



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION
COMMITTEE

Estimates

(Public)

TUESDAY, 5 NOVEMBER 2024

CANBERRA

CONDITIONS OF DISTRIBUTION

This is an uncorrected proof of evidence taken before the committee.
It is made available under the condition that it is recognised as such.

BY AUTHORITY OF THE SENATE

[PROOF COPY]

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Tuesday, 5 November 2024

Members in attendance: Members in attendance: Senators Antic, Bilyk, Cadell, Darmanin, Davey, Duniam, Faruqi, Grogan, Hanson-Young, Henderson, David Pocock, Rennick, Roberts, Sharma and Shoebridge

WITNESSES

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

In Attendance

Senator McAllister, Minister for Cities, Minister for Emergency Management

Senator McCarthy, Minister for Indigenous Australians

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

Executive

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

First Nations Partnerships

Ms Lillian Gordon, First Assistant Secretary [by video link]

Ms Bek Hendriks, Assistant Secretary [by video link]

People, Culture and Change

Ms Rachel Houghton, Chief People Officer

Ms Rosie Ma, Acting Assistant Secretary, Communication and Change

Dr Kate Feros, Acting Assistant Secretary, Ministerial, Parliamentary and Cabinet

Ms Sonia Bradley, Assistant Secretary, Integrated Services

Ms Kylie Donovan, Assistant Secretary, People Branch

Finance, Budget and Governance

Ms Cha Jordanoski, Chief Financial Officer

Ms Jodi George, Assistant Secretary, Financial Management Branch

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

Mrs Michelle Mant, Assistant Secretary, Assurance, Integrity, Risk and Governance Branch

Information Technology

Mr Jeff Goedecke, Chief Information Officer

Data, Research, Strategy and Net Zero Division

Mr Ian Porter, First Assistant Secretary

Mr Andreas Bleich, Acting Assistant Secretary, Data, Systems and Information Management

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

Communications Infrastructure Division

Mrs Lisa La Rance, First Assistant Secretary

Ms Victoria Robertson, Acting 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

Digital Platforms, Safety and Classification Division

Ms Sarah Vandenbroek, Acting First Assistant Secretary

Mr Andrew Irwin, Assistant Secretary, Online Safety Branch

Mr Andrew Hyles, Assistant Secretary, Platforms and News Branch

Mr Mitchell Cole, Assistant Secretary, Classification Branch

Media Policy Division

Ms Bridget Gannon, Acting First Assistant Secretary
Ms Margaret Lopez, Assistant Secretary, Media Industry and Sustainability Branch
Mr James Penprase, Assistant Secretary, Media Reform Branch
Ms Susan Charles, Assistant Secretary, News and Journalism Taskforce

Communications Services and Consumer Division

Mr Samuel Grunhard, First Assistant Secretary
Ms Kathleen Sillari, Assistant Secretary, Consumer Safeguards Branch
Ms Karly Pidgeon, Assistant Secretary, Regional Mobile Infrastructure Programs Branch
Ms Anthea Fell, Assistant Secretary, Post, International Telecommunications and ACMA Branch
Mr Jason Lange, Assistant Secretary, Regional Connectivity Branch

Office for the Arts

Mr Phil Smith, First Assistant Secretary
Mr Jake Budd, Assistant Secretary, First Nations Languages and Regional Arts Branch
Ms Marie Gunnell, Assistant Secretary, Cultural Policy Strategy and Program Support Branch
Mr Jesse Fatnowna, Assistant Secretary, Creative Industries Branch
Mr Jason Potkins, Acting Assistant Secretary, Screen and Arts Workforce Development Branch

Portfolio Agencies**Australian Broadcasting Corporation**

Ms Melanie Kleyn, Acting Managing Director and Chief Financial Officer
Mr Gavin Fang, Editorial Director
Ms Deena Amorelli, Chief People Officer
Mr Justin Stevens, Director of News

Australian Communications and Media Authority

Ms Nerida O'Loughlin, Chair
Ms Creina Chapman, Deputy Chair
Ms Helen Owens, General Manager, Corporate and Research Division
Ms Autumn Field, General Manager, Content Division
Ms Cathy Rainsford, General Manager, Consumer Division
Mr Michael Brealey, General Manager, Communications Infrastructure Division
Ms Rochelle Zurnamer, Executive Manager, Gambling and Mis/Disinformation Branch
Mr Jeremy Fenton, Executive Manager, Unsolicited Communications and Scams Branch
Ms Tanya Farrell, Acting Executive Manager, Telecommunication Safeguards and Numbers Branch
Ms Alana Fraser, Executive Manager, Content Safeguards Branch
Ms Sam MacCready, Executive Manager, Finance, Reporting and Operations Branch
Mr Chris Worley, Acting Executive Manager, Spectrum Planning and Engineering Branch

Office of the eSafety Commissioner

Ms Julie Inman Grant, eSafety Commissioner
Mr Toby Dagg, General Manager, Regulatory Operations Group
Ms Kathryn King, General Manager, Technology and Strategy Group
Mr Bryan Downie, Executive Manager
Ms Kelly Tallon, Executive Manager
Ms Pauline Ross, Head of Commissioner's Office

Special Broadcasting Service

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]

Ms Mandi Wicks, Director, News and Current Affairs [by video link]

Creative Australia

Mr Adrian Collette, Chief Executive Officer

Mr Tim Blackwell, Executive Director, Corporate Resources

Mrs Nicola Grayson, Head of Public Affairs

Australia Post

Mr Paul Graham, Group Chief Executive Officer and Managing Director

Ms Jane Anderson, Executive General Manager, Community, Sustainability and Stakeholder Engagement

Mr Nick Macdonald, General Manager, Corporate Secretary and Board

NBN Co Limited

Mr Phillip Knox, Interim Chief Executive Officer

Mr Richard Cairns, Interim Chief Financial Officer

Mr Gavin Williams, Chief Development Officer, Regional and Remote

Mr Dion Ljubanovic, Chief Network Officer

Ms Anna Perrin, Chief Customer Officer

Classification Board

Mr Tristan Sharp, Acting Director

Mr Dominique Irlinger, Acting Deputy Director

Bundanon Trust

Ms Rachel Kent, Chief Executive Officer

National Portrait Gallery of Australia

Ms Bree Pickering, Director

Mr Trent Birkett, Chief Operating Officer

National Library of Australia

Dr Marie-Louise Ayres, Director-General

Ms Alison Dellit, Assistant Director-General

Ms Maureen Dupree, Assistant Director-General

Ms Emma Appleton, Chief Operating Officer

National Gallery of Australia

Dr Nick Mitzevich, Director [by video link]

Committee met at 08:59

CHAIR (Senator Grogan): I declare open this hearing of the Environment and Communications Legislation Committee into the 2024-25 supplementary budget estimates. I begin by acknowledging the traditional owners of the land on which we meet and pay our respects to elders past, present and emerging. The committee's proceedings today will begin with corporate matters and general questions on communications and the arts. The committee has set Thursday 19 December as the date for the return of questions 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 operations or financial positions of the department and agencies which are seeking funds in estimates are relevant questions for the purposes 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 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. I incorporate the public interest 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 in 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

[09:01]

CHAIR: I would like to welcome Senator the Hon. Jenny McAllister, Minister for Cities and Minister for Emergency Management, representing the Minister for Communications. Minister, would you like to make an opening statement?

Senator McAllister: 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.

CHAIR: I will, as ever, make a plea. We are heading to corporate questions first. I remind senators that this part of the program relates to matters concerning central department administration, such as building services, ICT, staffing levels and media procurement. Questions relating to individual policies and programs should be addressed to officials when the specific programs are considered in subsequent sessions. With that, let's go. Senator Cadell, over to you.

Senator CADELL: I want to ask about the department's use of non-disclosure agreements. An answer to a question on notice, Senator McAllister, confirmed that the entire department, not just the comms department, had used them nine times, which has affected approximately 115 stakeholders. Can you confirm whether any of the 115 stakeholders signing NDAs were connected to gambling reforms?

Mr Betts: That's not a question under corporate. That question specifically relates to the communications outcomes.

Senator CADELL: No, it's not. It's a question on corporate use of NDAs as a legal thing.

Mr Betts: No, I have to take it on notice.

Mr Chisholm: Would you mind please repeating the question, particularly as it relates to wagering.

Senator CADELL: The answer to the question on notice is that the department entered into non-disclosure agreements on nine occasions, and 115 stakeholders were affected. We want to know how many of those were in gambling advertising discussions.

Mr Chisholm: As the secretary indicated, there were non-disclosure agreements in relation to wagering discussions. That is related to policy consideration of those reforms, rather than—

Senator CADELL: The discussions are, not the NDAs.

Senator McAllister: The official has answered the question. Do you have an additional question, Senator?

Senator CADELL: I'm seeking clarification on this. The NDA is a legal thing and comes under corporate. The question on notice was answered as a department-wide answer, so we're asking how many and not what was there—we'll get to that later. How many affected—

Senator McAllister: I think Mr Betts took that on notice.

Senator CADELL: I'm sorry. Mr Chisholm said that he'd take it on notice but also gave extra information, saying—

Senator McAllister: I'm sorry, but the department have indicated that they will take that matter on notice. We'll see what information can be provided.

Senator CADELL: Excuse me, Chair. Mr Chisholm was answering that. His evidence was different.

CHAIR: The question has been taken on notice. Mr Chisholm, do you have any additional information that you would like to provide at this time, ahead of the other information on notice?

Mr Chisholm: I don't want to add to the minister's answer, but I'm very happy to discuss this in the context of the policy.

CHAIR: In the comms section, as opposed to in this section, where you've taken it on notice?

Mr Chisholm: That's right.

CHAIR: There are two things there, Senator.

Senator CADELL: I want to go, then, to gambling harm contracts. FOI request No. 25-076 shows that the government spent nearly \$200,000 on surveys around that. I want to ask about not what those surveys were but the process of giving those surveys out. There were two consultancies. The first was called 'Wagering advertising research' and cost \$175,208. What was that contract for?

Mr Chisholm: That was likely a contract in relation to data to assist our assessment of the potential impacts of reforms. I will just ask one of my colleagues to come to the table.

Ms Lopez: The contract that you're referring to was in relation to some research that we commissioned from the Australian Institute of Family Studies.

Senator CADELL: What was its scope?

Ms Lopez: It was research to identify the potential socioeconomic benefits to Australians of wagering advertising reforms.

Senator CADELL: Was it directly with them? It wasn't open to tender; it was specific to that group?

Ms Lopez: The Australian Institute of Family Studies was procured through a panel process.

Senator CADELL: The second contract that came up was for \$19,250 and was labelled 'Wagering advertising reforms impact analysis'. Who was that to?

Ms Lopez: That was nicholls.mmc Pty Ltd.

Senator CADELL: How was that granted?

Ms Lopez: That was a limited tender process.

Senator CADELL: How many took part in the limited tender process?

Ms Lopez: Limited tenders are direct.

Senator CADELL: My concern is that it would appear—I'm not saying that it's absolute—that that firm is run by a person called Rob Nicholls, who worked at a law firm with the minister back in ancient history, before 2010. From FOI requests, it appears that he emailed the minister, asking for support in filming a video for the launch of an event that he was involved in in Sydney in February this year, and this tender was awarded on 15 March 2024, just a month later. Is that correct?

Ms Lopez: I'm not aware of the exchange with the minister, but the dates that you're referring to for the contract do sound correct.

Senator CADELL: How do we go about having a minister making a video for a former colleague who is then awarded a direct contract just a month later?

Mr Chisholm: We're not aware of the correspondence you're referring to.

Senator McAllister: Senator Cadell, I wonder whether you might table the correspondence that you have.

Senator CADELL: It's FOI 25-046. You'll see a whole string of emails between Nicholls and Minister Rowland's office on the FOI log.

Senator McAllister: I'm not in a position to answer questions about that, Senator Cadell. I don't have the documentation in front of me. I don't have a copy of all FOIs released by the department in front of me.

Senator CADELL: I'm sorry, but it exists, and I'd like to know whether it's a coincidence that, a month after a request for a video from an ex-employee comes through and is done, a tender for \$19,250 is awarded to that person.

Ms Gannon: What I can say is that Dr Nicholls was contracted through a limited tender process and was identified after completing other work for the department. I note that he had 30 years of experience working in the media and telco sector, concentrating on competition regulation, governance and financial management. He'd previously worked at the ACCC on competition regulation and broadcasting content, so there was clear expertise there.

Senator CADELL: I'm not questioning that. You've just mentioned 'other work'. How much other work has Dr Nicholls done?

Ms Gannon: I can defer to my colleagues about previous procurement.

Mr Chisholm: This is the only contract that we're aware of with respect to Dr Nicholls.

Senator CADELL: The answer just given by Ms Gannon was that he'd done previous work for the department, and now you're telling me that it's the only work that he's done.

Mr Chisholm: What we might need to do is take on notice whether there was any other work. Senator, you'd appreciate that, with respect to our responsibilities for this issue, that's the only contract that we're aware of.

Senator CADELL: Ms Gannon, what other work did you think he'd done in this regard? This is on gambling reforms. This is someone with a relationship with the minister, and you said that he's done previous work. What work were you referring to?

Ms Gannon: I'm sorry; I must have been mistaken, but I can take that on notice. I must have been confused.

Mr Chisholm: He was procured from an existing panel arrangement, so it's quite likely that he has done other work in the broader portfolio, the department, for other agencies. We just need to check all that to give you an accurate answer.

Senator CADELL: Is there a requirement for ministers to raise a potential conflict of interest on things like that?

Ms Lopez: Dr Nicholls did sign a conflict of interest declaration as part of his contract, and no issues were raised during that declaration.

Senator CADELL: Is that declaration public?

Ms Lopez: No, I don't think so.

Senator CADELL: Can you table that declaration?

Mr Chisholm: We'll take that on notice. It's likely that we don't have it in front of us today.

Senator CADELL: I accept that. Have you made these things public before?

Mr Chisholm: I just need to check with our colleagues in corporate as to whether we would normally make those declarations public. We can check, but I don't think we would ordinarily do that, given that it relates often to personal matters.

Ms Bridger: I don't believe that we normally have made them public, but I can take that on notice for you.

Senator CADELL: Did that declaration list the existing relationship with the minister and the fact that he sought a video in support of another project just a month earlier?

Ms Bridger: I don't have knowledge of that on hand at the moment. Again, I'd need to take that on notice.

Mr Betts: I don't think there's any suggestion that the minister was involved in the procurement process in any way. She would have been entirely at arm's length from that. You've characterised the pre-existing relationship yourself as 'ancient history', but we will take on notice the question of the declaration of interest.

Senator CADELL: I'm sorry. The work relationship was that the email regarding a favour, for a video to be filmed, was a month earlier.

Mr Betts: Yes, but my point is that the minister was not involved in that procurement process, which would have been undertaken at arm's length by the department, in accordance with the PGPA Act and our own relevant procurement policies.

Senator CADELL: I might accept what you're saying in full, but I want to know that the right disclosures were made so that the department was aware that relationship existed.

Mr Betts: I understand that. We've taken that on notice.

Senator CADELL: If we are talking about gambling reforms and process—even contracts of any form—if a minister is being contacted personally by a person who then, immediately after, is being given contracts, there is a perception of a potential conflict of interest in there, isn't there?

Senator McAllister: Ministers are contacted regularly by a very wide range of people. As Mr Betts has indicated to you, there's no suggestion that the minister was involved in the decision around this procurement process.

Senator CADELL: Minister McAllister, how many videos have you done for people who have been given contracts by your departments shortly thereafter?

Senator McAllister: This is a hearing to examine the communications estimates. If you wish to ask questions about the National Emergency Management Authority or the department of transport, that was yesterday.

Senator CADELL: I was exploring your answer that you're contacted all the time and that these things aren't effective, so I'm looking for—

Senator McAllister: I'm sorry?

Senator CADELL: I'm referring to relationships where you're contacted all the time and there's not a conflict of interest. I'm examining that question as it relates to this. This was a video filmed and asked for, a month before a contract by the minister on a gambling reform basis, and I would like to know how often that has happened for you.

Senator McAllister: Senator, as I said, if you wish to ask questions about the portfolios that I administer directly, the time to ask them was yesterday.

