact of funding, particularly on ABC in the regions. Have you had any conversations with the government about preparations for how the public broadcaster is going to fund emergency broadcasting this upcoming summer?

Mr Anderson: The government is always keen to know that we are equipped and ready to do the emergency broadcasting coverage that we would normally do. That is something that is expected of us and something that we willingly take on board. We have had discussions with the government about the fact that we have this funding that does terminate later this year and what we see as certainly a funding challenge for it. The government is certainly aware of that. They've requested information, through other agencies as well, with regard to what we did with the money that comes in. There are obviously curation costs that sit with this as well as the deployment of journalists. So the answer is yes, but there are broader funding challenges as well. It's not just with regard to terminating Meta own sourced revenue.

Senator HANSON-YOUNG: Yes, but the ABC doesn't get any extra funding, does it, for the role you play of being an emergency broadcaster? I think that's a problem. Extreme weather will only become more and more frequent. The importance of Australians knowing what's going on at those moments is essential. Everybody knows you tune into the ABC, but it costs you money.

Mr Anderson: That is true. It has increasingly cost more money over time. It used to be that the emergency broadcasting season was a distinct season. Now it's all year round. Ms Kleyn, would you like to follow on?

Ms Kleyn: It's, I'd say, twofold but it's probably multilayered for us because it certainly cost us more money to have an emergency broadcasting team. As Mr Anderson says, we now need a team that works all year round. We used to have a team that would work quite seasonally. That team is an amazing team who work in a coordination function.

The bigger challenge for us is really the resourcing of the whole ABC regional resource that we need to maintain. We need to maintain quite a broad property footprint and a broad transmission footprint because we need to be in all of these areas. In many ways it's the pressure on our teams, like our news teams and our local radio teams, where we don't see the patterns that we used to see where, for example, we would be able to have our teams go on leave over certain periods of the year, as they're entitled to do. We need to fully resource this operation to maintain our coverage now, with the increasing emergency broadcasting coverage that we need to maintain.

Mr Anderson: I'll add to that, if it's helpful, and give you some stats on events. Emergency broadcasting events in 20-21 were 189, in 21-22 there were 310, in 22-23 there were 455 and in 23-24 to May this year there have been 649. The job that we do is an important one, and all credit to the teams, as well as the regional bureaus who are living through it themselves, let alone the other teams who support them that sit in the capital cities. There's a structure there that is a distinct team—which we've bolstered and doubled, effectively—but then they leverage from where we already are both in the regional bureaus as well as in capital cities, and then we effectively move and surge resources as we have to when there's an event.

Senator HANSON-YOUNG: I hope the government considers getting you some more funding so that you can keep doing that work, especially as we keep hearing that the danger periods of the seasons are growing longer. In last year's budget, the ABC received a five-year funding settlement, and that's welcome, but I would like to have a bit more of a look at that funding profile. Is all of that funding built into the ABC ongoing? Aside from the Meta stuff and Google stuff that doesn't come from government, is any of the government funding that is not based funding that is terminating or expiring?

Mr Anderson: I'll defer to Ms Kleyn to respond to you on that.

Ms Kleyn: Yes, over the five year funding period we've got two terminating measures that finish at the end of the 25-26 financial year, and are not in the 26-27 financial year. They are the Better Funded National Broadcasters, and that's exactly \$20.9 million per annum, and the Pacific Security and Engagement Initiatives, which is \$8 million per annum, which expires at the end of FY26.

Senator HANSON-YOUNG: That Pacific service, what's it officially called?

Ms Kleyn: The Pacific Security and Engagement Initiatives.

Senator HANSON-YOUNG: So that's \$8 million?

Ms Kleyn: That's right.

Senator HANSON-YOUNG: Of course, prior to the Abbott government the Australia Network was funded at a much higher rate than that, wasn't it?

Ms Kleyn: That's correct, yes. I must acknowledge that was before my time, but, yes, the Australia Network was funded at a much higher rate. As I understand it, at that point in time we reduce a level of coverage. We maintained a base level, which was less than we had had previously when we had the dedicated funding, then we have welcomed additional funding like this initiative that has meant we could bolster quite specifically different things. For example, with this money we have been able to focus on additional content, on additional transmission in the Indo-Pacific as well as media literacy and initiatives like that.

Senator HANSON-YOUNG: Have there been any conversations with the government about extending the better funded initiative?

Ms Kleyn: Do you mean a better funded national—

Senator HANSON-YOUNG: Yes, the \$20.9 million, or the Pacific engagement money?

Mr Anderson: No, we have obviously talked about this with the government. We have pointed out there are terminating measures.

Senator HANSON-YOUNG: They haven't given you any indication that they will throw in extra money? It wasn't in this year's budget, in the forwards?

Mr Anderson: Not yet. The forwards show a decline in funding for the ABC in both real and nominal terms as a result. The \$20.9 million was intended to effectively restore indexation. Of course, the effect of indexation was more like 40 but we are happy to receive and welcome the 20.9. Part of the 20.9 has gone to different places. I'm sure Ms Kleyn can help me out, but one of them was to bolster emergency broadcasting as well as *BTN High*. We have taken *BTN* and extended it to high school. As well, we helped fund an EA pay rise. That is terminating after four years.

Senator HANSON-YOUNG: To be clear, the government crowed about this five-year funding program. But actually, over the forward estimates, the funding to the ABC is going down.

Mr Anderson: In the outer years, that is correct but that is in the outer years. At the moment, it doesn't affect us immediately—the immediate problem we have is Meta related—but in the outer years, yes.

Senator HANSON-YOUNG: Is that in FY '27?

Ms Kleyn: That is right; yes, the funding does decline in real and nominal terms.

Senator HANSON-YOUNG: Costs are going up for everyone. We keep hearing about the cost of living with inflation through the roof. Has that had an impact on the cost of delivering news and services to the ABC? I imagine it has. Are you able to quantify that?

Ms Kleyn: Yes. For a complex organisation our cost structure is essentially people, programs and a number of fixed-term transmission contracts making up the bulk of our expenditure. To answer your question in a few ways, if we actually look at the history of our funding, if we look at our funding trajectory, if I look back to say the last 10 years, our funding has gone backwards in real terms by about 14 per cent. That is from a combination of rising costs and funding cuts. If I break it down into those three categories, we have had significant increases in our supply costs, for example, that been indexed against CPI. That has been higher than our indexation that we received. For our programs in the Australian production sector and the international sector, obviously there's a lot of competition. Content can go up anywhere from five or 10 per cent to we are not in the market to compete on some of the content against some of the really big global players. Then of course, we have had salary increases in our own EA. If we look across the economy through three to four per cent is not unusual.

Senator HANSON-YOUNG: And unlike commercial players who can just increase the cost of advertising, the ABC doesn't have the ability to do that, and you shouldn't; you are a public broadcaster, so the government has to foot the bill, or parliament should foot the bill.

Ms Kleyn: We certainly can see our funding is not keeping pace with our rising costs. That is the truth.

Senator BILYK: Aside from the content you create and distribute, can you tell us what else you are doing to support media in the region?

Mr Anderson: Despite the content we make and distribute—sorry, I missed the second part of the question.

Senator BILYK: Aside from the content that you create and distribute, can you tell us what else you're doing to support media in the region, in the Indo-Pacific region?

Mr Anderson: What we're doing is different to what it was with the Australia network. The funding for the Australia Network was around \$22 million or \$23 million per annum. What we were doing was providing news services out of Melbourne that went into that region. This is different. In the way that we've deployed this funding, part has gone to capital. We've created two time zones via satellite distribution. We've extended the FM footprint. But more importantly, we've hired nationals from Pacific Island nations to actually report as nationals from their nation, and that has been immensely successful. We have new programs with it that have appeared as well. There are people hired in the region that are deployed that are reporting on ABC platforms.

Senator BILYK: Can I just clarify, Mr Anderson, please, that that's the additional funding that you've been given under the government's Indo-Pacific broadcasting strategy?

Mr Anderson: That's right. That's in addition to other international activities we have. There is international development, which is effectively administered by us. The funding comes from Department of Foreign Affairs and Trade. We provide training that is technical, editorial, operational training to other Pacific broadcasters like public broadcasters that are around the region. That's ongoing. That's an important function for us. And yes, we also acquire content and run, if you like, an ABC Australian television service that goes overseas. They all sit under ABC International and are supplemented by that additional \$8 million a year.

Senator BILYK: Progress is being made using that additional funding?

Mr Anderson: Of course I'm going to say this, but I think it has been incredibly successful in the way that funding has worked and the way we have been able to cover things. Rather than fly people into Pacific nations, having those people who are nationals to that nation reporting on what's happening in their area back to Australia for their own diasporas is incredibly important and enhances what the ABC offers the Australian people.

Senator BILYK: So, can I just clarify, you said that the Australian Network was funded at \$23 million per annum?

Mr Anderson: I think in its final year it was around 22 or 23. I can confirm that for you on notice.

Senator BILYK: Did the coalition government abolish the Australia Network?

Mr Anderson: Well, they withdrew the funding. It was effectively fee-for-service, so, because the funding disappeared, the service disappeared for the Australia Network. It was disbanded.

Senator BILYK: What's the ABC International budget now?

Mr Anderson: Ms Kleyn, do you happen to have that as you flick pages?

Ms Kleyn: I can confirm that the Australia Network funding was run down effectively. The last year was 2015 and that was \$10.6 million. The International budget, and I should confirm this on notice, has three facets, as Mr Anderson was speaking to. We have what we would say is our base operational funding. I will confirm on notice but I think that is approximately \$12 million or so. Then we have this additional funding which has been quite dedicated to the initiatives as outlined then we also have the grant funded initiatives. It can vary year-on-year depending on the grants in particular, so I will take that on notice and give you an exact number.

Senator BILYK: Okay. That's lovely, thank you. Thanks, Chair.

Senator SHARMA: Can I just ask about *Q+A*, the show. How many episodes are airing this year, 2024?

Mr Anderson: I'll confirm it on notice to you, but it is certainly less than last year. I think it is 24 episodes.

Senator SHARMA: Yes, I read that it was 24 episodes this year versus 40 episodes last year.

Mr Anderson: That is correct.

Senator SHARMA: So that's right. Has there been a reduction in the headcount at *Q+A*, like the number of people employed?

Mr Anderson: I believe so. I'll confirm that to you on notice, but, yes, I believe so.

Senator SHARMA: Have there been any recent redundancies at *Q+A*?

Mr Anderson: I believe so, but I'll have to confirm that with you on notice.

Senator SHARMA: I did hear reports that there were redundancies in the last week or two and that some staff walked out or went on strike.

Mr Anderson: I don't know about any staff going on strike. I'll confirm that with you on notice, but, yes, I believe that there were a couple of recent redundancies out of the *Q+A* team.

Senator SHARMA: What are the plans for the program's future?

Mr Anderson: We're using that time to think about the program's future. I think *Q+A* as a concept—what's there and what it's meant to do—is an important one. It's important that the ABC does that and actually brings people together to hold conversations. We are looking at what we might be able to do for the future, if there is something we can do for that program, but at moment we're running with the 24 episodes—again, I'll confirm that on notice; that's this year. I think the format that *Q+A* has held in that context has been important, and I've been keen to explore whether there is another way of doing that format. I'll have to come back to you on that one, and that won't be soon, because we're still working on what that might be.

Senator SHARMA: That's understood. Come back to me on the headcount figures on notice, though.

Mr Anderson: I will.

Senator SHARMA: On your move to Parramatta, I understand the Parramatta office in Western Sydney opened earlier this year.

Mr Anderson: That is correct. It opened initially with some ABC Radio Sydney programs coming from it. By the time we get towards the end of the year we will have the newsroom there, with the 7 pm news coming out of Parramatta nightly, as well as a portion of the news channel and other content coming out of Parramatta.

Senator SHARMA: How many staff would you expect to have working out of there by the end of this year?

Mr Anderson: Ms Kleyn can probably flick to a table. We did always say up to 300, and there are different individuals on different—not everyone all at once, because we're on seven-day operation and have people on different shifts. I think we will see around 250 or 260 coming out of Parramatta that will be there on a weekly basis. There are other teams that will rotate through, depending on what's on in greater Western Sydney, that will make a highlight of various things, whether that's triple j, Radio National or whatever.

Senator SHARMA: The goal you have in the five-year plan, I believe, is to have 75 per cent of journalists and producers working away from Ultimo by 2025. How are you tracking?

Mr Anderson: We're tracking against that. The goal is to have 75 per cent of content makers working outside of Ultimo; that's an ambition that we have, and we are working towards that. Parramatta is part of that; it's not all of it. We don't have a high staff turnover, but, where those opportunities present themselves, we do look to replace content-making positions outside of Ultimo.

Senator SHARMA: What figure constitutes 75 per cent of journalists and producers, roughly speaking?

Mr Anderson: As in 75 per cent of the total cohort of ABC staff.

Senator SHARMA: And what is the total cohort of ABC staff?

Mr Anderson: I'll have to get back to you with the specifics on that. We do have the specifics on that.

Senator SHARMA: Okay. But the 75 per cent figure is the total headcount?

Mr Anderson: It's 75 per cent of our content makers. The content makers, out of 4½ thousand, will be somewhere near 3,000 people. It's going to be 75 per cent of that, but I'll get you those numbers specifically.