Senator CADELL: The original contract value for this was \$27,500, but I think you ended up paying only \$19,250. Why was that?

Ms Lopez: Because Dr Nicholls was contracted on a daily rate, and that was the amount of work that he undertook.

Senator CADELL: What specifically was that work about?

Ms Lopez: Dr Nicholls was engaged to provide specialised advice on the potential financial impacts of the recommended wagering advertising ban on the broadcasting industry.

CHAIR: Senator Hanson-Young, do you have any corporate questions?

Senator HANSON-YOUNG: I have some questions generally about the workload of the department and whether we're getting things done that it was promised would get done. Mr Betts, I don't know whether we can do that broadly; obviously, the next section is where the detail is. I'm interested in knowing how many pieces of legislation your department is currently working on.

Mr Betts: Within the communications portfolio?

Senator HANSON-YOUNG: Yes, specifically in communications.

Mr Betts: You've framed that in terms of the overall workload, and perhaps Mr Chisholm can provide you with details specifically on legislation. If we look across the agenda that the government is pursuing—I'll focus on online safety and media reform—the prominence and antisiphoning legislation is now on the statute book; stage 1 of the classification reforms has been legislated; the minister is committed to landing the news media assistance policy by the end of this calendar year; a framework has been prepared for the regulation of scams, which will be delivered soon; and work is underway on social media age limits, which has been talked about. A lot of work has been done by the online safety commissioner, whose funding has now been quadrupled, including the delivery of six industry codes and two standards, which will commence in December 2024, with the second phase of the codes at final draft and due to be implemented later this year. Legislation has been introduced on misinformation and disinformation; a voluntary industry code of practice has been delivered on online dating; ABC and SBS funding has been restored in line with the election commitment; and work continues on other reforms, including gambling advertising, which has been touched on, and Australian content quotas for streaming platforms. I may have missed something, but my assessment is that's probably the most ambitious program of reform in media policy and online safety in living memory.

Senator HANSON-YOUNG: There's a lot there, absolutely.

Mr Betts: Yes.

Senator HANSON-YOUNG: I'm interested in what this committee will have to deal with before the end of the year. We're part-way through misinformation and disinformation, so we know about that. Is it expected that we will have to deal with gambling reform before Christmas?

Mr Betts: As we've discussed in previous hearings, the timing of those reforms, the timing of any legislation that gets introduced, is tied up in government decision-making, which we can't comment on in Senate estimates.

Senator HANSON-YOUNG: Does the department have a draft of gambling reform legislation?

Mr Betts: The policy decisions around gambling advertising are currently before government for consideration.

Senator HANSON-YOUNG: Will the news media bargaining code response require legislation?

Mr Betts: Again, that's before government for consideration. I'm looking at Mr Chisholm in case he wants to add anything here.

Mr Chisholm: I have nothing to add to that answer.

Mr Betts: We have a number of reforms in flight, and I've described many of those that have already been delivered, and others are going through government deliberation at the moment.

Senator HANSON-YOUNG: Are you currently working on legislation for the news media bargaining code response?

Mr Betts: The news media bargaining code is a matter for Treasury.

Senator HANSON-YOUNG: Is your department working on any legislation or any amendments?

Mr Chisholm: Again, as the secretary indicated, the code is the responsibility of Treasury, so the question is best directed to them. Consideration of the code and its relationship to media reform issues generally are matters that are before government.

Senator HANSON-YOUNG: With respect to a public interest journalism fund, which has been floated by the government in terms of helping small and independent publishers, do you have a framework that you're working on for that?

Senator McAllister: I think we're straying into the more detailed policy conversation that was promised in your opening question. We can talk about where all of this work is up to in that part of the agenda.

Mr Betts: We'll then have the subject matter experts at the table, obviously, subject to—

Senator HANSON-YOUNG: Fair enough. Mr Betts, have you had to bring on more staff to deal with this workload or have you had to appeal for more—

Mr Betts: We've had some modest supplementation, which was provided in the last budget, and, as individual initiatives have been brought before government from time to time, they have been funded. But it's fair to say that it's a large workload which is being delivered by a very hardworking team within the department. Obviously, in my introduction, I didn't talk about things like NBN ownership legislation and regional broadcasting related legislation, which is currently before the Senate. Yes, it's a big program.

CHAIR: Senator Sharma, do you have any corporate questions?

Senator SHARMA: Yes, I have a few. I want to turn to an answer that you gave on working-from-home figures, in response to a question on notice. In your answer provided to the question on notice, you said that 1,025, or 55.2 per cent, of your staff are working from home three or more days per week; is that figure still roughly accurate?

Mr Betts: I'll ask my chief people officer, Rachel Houghton, to give you any updated information that we might have, but that sounds about right. While we're sourcing that information, we're happy to answer other questions.

Senator SHARMA: While you're finding that information, I have one other question, so maybe I'll turn to that. You might recall that, when we were last here, I asked you about—it had only just broken at the time—the signatories of the open letter criticising the government's policy towards Israel. I believe that, in response to a question on notice, you said that you had identified 10 employees of the department who had signed that letter; is that figure still correct?

Mr Betts: Yes, that's correct.

Senator SHARMA: What action has been taken with respect to those individuals? I'm not asking for personal details; I'm asking in a general sense how you have managed that issue.

Mr Betts: Thank you. I appreciate that, and it's an important question. I'll ask Ms Bridger and Ms Houghton to give you the detail on that. Obviously, when it was brought to our attention that an estimated 10 staff had signed that petition, we moved quickly to remind them of their obligations under the code of conduct. Individual staff were contacted through their deputy secretaries and first assistant secretaries, and reminded of those obligations. In the great majority of those cases, they were successful in removing their names from the petition and were counselled about their need to avoid any repetition. I'll ask Ms Houghton to give you more detail on that.

Ms Houghton: Yes, that's correct, as the secretary has said.

Senator SHARMA: The 10 signatories were each individually counselled?

Ms Houghton: Each of them received an email from my team, outlining what their obligations were. The other thing that we did was to send an email across the department, just to remind all staff about their obligations.

Senator SHARMA: I appreciate that response. Going back to the working-from-home question, as I said, you mentioned in response to a question on notice that you have 55.2 per cent of your staff working from home three or more days a week; is that still correct?

Ms Houghton: We have about 1,521 staff who have flexible work arrangements and 1,400 who have home-based work arrangements. We don't have the detailed breakdown that we provided in the question on notice about how many days—we can get that again—but we do have an update in relation to the number of staff. It's about 59.98 per cent now who have working-from-home arrangements, and that's formal working-from-home arrangements. Some staff might work from home on an ad hoc basis without a formal working-from-home arrangement.

Senator SHARMA: You've mentioned a figure of 1,400 staff having home-based work arrangements; is that right? Does that mean the default is that they work from home rather than in the office?

Ms Houghton: That could be anything from one day a week through to five days a week, depending on their particular circumstances, but I don't have the detailed breakdown that we provided for you in our answer to the question on notice.

Senator SHARMA: How does it work in the office? Do staff retain individual desks, or is there hot-desking going on? What are you doing about the real estate, because obviously there's significantly less demand on it than there was three or four years ago.

Ms Houghton: The broad policy in the department is that, if staff would like to work from the office, there is a desk available and, largely, that is on a one-for-one allocation. Of course, we always look for the most efficient use, so some staff will be desk sharing or hot desking. Also—this relates to some of our offices—we've recently opened an office in Brisbane and refreshed that office, and that is a flexible-use office, so staff don't have allocated desks in that location.

Mr Betts: As we plan our future accommodation, recognising that leases will expire over the coming years, we'll be working with our staff and the unions to look at the most effective use of that office space, including whether there's scope for more efficient desk allocation, which obviously a number of businesses in government and in the private sector are moving towards now, across the Australian economy.

Senator SHARMA: Without pre-empting it, you might be looking at reducing your real estate requirements?

Mr Betts: We would want to make sure that we are optimising value for money and staff productivity. Sometimes there are some trade-offs there that we need to make and, obviously, we want to do that in a way that is consultative with our people.

CHAIR: There being no further corporate questions, we will cease questioning on the corporate matters section.

[09:27]

CHAIR: We will now go to outcome 5, program 5.1, Digital technologies and communication services. We will start with questions from Senator Hanson-Young.

Senator HANSON-YOUNG: I want to get stuck into gambling reform. Firstly, can we expect to see legislation by the end of the year?

Mr Betts: That's a decision for the cabinet and the government.

Senator HANSON-YOUNG: So it's currently being considered by government?

Mr Betts: Correct.

Senator HANSON-YOUNG: Do the options that the department has been working on mirror the recommendations of the Murphy report?

Mr Betts: The Murphy report is obviously a very important starting point and foundation for a lot of work that's been done in government over the last year or more, but what's currently before government is before government; therefore we can't talk about the detail of that. Obviously, a number of steps have been taken by the government since the Murphy report was landed, including things like BetStop, restrictions on the use of credit cards and so on, so it's not like a lot of work hasn't been undertaken on other aspects of that report.

Senator HANSON-YOUNG: Has the department consulted on the banning of gambling logos and advertising in stadiums?

Mr Chisholm: That also goes to one of the issues raised in the report; hence we have been considering that as part of the reforms as well.

Senator HANSON-YOUNG: In recent weeks has the department been consulting with the free-to-air broadcasters and their representative body, Free TV?

Mr Chisholm: We have consulted with a broad range of stakeholders, including organisations, academics and experts concerned about the scale of wagering advertising. We have also consulted with organisations that would experience economic loss associated with future potential restrictions on advertising; free-to-air TV is one of those groups. That is part of the process for considering impacts. We would have to do that as part of these reforms; so yes.

Senator HANSON-YOUNG: Does the department have an understanding of what the revenue loss would be to the free-to-air broadcasters?

Mr Chisholm: We are looking at economic impacts in broad terms. They are currently being assessed and understood in the context of the policy process, including decisions that might have to go before government. So we are looking at a whole range of impact assessment issues, and that will form part of the consideration.

Senator HANSON-YOUNG: I understand that you're looking at it; I am trying to work out whether you have the facts. Do you have a figure for what the economic impact would be on free-to-air television?

Mr Chisholm: We are considering a whole range of issues, including harms associated with wagering and wagering advertising; we have undertaken an extensive assessment of issues related to that. We have consulted with wagering experts—you would have heard this in earlier evidence—from the Institute of Family Studies. We have also consulted with industry to consider the impact on them.

Senator HANSON-YOUNG: Is there a figure, or a range of figures, for the impacts which the department understands changes to gambling advertising will have on free-to-air television? You must be basing your analysis on something concrete.

Mr Chisholm: We are very confident of the evidence base that we are considering as part of the reforms.

Senator HANSON-YOUNG: What is the figure that free-to-air television is likely to lose?

Mr Chisholm: We have been provided with information as part of these reforms. To some extent this goes to the discussion earlier about non-disclosure agreements from organisations and their commercial operations. That information is provided to the department in confidence and will form a core part of the evidence base for the decision that government makes.

Senator HANSON-YOUNG: Have the free-to-air television stations given you a figure that you are basing your work on?

Mr Chisholm: We don't provide information publicly that companies or commercial organisations provide to us.

Senator HANSON-YOUNG: I'll tell you why I am asking this question. Government ministers have argued that you can't implement the Murphy report because of the loss that would be incurred by free-to-air television. Minister Shorten went out and used that as the excuse on television. It was backed in by fellow ministers and members of the government. Are you telling me that you don't have a figure that excuse is based on?

Senator McAllister: That question fails to acknowledge the information that has already been provided to you by Mr Chisholm, which is that the department is engaging with a range of stakeholders. Part of that involves understanding the way this might impact on the operations of broadcasters. Mr Chisholm has indicated to you that information has been provided to the department. It forms the robust evidence base, which includes this and a range of other information—including information about gambling harms—presently before the government.

Senator HANSON-YOUNG: Has the department briefed other ministers about how much the television stations are claiming this will cost them?

Senator McAllister: The matter is before the government. Ministers are routinely briefed, as part of the ordinary processes of government—

Senator HANSON-YOUNG: Was Minister Shorten given a figure, and was he briefed, as to how much money banning gambling advertising would cost the free-to-air television stations? If you don't know the answer, could you take it on notice? Was he briefed, given a figure, or told what to say, or did he just shoot his mouth off?

Senator McAllister: I have indicated to you, as have officials, that the matter is before the government. You will understand that implies a whole range of processes within the government by which ministers may consider issues. They are not generally canvassed in open forums such as this one.

Senator HANSON-YOUNG: This parliament has seen a unanimous report that recommends a total ban on gambling advertising, and your government is trying to excuse not implementing it. The excuse you keep giving is that it costs too much to the television stations, but you won't tell us how much money that is. That sounds like sneaky, secret politics to me.

Senator McAllister: I utterly reject all of the characterisations in your question. We are consulting with stakeholders on a proposed model for online wagering advertising reform. The minister has been clear that it focuses on three outcomes: breaking the nexus between wagering and sport, reducing the exposure of children to online wagering advertising and tackling the saturation and targeting of wagering ads. They are principles-based approaches to dealing with the harms that, as everyone in this room understands, arise from online wagering. We consider that any reform needs to be robust and effective. That means talking to a wide range of stakeholders, and we are unapologetic about that.

Senator HANSON-YOUNG: Mr Chisholm, has your department advised the government of any evidence that has been provided that cracking down on gambling advertising will cripple news in Australia?

Senator McAllister: They are your words.

Senator HANSON-YOUNG: The question was to Mr Chisholm.

Senator McAllister: Yes, and you know that the standing orders allow me to provide answers to questions.

Senator HANSON-YOUNG: So you won't let him answer.

Senator McAllister: I'll ask Mr Chisholm to add to my answer, but we want to make sure that the way we approach this is effective, and that means understanding the impacts on all the stakeholders in this ecosystem. It means trying to avoid unduly financially impacting other sectors, such as broadcasting, news media and sports. It doesn't take away from our focus on the harms and the need to address them, which everybody across the parliament agrees are presently unacceptable. Mr Chisholm, do you want to add anything about the way the department is approaching the work?

Mr Chisholm: Only to reinforce the minister's evidence and say that we have to take into account all these considerations when we are considering reforms.

Senator HANSON-YOUNG: Yes, but you won't tell us what they are.

Mr Chisholm: That is before government.

Senator HANSON-YOUNG: Have you done a thorough cost-benefit analysis of these reforms?

Mr Chisholm: We are required to undertake cost-benefit analyses of any reforms that involve regulation and where there would be costs to stakeholders.

Senator HANSON-YOUNG: In relation to the broadcasters, is the figure you are working on around \$239 million?

Mr Chisholm: Again, we are not able to provide individual numbers to the committee today because they form part of what will be cabinet consideration of the reforms.

Senator HENDERSON: That's not a reason not to answer the question.

Senator McAllister: It is widely and generally accepted in these forums that a matter that is before the cabinet is not disclosed to the Senate. We can take it on notice and consider whether a formal request to the committee needs to be made, but we have operated under the convention that, if a matter is before the government, it is not for discussion in the estimates process.

CHAIR: If you could take it on notice to see what you can provide in the current circumstances, that would be helpful.

Senator McAllister: Yes. Senator Hanson-Young's question was about a specific figure, and we will take that question on notice.

Senator HANSON-YOUNG: I would also like you to take on notice what figure the big corporate sporting clubs are claiming this will cost them.

Senator McAllister: In what context? Do you mean in private discussions?

Senator HANSON-YOUNG: Whatever information you are basing your cost-benefit analysis on. You cannot keep hiding all this from the public. People want this reform done. You are saying that you cannot do it based on what experts have suggested would be the cost to broadcasters and the big sporting codes. You won't tell us how much it is actually going to cost. So please take on notice to provide us with whatever information you can give us.

CHAIR: If it's all right with everybody, we can take that on notice and move on.

Senator HANSON-YOUNG: I am sure we will be talking about this for a long time to come.

Senator McAllister: Chair, I wish to respond to that, because Senator Hanson-Young has made a number of assertions which are incorrect. I reiterate that the government is taking this seriously and taking the time to get it right. That means consulting with a wide range of stakeholders and working through the implications. The last time a reform of this kind was undertaken, under the previous government, gambling advertising actually increased; it increased generally, and it particularly increased in regional Australia. So it is worth taking the time to understand how proposed regime will work in practice. That is the basis on which we are speaking with the wide range of stakeholders that you have alluded to, and we make no apologies about that.

Senator HANSON-YOUNG: I am not worried about you speaking to them; I am worried about you hiding the facts from the public and using it as an excuse. Your ministers are coming up with excuse after excuse. You won't release any facts to back it up.

Senator McAllister: Again, I don't think an ordinary process of government could, in any way, be characterised in the way you have just done. The government is working through it.

CHAIR: Senator Pocock.

Senator DAVID POCOCK: Thank you for your time here this morning. Is the department in possession of any evidence that restricting gambling ads would increase illegal offshore gambling?

Mr Chisholm: We are looking at reforms in relation to offshore activity.

Senator DAVID POCOCK: My question is: do you have in your possession any studies or evidence to suggest that banning gambling advertising in Australia would lead to an increase in punters going to illegal offshore gambling sites?

Mr Chisholm: My colleague Ms Lopez will assist you with that.

Ms Lopez: We don't have specific data on that, but that is a risk that has been raised with us by stakeholders; that is, if domestic wagering service providers were prevented from advertising in Australia, it may be more difficult for Australian consumers to identify legitimate wagering providers for them to bet with.

Senator DAVID POCOCK: Outside of Responsible Wagering Australia, who has raised that with you?

Ms Lopez: I would have to take that on notice. That has come up through our consultation.

Mr Betts: We had consultations with Ofcom, the regulator in the UK, specifically on this issue. They flagged that as being a major source of concern that has informed the equivalent policymaking process in the UK; that was the principal headline issue they raised as a source of concern.

Ms Lopez: The ACMA already regulates in this space and illegal offshore is already illegal under the Interactive Gambling Act.

Senator DAVID POCOCK: So you have had that raised by gambling stakeholders, but you don't have evidence that has occurred?

Mr Betts: Ofcom is the national regulator of the communications sector in the UK, so it is a pretty legitimate source of policy input. They raised this as a significant concern with which they were having to grapple, and which led them to be cautious in going down the path of an outright ban.

Senator DAVID POCOCK: But, likewise, they could be hearing that from gambling stakeholders. We have seen this play out in Australia, where Responsible Wagering Australia pointed to Norway as the reason not to ban gambling advertising. The head of gambling in Norway has come out and said, 'Total bollocks—that is not what has happened here.'

Senator HANSON-YOUNG: It's another excuse.

Senator DAVID POCOCK: I'm just trying to find out where the actual evidence is—

Mr Betts: Ofcom is an independent regulator. You asked whether this issue has been raised with us, and the answer is yes. There is no particular conclusion to draw from that other than that yes, it has been raised.

Senator DAVID POCOCK: My question was: do you have evidence?

Mr Chisholm: Because people have raised it with us as an issue, we consider it as evidence that we have to take into account.

Senator DAVID POCOCK: Sure. Is the department in possession of the evidence that the chair of the NRL has cited several times, and that the Prime Minister has also referenced, that the lotto causes more harm in the community than sports betting?

Senator McAllister: I'm sorry, but your assertion is in relation to the Prime Minister. You had a chance to speak about the Prime Minister's comments yesterday, I understand, with Senator Wong in the other forum, but I think Mr Chisholm can provide information about the evidence that they do have.

Mr Chisholm: Research and reporting have been done in relation to the scale of losses associated with poker machines. Widely reported for some time now is the link between poker machine use, the time at which such machines are used, the penetration of poker machines in pubs and clubs and the link between that and the losses that people experience. So we are aware that there is significant concern about poker machine activity in the context of the issues that we're considering. So, yes, we obviously look at that and consider it as part of—

Senator DAVID POCOCK: I'm sorry to interrupt, Mr Chisholm. I didn't mention pokies at all. My question is: do you have any evidence that lotteries are a bigger issue than sports betting?

Mr Chisholm: Again, we've looked at lotto, so we've considered it but, again, it's not actually something that we are responsible for in a policy or portfolio sense.

Senator DAVID POCOCK: It's something that the Prime Minister of Australia is asserting and, no matter who I speak to, I just can't find any evidence. The only people who seem to have this evidence are the Prime Minister and Peter V'landys, so that's why I'm asking whether the department has any evidence.

Senator HANSON-YOUNG: Another excuse.

Mr Chisholm: We don't. Again, on notice, we can check whether we can assist you on lotto but, again, lotto is not something that we're responsible for. Just to be really clear, our focus here—this particularly goes back to the report on wagering—is specifically in relation to wagering advertising, and that's quite confined in the context of the questions that you're asking. I'm happy to see whether we've got anything, on notice—

Senator DAVID POCOCK: Maybe just on notice, if you don't mind.

Mr Chisholm: but we're not the department that administers or looks at those other forms of gambling.

Senator DAVID POCOCK: I understand. Have you had a look at gambling inducements?

Mr Chisholm: Inducements, yes, because, again, inducements do fall into some of the categories which we're talking about here and which were raised in the report.

Senator DAVID POCOCK: Minister, it was reported in the *AFR* today that government sources have said that banning inducements will not be in the official response to the inquiry, and it's my understanding that it was a recommendation that inducements be banned without delay.

Mr Chisholm: I'm not aware of the report that you're referring to.

Senator DAVID POCOCK: It was this morning.

Mr Chisholm: I'm happy to have a look at it but, again, I'm not really in a position to indicate the accuracy of anonymous reporting in newspapers.

Senator DAVID POCOCK: Earlier, Senator Cadell referenced contracting to a Dr Nicholls to undertake a media impact analysis. Was that on the basis of a full phased-in ban? What was the doctor asked to model?

Mr Chisholm: I'll ask Ms Gannon or Ms Lopez to take this question.

Ms Lopez: Dr Nicholls was looking at responses that we received from our industry consultation, which looked at a range of different scenarios around advertising restrictions, including the recommendation from the committee.

Senator DAVID POCOCK: Are you able to table the terms of reference or the contract that was given and redacted for commercial in confidence?

Ms Lopez: I might need to take that on notice, in terms of what we're able to provide, but we can look at what we can provide.

Senator DAVID POCOCK: Why are you taking it on notice?

Senator McAllister: You don't have to provide a reason to take a matter on notice.

Senator DAVID POCOCK: I think you do.

Senator McAllister: You are incorrect. The standing orders don't require that. Any matter can be taken on notice.

Senator DAVID POCOCK: Chair, you can't just say, 'I'll take it on notice.'

CHAIR: If they do not have the information to hand or need to check or verify any details, yes, they can.

Senator HANSON-YOUNG: Why don't they have it?

Senator DAVID POCOCK: I'm sorry; don't you have that on you?

Mr Chisholm: No.

Ms Lopez: Not the contract with Dr Nicholls, no.

Senator DAVID POCOCK: Do you have the terms of reference?

Mr Chisholm: No.

Ms Lopez: No.

Senator HANSON-YOUNG: We're here for several hours, so I'm sure that someone can get it.

CHAIR: Thank you, Senator Hanson-Young. Are we talking about the contract that we discussed earlier with Senator Cadell?

Senator DAVID POCOCK: Yes.

CHAIR: They don't have the contract with them. I believe that the department has advised that they have a great number of contracts, and they don't—

Senator DAVID POCOCK: Sure. If you could take it on notice, that would be great. I'm interested in whether the Commonwealth has the power to ban the advertising of inducements.

Mr Chisholm: The Commonwealth has power with respect to advertising. Again, I don't want to provide legal advice on the fly but, broadly speaking, we do have powers with respect to advertising restrictions. A whole range of restrictions apply already in other contexts, so yes.

Senator DAVID POCOCK: Minister, it was reported in the *AFR* today that Peter V'landys has described the late Peta Murphy's work as 'nanny-state ideology'. Is that how you would describe her work?

Senator McAllister: Peta Murphy was our very good colleague and we're really grateful for all of the work that she did; she was also my friend. I'm really proud of the work that Peta did, and our government is committed to dealing with the harms that are identified in that report.

Senator DAVID POCOCK: So you wouldn't characterise a government taking a public health approach to a public health issue based on experts as a 'nanny state'.

Senator McAllister: I'll use my own words to describe how we approach these problems. What I would say is that the government has made it very clear that the status quo in relation to harms associated with online gambling is not acceptable, and it's on that basis that we've initiated the policy process that we've all talked about on many occasions.

Senator DAVID POCOCK: Minister, are you aware that, as part of their new code, Free TV Australia is currently proposing to add 800 more hours of alcohol advertising into school holiday periods and on weekends?

Senator McAllister: I'll let the officials speak to the specifics.

Mr Chisholm: I'll just check. No, that's not something that we've been made aware of.

Senator DAVID POCOCK: Minister, I understand that this is under ACMA, but will the government be backing in Free TV wanting another 800 hours to advertise alcohol during periods in which we know that family and domestic violence and alcohol consumption increase?

Senator McAllister: What's the source of this information?

Senator DAVID POCOCK: The draft voluntary Free TV code, which they are updating at the moment.

Senator McAllister: But on what basis do you believe that's the proposal?

Senator DAVID POCOCK: Because what they've put in their draft self-regulatory code is to give themselves another 800 hours to advertise alcohol. I'm asking the minister whether the government is going to back that in.

Mr Chisholm: I think, as you say, the interaction between industry codes and the regulator is a question best directed to ACMA.

Senator DAVID POCOCK: Yes. Clearly, that question is not for you. I'm asking the minister.

Senator McAllister: I think the official has answered that question. When the regulator appears before you we can discuss that, and I'll see what advice can be provided about the status of the current process.

CHAIR: Senator Cadell.

Senator CADELL: I want to go to the NDAs that we spoke about before. Of the 155 stakeholders who are affected by NDAs, how many are related to the gambling reforms?

Mr Chisholm: We will endeavour to get you that answer. I don't have the actual number of the NDAs related to the wagering reforms here, but we'll do our very best to get you numbers on that today.

Senator CADELL: If you're going to take that on notice, can I also have the names of the people or the groups that signed NDAs relating to gambling reform changes?

Mr Chisholm: We'll take that on notice.

Senator CADELL: Did any gambling companies sign NDAs regarding this? I don't need to know who they were, but were there any?

Mr Chisholm: I would have to check whether any wagering companies signed NDAs. Again, we'll get you that answer.

Ms Lopez: Perhaps I might just clarify also that these weren't non-disclosure agreements; they were confidentiality deeds. There is a difference.

Senator CADELL: Can you expand on that? I was told that they were NDAs. The answer from the letter, said, 'entered into non-disclosure agreements on nine occasions'. That was the answer that we got. So they weren't non-disclosure agreements?

Ms Lopez: For the most recent consultation on wagering advertising, it was a confidentiality deed.

Senator CADELL: How many of those were there?

Ms Lopez: We'll need to take that on notice in terms of—

Senator CADELL: So, if you could separate between NDAs and confidentiality deeds and who signed them, that would be great. Were Free TV or TV companies part of those?

Mr Chisholm: They've been part of the consultation, so they would have been one of them. But, again, I don't want to mislead you, so we'll check and get back to you.

Senator CADELL: Senator Hanson-Young has asked questions of you about the numbers that it will cost Free TV, and you can't answer them, but they've signed confidentiality agreements or non-disclosure agreements and so they can't answer us either.

Mr Chisholm: They're at liberty to disclose whatever they like. We will not disclose information given to us in confidence.

Senator CADELL: But haven't they signed confidentiality agreements?

Ms Lopez: Just in terms of the confidentiality deed, that doesn't preclude the stakeholders from discussing issues in the public domain or issues that they may want to advocate for; it does just prevent them from sharing Commonwealth confidential information.

Mr Chisholm: Just to add to that, you'll appreciate that, whenever we consult on regulatory reform, it's really important that we can provide confidence to organisations that we will handle their information very carefully. That assists us in the policy process so that people have confidence. It's not just limited to these sorts of discussions; it relates to other regulation too.

Senator HANSON-YOUNG: But you've lost the confidence of the public by making it all secret, though.

Mr Chisholm: Again, it forms part of the process that will go to cabinet but, in doing that, organisations do provide us with information that they trust us to handle confidentially.

Mr Betts: Also, we provide them with information, which I think is the point that Ms Lopez is making, which goes to models, which may be under consideration by cabinet, and we do require them to treat that with the same confidentiality that we're bound by as public servants. The irony of this is that Free TV, for instance, is a lobby organisation that advocates for commercial free TV. Outside of the boundaries of that confidentiality agreement, they are absolutely free to lobby in any way that they want to and to provide you with any information that they want to provide, so you might want to talk to them.

Senator HANSON-YOUNG: I'm not the one using it as an excuse. It's the Prime Minister and your ministers.

Mr Betts: Of the various criticisms that could be levelled at the government, a lack of consultation is not one. We've been through three stages of consultation to elicit information from people, and we have most recently gone through that confidentiality arrangement, which we've described, to make sure that we get the model appropriately calibrated for government consideration, as the minister has indicated.

Senator CADELL: When we go forward and get that list of the number of people in this process, either under NDAs or confidentiality deeds, we've asked for the number of wagering companies, if any, and the number of TV companies, if any. You've taken it on notice to provide us with such a list, I note.

Mr Chisholm: I'd just check. Can I just clarify? We have consulted with a range of organisations not limited to the sorts of entities that you're referring to.

Senator CADELL: That's fine. I'm after the whole list, if I can get it. Perhaps if we could get it today it would speed things up rather than waiting for the whole list. I've asked whether there were wagering companies but I take it that you don't know that, and I accept that at this point in time. Also, what about sporting bodies, specifically? Off the cuff, do we know of any sporting bodies that have signed non-disclosure or confidentiality agreements?

Mr Chisholm: Yes. We have spoken to sporting organisations and will confirm whether they've signed confidentiality undertakings. I think it's a safe assumption that they were one of those organisations but, again, I want to double-check that rather than go off the fly.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: Has the minister met with Mr V'landys?

Mr Chisholm: I'm not aware that she has.

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

Mr Chisholm: We'll have to take that on notice, yes.

Senator HANSON-YOUNG: Has anyone in your department done so?

Mr Chisholm: No, I haven't. I'll just check with the team. I'm pretty confident that we haven't.

Senator HANSON-YOUNG: Has the Prime Minister met with Mr V'landys?

Mr Chisholm: You'd have to check with the Prime Minister's office on that.

Senator HANSON-YOUNG: Minister McAllister, could you please check whether the Prime Minister has met with Mr V'landys or anybody from his office?

Senator McAllister: Questions about the Prime Minister should be asked in the portfolio estimates for the Prime Minister's department.

Senator HANSON-YOUNG: Yes, but it is in relation to this particular matter, and it is asserted that it's the Prime Minister who is blocking full-scale reform here.

Senator McAllister: You're asserting that.

Senator HANSON-YOUNG: No. It's reported in the newspapers, in the media today. Are you rejecting that? Is it not the Prime Minister? Is it the communications minister? Who wants a full ban and who doesn't?

Senator McAllister: I think the challenge here is that the government have been really clear that we're consulting on reforms that will impact gambling harms, and you're asserting the opposite. We are presently engaged in a process to deal with the harms arising from gambling and seeing what reforms to advertising could ameliorate those harms. It's an active process, it's involved extensive consideration and it does involve understanding how the reforms that are proposed would impact in practice. That is the reason for speaking with stakeholders. A wide range of stakeholders have been consulted as part of this process, as officials have indicated to you.

Senator HANSON-YOUNG: So will you take on notice whether the Prime Minister or anybody from his office has met with Mr V'landys in relation to this matter?

Senator McAllister: Senator Hanson-Young, the standing orders clearly describe what can be examined in this portfolio.

Senator HANSON-YOUNG: That's why I'm asking if you will take it on notice.

Senator McAllister: I will take it on notice. But if you had sought an answer to this question yesterday, the Prime Minister's department appeared for an extended period of time. That would have been a good time to ask about the Prime Minister. I am here to answer questions about the communications portfolio, but I'll take it on notice.

Senator HANSON-YOUNG: Has the department briefed anyone in particular in the Prime Minister's office on these matters?

Mr Chisholm: No. We don't communicate with other ministers' offices in that way. That's standard practice.