Senator SHARMA: Alright, thank you. That was all, Chair.

CHAIR: Excellent. We'll go to Senator Henderson.

Senator HENDERSON: Mr Anderson, it sounds like *Q+A* might be on the chopping block. Is that a fair characterisation, based on the evidence you've just given?

Mr Anderson: No, I wouldn't say it's on the chopping block. Certainly, with a background in television, you're always looking at programs. You're always looking at if there's a better way of doing something. You should never be defensive about needing to improve. If I look at *Q+A*, is there another way of doing that format? Still having a program like *Q+A*, but is there a different way of doing it? I think you should always explore. If anyone has any innovative ideas that might help refresh a longstanding program that you've got, I think you pursue it. That's all I'm saying. It's not on the chopping block at the moment.

Senator HENDERSON: At the moment?

Mr Anderson: It's not on the chopping block. The world of screen production, generally, is that nothing is forever. There are exceptions there: *Play School!* You should be examining the programs you've got, the impact

they have and whether they resonate for the audience. I don't shy away from needing to explore new ideas for things.

Senator HENDERSON: I'll ask for a bit more detail about the redundancies. Are these redundancies or terminations? Could you provide some more detail on that?

Mr Anderson: I'll have to provide that for you on notice. I'm aware of it, but I don't know it in detail, and I don't have it in front of me.

Senator HENDERSON: Is there anyone else from your team who can provide any detail? Obviously, recent terminations or redundancies are a pretty hot issue at the ABC. Surely someone on your team must know something about it? You're required, obviously, to give full and frank evidence—do you have any knowledge about what's going on at the ABC in this respect?

Ms Kleyn: Absolutely understood, Senator, but I don't have that in front of me.

Mr Anderson: My—

Senator HENDERSON: Who initiated the redundancies then?

Mr Anderson: Redundancies will be initiated out of various divisions for various reasons; business cases are put forward. My recollection is that I signed something with regard to a case for change with regard to *Q+A*. I do not recall that precisely, which is why I don't want to give the wrong number with regard to that. It could be a fixed term coming to an end or it could be redundancies. It could be many things. I'm saying that there's something that happened there, and I'm saying, 'Yes, there is something,' but I cannot specifically remember precisely what.

Senator HENDERSON: You've signed something. You've got a very competent team with you, Mr Anderson. There are people losing their jobs right now at the ABC, literally; can I please invite you to be full and frank with the committee in terms of what you know, because you don't have the discretion to hold back information. As you know with questions on notice, it would be a big issue if we discover a whole lot of information that you should have been frank about in your evidence right now. So please give us all the information that you know and that you're able to provide.

CHAIR: I think Mr Anderson went to that. Witnesses are able to take stuff on notice, but we do need the best you can do.

Mr Anderson: The best I can do is that I believe there to be two. But, again, the number and whether or not they were redundancies are things that I'll have to come back to you with on notice. That's my understanding, and I need to clarify that on notice.

Senator HENDERSON: Two in total or two just at *Q+A*?

Mr Anderson: Two just on *Q+A*.

Senator HENDERSON: What about the other programs? Any other redundancies?

Mr Anderson: I don't have a large redundancy program happening at the moment, if that's the question. Whether there are redundancies on foot at the moment: I have nothing in train that would signal consultation that's required with unions. Whether there are individual redundancies on foot: again, I would need to come back to you on notice. I don't have anything before me. The only thing I can remember at the moment is with regard to Senator Sharma's question, specifically on *Q+A*—I believe there were two.

Ms Amorelli: Senator—

Senator HENDERSON: I'm sorry, I can't see your name, I apologise. Did you want to add some information?

Ms Amorelli: Sorry—my name tag moved. Yes; I recently joined the ABC as the Chief People Officer. My understanding as well is that it's two. But I think we need to confirm that, so we'll come back with that confirmation.

Senator HENDERSON: Is it two in total, in terms of the redundancy program, or are there others as well?

Ms Amorelli: That's my understanding around *Q+A*. There are no other redundancy programs—

Senator HENDERSON: No, but across the board at the ABC?

Ms Amorelli: We'll need to come back on notice with that. I just wanted to confirm that my understanding was the two—

Senator HENDERSON: As the Chief People Officer, if there are redundancies happening at the moment—and knowing you need to be full and frank with the committee—what can you tell us about that redundancy program?

Ms Amorelli: There's not a redundancy program on foot at the moment.

Senator HENDERSON: So there are just the two redundancies.

Ms Amorelli: That's what I understand.

Senator HANSON-YOUNG: I think she said that several times.

Senator HENDERSON: Senator Hanson-Young, thank you for your commentary. Ms Amorelli, you related only to $Q+A$, and then Mr Anderson has suggested there could be others, but he's not sure. I'm just asking if you've got any further information.

Senator HANSON-YOUNG: All of a sudden, there's concern for the welfare of journalists and staff—

Senator BILYK: And workers.

Senator HANSON-YOUNG: after spending all night attacking them.

CHAIR: We've been doing so well. Let's just take it back to some calm.

Senator HENDERSON: I'm going to take that interjection, Senator Hanson-Young. There is no issue with any journalist. I worked with many in my time at the ABC, including great political reporters—

Senator HANSON-YOUNG: And what happened to you at the ABC?

Senator HENDERSON: Such as Paul Lyneham and Kerry O'Brien—

Senator HANSON-YOUNG: Everyone would like to know.

Senator HENDERSON: who were fearless in attacking both sides of politics. There was no issue with that. The issue is when there is inherent bias at the ABC. That is the issue, and that's what we're raising concerns about. I want to move to another concern, which is the investigation into Janelle Wells. She was reporting on the culling of brumbies while she was caught out apparently with a serious conflict of interest: presenting stories on this issue and then providing advice to anti-culling activists. This was, of course, called out by Paul Barry on *Media Watch*. Can you update the committee on that investigation?

Mr Anderson: There are two elements to this. I will defer one to Mr Fang in a minute because one was a complaint that was sent to the ombudsman's office with regard to this as an editorial complaint. The other is with regard to the investigation into whether or not this was considered to be misconduct. I will say that any investigation into any employee is confidential. At the moment, Ms Wells is on personal leave.

Senator HENDERSON: Even Paul Barry mocked your comment that this was confidential. This is a public matter—even *Media Watch* says that—because it's been reported publicly. It goes to the conduct of one of your journalists. Kim Williams, your chair, has said that if staff do not aspire to be impartial, they should not work at the ABC. Can I take it that this journalist is on leave indefinitely? What's the status of her leave, Mr Anderson?

Mr Anderson: Under our EA, under 'the allegations of misconduct', clause 55 will say that any employee has a right to procedural fairness and a right of reply. This person is on personal leave. We are simply following the process that is afforded to us under the employment agreement. That process cannot continue while that person is on personal leave. In the meantime, my understanding for the editorial complaint is that the ombudsman has issued an initial finding. You would normally go to the reporter in question if there was an issue and it looked like there was a breach. We've not been able to do that, as Ms Wells is on personal leave. Mr Fang, did the ombudsman report on that?

Mr Fang: I can confirm that. The ombudsman has looked into the matter. This was a radio story that went out on 8 April. The ombudsman has completed a preliminary investigation and found a breach of the accuracy and the impartiality standard. We need to—

Senator HENDERSON: This is the ABC Ombudsman?

Mr Fang: Correct. For the ombudsman to complete that investigation, we need to hear from the journalist to be fair. As Mr Anderson said, the journalist is currently on personal leave.

Senator HENDERSON: With respect, the only one who has mentioned misconduct is yourself, Mr Anderson. Is this a case of misconduct, or is that still being determined?

Mr Anderson: As I said, as we go through the process—I'm speaking in broad terms—if you suspect misconduct, you issue a 'show cause' letter. You are then effectively putting allegations to someone of something. They then have a right of reply and procedural fairness, and then a decision is made at the end of that. For this, we are going through a process with Ms Wells which is unable to be completed given that she is currently on personal leave.

Senator HENDERSON: Mr Anderson, Mr Williams has also been quite scathing about the use of social media by journalists.

Mr Anderson: Yes.

Senator HENDERSON: I've raised ongoing concerns about your social media policy over a number of years. Are you, under Mr Williams's leadership, further reviewing your social media policy such that journalists will no longer be able to just comment as they see fit on social media? And I must say that Phillip Adams, one of your employees—

Senator SHARMA: He's almost out the door.

Senator HENDERSON: Phillip Adams is going rampantly wild on his own account. He's just posted in the last day that Australia is a racist country. He is posting all sorts of provocative pieces of information and commentary. Doesn't that go to the contempt with which some of your employees hold your policy? It is not ensuring that there is impartiality at the ABC. I again say: will you raise with Mr Williams the ongoing concerns about compliance with your social media policy, and will that be reviewed further?

Mr Anderson: To the personal use of social media policy—

Senator HANSON-YOUNG: Free speech for some—just for some.

Mr Anderson: So we have our social media policy with regard to ABC platforms. You're referring to personal use of social media guidelines that sit under the code of conduct. They do apply to all. This is a board policy. We do discuss it at board. This is something that constantly needs updating. As the platforms change in front of you, you need to constantly update it. As I said before, I cannot prevent people from exercising their civil liberties in being on social media. What we do have in place with the code of conduct is a way of being able to take action with staff who willingly don't follow what is a reasonable direction with regard to not undermining their effectiveness at work or their ability to remain impartial.

Senator HENDERSON: I know I'm running out of time, so just bear with me, Chair, for a couple of quick questions. Are you aware of the material posted by Phillip Adams, and is there any investigation or any action being considered in relation to what he's posting?

Mr Anderson: Senator, about 10 minutes before I walked in here, it was brought to my attention that Phillip Adams had posted something that I should be taking a look at. Phillip Adams is not immune from this. Yes, he is due to retire and finish up at the ABC in a matter of weeks, but he still should abide by what are the requirements for all ABC employees. So I will undertake to go away and have a look at that.

Senator HENDERSON: Okay. Look, sorry, I'm jumping around because the issue I raised before in relation to the TikTok story was literally landing in my in box as I was speaking. I've now got further information about this particular story with 2,858 comments. It was published on 2 November 2023. I'm not going to read the comments out, but some of the comments are horrendous. They absolutely breach your statutory obligations of impartiality and accuracy. I again ask: why is this sort of behaviour and these sorts of publications permitted, Mr Anderson?

Mr Anderson: Senator, I will take that on notice and have a look at it. Thank you for the detail with regard to when it was posted. I saw Mr Fang take that down. We will go and have a look at it. As I said, all publications on all official ABC sites—we will have an official ABC TikTok account—need to be held to the standard that we hold for all of our journalism. So I will take that on board and have a look at it.

Senator HENDERSON: I mean, I'm just picking this up as part of my job as a senator. You're running the ABC. How can this be allowed to happen? Why are you allowing people to post like this? I mean, I raised this with you three or four years ago. Turn your comments off, because you are allowing people to publish some of the most heinous material in absolute blatant breach of your statutory obligations to convey news and information accurately and impartially.

Mr Anderson: Senator, I will take a look at what you've asked. We do have moderators that moderate material when we do have comments on. We also increasingly have comments off our posts. We are there for public debate, but if it's controversial then we turn the comments off. So if we were in breach of that then obviously we'll fix this issue.

Senator HENDERSON: Well, this is another stunning failure. But thank you very much. I look forward to getting that further information. And thank you very much, Chair.

CHAIR: Thank you. Senator Cadell.

Senator CADELL: This is self-interest. Someone in my office takes a very active role in this. She's chair of the national women's council and keeps spreadsheets on female guest numbers on several of your shows—on

Insiders. This year out of 15 guests on *Insiders* there have been two females, Dai Le and Minister Gallagher, from a political point of view, rating it 15.99, according to the spreadsheet, as I remember it. That compares to last year when it was only 31 per cent and the year before that when it was 18.9. Can you look at gender balance on your guest list, for Kellie Sloane?

Mr Anderson: Yes, of course, Senator.

Senator CADELL: Thank you.

CHAIR: Senator Hanson-Young, do you have anything final to add?

Senator HANSON-YOUNG: I just want to say what a bloody legend Phillip Adams is and a national treasure and I wish him the best of luck for his retirement.

CHAIR: Hear, hear.

Senator CADELL: I'm sure someone will be toasting that departure.

CHAIR: Thank you so much—

Senator HENDERSON: Just to put it in perspective, I will also say he is a broadcasting doyen—

Senator HANSON-YOUNG: Stop digging, Sarah.

Senator HENDERSON: and someone that I have dealt with in the past in my previous occupation, but that does not excuse him from not complying with the ABC Act and the requirements of the ABC.

Senator HANSON-YOUNG: A total hero.

CHAIR: Thank you very much, Mr Anderson. It has been a pleasure. We appreciate your time and your never-ending patience and we will release you back into the wild.

Mr Anderson: Thank you, Chair. Thank you, committee members.

CHAIR: We will take a quick recess while we ask the Australian Communications and Media Authority to shake off the joy of sitting in this room for so many hours and make them wait at the table, and we will return at 8.35.

Proceedings suspended from 20:26 to 20:34

Australian Communications and Media Authority

CHAIR: Welcome back, everybody, and welcome to the Australian Communications and Media Authority. Ms O'Loughlin, would you care to make an opening statement?