Senator HANSON-YOUNG: So no-one advised the Prime Minister that Lotto was more harmful or the bigger issue. Did anybody advise the minister from your team who's working on this as to whether inducements should not be included?

Mr Chisholm: The question of inducements again goes to the broader set of reforms that are currently being considered by the minister and the government.

Senator HANSON-YOUNG: So no-one from your department who is working on the reform has advised the Prime Minister or the Prime Minister's office on the facts of this issue.

Senator McAllister: Senator, in the ordinary course of things, briefings to the Prime Minister's office are provided by the Department of the Prime Minister and Cabinet, who appeared yesterday—

Senator HANSON-YOUNG: I understand that.

Senator McAllister: To conclude my answer, your question implies that it's unusual that officials from this department have not been directly briefing the Prime Minister's office. Ordinarily, briefings to the Prime Minister are provided by the department that he administers.

Senator HANSON-YOUNG: Has anyone in your department been at any meetings with any staff from the Prime Minister's office in relation to this matter when meeting with stakeholders?

Mr Chisholm: Excuse me while I repeat that, just to be really clear. You are asking whether any of our staff have been involved in meetings with the Prime Minister's office where—

Senator HANSON-YOUNG: Where they have been meeting with stakeholders on this matter.

Mr Chisholm: The answer is no.

Senator HANSON-YOUNG: Has the minister herself been meeting with stakeholders on this matter?

Mr Chisholm: The minister has met with some stakeholders, including with the department being present, which is totally to be expected in the context of these reforms.

Senator HANSON-YOUNG: So it would be the minister who understands what's going on here.

Mr Chisholm: Yes. The minister understands very well the policy underpinning these reforms and is strongly committed to a robust framework that reduces harm, and with protections to be built into that. She has also been closely involved in a number of other reforms in relation to harm reduction and wagering, including some of the things that the secretary went through before, such as BetStop, bans on credit card use, mandatory minimum classifications for gambling-like content in computer games, and reviews in relation to offshore activity and Keno-type activities. She is very much across these issues.

Senator HANSON-YOUNG: She's the expert.

Mr Chisholm: She's the minister.

Senator HANSON-YOUNG: She's expected to know her brief. Does the department have the information as to whether lotteries are the second biggest cause of gambling harm?

Mr Chisholm: This goes to the evidence that we were discussing earlier with Senator Pocock. There is material available that can be looked at and has been reported on, on the scale of losses associated with those activities, and there's some research on that. But, again, our responsibilities with respect to these reforms are focused on the wagering advertising recommendations in the Murphy report. Questions about the relative costs of different forms of gambling and wagering are probably better directed to others.

Senator HANSON-YOUNG: So the department didn't provide any advice to the Prime Minister's office or his department in relation to the impact of lotteries versus sports betting?

Mr Chisholm: Again, I wouldn't add to the minister's answer on who we provide advice to.

Senator HANSON-YOUNG: You've just told me that you don't provide advice to them, so why can't you answer that question?

Mr Chisholm: Your question was did we provide advice?

Senator McAllister: I think you're asking the same question. You've asked this question already: does this department brief the Prime Minister?

Senator HANSON-YOUNG: I'm asking a specific question as to whether you have provided any advice to the Prime Minister's department or his office in relation to lotteries.

Mr Chisholm: If you could call it advice, the only related process is cabinet consideration of the reforms, which we obviously are responsible for, through the minister. Of course, the Prime Minister's portfolio, as does every other portfolio, has an interest in that as it goes through the normal processes.

Senator HANSON-YOUNG: You've said that you've been doing a lot of consultation and that the minister is well briefed; she is the expert in the field and understands all of this—

Senator McAllister: Just for clarity—I'm sorry; I shouldn't have interrupted you—I don't really think the minister claims to be an expert.

Senator HANSON-YOUNG: No. I'm saying what you've claimed.

Mr Chisholm: You did say that, Senator.

Senator McAllister: Nobody said that. You actually introduced that phrase into the conversation.

Senator HANSON-YOUNG: Is the minister an expert in this?

Senator McAllister: The minister is an extremely diligent minister who understands the portfolio that she is administering and all of the policy issues that are within it. She receives regular briefings from her own department and also from stakeholders about the issues that concern them. She does all of the things that you would expect a diligent minister to do.

Senator HANSON-YOUNG: Great. Does the department have evidence that lotteries account for 15 per cent of all gambling harm?

Mr Chisholm: I don't have detailed breakdowns of gambling harm losses in relation to things like lotteries before me today because, again, it's just not something that we're responsible for.

Senator HANSON-YOUNG: Okay. After all of the experts you've talked to and all of the consultation you've done, what do you understand to be the percentage of harm from sports betting and race betting?

Mr Chisholm: It probably goes to some of the information canvassed in the report. I'll just check to see whether my colleagues wish to add to that or whether we need to take some of that on notice. No, we have nothing further.

Senator HANSON-YOUNG: The whole gambling advertising reform is within your purview; right?

Mr Chisholm: Yes.

Senator HANSON-YOUNG: But you can't tell me the percentage of harm it causes in the community.

Mr Chisholm: We are very focused on the question of harm reduction in relation to these reforms. We've been aware of a range of evidence on that, including that provided by experts in the field and in the Murphy report. That guides as much of our focus as anything, as well as the government's commitment to the fact that the status quo is untenable.

Senator HANSON-YOUNG: What is the basis that you are working on in terms of the amount of harm that wagering is having?

Mr Chisholm: The basis that we're working on is exactly as I've outlined; that is, the status quo isn't tenable and the government seeks to tackle the nexus between sporting activity and wagering. In that context, wagering advertising is a focus of the reforms.

Senator HANSON-YOUNG: Why is it a focus? What is the underpinning concern of the government and the evidence that you are working on that makes it the focus? Is it because it is actually worse?

Mr Chisholm: I don't really think there's much more to add, other than that the status quo is untenable and the government is committed to reform on that basis.

Senator HANSON-YOUNG: But if the Prime Minister is right and lotteries are worse, why wouldn't the government be working on that?

Mr Chisholm: Because we're not responsible for lotteries.

Mr Betts: The Department of Social Services is coordinating the whole-of-government response to the Murphy report and has policy responsibility for those harms in the round.

Senator HANSON-YOUNG: Is there any evidence that you are aware of or any material within your possession, as a department, that supports the Prime Minister's assertion?

Mr Chisholm: Again, we don't work on lottery issues.

Senator HANSON-YOUNG: So you can't answer that question, but you don't have any evidence.

Mr Chisholm: We didn't come into this hearing today with evidence or information about things that we're not responsible for.

Senator HANSON-YOUNG: Surely, when the Prime Minister stands up in question time or goes on the national news at night and makes this assertion, his minister, your minister, works out whether it's actually true.

Senator McAllister: Senator, the officials are here to talk to you about any range of things that they are working on. As we've made abundantly clear publicly, for a long time, we concur that reform of advertising in relation to online wagering is required. That is the work that this department is principally focused on.

Senator HANSON-YOUNG: I understand that.

Senator McAllister: Just to take a step back, it's because they are the communications department and advertising is immediately relevant to their core expertise and their core regulatory responsibilities.

Senator HANSON-YOUNG: Has the Prime Minister asked you to ban lottery advertising?

CHAIR: Senator Hanson-Young, I think they've advised a number of times that lotteries do not sit within this department.

Senator HANSON-YOUNG: But the advertising of it does, doesn't it? The advertising of lotteries sits within this.

CHAIR: We are going to rotate the call; thank you. I have one question on what's been said so far today. Can you outline for us what your broader policy work is in terms of the issues required to address gambling harms?

Mr Chisholm: Absolutely. I might ask my colleagues Ms Gannon and Ms Lopez to take you through that.

Ms Lopez: We administer the Interactive Gambling Act. On a simplistic level, that is focused on gambling that is happening online.

CHAIR: Maybe you want to talk us through some of the stuff that you've done and some of the things that you are doing. That would be helpful.

Ms Lopez: Yes. For example, one of the more recent changes in this space was restrictions for credit cards. They are not able to be used for those types of betting that happen online.

Ms Gannon: We also work closely with the Department of Social Services on a range of wagering related and gambling related elements, such as BetStop, the national self-exclusion register, which the ACMA is responsible for. We also look at gambling through a classification lens, looking at the regulation of gambling-like content and loot boxes. We've worked with DSS on the taglines for stronger messages around the risks and harms of online wagering, and we've worked with DSS regarding the mandatory customer pre-verification that came into effect in September last year. We do work closely with DSS on a lot of those things. It's really a Venn diagram of our responsibilities and that portfolio's. We work closely with them on a number of gambling-related matters.

Mr Chisholm: The secretary referred to this earlier: if we look at those reforms and how we've worked with our colleagues in Social Services, we bring a framework to the advertising reform consideration that is threefold. One is to reduce the exposure of wagering advertising to children. Another is to tackle that nexus between sporting activity and wagering, and to acknowledge that there are unacceptable levels of wagering advertising, particularly in the context of live sport. The concerns expressed by the community in relation to that, which are reflected in the Murphy report, which is a really valuable and significant input into this, are very much something that we take into account. We have also spent quite a bit of time talking with academics in the field of gambling research, organisations such as the Australian Medical Association, who we have met with, and we've taken into account the input that they've provided to us, and practitioners who are members of the association who look at these issues—mental health issues, impacts of wagering on particular communities, particularly First Nations communities, and concerns about the growth of that and how it impacts on those communities, and on CALD communities as well. That brings us to the third point in that threefold focus, and that is to really restrict advertising in that context.

As we've indicated, we spend quite a bit of time talking with counterparts in other jurisdictions, and take that into account—the states and territories, given that they have some responsibility with respect to this, particularly in relation to stadia or jersey advertising.

These are things we have been looking at. There have been a number of stages of consultation. We've had extensive information requests of industry and of other stakeholders. We've spoken to broadcasters. We've spoken to platforms, Australian companies and overseas-owned companies. We've spoken, as I said, to state and territory governments, academia and advocates, and there is a very extensive process underpinning that. A big part of that has been to estimate the impacts, the costs and benefits of the reforms, which is about making sure we get that right to maximise the success of the reforms. That is all part of a framework that the government requires us to consider in terms of impact analysis.

CHAIR: Are you seeing any signs that some of the work that is being done is having an impact?

Mr Chisholm: We have quite a bit of evidence in relation to the self-exclusion, BetStop, register. I will ask my colleagues to speak to that.

Ms Lopez: Since its commencement in August last year, more than 30,000 Australians have registered with BetStop. Seventy-nine per cent of registrants are aged 40 and under, and 39 per cent have registered for a lifetime ban. As at October, 23,000 people were still active on the register and have chosen to self-exclude themselves from gambling.

CHAIR: Thank you; that's very helpful. Senator Henderson?

Senator HENDERSON: I'd like to ask some questions about the misinformation bill and the consultation process. There's been a lot of criticism from stakeholders about the lack of consultation on the revised bill. The Australian Catholic Bishops Conference, in its submission, said:

Given the Committee has only allowed one week for the preparation of submissions, the Conference has not had time to give the Bill adequate consideration...

The Australian Human Rights Commission said:

Given the immense impact the Bill could have on freedom of expression and democracy itself, more time should have been provided for stakeholders to provide considered responses to the Federal Government.

The Law Council of Australia, given they have 17 constituent bodies, didn't have any time to consult with those bodies and actually get a submission in. They, too, have expressed a lot of disappointment. Minister, what do you say about this lack of appropriate consultation on a very significant piece of legislation?

CHAIR: Could I make a quick comment? Given that the bill is currently in an inquiry—I am not saying there is anything wrong with your question, at all—in terms of this particular estimates inquiry, your question is within

order, but if there are issues of line and verse of the clauses within that bill, they are better referred to Monday's hearing, when we will have both the department and ACMA in attendance.

Senator HENDERSON: What do you say, Minister, about the lack of consultation in relation to this bill?

Senator McAllister: This bill was first released as an exposure draft back in June 2023, and it has been subject to consultation and discussion since that time.

Senator HENDERSON: Just to clarify, I am talking about the new version of the bill, not the original bill. The stakeholders are referring to the revised bill.

Senator McAllister: I am providing an answer, which is to say to you that this is an important area of policy reform. It does require us to engage broadly with a wide range of stakeholders. It's proper that the widest possible group of Australians do get a chance to contribute to this area of policy reform. The point I am making to you is that this reform process has been in the public domain for an extended period of time. We will welcome submissions from stakeholders during the committee's hearing process, and we will be very interested in what the committee finds about the bill.

Senator HENDERSON: You would take late submissions in relation to the separate Senate inquiry into the bill; is that what you are saying?

Senator McAllister: I am not responsible for the Senate inquiry. That is actually the committee that you are a part of.

Senator HENDERSON: No, I am just clarifying that. There are a lot of stakeholders who are expressing very serious concerns about the bill. Does the government care what stakeholders have to say about this bill?

Senator McAllister: Of course.

Senator HENDERSON: Why did the government provide such a limited amount of time for stakeholders to provide feedback and raise concerns on the bill?

Senator McAllister: I have already indicated to you that it is an area of public policy reform that has been ongoing for some time. I think you are asking about the specific arrangements that the committee has put in place to examine the bill.

Senator HENDERSON: No, I wasn't asking about that.

Senator McAllister: I am not in a position to answer that question.

Senator HENDERSON: I am talking about the second bill, just to be very clear, not the original bill.

Senator McAllister: I understand that. I am saying to you that the arrangements—

Senator HENDERSON: So on the second bill—

Senator McAllister: for hearings are a matter for the committee.

Senator HENDERSON: No, I am not talking about the committee.

Senator McAllister: You are not?

Senator HENDERSON: No. I am asking about the fact that the government has only provided stakeholders with one week to make submissions on the revised bill. I am putting to you that it appears that the government doesn't seem to care what stakeholders think about the bill.

Senator McAllister: I would reject that. As I have already indicated to you, consultation on this set of policy reforms began in 2023, in June. At that time there were nearly 24,000 responses received on the exposure draft of the bill. That included comments and it included submissions. There has been targeted consultation, in the period since, with stakeholders. The bill is now the subject of a Senate inquiry. Of course, we are interested in what people think about this. It is a complex area of policy reform.

Senator HENDERSON: Are you listening to the concerns of stakeholders?

Senator McAllister: Indeed, because the bill has been under discussion for some time now.

Senator HENDERSON: How many submissions have been received?

Senator McAllister: Do you mean to the Senate inquiry?

Senator HENDERSON: To the Senate inquiry; that's right.

Senator McAllister: That's not a question that I can answer.

Senator HENDERSON: Does anyone have that information?

Senator McAllister: It is really a question for the committee. The secretary is sitting next to you.

Senator HENDERSON: I do appreciate the difference. In relation to the ability to make submissions—and perhaps, Secretary, this is best directed to you—there were lots of concerns about the website crashing. People were trying to upload their submission, and they couldn't do so. Are you able to shed any light on that?

Mr Betts: This is the exposure draft consultation which received 24,000 responses, 2½ thousand of which are currently on our website; is that the—

Senator HENDERSON: Okay; so it is 24,000?

Mr Betts: Twenty-four thousand responses were received and a significant proportion of those have been posted online on our website. We have people at the table who can talk about that. As the minister has indicated, there were two stages of targeted consultation following that: in April around proposed changes and in July around the revised bill itself, which, as we have discussed, is now before this committee for consideration. In terms of any issues with the website, I will ask Ms Vandenbroek or Mr Hyles to respond to that.

Senator HENDERSON: Before we go to that, can I clarify something? There are 21,000 submissions that have not been uploaded. Are they pro forma submissions? Can you provide any further information on that?

Mr Betts: We can.

Mr Hyles: Are you talking about the Senate inquiry submissions?

Senator HENDERSON: No. I am talking about the submissions to the government.

Mr Hyles: The submissions last year?

Senator HENDERSON: Yes.

Mr Hyles: I am not aware of any crashes of the website. We have gone through an extensive process of reviewing all of the submissions that we received last year. We've posted the submissions that we can post on the department's website. Those are submissions that were able to be posted because they're public. The remainder of the submissions were in relation to comments that were received, so we have posted a sample of those. Again, we had to go through and vet the content to make sure there was no inappropriate content on those.