Ms O'Loughlin: Thank you, Chair. I would like to make a brief opening statement. I'd like to provide an update on the status of the ACMA's investigation into the Optus data breach of September 2022, given the ongoing interest in this by members of this committee.

The ACMA has now completed a thorough investigation. It was a very complex investigation and the first undertaken by the ACMA into a data breach of a telecommunications operator. To that end, we looked into Optus's compliance with a range of regulatory requirements that could have been raised by a data breach incident. This involved the collection and detailed analysis of a significant amount of information from Optus, gathered under statutory notices. Following that analysis, the ACMA filed proceedings against Optus Mobile in the Federal Court on 20 May 2024.

We allege that Optus Mobile failed to protect the confidentiality of personal information from unauthorised interference or access, as it is required to do. We therefore allege that Optus Mobile has contravened the Telecommunications (Interception and Access) Act, subsection 187A(1). Subsection 187A(1) of that act is a civil penalty provision, each contravention of which carries a maximum penalty of \$250,000. As this matter is now before the court, the ACMA will not make any further statements outside the judicial process.

Our investigation into the Optus outage of its fixed and mobile networks on 8 November 2023 is also of interest to this committee, as well as to the broader Australian community. That investigation is well progressed; we have collected a range of information, again, from Optus, using our regulatory powers. The authority will consider whether that information indicates noncompliance with various regulatory obligations in the coming weeks. As with all our investigations, once it is concluded we will make our findings public. Thank you, Chair.

CHAIR: Thank you very much, Ms O'Loughlin. Senator McKenzie.

Ms O'Loughlin: It's very nice to see you, Senator.

Senator MCKENZIE: As it is you, as always. Pleasantries aside, I have a serious issue. You're familiar with the Sandra Sully artificial intelligence issue?

Ms O'Loughlin: I'm not across that issue, no.

Senator McKENZIE: Okay. I'm hoping you can help me. I have just found out that my image and voice, along with Chris Kenny's image and voice, and, would you believe, Twiggy Forrest's image and voice—what a trio!—are actually in an artificial-intelligence-produced scam video which asks people for money to invest in a pyramid scheme. Obviously, I'm backing Twiggy—anybody who knows our relationship would know that that would be a challenging thing to set up! My question is: given that I would have assumed my face and voice, at the very least, are my intellectual property, or my property, what sorts of rights or regulations exist to ensure that I—or any other person who is subjected to this type of behaviour—am protected? What can we do?

Ms O'Loughlin: I'm not quite sure I can help you, but I understand your concern. This is an area where a number of regulatory agencies are looking at these types of matters. Of course our colleagues at the Office of the eSafety Commissioner have codes of practice which they're developing with the industry. Those will require greater protection from those social media sites, including the use of AI for those types of things.

I think also that some of our colleagues at the ACCC have been looking at this through the lens of misleading and deceptive conduct—

Senator McKENZIE: Absolutely.

Ms O'Loughlin: so I think there's an opening there. It is a complicated—

Senator McKENZIE: Aside from the ACCC and the eSafety Commissioner, is anyone else within government agencies looking at this?

Ms O'Loughlin: The general overarching issue of AI is being looked at by the department of industry, led by Minister Husic. That's another avenue as well. Could I take your issue on notice?

Senator McKENZIE: Absolutely.

Ms O'Loughlin: I'd like to perhaps do some consultation within government and give you a bit more of a comprehensive—

Senator McKENZIE: I'm in another committee, and it came up today. I was so stunned. I thought, 'I'm going to take this straight to the top.' I want to understand your role in cracking down on companies like Meta around these types of deepfake artificial intelligence scams that are being flooded onto social media across the country. Is that something that ACMA should be looking at, as the regulatory body?

Ms O'Loughlin: Where I think we enter into it—and we don't have a regulatory role at the moment—is through the work that we're doing with the digital platforms on their misinformation and disinformation code. That's been in place for some time. As you're aware, Senator, the government is looking to present a bill into the parliament later this year that would give us more statutory powers around misinformation and disinformation on digital platforms. That would encompass AI use for misinformation and disinformation. So, while we don't have a regulatory role at the moment, we are observing what the platforms are doing, but it is something that's live in the discussion around the misinformation and disinformation bill.

Senator McKENZIE: Are you able to self-initiate an examination into an issue, or do you need to be directed by the minister?

Ms O'Loughlin: Currently we don't actually have a regulatory role. It's a self-regulatory scheme, so we don't have the power to intervene. That's what the bill is envisaging—that we would be given a regulatory power.

Senator McKENZIE: But you don't need a ministerial direction to actually develop something in this space?

Ms O'Loughlin: We would need a head of power in the legislation to be able to develop something.

Senator McKENZIE: So your legislation would have to be amended?

Ms O'Loughlin: Yes.

Senator McKENZIE: How archaic. Okay. A head of power coming your way—

Ms O'Loughlin: Thank you, Senator.

Senator McKENZIE: if the Labor Party—Senator Brown, do you want to join with me?—go after artificial intelligence deepfake videos on social media.

Senator Cadell interjecting—

Senator McKENZIE: Don't invest. I'm not running a pyramid scheme with Twiggy Forest, everyone.

Ms O'Loughlin: But I will take it on notice because I would like to actually consult some of our colleagues across government and provide some comprehensive advice.

Senator McKENZIE: I'd appreciate that—even offline, if we could. Thank you.

CHAIR: Senator Davey.

Senator DAVEY: Thank you for attending. I have questions about Australian content. ACMA now reports on Australian content across free to air, which you've got a regulatory requirement to do. You monitor free to air to ensure compliance with their regulated requirements. Then there is voluntary reporting by the streaming services, or SVODs, as they're colloquially known—streaming video on demand. I'm so clever. You've been doing that since 2019. Was that the first year that SVODs were—

Ms O'Loughlin: The 2019-20 financial year.

Senator DAVEY: Pleasingly, we are seeing that the SVODs are spending on Australian content, such as Australian drama, but one of the trends I noticed is that there seems to be an increasing spend on Australian sport. That spend is replacing the spend that was formerly on drama, scripted drama and documentaries. Would my reading of your reports be accurate? In 2019 there was zero sport, and then in 2021 it was determined to be 'sport and other', and now, all of a sudden, sport is eating up the pie.

Ms O'Loughlin: Is that in regard to commercial free-to-air broadcasting? In the latest figures, the expenditure in Australian sport for 2022-23—which is the latest data we have—was over \$635 million, which was a 17 per cent increase on the year before. I compare that with Australian adult drama, which was \$49 million in 2022-23—a decrease of 24 per cent on the previous year. On the figures we've seen recently, sports spending has gone up and adult drama spending has decreased from the previous year.

Senator DAVEY: Yes, and I've got here—

CHAIR: Sorry, Senator Davey, what are you reading from?