Senator HENDERSON: What were the guidelines for which submissions were posted online and which were not posted?

Mr Hyles: Submissions that were public were posted online.

Senator HENDERSON: Are you suggesting that the 21,000 submissions—

Mr Hyles: There weren't 21,000 submissions.

Senator HENDERSON: That's what the secretary just said: 24,000 in total; 21,000 not posted.

Mr Hyles: Submissions and comments.

Mr Betts: 'Responses' would be the way I would characterise that. That is more accurate.

Senator HENDERSON: A comment can still be a submission.

Mr Hyles: A comment is done through a different process on the department's website. It's a 'have your say' kind of process. There were 20,500 comments and 2,418 public submissions.

Senator HENDERSON: How many of the 20,500 comments were uploaded onto the website?

Mr Hyles: I would have to take that on notice. It was a sample. I don't know off the top of my head. It's on the website.

Senator HENDERSON: Based on what Mr Betts has just said, it sounds like about 21,000 were not put up online. Why is that the case? Why weren't they posted online?

Mr Hyles: All 20,500 comments weren't posted online, but a sample were—a sample that went to the scope of the comments, and the different issues and matters that were raised. The reason why all 20,500 weren't posted is simply that we would have had to go back and review them, to make sure there was no defamatory content, private content, content that went to names of individuals and that kind of thing. Posting the submissions that we did post online was a substantial effort, as it was.

Senator HENDERSON: Are you saying the comments that were not posted publicly were by reason of their defamatory comment or inappropriate comment?

Mr Hyles: No, that's not what I am saying. It would have taken a significant effort to go through again and check to make sure that there was no content that was inappropriate.

Senator HENDERSON: There is a capacity issue in vetting all of those comments, in other words.

Mr Chisholm: They were all read.

Mr Hyles: They were all read.

Mr Chisholm: The evidence that Mr Hyles is giving is that we would have had to go back through them all again to check whether they were provided on the basis that the person would want them to be public and to check that the content was appropriate. Some of the submissions did contain content that some people might find upsetting.

Senator HENDERSON: Because they were critical of the government?

Mr Chisholm: No. I will not go into the detail regarding some of the content that people provided to us. It included concerns about things they have seen online that goes to the core of the bill, which is the government's aliveness to the harmful nature of mis- and disinformation, including extreme content. We have to be very careful about what we then put online. Our staff need to be very careful, as part of that. That's something that we work very closely on and take very seriously.

Mr Hyles: I can confirm that the department's website, as I understand it, didn't crash.

Senator HENDERSON: It didn't crash? Okay. Are you aware of any difficulties uploading any submissions? That is the anecdotal advice we have received.

Mr Hyles: Not that I am aware of.

CHAIR: We did have some problems with the Senate inquiry, with the volume of stuff, so there could be a bit of confusion. For clarity, the submissions closed on 30 September, with an extension to 11 October, which is another 11 days. We also accepted late submissions.

Senator HENDERSON: I appreciate that there are two inquiries: there is the Senate inquiry into the bill and then there is the department's consultation on both bills. So we have parallel processes running at the moment. Thanks for that clarification.

Senator McAllister: Not at the moment.

Senator HANSON-YOUNG: Not parallel; the consultation is on the exposure draft and now we are running the Senate inquiry on the tabled bill.

Senator McAllister: The exposure draft consultation took place last year. To deal with any confusion, as Mr Chisholm indicated to you while the submissions were read, we were grateful for the wide range of organisations and individuals that engaged with the bill. The bill now before the parliament has a number of significant policy changes that arose as a consequence of what we heard during that consultation on the exposure draft.

Senator SHARMA: I want to ask about age insurance and age verification. Just so I understand the history on this, was the age verification trial originally a recommendation from the e-Safety Commissioner back in March 2023?

Mr Betts: That's right.

Senator SHARMA: Then the initial position in response to the recommendation of the government was not to proceed with that trial, but instead to pursue industry codes?

Mr Chisholm: In the initial position reference was made to the industry codes. In the meantime, we were looking at the difference between age verification and age assurance to assist the government to think through how that recommendation and the roadmap from the e-Safety commissioner would work.

Senator SHARMA: On 1 May this year the government announced that they were going to proceed with a trial. Am I using the terminology correctly? Is it an age verification trial or an age assurance trial?

Mr Chisholm: The age assurance trial is the trial underway now.

Senator McAllister: Senator Sharma, would it assist the committee if officials were to explain the difference between the two?

Senator SHARMA: Yes; thank you.

Mr Chisholm: Age verification is very precise in the sense that, as the name suggests, it requires verification of identity. Identity documents might need to be provided to verify that the person is over 18. To do that, you would need to look at their identity documents or they might need to be uploaded as part of that. I am constantly checking with my officials to make sure I get this right because we need to be careful about how we describe it. Age assurance is a broader term. It uses other technologies and tools to assess whether a person is likely to fall into a particular age bracket or not. It is using a lot of innovative technology, particularly now that the platforms are using, or looking at examining, things like keystrokes, facial recognition, or answers to particular questions to make an assessment about whether a person is a certain age. It is getting to the point now where they can distinguish between certain ages. It is not quite there yet, in our sense. That's why we are doing the trial; to make

sure that it is fit for purpose, particularly in the context of things like you mentioned—the Phase 2 codes that the commissioner is doing—and the government's age limits commitment. That's essentially the difference.

Mr Irwin: That is it exactly right. Age assurance includes both verification and estimation. A wide range of technologies can be used for estimation. Some providers have suggested to us that, by waving a left hand in front of a screen, they will be able to provide above 90 per cent accuracy. That is exactly why we are running the trial, so that we can get an independent assessor to look across all the technologies and consider them against a range of criteria.

Mr Chisholm: Why that is helpful is that one of the risks with a strict verification approach is that people will then avoid it altogether. We won't then be achieving the policy objective of preventing exposure by children to extreme content or adult content, whereas assurance wraps around the user in a way where people need not fear that they need to disclose their identity. That might include parents who take responsibility for what their children are doing online. Hence, the big focus has been on age assurance to reinforce these broader reforms.

Senator SHARMA: Moving on to the trial that is about to be underway, I should declare to the committee and the public that my partner works at one of the digital tech companies, at Alphabet. I want to make sure that is on the public record. Following the announcement on 1 May, a tender has been run to conduct the age assurance trial; is that right?

Mr Chisholm: Yes, that's right.

Senator SHARMA: Where is that up to? The tender was open, and it is now closed.

Mr Irwin: That's correct. We have received seven applications. The tender closed on 8 October. The department has assessed the tenders. Unfortunately, under the Procurement Rules it would be inappropriate for me to confirm until we have made an offer that it has been accepted, and until the unsuccessful tenderers have been advised. We expect that to be within the coming days.

Mr Chisholm: To be clear, when we talk about the trial, that technology procurement process is a key part of it. It also is an umbrella and includes other consultation and research that we are doing. Mr Irwin, do you want to add to that the roundtables that we have done?

Mr Irwin: I am happy to go into detail for the specific roundtables. We have conducted nine roundtables with over 120 participants. That is one leg—the consultation process. We have also commissioned some consumer research, which goes to Mr Chisholm's point about consumer willingness to use the technology. We have seen examples in the United States where age verification was introduced for access to a porn hub. Traffic from that particular jurisdiction dropped by 80 per cent, which suggests that either people are going to darker websites or they are using VPNs, neither of which are good policy outcomes. We have sought that research to understand exactly what consumers look for in terms of a technology they are more willing to use.

Senator SHARMA: You haven't chosen the successful tenderer yet, and that tenderer has not been advised?

Mr Irwin: For the technology trial, we have completed the assessment process. Unfortunately, because we haven't received a signed contract back we are unable to say.

Senator SHARMA: You have completed the assessment process. You expect that process to be concluded within weeks. I imagine the successful tenderer will be advised. When will the trial commence and when will it complete?

Mr Irwin: That depends on the tenderer and the contract with the tenderer. We imagine it wouldn't be the shortest process. It will include live testing on Australian adults and children. We imagine it would be concluded in the first half of next year in order to inform the age limit legislation.

Senator SHARMA: That is what I wanted to get to. So the outcomes of the trial are to inform the legislation that the government is proposing, particularly the age limit?

Mr Irwin: Particularly the implementation of the legislation. The minister stated in Adelaide on 11 October that there would be a minimum 12-month lead time for implementation, to allow both the platforms and the regulator to look at the available technologies and consider what would be reasonable steps for age assurance.

Senator SHARMA: At the moment, does the government have a policy on what the age limit should be? I have seen public remarks by the Prime Minister suggesting he thinks that 16 is appropriate. He hasn't been definitive on that.

Mr Chisholm: The age that will be central to the age limit legislation is currently being considered in the cabinet process. We have been looking closely at the different perspectives on that. There was a recommendation in the French report that South Australia commissioned. The New South Wales government has indicated

preferences as well. A lot of that was discussed at the conferences in Sydney and Adelaide. It goes to the heart of what legislation the government is going to introduce this year.

Senator SHARMA: So the government is committed to introducing this legislation this year?

Mr Chisholm: Absolutely.

Senator SHARMA: Will this legislation have an age limit? This is what I am puzzled by. The trial is meant to inform the age, but the government is committed to introducing the legislation this year, which will presumably have to specify an age.

Mr Chisholm: The government has committed to introducing age limit legislation this year.

Senator SHARMA: But the trial won't have been concluded by this year?

Mr Chisholm: The trial will be more helpful in the context of the implementation of these reforms. What the trial is doing is informing us, the e-Safety Commissioner and industry on how industry can comply with these sorts of reforms, not just age limits but also the phase 2 codes process. The trial isn't as relevant to the legislation that will contain the age limit restriction.

Senator SHARMA: It seems a bit strange that we are introducing legislation to do age verification and yet the tender for the trial—which is intended to inform what technologies are available, the efficacy of that technology, and the tools we might use—has not been concluded. The trial hasn't commenced. It won't have concluded but we will be having legislation which is meant to address all these things. Hasn't the cart been put before the horse here?

Mr Chisholm: We are confident that the legislation that we introduce will comprehensively address the government's policy on legislating an age limit, but also allow for the work of the trial to inform implementation of that. It comes back to the fundamental commitment the government has made to introducing an age limit. How that then is implemented in consultation with industry, and the work of the trial in helping to inform that, is a related but separate consideration.

Senator DARMANIN: So the trial isn't informing the age for the legislation; is that right?

Mr Chisholm: It is obviously relevant. The focus on the trial is to provide confidence that industry has the technology available to it to assess whether certain ages are accessing content. Again, it is broader than the age limit. That came up in the context of evidence we provided at the last estimates and the separate committee looking at these issues.

Mr Irwin: The technology trial component was asked to look at between 13 and 16, so it will cover the range of ages.

Senator DAVEY: Just to clarify: so the trial is about technology; it is a technology-testing trial. But we are going to have age verification legislation before us. What age are we talking about?

Mr Chisholm: Not age verification legislation; age limits.

Senator DAVEY: We are going to have legislation that says, 'People of this age'—yet to be determined—'can't access social media' but we don't know how we will enforce that.

Mr Chisholm: The legislation will contain the age limit and the trial will include ages that we are considering as part of those reforms; the two are working in tandem. We are very confident that the broader work of the assurance trial will reinforce that limit in terms of supporting its implementation, and also the work that the e-Safety Commissioner is doing on other content as part of the phase 2 codes work. Also it will be relevant to further work that the commissioner might wish to do in this area or other government policies on platforms.

Senator DAVEY: The trial, though, will also inform what different social mediums, social medias and what age limits should apply. There might be an age limit for Insta Teen that is different to Instagram to Snapchat to TikTok.

Mr Chisholm: No.

Senator DAVEY: There is going to be a single age limit, no exemptions?

Senator HANSON-YOUNG: Let's just say Instagram can introduce Insta Teen and the government can say: 'Tick. Done. Let's move on.'

Mr Chisholm: If I could just comment: that is not true.

Senator HANSON-YOUNG: Tell us what the age is going to be?

CHAIR: I am going to have to wind up here.

Senator DAVEY: There are still so many questions.

CHAIR: We are going to come back. We are not going anywhere. We are going to come back. We are going to take a break. I do want to go to the secretary for a point of clarification from an earlier issue. We will come back to this after the tea break.

Mr Betts: There was a line of questioning from Senator Hanson-Young earlier around representatives of the Prime Minister's office and their involvement in meetings, including consultation meetings around gambling advertising. I can't remember exactly how those questions were formulated. I want to be clear that the department supported approximately 80 meetings in August and September, with around 60 entities. Our understanding is that an adviser from the Prime Minister's office was present at a handful of those meetings.

Senator HANSON-YOUNG: Thank you, Mr Betts. Could I ask you to come back after the break and tell us at which meetings involved those stakeholders.

Mr Betts: I will take on notice providing you with information about which meetings they were, if I can get that information.

Senator HANSON-YOUNG: Thank you. I appreciate that.

Senator DAVID POCOCK: I have a point of clarification. Mr Betts, could you tell us whether there was a representative from the department at the Prime Minister's meeting with NRL executives that have been uncovered in FOI OBD documents?

Mr Betts: I think not but we will take it on notice.

Proceedings suspended from 10:47 to 11:03

CHAIR: Welcome back. We will continue with program 5.1. We will go to Senator Shoebridge.

Senator SHOEBRIDGE: I want to continue with the questions about the age assurance trial and age assurance. Minister, one clear takeaway from the legislation is: do we understand that the government hasn't set the age or has set the age but is not telling us what the age will be for the legislation that will be introduced? Where are we up to?

Senator McAllister: The government has been very clear that it intends to consult on the age and that the age will be informed by engagement with states and territories, through National Cabinet. We also have the opportunity to draw on the French review that was prepared for the South Australian government.

Senator SHOEBRIDGE: But you are bringing in legislation this year. We've got two more sitting weeks. Are you saying you still haven't made your mind up about what the age will be, and the consultation between now and the next fortnight is going to determine the age?

Senator McAllister: The matter is before the government.

Senator SHOEBRIDGE: Is it going to be 13? Is that the age?

Senator McAllister: As I indicated to you, the government has said that it will consult with stakeholders about the age. That includes taking into consideration the views of the states and territories.

Senator SHOEBRIDGE: When you say you will consult with stakeholders, you've got a fortnight to get the legislation in. Is that what's going to happen: the next fortnight is going to be a festival of consultation at which you'll come up with an age, and it might be 16?

Senator McAllister: I am not speculating about the age. When the government makes a decision, it will announce it at an appropriate time.

Senator SHOEBRIDGE: Deputy Secretary, are you still running to the timetable of having legislation in parliament that will set the age limit by the end of this year?

Mr Chisholm: Yes. The commitment is to introduce legislation this year.

Senator SHOEBRIDGE: That will have a number in it.

Senator HANSON-YOUNG: Can we just clarify? Do you expect the legislation to be passed by the end of this year? Is that the time frame you're working on? It has just been introduced.

Senator McAllister: The government has indicated an intention to introduce legislation by the end of the year.

Senator SHOEBRIDGE: Could I ask about the trial. There were two parts to the trial, two parts to the tender. One part is about 18-plus, and one part is about 13 to 16. For the 18-plus, is that part of the trial designed to moderate, limit or restrict access to pornography?

Mr Chisholm: I will ask Mr Irwin to help step you through how that works.

Mr Irwin: That's right; there are two streams to the trial. The 18-plus is related to pornographic and other high-impact material—broadly, the sorts of material that are under consideration in eSafety's Phase Two Codes process.

Senator SHOEBRIDGE: Then the other part is the 13- to 16-year-olds. That's designed to do what? Is it proof of concept, to prove that an age limit on social media could work?

Mr Irwin: It is designed to look at a range of criteria that we have laid out in the tender process that was put together through cooperation with 14 government agencies. This looks at not just the question of accuracy, interoperability and reliability, not just those IT questions, but also matters of privacy and security. It's to look at what is available in the market at the moment, where that is all up to and if there are particular aspects that might require improvement. It is also to look at combinations of technologies, not just technologies in isolation.

Senator McAllister: If you want, the official will step you through the evaluation criteria for the trial.

Senator SHOEBRIDGE: I have a set of questions and issues. Thanks, Minister. Is it intended to be able to test if someone is 13, or if someone is 14, or if someone is 15, or if someone is 16?