Senator DAVEY: Sorry—from their website. On spending by SVOD providers, in 2020-21—they've got two pie charts; in 2019-20 there was zero sports spend and in 2020-21 there was 46 per cent sport spend compared to 38 per cent in Australian drama, and then other genres filled up the rest.

Ms O'Loughlin: SVOD sport was \$70 million in 2022-23, and SVOD drama was \$195 million in 2022-23.

Senator DAVEY: I'd really like to see all these reports being identical from year to year so that you can compare apples with apples. I also note you've got an extra SVOD providing new data now—originally it was Amazon, Disney, Netflix and Stan.

Ms O'Loughlin: Paramount came on.

Senator DAVEY: And now Paramount has come on. Are we expecting to get data from other new entrants into the market?

Ms Field: Not that I am aware of but I will take that on notice and come back to you.

Senator DAVEY: That would be very much appreciated. We're waiting on the most up-to-date report, but I understand why; that is totally acceptable.

The other disturbing trend I am seeing is the decrease in expenditure on children's content. On streamers that's one area of concern. But even more concerning is there was zero spend by free-to-air providers in the last report. This headline—and I'm happy to table this—is from TV Tonight: 'A record spend on Australian content...and absolutely \$0 on children's drama'. I understand the genre breakdown and the requirement of free-to-air to have a certain amount of hours was removed in—

Ms O'Loughlin: 2021.

Senator DAVEY: 2021. I also understand it was removed with a view that we could bring it back if this expenditure didn't continue. Clearly it's not continuing. But that trend, since 2021, has been quite significant—that decrease in expenditure on Australian children's content.

Ms O'Loughlin: There are a couple of comments I'd make there. The expenditure on children's programming had been in decline for some years on commercial broadcasting. Part of that was that the child audience were also moving to other locations. The introduction of ABC2, which was a dedicated children's channel, meant that a lot of families shifted their viewing across to a dedicated channel where they knew there'd be children's programming all day rather than the very small amount of children's programming that was being broadcast on free-to-air television.

Senator DAVEY: Am I right when I say that the ABC's Australian content figures don't come into this free to air—

Ms O'Loughlin: That's correct. The ABC doesn't report—

Senator DAVEY: They don't have to report their—

Ms O'Loughlin: No, they don't.

Senator DAVEY: I know they don't, but as far as the regulations are concerned, the ABC could play entirely foreign Australian children's content and it would not be in breach of their rules or your rules.

Ms O'Loughlin: Our rules don't cover the ABC. But the ABC have chosen to do quite a lot of Australian children's programming over time because they see that it's important for kids to see Australian faces and hear Australian voices. The other thing I'd also mention is that a lot of the programming either moved to the ABC or, indeed, has moved to online and streaming services. You've seen that the streaming services in the last reporting period spent \$12.1 million on children's drama program. I think the government has also recognised the importance of children's programming by continuing to invest in the Australian Children's Television Foundation and, in the most recent budget, announced an additional over \$12 million to the ACTF to help support the development and production of children's television. That may be shown on the ABC, it may be actually shown internationally or it may be shown online, but there is a dedicated investment in there as well.

Senator DAVEY: There is. At the moment, the reporting from streamers, which is also showing a decline in Australian children's content and spend, is voluntary?

Ms O'Loughlin: That's correct.

Senator DAVEY: They do not have to report their expenditure to you. When you're looking at it, are you only looking at content of Australian titles? Are you looking at hours for SVOD titles? You're not looking at expenditure per se, are you?

Ms O'Loughlin: That's expenditure.

Senator DAVEY: I'm sorry. You say how much they spend and how many titles.

Ms O'Loughlin: Yes.

Senator DAVEY: Do you look at their revenue to make a comparison of how much they're earning in Australia and how much they're spending?

Ms O'Loughlin: No, we don't.

Ms Field: No, we don't.

Senator DAVEY: We are expecting to see content legislation sometime in the future. Originally—and we discussed this earlier today—it was meant to be implemented by 1 July. I think we learnt today that that's still the intention, Minister. Is that correct?

Senator Carol Brown: That's correct.

Senator DAVEY: Although, not having seen any of the draft legislation, it will be amazing to see if it can be passed in the five days that the Senate has between now and 1 July. It hasn't been introduced to the House of Representatives yet.

Senator Carol Brown: All in the same direction.

Senator DAVEY: All in the same direction. That will then fall to ACMA to be responsible for the monitoring and compliance?

Ms O'Loughlin: That's correct.

Senator DAVEY: Right. We don't know yet, because we haven't seen the regulation, whether they will actually also require a breakdown of genres similar to what used to be on free to air—and which some would argue should probably be reintroduced—to require a portion of children's drama and also, importantly, documentary scripted drama and the like.

Senator Carol Brown: I can't—obviously, I—

Senator CADELL: Give us a hint.

Senator Carol Brown: I can't pre-empt it. It's going to be in the report, but I can just say that the national cultural policy has committed to reviewing the policy settings to support productions of certain subgenres. Hopefully in the near future we will see that piece of legislation.

Senator PAYMAN: I have a question about the Telecommunications Consumer Protection Code, which is currently under review. Can you please explain how the process works and provide us with a progress update.

Ms O'Loughlin: I will start, and then I'll pass over to my colleague. Under the Telecommunications Act, there's a capacity for the industry to develop codes of practice. Some of them are technical codes of practice; they're about how a network works together and how the industry works together to make networks work. And then there is, in particular, this code, the Telecommunications Consumer Protection Code. That is developed by

industry and is registered by the ACMA. We must assess that the code provides appropriate consumer safeguards for that to be registered. That's the process that we're going through at the moment. I'll pass to my colleague to give you some more information.

Ms Rainsford: The relevant industry body, Communications Alliance, kicked off this review during the course of last year. I think it was the second half of last year when they undertook some consultation with stakeholders about what they would like to see looked at as part of this review. They've then undertaken a very intensive process of considering the feedback that came in, including input from industry members and consumer advocate bodies. Over the course of that time, the authority also settled on and published a paper called *What consumers want*, which expressed its views on where it thought that the code needed to be looked at and revised to meet contemporary consumer needs around telecommunications, particularly given that telecommunications is now a more essential service than it was five or six years ago, when the last review was done. So Communications Alliance has taken that on board as well.

As I said, that has been a very intensive and extensive process. They provided a draft of the code to the authority in December last year. Earlier this year, that was considered and some feedback was provided back to the industry body and industry. They have taken that on board and there's been a bit of an iterative process with some updates in the intervening months. On 20 May we received the latest draft of the code, which staff are now in the process of reviewing, and we'll provide some advice to the authority in coming weeks to inform some further feedback to the industry body.

In the normal course of events, what would then happen is that they would move to a public consultation period, which is required under the Telecommunications Act, take on board any feedback that is received as a result of that, finalise the code and then submit it to the authority for registration under the act. We are on track, really, and are expecting that to happen in the later part of 2024.

Senator PAYMAN: Thank you.

Senator HENDERSON: Ms O'Loughlin, I wanted to ask you about a provision in the budget: \$12.4 million for ACMA over four years to oversee the review and improvement of the existing Reducing Scam Calls and Scam Sms code for telcos. I'm keen to take you to page 181 of Budget Paper No. 2 and to understand how this measure is being funded. It appears to be a tax on industry. In the budget paper it says:

The cost of this measure will be partially met from a reprioritisation of funding from the 2020-21 Budget measure titled *Refocusing Australia's Approach to Financial Capability* and from cost recovery through ASIC and ACMA industry levies.

Can you shed any light on that?

Ms O'Loughlin: That's correct, Senator. The funding provided to the ACMA is to be cost-recovered from the industry, and that's what that paper reflects. As you know, under the Telecommunications Industry Levy and the Annual Carrier Licence Charge, we collect revenues from the telecommunications industry to support our regulatory role in telecommunications, the role of the ACCC and also some international funding. This is consistent with the government's cost recovery framework, and it's consistent with other measures that we have in place currently. That's what that reflects.

Senator HENDERSON: With the \$12.4 million, who will pay this levy or this tax?

Ms O'Loughlin: I'll just check with Cath.

Ms Rainsford: I understand it's intended to be collected through the Annual Carrier Licence Charge, so there'll be a contribution from all carriers.

Senator HENDERSON: Which are the communications carriers? Are there any other businesses?

Ms Rainsford: Not as I understand it, no.

Senator HENDERSON: How much will it raise?

Ms Rainsford: The intention is it will cover the funding.

Senator HENDERSON: The full amount of the funding? It appears to be a partial cost recovery.

Ms O'Loughlin: No.

Ms Rainsford: This was part of a broader scam frameworks package announced by the government in which there was funding provided not only to us but also to ASIC, the ACCC and the department. Certainly, in terms of the \$12.4 million contribution over the forward estimates for ACMA, the intent is that the full amount will be recovered under that ACLC. I understand those other comments relate to other parts of the package.

Ms O'Loughlin: Senator, looking at it you'll see that in 2024-25 there's an appropriation to us of \$4.9 million. The related receipts for the ACMA for 2025-26 is \$4.9 million. So there's a year lag between our expenditure and when we recover it, but it flows through. The full amount will be recovered over the forward estimates.

Senator HENDERSON: Will this be passed on to consumers? Isn't it the risk that when telco carriers incur a tax or levy that this will be passed straight on to consumers? Obviously, that would be more of a cost-of-living burden. We know, of course, that Telstra has just had to sack more than 2,000 employees. Have you had any discussions with the carriers about how they can bear this cost?

Ms O'Loughlin: As I mentioned, it's consistent with the government's cost recovery framework. It's applied in many areas—not just with us but obviously with ASIC and other government departments. The regulatory costs which cover us are a cost to their business. It is an important initiative to make sure that the telcos are putting in place everything they can to stop scams getting through to consumers.

Senator HENDERSON: Ms O'Loughlin, my question was: have you had any discussions with the carriers in relation to this cost, and how will it be borne by the carriers?

Ms O'Loughlin: I don't believe we've had any discussions with the carriers.

Senator HENDERSON: Have you had any response? Were any concerns raised?

Ms O'Loughlin: I haven't had any concerns raised at this stage, no.

Senator HENDERSON: No information whatsoever? No one in industry has raised any concerns with you?

Ms O'Loughlin: No.

Senator HENDERSON: Will this levy be known by a particular name or?

Ms O'Loughlin: As Ms Rainsford said, I think it will be rolled into the Annual Carrier Licence Charge.

Senator HENDERSON: The situation with the scams—SMS and emails—with the telco carriers is pretty horrendous. In fact, it's so bad—and I happen to have an old Telstra Bigpond account, so I'm experiencing this myself—even when Telstra emails are blocked, those same blocked emails continue to come into your inbox. So, across the board, Australians suffer some \$3.1 billion of losses in scams. This is a very, very serious situation in this country.

CHAIR: It's a good thing we funded some work on it, then.

Senator HENDERSON: Given how poorly, I think, the telcos are managing the scams, when you look at—

Ms O'Loughlin: If I can just be clear, the rules that we've put in place cover scam calls and SMS.

Senator HENDERSON: Yes, I appreciate that.

CHAIR: Not email.

Ms O'Loughlin: Not email.

Senator HENDERSON: I'm just saying that's how bad things are in terms of how consumers are suffering.

Ms O'Loughlin: Absolutely, and that's why the budget measures this year expand on the previous commitments by the government to the establishment of the National Anti-Scam Centre, which is administered and run by the ACCC. That's a comprehensive program around working with industry, banks, telcos and digital platforms to try and improve the entire ecosystem around scams, given the sheer numbers of scams that people are receiving. But also, as we've seen over the last few years almost the criminalisation of the scam networks, it's not just people making mistakes. It's criminal activity that is going after their bank accounts and their superannuation.

Senator HENDERSON: It's horrendous.

Ms O'Loughlin: There's a huge amount of work being done on it. For our part, we're working with the telecommunications industry on SMS and scam calls. We've seen billions of scam calls stopped and hundreds of millions of SMS scams stopped, but it's nowhere near getting rid of everything. That's why the government is investing more both through our work, the work of ASIC, the work of the National Anti-Scam Centre and the work of the ACCC.

CHAIR: Senator Cadell?

Senator CADELL: You spoke in your opening about the data breach on Optus and how we can't get further there. I was contacted in a different context around a telco called Tangerine and a data breach. I'd never heard of Tangerine. I'd heard of Orange. I know there's one called Lime. Apparently you must name it after citrus. There was a data breach at the telco, Tangerine?

Ms O'Loughlin: Yes, that's correct.

Senator CADELL: Are you guys investigating what's going on there, because I'm told there were 200,000 breaches?

Ms O'Loughlin: Yes, we are having a look at what happened in the Tangerine incident to see if it raises any issues of compliance relevant to telcos.

Senator CADELL: Now I'm more confident that the information was correct. The advice is that I was one of 232,000 customers whose personal information has been breached in the leak. They said they'd been advised that address, birth dates, names, mobile numbers and even security questions are in the hands of criminals, and that they're concerned about identity theft. When were you made aware of this and what have the actions been so far?

Ms Rainsford: As to when we were made aware of it, I don't have the exact date, but it would have been very close to when that—Sorry, my colleague, is nodding at me as if he has further information.

Mr Riviere: On 14 March we commenced an investigation into whether Tangerine Telecom contravened obligations enforced by the ACMA. That's in regard to the 232,000 that you mentioned.