Mr Irwin: The range we have put in our tender is 13 to 16, yes.

Senator SHOEBRIDGE: I assume the outcome is not 'this person is aged somewhere between 13 and 16'. The tender is designed to test if someone is 13, separately if they are 14, separately if they are 15 and separately if they are 16. Is that the intent?

Mr Irwin: Subject to the capabilities of the successful tenderer, yes.

Senator McAllister: One of the criteria which you declined to have provided to you is accuracy: how well does the technology detect a user's age, for example.

Senator SHOEBRIDGE: Minister, some of this was covered in earlier questioning. I don't want to go back to that. You covered that. I listened and heard. I've looked at the AusTender material. There's nothing in here about privacy. Is that part of the tender?

Senator McAllister: Yes; it's the criteria that you declined to have read to you. One of the criteria is data security—whether user data is stored and, if so, is it secure or de-identified. It covers protection of privacy, how well the technology protects personal information.

Senator SHOEBRIDGE: The material is not on the AusTender website. Where do we find the details in the tender about protecting kids' privacy and protecting everyone's privacy? Where do we find that, Mr Irwin?

Mr Irwin: I will have to take that on notice, to look at which particular document that comes up in. As the minister has said, that is one of our criteria, yes.

Senator SHOEBRIDGE: If you are testing to see if someone is 13, 14, 15 or 16, you are also testing to see, by definition, if they're 16-plus. If there is going to be age verification, everybody will have to go through an age verification process, won't they?

Mr Chisholm: Yes.

Senator SHOEBRIDGE: So this isn't just about privacy or collecting data about kids. This is literally everybody accessing social media. That's how it has to work, isn't it?

Mr Irwin: Yes—

Senator McAllister: Senator Shoebridge, you just used the term 'age verification'. You may not have been in the room when we had a discussion about the distinction between age verification and age assurance. This is an age assurance trial.

Senator SHOEBRIDGE: If you are going to have age assurance for kids who are 13, 14, 15 or 16, testing if they're that age, you're testing everyone's age and you are doing it at that level of age assurance. That has privacy and data protection implications for literally everybody accessing social media, doesn't it?

Mr Irwin: Yes, and that is one of the reasons why we have commissioned consumer research to look at consumer willingness and particular aspects that are important.

Senator SHOEBRIDGE: This is then intended as a proof of concept to see if the legislation can work, if the age limits can actually work. I think, Mr Chisholm, you said that is one of the aspects of this trial: it's a proof of concept to see whether the legislation can actually work.

Mr Chisholm: Probably the best way to think about it is that it will be a question for industry to make sure that they can comply with the legislation. In doing that, they will have available to them a range of technologies and tools. The trial will be relevant input to that. To be really clear, the age limit will be applied and the way in

which industry seeks to comply with it will be a matter for industry. It's not that the two are co-dependent, so to speak.

Senator SHOEBRIDGE: Where is it intended that the obligation will lie? Is it intended that it will lie on platforms such as individual social media platforms; it will be their legal obligation? Will it be for devices? Will it be for individuals? Will it be a criminal prohibition for a child to join? Where is the legal obligation intended to lie?

Mr Chisholm: The minister set out some of the principles in her speech.

Mr Irwin: That's right: in Adelaide, on 11 October. One of those was the answer directly to that question. The onus will be on platforms. There will not be penalties for individuals under this.

Senator SHOEBRIDGE: I assume it's going to operate at the point that somebody seeks to get a social media account, or is the age assurance going to happen with every interaction on social media? Is it going to be constantly testing for age or is it only going to be at the point at which you get an account?

Senator McAllister: I think you are confusing the technology with the obligation. The officials have explained to you that the age assurance trial informs the way that the legislation might be designed. The two are not the same thing.

Senator SHOEBRIDGE: I am asking: is it an ongoing obligation to test for someone's age every time they interact with social media or is it only at the time that they obtain an account?

Mr Chisholm: It is a good question. It relates to the design of the legislation that we're involved in right now. The broad principles guiding the design of the legislation, as Mr Irwin indicated, were outlined in a speech. We can explain how that underpins the work.

Mr Irwin: As Mr Chisholm said, it will be incumbent on the platforms to demonstrate reasonable steps.

Senator SHOEBRIDGE: I am asking: is it reasonable steps at the time someone obtains an account or is it reasonable steps as a continuing obligation, every time people are interacting with social media, to demonstrate that this person is above a certain age limit? What is the intent?

Ms Vandebroek: The details are under consideration by the government at the moment.

Senator SHOEBRIDGE: One is a one-off privacy issue. The other one is that every single time you interact on social media your details, your age, your personal attributes are constantly being interrogated. It's a pretty fundamental point. You've got to have legislation before the end of this year. You're saying you can't answer this fundamental point?

Mr Irwin: We understand the point. The privacy concerns were one of the reasons for the setting up of the cross-government working group I referenced before. Of the 14 agencies, two are the Attorney-General's Department and the Office of the Australian Information Commissioner. We have been constantly liaising with them since May on the question of privacy.

Senator SHOEBRIDGE: Can you answer the point, though—this obvious, simple design question?

Mr Irwin: It is subject to legislative design at the moment.

Mr Chisholm: I want to emphasise that these are issues that are really important considerations. They are forming the basis of or relevant to the design of the work that we are doing right now. Further information on that will be made available when the government chooses to do that.

Senator SHOEBRIDGE: In the fullness of time.

Senator DARMANIN: I want to move to the Mobile Black Spot Program. Could you give an update on Round 8 of the Mobile Black Spot Program—how it is rolling out?

Mr Grunhard: The eighth round of the black spot program has been announced in some detail. I am very pleased to report that the project noticeboard for the round opened on 23 October. The round will have a particular focus on areas that are impacted by or at risk of natural disasters. It might be worthwhile Ms Pidgeon outlining the purpose of the project noticeboard and what that will achieve for communities.

Ms Pidgeon: As Mr Grunhard said, we opened a project noticeboard on 23 October. That allows communities to put forward locations through their community representative—local governments, state or federal parliamentarians. They can make a proposal about a location or particular issues they're having. It's a way to connect them quite quickly with the industry, who will draft and submit applications to the program.

Senator DARMANIN: The purpose of that is to get community engagement, I assume?

Ms Pidgeon: It allows the community to raise their issues really quickly with the industry. We do consider in our guidelines the role of the project noticeboard. Where an application from an industry member, the telco industry, can demonstrate support from the community, that's one of the factors that we take into account in the value-for-money part of the assessment. Ideally, if we can align the community's interests with the industry's preferred areas for co-funding through their applications, then we look to do so.

Senator DARMANIN: It only opened, you said, on 23 October?

Ms Pidgeon: That's correct.

Senator DARMANIN: How has it been going so far? Have you had a lot of interest?

Ms Pidgeon: I would have to check. I am not aware, off the top of my head, of any submissions that are on there just yet.

Senator DARMANIN: I have some questions about the mobile coverage audit.

Mr Chisholm: The audit has been going through a trial phase and it is starting to yield some really interesting insights. We're deploying a range of tools to roll out the audit, including, within the portfolio, Australia Post. We are trying to get a better understanding of where we can better target communications infrastructure, and do a bit of a comparison with what the sector is telling us about coverage maps and that sort of thing. Ms Power can step you through this exciting piece of work.

Ms Power: As Mr Chisholm noted, the National Audit of Mobile Coverage commenced in May this year. That started with a pilot audit. That involved some drive testing in all states and territories. The additional element of it is some static testing which, ultimately, will be in 77 locations, but it will be in a smaller number during the pilot process. At the same time, we've also made available a range of crowd-sourced data that provides an additional layer of data available to consumers and state and territory governments about the lived experience of users across Australia. We have just started the main audit, with the drive testing from that. That will lead to up to 180,000 kilometres of road being tested each year for three years across all of the states and territories and 77 static locations. They were all identified through engagement with states and territories, and issues that came out of the government's role in rolling out the Mobile Black Spot Program. We're moving into that main audit stage now.

Mr Chisholm: The intention is to make data progressively available.

Ms Power: Yes. The data that is available from the pilot audit is already available on the department's website, as is the crowd-sourced data. As we move into the main audit, we will move to a more regular update of data on a monthly basis. There will be a significant increase in the amount of data that will be available, and widely available, for a range of players to be interested in.

Senator DARMANIN: Thank you. I haven't looked at the website. What is the data showing at the moment?

Ms Power: Because of the nature of the pilot, the amount of data is somewhat limited from the drive testing side of things. It certainly identifies a range of black spots. Some of them align with known black spots, but even the pilot stage has identified some areas where perhaps there was an expectation that there was coverage and in fact there wasn't. Sometimes that is down to a process that our contractor undergoes afterwards, in talking to the mobile network operators. On some occasions they have identified that there was a particular outage at the time that the drive testing occurred. It gives an opportunity to test that with the MNO. Also, it has identified areas where there is more granularity in the coverage. The public mobile maps that are put out by the providers identify where there is coverage but perhaps not the quality of coverage. It is one thing that the audit is looking at, and the data that is available on our website gives a greater view of what you can do with the level of coverage at any location that has been audited.

Senator DARMANIN: As that information is built up, what will be the next phase of the program?

Ms Power: Others in the department might want to speak to that. Already, that information is being provided and shared with the areas of the department that are designing and operating programs. We've been keeping states and territories well updated on this. They are very interested. They are using it for their own purposes. No doubt some of that data will also help to inform the project noticeboard process that Ms Pidgeon spoke about earlier.

Mr Chisholm: The minister recently chaired a meeting with her colleagues—state and territory ministers—on regional connectivity. It was a key topic of interest there, to help inform not only their own work but also the future targeting of Commonwealth supports, particularly in those programs where we're trying to improve hardening of network coverage, peri-urban and resilience-related measures.

Mrs La Rance: While the data will continue to strengthen, as Ms Power said, as the audit goes along, we will be using it on a rolling basis. We're not waiting for something to be finished before we start drawing on that, to inform project selection through the programs that Mr Grunhard and Ms Pidgeon spoke about.

Mr Chisholm: It's quite exciting to have an evidence base to guide some of these programs in a policy area where traditionally you are reliant on direct consultation, particularly with industry but also with users. To have an independently verifiable audit of locations that we can point to, to reinforce where we target investments, is quite new; that is my sense, from looking at this. It's something we are really excited about and we hope it will yield a lot of future work.

Senator DAVID POCOCK: I have a quick follow-up on the Mobile Black Spot Program. Mr Betts, congratulations on the ANAO report.

Mr Betts: We were very pleased with that report.

Senator DAVID POCOCK: I want to ask a question about whether anything is done around the process. I note that 74 per cent of Labor's election commitments were in Labor seats, and 44 of 54 were in marginal seats. When the coalition oversaw this program, 124 of 125 were in coalition-held seats. It doesn't seem very fair. Is that just a decision of government or is there work on some sort of framework to ensure that this is actually on a needs basis, so that people who don't have reception are getting the help they need?

Mr Grunhard: You would be aware that all of our programs are conducted in accordance with the Commonwealth grants guidelines.

Senator DAVID POCOCK: I understand that.

Mr Grunhard: We are now following the new rules that have been released in that respect. We are always designing new programs to ensure we are meeting the needs of the community. I'll note, for example, that the Mobile Black Spot Program Round 8, which we were just discussing, is open to all communities in the country in regional and rural areas. It's a needs-based program. The purpose of the community noticeboard that Ms Pidgeon was talking about was to allow communities to volunteer that they have a problem in their community that needs industry attention and, potentially, government co-funding. The entire purpose of that program is to allow, on a needs basis, people to nominate areas where there are black spots or coverage areas of concern.

Senator DAVID POCOCK: Is that final decision made by the department or is it then fed to the minister to make a decision?

Mr Grunhard: We assess any applications that come to us in accordance with the Commonwealth grants rules and principles that have just been released. We provide recommendations to the minister. The decision-maker in our grant programs is the minister. I should say that, in every case where we've presented recommendations to the minister which are assessed on the basis of needs, on the applications that have been given to us, the minister has accepted our recommendations.

Senator DAVID POCOCK: That's great to hear. Thanks very much for the work you are doing. I want to clarify some of the evidence around lotteries. I know the department is not responsible for measuring harms from different forms of gambling. I want to know whether the department has possession of the research that's been mentioned by Mr V'landys which says that 20 per cent of problem gambling relates to lotteries. Has that been submitted to the department in discussions?

Ms Lopez: No, Senator.

Senator DAVID POCOCK: Do you have any knowledge of that study? I understand that it might be a report from the University of Sydney, using data from NSW GambleAware.

Ms Lopez: We are not aware of what data Mr V'landys is using.

Senator DAVID POCOCK: That wasn't submitted as part of consultations?

Ms Lopez: No, it wasn't.

Mr Chisholm: It is also not guiding our consideration of this.

Senator DAVID POCOCK: I am not suggesting it is. I am trying to get to the bottom of this data. During the break I spoke to a few researchers. People are bemused as to where Mr V'landys and the PM are coming up with this data. Secretary, I also have some questions about your mention of Ofcom. Again, a few academics have reached out to say they were pretty intrigued by that. As you may be aware, an increase in illegal offshore activity from our jurisdictions has not been the experience of Belgium, Spain or Norway. I believe that the former CEO of Paddy Power called that argument 'a load of baloney'. I am interested in whether Ofcom provided you with data to back up this view that they gave you, or whether it was just that they had been fed that feedback.

Mr Betts: It came up in the course of discussions—face-to-face discussions—that we were having in London, when Minister Rowland, Ms Gannon and I were over there. You are right; we also met with the Belgian gambling authorities, which had a very different view and had undertaken a much more extensive ban on gambling advertising. My point was not that was a decisive point. You asked me the question as to whether that had been raised. That was one context in which that argument had been run. It is not to say that argument is a clincher.

Senator McAllister: The broader point is that these are not reasons to stop the work we are presently doing to limit the harms that are produced by online wagering. They are factors to consider, to make sure that the program design and the policy design that we bring forward are good enough and will have the effect that we intend.

Senator DAVID POCOCK: I want to read a short statement from the UK Secretary of State for Culture, Media and Sport in relation to this:

The threat of an online gambling black market does not mean we should avoid tightening controls on licensed operators ... when Parliamentary time allows, we plan to give the Gambling Commission increased powers to support disruption and enforcement activity ...

Minister, are you currently concerned that ACMA may not have the power it needs to block illegal offshore gambling, if this is being held up as a potential unintended consequence?

Senator McAllister: I will not comment on the thinking that we're undertaking as we respond to all of the recommendations of the Murphy review. We have said on many occasions that government will make our announcement at a time of our choosing. I will reiterate what I have said to other senators; that is, we're really clear that reform is required. The focus of our effort is on breaking the nexus between wagering and sport, reducing the exposure of children to online wagering advertising, and tackling the saturation and targeting of wagering ads. That's the focus. We are presently engaged in a policy design process to meet those objectives. That means speaking with a wide range of stakeholders about how best to do that in a way which produces the effect we want but doesn't have unintended consequences.

Senator DAVID POCOCK: Currently, ACMA has powers to regulate and, essentially, to demand that people take down illegal offshore wagering websites and the like. Is the government concerned that ACMA currently does not have enough powers to deal with any potential illegal offshore gambling?

Senator McAllister: You are inviting me to speculate about the design that we'd bring forward.

Senator DAVID POCOCK: Currently, do they have enough powers, or should they be strengthened?

Senator McAllister: You are implicitly asking me to speculate about the kinds of changes we bring forward. The government has been clear that we are presently working through the arrangements that will be necessary to meet our objectives.

Senator DAVID POCOCK: I understand the ruling around hypotheticals; I don't feel like this is a hypothetical. Does the government believe that ACMA currently has the powers it needs when it comes to illegal offshore gambling?

Senator McAllister: The problem with your question is not that it is a hypothetical; it is that it asks me to disclose the outcome of a process which is presently underway in the government and which has not concluded. The government is considering the reforms that will be necessary to deal with online wagering advertising and reforms that could be done in that space to prevent harms arising from online wagering. That means looking at all elements of the problem. The government has been clear that it is doing that in a consultative way. We will announce our conclusions about that at an appropriate time.

Senator DAVID POCOCK: Mr Betts, in the wake of the ACCC's findings against Optus and some of the unconscionable conduct levelled at the two major providers, Telstra and Optus, can the department advise whether you are allocating any resources to researching or engaging with affordability issues for consumers relating to essential communication services, including phone internet plans?

Mr Betts: I'll ask Mr Chisholm and maybe someone from his team to respond.

Mr Chisholm: We are aware of the Optus action and the proceedings there. We will avoid commenting on that. I'll ask Mr Grunhard to speak to consumer issues.

Mr Grunhard: The case you are referring to, as Mr Chisholm says, is now before the courts. In the broad, I can say that the concerns which have been raised in the example are covered presently in the Telecommunications Consumer Protection Code, the TCP Code, which is overseen by the ACMA and the Communications Alliance. That is undergoing a review. We are concerned to ensure that there are sufficient protections in that code for the unconscionable behaviour that has been alleged in that circumstance. We are working through the process right

now with the ACMA and the Communications Alliance to ensure that the TCP Code has sufficient protections for consumers.

Senator DAVID POCOCK: What about in the broader context of the cost-of-living crisis, where families can't afford internet access and children aren't able to do assignments at home? Do you have any piece of work looking at how we make that more accessible and affordable?

Mr Chisholm: There is another stream of work we do, the School Student Broadband Initiative, which we can speak to. We also have First Nations Digital Inclusion Plan programs. I can run through, or ask the team to run through, where that's at. We are targeting supports and investments for digital inclusion and connectivity. The School Student Broadband Initiative is a great example of that because it is about ensuring that children have access to the internet to support them in their work.

Senator DAVID POCOCK: How many households are currently being helped by that program?

Mr Chisholm: We will need to get the team to the table because it is a program. We go through an extensive process of assessing applications and checking that they meet the criteria.

Dr Ashurst: As of 16 October, 18,734 eligible families have been connected to a free NBN service, with 462 connections pending.

Senator DAVID POCOCK: What happens if you are not eligible for NBN? Here in the ACT, the NBN target is 48 per cent. Half of the households cannot access it. What happens then?

Dr Ashurst: Unfortunately, at this time it is only available for people who can access the NBN under this program.

Mr Chisholm: There is, however, other work we are doing on upgrades and closing the digital gap, or divide, in relation to NBN. That program is targeted to people who have access to it. We also have other work that involves investments and support through NBN to continue to roll out and close that gap.

Senator DAVID POCOCK: So subsidising some of the NBN connections, given they are on a cost-recovery basis?

Mr Chisholm: Subsidising NBN? The government supports NBN directly. Essentially there is that sort of support.

Senator DAVID POCOCK: NBN's mandate is that they have to do it on a commercial basis where it makes sense. That's why the ACT has a 48 per cent target. Are you saying you are extending it to areas where they otherwise wouldn't go?

Mr Chisholm: We have to be really careful with language and closing that gap.

Mrs La Rance: There are some particular complexities with the ACT, which we can talk through. We continue to work with NBN on rolling out the current fibre upgrades program. The work Dr Ashurst is talking about is in some ways unique. It is a series of programs that have been trying to understand and target the areas where there is a need for different support. We are aiming at up to 30,000 on that program. That is not going to cover all students. We look closely at how that program is rolling out. The other program we can talk about, noting that it doesn't have a particular focus in the ACT, is the work of the First Nations Digital Inclusion Advisory Group, if that is useful.

Senator DAVID POCOCK: If I can ask one question on non-NBN households, how many applications have you had, or can't you get through the first hurdle?

Dr Ashurst: We don't have that number; we can go back and ask. There is the National Referral Centre, where most families can phone the 1800 number to identify whether they are eligible.

Senator DAVID POCOCK: Maybe on notice: the number of calls to 1800 versus the 18,734?

Dr Ashurst: We can take it on notice.

Senator DAVEY: I come back to the Mobile Black Spot Program and the review on it, and the questions Senator Pocock asked regarding the decisions that are made and the advice to ministers about who is successful. I understand that the call is put out to communities to identify areas in need, but then when those target areas are identified, you are still reliant on an industry proponent to apply. Is that correct?

Mr Grunhard: That's correct.

Senator DAVEY: Prior to the last election, several announcements were made by candidates in certain areas that an elected government of their colour would fund certain sites. One example was in then electorate of Hasluck—\$1.75 million for three sites was promised. Only one of those sites has progressed to receiving funding in October 2023. That was a site in Stoneville, in stage 1 of the Improving Mobile Coverage Round. The other

two sites did not get an industry proponent. Can you explain that? In that round, 54 target sites were identified but only 42 progressed. Can you explain that discrepancy?

Mr Grunhard: We discussed this extensively in the last couple of hearings. The round you are referring to, the Improving Mobile Coverage Round, was a specific set of sites which were selected and identified through election commitments. That is correct. I need to draw the distinction between that and the round we were just discussing, which is an open round. It is open to anyone, anywhere in the country, to apply—which has been the norm for the program generally. It is the case for the round that has just opened, round 8, and indeed round 7, which ran last year.

Ms Pidgeon: Let me clarify. Round 7 and round 8 are both being run for regional and remote areas.

Mr Grunhard: Anywhere in the country outside of urban areas—I apologise.

Senator DAVEY: Only stage 1 of the Improving Mobile Coverage Round was predetermined, based on election commitments.

Mr Grunhard: There were two rounds where the locations have been predetermined. There was the round that you referred to, the Improving Mobile Coverage Round, and the Priority Locations round, run under the previous government.

Ms Pidgeon: Which was round 3.

Senator DAVEY: That stage 1 round did include some peri-urban areas, including in Hasluck, which is on the outskirts of Perth.

Ms Pidgeon: Round 3 did, as well. The legislative authority for the program does not constrain it to regional areas; it is a national program. For the targeted location rounds, those being round 3 and round 6, some of the locations are identified in the major cities.

Senator DAVEY: Are some of the targeted areas that didn't get industry proponents, which was 12 in that stage 1, still able to submit applications in future rounds if an industry proponent comes forward?

Ms Pidgeon: Of the 54 locations, we didn't receive applications for five of the locations. With a further seven we recommended against the applications we did receive. There is a list of those 12 on our website, with the reasons against each of the individual sites. They can apply if the applicants are interested in a solution in the area and that area is eligible, say in the regional area for round 8. Then an industry advocate can apply for those locations.

Senator DAVEY: The Regional Telecommunications Review is underway again; it is due to report at the end of this year. The website says that the review is examining the adequacy of regional Australia's telecommunications. But, prior to the last election, Anthony Albanese and the then shadow minister for communications shadow, Michelle Rowland, announced that Labor would commit \$20 million to commence in 2022 an independent national audit of mobile coverage to establish an evidence baseline to guide future priorities, which you have discussed. My understanding is that after 2½ years the audit is only now starting.

Mr Chisholm: The audit has been going through a number of phases.

Senator HENDERSON: A slow phase.

Mr Chisholm: No. It was not a slow phase; it was a pilot.

Senator DAVEY: That is the pilot of the posties collecting data?

Mr Grunhard: It is the website we were just discussing, where information is starting to flow. Just to distinguish, you were referencing the independent Regional Telecommunications Review, which is a separate process and which you can discuss also.

Senator DAVEY: Is there a duplication happening?

Mr Grunhard: No, it is slightly different.

Mr Chisholm: The audit goes outside regional areas. It includes urban areas and cities—everywhere, basically. We are also interested in understanding whether there are black spots in our cities and suburbs, as much as in regional areas. The RTR, the regional review, is more focused on the regional side of things.

Mr Grunhard: If I may add, to distinguish them further, the audit of mobile coverage is clearly a very technical exercise, as you have seen, in terms of the data that is flowing to the website to indicate the strength of coverage in different locations. The Regional Telecommunications Review, which has run every three years for the last decade or so, is a policy inquiry into the current settings, standards and the various issues facing telecommunications consumers in rural and regional areas. They are quite different processes. One is about

mobile coverage and one is about a whole range of policy matters that the regional review committee is considering.

Mr Chisholm: Which has to happen every three years.

Senator DAVEY: My understanding of the audit is that you are partnering with Australia Post to help collect data?

Mr Chisholm: Yes, that is correct.

Senator DAVEY: Is consideration given to areas where we don't have posties?

Ms Power: Yes, that is correct. It was clear that, when we went out to market under what was an open tender process, while obviously Australia Post doesn't travel down every road across Australia it certainly services the priority roads that were identified in consultation with the state and territory governments. An organisation called Accenture is operating the audit on behalf of the government and using Australia Post as a subcontractor. They have their own capacity. They have longstanding experience in undertaking these types of testing. Some of their own vehicles are testing roads that Australia Post vehicles do not access. Equally, a few of the identified priority static locations do not have a post office, and so in those instances state and territory governments have assisted in identifying alternative locations, such as rural fire service facilities.

CHAIR: I will note that we are running half an hour late.

Senator DAVEY: I'm just wondering, given that new technologies are coming to light at all times and that several telcos have proposed to introduce satellite coverage direct to device, have you considered how that will impact future outcomes and potentially future rounds of funding for things like mobile coverage issues?

Mr Chisholm: Ms Power can speak extensively to that point. That is another stream of work, which relates to what you are talking about, namely, the future role that low earth orbit satellites, LEO sats, would play in improving connectivity, particularly in the context of the future Universal Service Obligation. As the copper network continues to age, we're looking at LEO sats and other technologies. That's been an active consideration in the context of a LEO sats working group, which we chair with industry and with government. One of the things we looked at recently, with the assistance of our colleagues in BCARR, was the potential for Leo sats in relation to agriculture and transport. We want to get the settings right. This is new. We would need to consider a series of regulations, and a fundamental consideration would be the way in which technology would work with triple 0. That goes to some of the trial work that we are doing right now. Ms La Rance could speak to the trial on satellites and direct-to-device technology.

Mrs La Rance: They are in addition to the mobile coverage. We also have another trial underway, which Ms Power will expand on. It's around trialling how those alternate technologies deliver voice services in different locations and under different conditions; for example, areas that have different seasonal conditions.

Ms Power: As Ms La Rance said, as part of broader work on what the future of the current telecommunications universal services framework will look like, a key element has been what role future technologies could play in that process, noting that the existing arrangements do focus on a range of technologies that have been in place for some time. As Ms La Rance said, key to that is that we're undertaking some independent trials which will cover 50 locations across Australia and which will be particularly focused on the ability of the low earth orbiting satellite technology to provide a quality voice service. For comparative purposes, we are also considering seeing that against some of the NBN services that are also available in those areas. That process has recently commenced. It will run through until the middle of next year, and obviously a key element to that is the coming wet season for the north of Australia.

Senator HANSON-YOUNG: I've got some questions on the progress of the streaming regulation. Mr Betts, you mentioned that streaming was something that your department has been busy working on. Obviously, government was meant to have delivered this, and it was meant to be in place by July 1. That is what was promised. We are well and truly past that. When do we expect to see legislation?

Mr Betts: As we discussed last time, the timing of legislation is a matter for government and cabinet.

Senator HANSON-YOUNG: What's the reason that the July 1 deadline has been missed?

Mr Betts: Government is still considering its policy position.

Senator HANSON-YOUNG: Still doing your homework?

Mr Betts: Yes.

Senator HANSON-YOUNG: Has the department been briefed in relation to the impacts of the US free trade agreement on the options being considered?

Mr Betts: The US free trade agreement is obviously a matter for the Department of Foreign Affairs and Trade. That department is consulted on a regular basis, as are all departments which formulate policy and which may have an implication for FTAs.

Senator HANSON-YOUNG: In relation to this specific piece of legislation, have you received advice that the US free trade agreement has an impact?

Mr Betts: I am going to ask the relevant officials to handle that.

Mr Chisholm: We consult with a range of departments and agencies as part of these reforms. That would include Foreign Affairs and Trade, PM&C and Treasury. All of that is in aid of the government's consideration of the streaming commitment.

Mr Betts: I should point out that this stream of work is undertaken by the arts portfolio. The relevant officials who are across the subject matter will be at this evening's session.

Senator HANSON-YOUNG: That is always the problem with this piece of legislation. We have two ministers responsible—

Mr Betts: I don't think that having two ministers responsible is a problem at all with the legislation. It is quite normal for ministers to work collaboratively together to progress policy work.

Senator HANSON-YOUNG: If that's what's occurring.

Mr Betts: Which it is.

Senator HANSON-YOUNG: Why has it taken so long? Why are we in November 2024 and we still don't have an answer on what the model will be, what the implications will be and when the sector should expect it? If people are collaborating and working well together, surely you would have got your house in order by now.

Senator McAllister: The question implies that the problem lies in coordination between ministers. That is foundationally incorrect. Ministers are working well together. Like many of the reforms that are underway in this portfolio area, these are not simple matters.

Senator HANSON-YOUNG: I know that.

Senator McAllister: I'll lift up a little, if I may, just to conclude this part of the answer. We are engaged in this period of incredible transformational reform that has been underway for some time. The digital revolution is having profound impacts on the way in which people consume, receive and produce information and then are able to market it. A substantial body of work is required to make sure that the policy settings we have are responsive to that and that they meet the public interest. If anybody believes or asserts that this is simple and easy to resolve, they are frankly misinformed. These are complex questions. It's worth getting it right.

Senator HANSON-YOUNG: Why did you promise it would done by July 1, then?

Senator McAllister: It is taking longer than we had hoped.

Senator HANSON-YOUNG: I am frustrated because at every estimates I am told, 'It's coming.' Every estimates I'm being told, 'It's coming. It's imminent.' It just doesn't happen. I would really like a clear response as to whether you have information or evidence in relation to the impact of the free trade agreement with the US in relation to this piece of legislation or the model that we use. I don't want an 'in general' answer. I want to know, specifically in relation to regulating streamers, whether you got advice or sought advice in relation to the impact from the free trade agreement?

Mr Betts: The free trade agreement is a matter for the Department of Foreign Affairs and Trade.

Senator HANSON-YOUNG: Yes. But you must have some idea. If it's not, say that it's not.

Mr Betts: The way in which policy is generated is that proposals are put through a cabinet process and comments are coordinated across departments, and ministers and officials get to contribute to that policymaking process. That's the way it works. It is subject to cabinet confidentiality. I am not going to be drawn into a line of questioning about the operation of a free trade agreement because it is not my area of expertise. There are plenty of opportunities for you to ask the question to FTA.

Senator HANSON-YOUNG: Has your department been given any advice from Foreign Affairs and Trade in relation to this matter, yes or no?

Mr Betts: We routinely consult with the Department of Foreign Affairs and Trade.

Senator HANSON-YOUNG: Why are you trying to avoid this so much? What is the problem?

Mr Betts: Why don't you ask the question when the relevant officials are here, as I have suggested to you, tonight, under the arts portfolio.

Senator HANSON-YOUNG: But this does relate to the communications minister as well, doesn't it?

Mr Betts: It does. But the relevant officials, who are across the detail of this, more than I can be as secretary, will be here tonight.

Senator HANSON-YOUNG: Has the minister had any conversations with the US ambassador, Mr Kevin Rudd, in relation to this matter?

Mr Betts: Minister Rowland?

Senator HANSON-YOUNG: Yes.

Mr Betts: I am not aware of any conversation. I would have to take that on notice.

Senator HANSON-YOUNG: Has anyone from your department had any conversations with Mr Rudd or anyone from the Australian unit in Washington?

Mr Betts: I would be extremely surprised if anyone from my department had any conversations with Mr Rudd. I would have to take on notice the question of whether there has been any discussion with the post in Washington. Normally that stuff is conducted through DFAT.

Senator HANSON-YOUNG: Is there any truth in the rumour that this legislation has been put on ice because of the US election?

Mr Betts: I am not going to comment on rumours, particularly as they relate to processes that are before cabinet.

Senator HANSON-YOUNG: Is it true that this legislation has been put on ice because of the US election?

Mr Betts: You just repeated a question, and I've answered it.

CHAIR: The secretary has answered your question, Senator Hanson-Young.

Mr Betts: You just repeated the same question. We can be here all morning. The answer is not going to change.

Senator HANSON-YOUNG: No. I am asking you: is it true? Is that the case?