Senator CADELL: That was the number, was it?

Mr Riviere: That's right. I can confirm that the full name, date of birth, mobile number, email address, postal address and Tangerine account number of customers were exposed. At this stage, we understand that no financial or identity document details were exposed, but we're investigating.

Senator CADELL: No identity documents?

Ms O'Loughlin: As in passports and drivers licences.

Senator CADELL: How come there hasn't been the same coverage as Optus and others with this one?

Ms O'Loughlin: I don't know whether I can speculate on that. Obviously the Optus data breach affected millions of Australians, and, in that circumstance, there were identity documents, as you will remember. There was the need for people to replace passports. There were drivers licenses. So there was a lot more information, from what we understand. Also, as you mentioned, Tangerine probably isn't as big a known brand as Optus.

Senator CADELL: I think that's fair. Did they self-report the breach to you, or were there complaints about it?

Mr Riviere: They issued a media statement on 21 February. That's how we were initially made aware of it.

Senator CADELL: So you were advised by media statement that they'd had this issue?

Ms O'Loughlin: They issued a media statement and they also indicated they were getting in touch with all their customers, so that's how we came across it.

Mr Riviere: And then we attended a meeting with them on 28 February.

Senator CADELL: So you initiated the investigation on 14 March, and the first meeting was on 28 February. That's ongoing?

Mr Riviere: The investigation is ongoing. That's right.

Senator CADELL: Are you looking at all their correspondence with their customers as part of that investigation, making sure they've done the right thing and let them all know as far as they can?

Mr Riviere: At—

Senator CADELL: Will you look at the reasons behind it and what was stolen or will you look at their actions in letting their customers—

Ms O'Loughlin: We'll look at both.

Senator CADELL: I'll go now to your role with the 3G close-down. In October last year, when I asked in this group about 3G shutdowns, the answer was:

... there is no regulatory requirement or anything like that that we have with respect to it. ... they were decisions made independently by the corporates.

I said, 'It's theirs; they can throw their toys out if they want to?' and the answer was, 'That's correct.' We're now getting to the point where there are 000 issues and other stuff floating around with the fourth category of phones that can't dial 000, even with the VoLTE system. It is very concerning. I've just read on the front page of a paper that the vending machines that sell me my Pepsi Max can also suffer, along with all these other devices. What is the role of ACMA in that now? Is there a more active role?

Ms O'Loughlin: It still remains the case that there is not a regulatory obligation for networks to keep their networks running. We have been engaged with both the minister and the minister's office, and we share the concerns of the minister around the obligation on the networks not being a regulatory obligation—the obligation

to make sure that all their customers are safely transitioned before they turn off their networks. I've recently written to the MNOs to express our concern and indicate that we'll be doing a full review of what's called the emergency call service determination, to look at whether there should be things put in place for the future but also to remind the telcos that our expectations are that they will be working with their customers, offering them—as they already have done, at least Telstra and Optus—the ability to easily find out whether they've got a problem with their device by just sending an SMS to a number, and they'll get a response back to say if they need to do something more and change up their device. We've also reminded the MNOs of their obligation to adequately communicate with all their customers, and we have indicated that we will look forward, with the emergency call service determination, to see whether or not other things need to be put in place, as in: How many customers have to be converted before you turn off your network? Is there a need in this day and age for those types of arrangements to be put in place? While we don't have any regulation currently on the books that might assist through this process, we're certainly working with the government and with the telcos to make sure that they manage that transition smoothly.

Senator CADELL: There are so many layers—this department and ACMA—

Ms O'Loughlin: The telcos.

Senator CADELL: the telcos and all these things. The Australian Mobile Telecommunications Association put out a bulletin about the problem in November last year. Did they consult with you prior to that?

Ms O'Loughlin: We had some conversations with the telcos late last year.

Senator CADELL: In November?

Ms Rainsford: There might have been a conversation in December and then again maybe through February or March this year, but I don't believe there was before that.

Ms O'Loughlin: I think that aligns with the evidence from the department this morning.

Senator CADELL: It was a known problem in December, and the size of the problem was in February. That seems to be the case.

Ms O'Loughlin: Exactly.

Senator CADELL: Was anyone in your organisation asking if there was going to be a problem where there was a confidence thing, or did the telcos just work out the size, come to you and say 'whoops'?

Ms O'Loughlin: I think that was being handled through the reporting going to the department.

Senator CADELL: You say you're talking with the minister and you're talking about the government going forward, except there's no regulation. You said you may have a role as to how many customers they can turn over before we allow them to turn off.

Ms O'Loughlin: That's the type of thing we're looking at for the future. Do we need to put something in place—

Senator CADELL: For 4G turn-off?

Ms O'Loughlin: Yes.

Senator CADELL: So this is redundancy-proofing the next—

Ms O'Loughlin: Exactly. It is learning from this process what might need to be put in the process.

Senator CADELL: So it is putting a lead on their toys next time so they can't throw them out of the cot.

Ms O'Loughlin: Well expressed!

Senator CADELL: Would you think it's likely that telcos will have to extend their 3G shutdown further than they've already said?

Ms O'Loughlin: I think that's a little unclear at the moment. As the department said this morning, what the department has been trying to grapple with is the numbers. There was a very small amount of numbers on services affected in November and very large amounts, over 700,000, reported in March. I think the department is trying to grapple with the industry itself about getting the industry to give them accurate numbers of who actually will be affected. Now, I think the telcos themselves are doing an enormous amount of work.

Senator CADELL: There would be a natural churn down too, wouldn't there?

Ms O'Loughlin: There would be a natural churn down. I think some of the challenges for the telcos, as our departmental colleagues mentioned this morning, are people who may have really old phones or people who may have bought phones overseas and brought them into Australia not realising how they work. So I think some of the

things that the telcos have put in place about the simplicity of finding out whether your device is going to work is really helpful for consumers. I think they need to get the message out that people need to take action now.

Senator CADELL: We can do that on phones and devices. I concede the—

Ms O'Loughlin: I don't know how vending machines work.

Senator CADELL: That's really important. But how do we find out about medical devices and things like that?

Ms O'Loughlin: I'd need to take that on notice. We don't have that reporting.

Senator CADELL: I understand. That's all the department side of things?

Ms O'Loughlin: Yes.

Senator CADELL: Okay. I am largely done, Chair.

CHAIR: Great. Thank you so much for joining us, Ms O'Loughlin and the team. We will let you go. That will conclude today's hearing. I'd like to thank all the witness who've been before us today and particularly Hansard and broadcasting. I sometimes feel we're not entertaining enough for you, and you're very patient with us for that! I would like to remind all senators that the committee has agreed that any written questions on notice should be lodged with the secretariat by 14 June. The committee now stands adjourned.

Committee adjourned at 21:18