Mr Betts: I am not going to comment on matters that are before cabinet. Even if I wanted to I couldn't, Senator.

Senator HANSON-YOUNG: It's before cabinet. That means that the legislation has been drafted?

Mr Betts: There has been extensive consultations around all of this. We can answer more questions of detail tonight. This is a matter before government for consideration. We have no further news on it.

Senator HANSON-YOUNG: Minister, do you think it is appropriate for Australia's cultural policy to be held up and hijacked because of the United States of America?

Senator McAllister: The assumptions in your question are inaccurate. I said to you how important this is. I said to you also that it is a complex piece of policy reform. I've also said to you that people who assert that policy reform of this kind is simple are misinformed. The government is working through it.

Senator HANSON-YOUNG: Should US companies dictate what is important in terms of protecting Australia's cultural policy and heritage?

Senator McAllister: This government always makes decisions based on our national interest. That's how we approach this policy area and all policy areas.

Senator HANSON-YOUNG: I will come back to this issue. If there is information that you have, I urge you to bring it forward for tonight. I want to go to one of the other issues you mentioned in your opening statement and the first set of questions in corporate about the long list of things you are working on. Have you got the architecture of how the news media bargaining code and the fund for small and independent publishers will operate?

Mr Betts: I didn't talk about the news media bargaining code, which is a matter for Treasury. I talked about the News Media Assistance Program, which the minister has indicated is something that she aims to bring to fruition by the end of this calendar year. I did go through a long list of different items. You accused us of going through some of them too fast and some of them too slowly. The only differentiating factor seems to me whether or not you agree with them, Senator.

Senator HANSON-YOUNG: I haven't argued that you have gone too fast on anything. I just wish you'd get on with most things.

Mr Betts: I've heard that misinformation and disinformation is a bit rushed.

Senator HANSON-YOUNG: I didn't say anything about that. Please, Mr Betts—

CHAIR: Senator Hanson-Young—

Senator HANSON-YOUNG: I have not asked you any questions about that.

CHAIR: Senator Hanson-Young!

Senator HANSON-YOUNG: He just accused me of something that was not actually correct.

CHAIR: You spent all morning accusing him of a whole range of things. It is a fair retort.

Senator HANSON-YOUNG: He has corrected when he thinks it's wrong. I would like that withdrawn.

Mr Betts: Sure.

Senator HANSON-YOUNG: I have not asked you any questions about that.

Mr Betts: No. There were questions around social media age limits and the speed at which that was going. My point is simply that we are proceeding on multiple different fronts. Sometimes we are accused of going too fast and sometimes of going too slowly. The common factor is that, through our minister, we are consulting, we are engaging and we are endeavouring to get the right and the sustainable policy solution.

Mr Chisholm: Senator, I could assist you. What you are referring to there is a rolling set of commitments that the government has made to support media diversity and strengthen the presence of media, particularly in local and regional communities. The underpinning of that is the government's strong commitment to public interest journalism and media diversity, particularly in a context where we're starting to see the migration of advertising to digital platforms. That very much goes to your questions and concerns about the news media bargaining code.

Senator HANSON-YOUNG: Could you come to the specific question in relation to the fund?

Mr Chisholm: I was providing a little bit of context. The News MAP, as I said, is a rolling set of commitments. In the 2022-23 budget, the government provided funding to the Public Interest Journalism Initiative as part of that process and other processes. It provided funding to AAP; funding to support broadcasting resilience; funding for culturally and linguistically diverse media literacy; funding for community broadcasting; funding for the Pacific-Australia initiative; and funding for local and independent news and regional and local newspaper publishers. The framework underpinning that, which the minister has referred to, is the government's strong commitment to quality, diversity and engagement. There was a consultation paper released. We received a number of submissions in relation to that. The government's News MAP framework will be released before the end of the year. That is the commitment there. That is something we have been working very closely on. It is a high priority piece of work for us. I just wanted to highlight that. It's not just one thing that is happening this year.

Senator HANSON-YOUNG: I understand that.

Mr Chisholm: There have been a number of substantial commitments to support media diversity and quality.

CHAIR: Senator Henderson.

Senator HENDERSON: I want to table an article from the *Australian* entitled 'Digital law "to silence debate", says Coalition', written by Sarah Ison on 25 September. It says:

... Communications Minister Michelle Rowland said misinformation "was threatening the safety and wellbeing of Australians" and warned there would be devastating consequences should her rejigged legislation not be passed by the end of the year.

Minister, what are those devastating consequences if this legislation is not passed by the end of the year?

Senator McAllister: The government have been very clear that we think there are some serious harms that require us to change the way we regulate the online environment, to make it safer. There is necessarily a high threshold for understanding the particular harms and the seriousness of the harm that would precipitate a government intervention. The framework of the legislation is presently before your committee. I understand that you are having a hearing about it on Monday. We consider that platforms do need to demonstrate that they are taking appropriate steps to deal with information that is capable of causing very significant harm. Those harms are set out in the legislation.

Senator HENDERSON: I am just wanting to know what those devastating consequences will be if it's not passed in the next few weeks.

Mr Chisholm: To add to the minister's comments, there have been comments made by the Electoral Commissioner about his concerns about threats to electoral integrity in democracies through the presence of misinformation and disinformation on online platforms. You will be aware that in the bill that issue of electoral integrity or threats to electoral integrity forms one of the bases for serious harm. As the minister said, it does need to be serious harm. There is a very high threshold set for that in the definition of the bill. Electoral integrity is one

of those things. That has been an active debate for some time. Do we want a system where bots and online farms are providing information to disrupt and ensure that verifiably false information is contained on platforms? It goes beyond that. There are serious harms in relation to physical infrastructure, to health and to personal safety. The bill really does target this concern that the community has—

Senator HENDERSON: Sorry, Mr Chisholm. I will cut in there. Can you explain what you mean by that, please: 'serious harms to physical infrastructure'? What are those serious harms?

Mr Chisholm: For example, if there is information online that is verifiably false—

Senator HENDERSON: You are saying 'if'. This is speculative, is it? There is no serious harm to physical infrastructure right now—

Mr Chisholm: The information needs to be—

Senator HENDERSON: Sorry, Mr Chisholm. Could I just finish my question. There's no serious harm threat to physical infrastructure right now that would justify the passing of this legislation. I am just trying to understand. Are we talking in facts here, or is this just your speculation that you are putting to the committee?

Mr Chisholm: It is not speculation. There has been active discussion about the threat of seriously harmful information on platforms which assert certain things about everything from the way our health system works through to economic infrastructure.

Senator HENDERSON: What's the serious harm to physical infrastructure? Could you explain that?

Mr Chisholm: That will come down to how it is interpreted by the regulator and how the platforms—

Senator HENDERSON: You have made that comment. I would like you to explain what you mean.

Mr Chisholm: That's in the bill. We can talk about how the bill defines those things. But how it's interpreted by the regulator and how—

Senator HENDERSON: No. I was asking you about the devastating consequences if this bill is not—

Mr Chisholm: I am using—

Senator HENDERSON: Hang on, Mr Chisholm. Please stop interrupting me.

CHAIR: Maybe we could stop talking over each other.

Senator HENDERSON: I was asking about the devastating consequences if the legislation is not passed. You cited the threats to physical infrastructure.

Mr Chisholm: To quote the minister:

Misinformation and disinformation pose a serious threat to the safety and wellbeing of Australians, as well as to our democracy, society and economy. Doing nothing and allowing this problem to fester is not an option.

The definitions of serious harms in the bill go very much to that point. They in some respects also reflect the commitments that the platforms have made about the information that they don't want to have on there. The regime seeks to reinforce that. But I'll just check with—

Senator HENDERSON: I am sorry, Mr Chisholm—

CHAIR: Just for your information, Senator Henderson, we do have emergency services and various other groups coming on Monday to the hearing on misinformation and disinformation to unpack this, with the department appearing as well to then answer any questions. As I said earlier, this is an estimates committee.

Senator HENDERSON: That's right.

CHAIR: The detail of this bill is more appropriately dealt with through the inquiry that this committee has on hand, with its next hearing on Monday.

Senator HENDERSON: Chair, if you don't mind, with respect, I want to pursue my questions. This is a government bill. Mr Chisholm, are you able to—

CHAIR: It is a government bill, Senator Henderson.

Senator HENDERSON: Chair—

CHAIR: No, Senator Henderson.

Senator HENDERSON: Chair, if I can just ask my questions—

CHAIR: It is a government bill and it is in an inquiry.

Senator HENDERSON: I understand that. Thank you very much, Chair. Just going back to my question: could you explain the threat to physical infrastructure that you've just put to the committee, please?

Mr Chisholm: I want to be really careful because what I'm referring to is actually what's in the bill. It includes threats to physical infrastructure—I'll just check that I've got my language right; yes—and threats to electoral integrity, or threats to damage and to personal safety. Those things are in the bill. Asking me what that means is a different issue, because that will come down to how that's implemented on a case-by-case basis. The explanatory memorandum speaks to some of these issues. I will see if Mr Hyles is able to assist you with some of those points.

CHAIR: Mr Hyles, before you do. I draw everyone's attention to the rules of estimates, which say quite clearly:

It is not considered appropriate to ask questions about the meaning, purpose, intention or effect of clauses in the bill that are the subject of a separate inquiry.

Again, Senator Henderson, I will advise you that there is an inquiry on foot.

Senator HENDERSON: Yes; thank you, Chair.

CHAIR: You are a participating member of the committee. You are more than welcome to attend any of the hearings, engage with any of the debates and obviously read all of the materials.

Senator HENDERSON: Thank you very much, Chair, for—

CHAIR: And this is estimates.

Senator HENDERSON: Yes. One of the great things about estimates is that all senators can ask about the operations and expenditure of government departments. That's what I am doing.

CHAIR: Notwithstanding that 'it is not considered appropriate to ask questions about the meaning, purpose, intention or effect of clauses in the bill that are subject to a separate inquiry'.

Senator HENDERSON: I was asking about the minister's comments in relation to wellbeing and safety. We won't have that debate. If I can just finish the last couple of questions—

CHAIR: If you could kindly not ignore me, I'd be really grateful, Senator Henderson.

Senator HENDERSON: Chair, I am not ignoring you. Under the rules of the Senate, I have the call. I ask you to respect that.

CHAIR: If you could respect the role of the chair to keep us to the rules, which I have cited twice to you now.

Senator HENDERSON: Thank you, Chair. I am within the standing orders, as I think you might have said before. Minister, can I just go back to the concern that Minister Rowland has raised about threatening the safety and wellbeing of Australians. Was that really a bit of a threat, do you think? Is there anything more that you can provide the committee, by way of information, if this bill is not passed by the end of the year?

Senator McAllister: You'll recall that your party went to the last election promising to empower ACMA with new powers to hold big tech companies to account for misinformation and disinformation. I assume that at that time your party considered that misinformation and disinformation were problems that we needed to address as a community. In a different policy area, and in response to questions from Senator Hanson-Young, the advice I provided to the committee is that we're going through a period of profound technological change. That is introducing new challenges for societies. Misinformation and disinformation is one of them. Responding to that in a sensible way is not straightforward and it is not simple. We have to strike a balance between protecting freedom of expression and dealing with potential harms.

This bill attempts to do that. It sets out, as the officials have described to you, a set of areas where, if a serious harm was identified, we would expect a platform to take action to address it. It doesn't suggest that we direct the platform to do so. It simply says that at a systems level we expect platforms to have arrangements in place to deal with these harms. That used to be a proposition that was bipartisan in nature. Dealing with our shared challenges on misinformation and disinformation was something that you used to support. It's really up to you to explain why you don't any longer consider this a priority, as I understand is the case.

Senator HENDERSON: Minister, just to clarify, the position of the former government was very different to the bill before the parliament now. I want to clarify that. We had a very different policy. I guess many Australians are concerned about the dreadful impact that this could have on free speech. You have acknowledged that you are seeking to strike the right balance. But the minister's comments suggest that the minister does not care about free speech; she just wants to ram this legislation through.

Senator McAllister: That is completely wrong. It is wrong on any reading of the bill that's actually before the parliament or on the statements that the minister has made publicly about the bill. I will say that, on questions of simplicity versus questions of complexity, I think we do our best work as a parliament when we're willing to engage with what's complex. I don't think having the shadow minister running around with a three-word slogan,

saying, 'Bin the bill,' is particularly helpful. This is a hard challenge to meet. We've consulted widely in our attempt to meet it. A bill is now before the Senate and there is an opportunity to engage. I'm surprised, and maybe a little disappointed, that the approach taken by the shadow minister is sloganeering instead of serious policy work on something that is actually quite important.

Senator HENDERSON: I think the shadow minister is very concerned, like many Australians, about the impact of this bill. Thanks, Chair. No further questions.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: I go back to the News Media Assistance Program that we were talking about before, Mr Chisholm. Will this require any legislation or regulation? Is there any legislative element to the creation, the architecture or the distribution of the funds from this program?

Mr Chisholm: Funds have been distributed already under the auspices of the support for news diversity and quality. As to what sits within the final News MAP framework, which will be released later this year, we'll have to come back to you because that's still being considered.

Senator HANSON-YOUNG: We've been talking about this concept of News MAP for a couple of years now. Am I following you correctly in understanding you to be saying that some things that might fit under this whole package might require legislation or a legislative instrument and other bits won't, or do you have no idea? I'm just trying to understand.

Mr Chisholm: We know what the framework will be. It's just that it's still going through the cabinet process. The material will be released later this year, as I say, on News MAP, but the objectives underpinning it have supported the other work that's been done to support the industries that you're talking about.

Senator HANSON-YOUNG: The architecture has been created or agreed to within the department's purview, and now it's up to cabinet to tick off on it.

Mr Chisholm: Yes, I think that's probably a fair way to put it, in the sense that there is architecture that we have been working under for some time, but there will be more in that context that will reinforce the objectives that I ran through before on quality, diversity and engagement. It's just that the final features of that, including what the mechanism is for the support, are still being considered. But the government is very alive to the issues here, as I've said, with the context of the shift of advertising revenue to platforms and how we can continue to support news and public interest journalism nationally and also in regional areas and other communities. As I say, that's gone very much to the grants programs and targeted supports that I ran through earlier.

Senator HANSON-YOUNG: So there may be legislative instruments or legislation, but you're not sure.

Mr Chisholm: Again, it comes down to the question of our not being the decision-makers and the government deciding on what that looks like.

Senator HANSON-YOUNG: What about this idea of a levy on the platforms; is this still a concept, or is there architecture around that?

Mr Chisholm: There have been references to and stories about levies in news media, stories about this but, again, we can't talk about that, because it's still before government.

Senator HANSON-YOUNG: Have you consulted with various news agencies in relation to how the distribution of this assistance fund would work; have you run any consultations around that in particular? I'm asking that because I'm getting questions about this from people, saying, 'How is this going to work; who's in and who's out?' I'm trying to work out whether anyone has been consulted, and perhaps there are people who should be.

Mr Chisholm: Yes, we're definitely consulting. We've spoken to a number of organisations, not only larger media organisations but also local and independent media organisations. We've spoken to groups that represent media organisations. As I've said, the consultation paper that was released on News MAP attracted a number of submissions, and they then triggered follow-up discussions with those organisations, and we've had face-to-face meetings and written correspondence with them over an extended period of time. Of course, the joint select committee, which has been looking at digital platforms, has raised a number of these issues too, which we've been alive to and have considered. I think we're also mindful of how this issue is being looked at globally. Australia isn't alone in addressing this issue, and it's fair to say that it's a significant priority for governments around the world to find ways in which to continue to support a thriving and independent news sector, especially as it relates to public interest journalism, in the face of really quite significant transformation of the economy.

Senator HANSON-YOUNG: Can I have a list of who you have consulted with or are consulting?

Mr Chisholm: Yes, we can provide you with that; we'll take that on notice.

Senator HANSON-YOUNG: Thank you. How will you decide who's in and who's out? Will there be a threshold? Will you make a judgement of 'this company will be able to look after itself, and these media agencies won't', or is it a one-size-fits-all approach?

Mr Chisholm: On that, again, we won't decide the parameters of the framework; that will be a matter for government. As for how the money is distributed or continues to be distributed, taking into account the rolling set of commitments that I ran through before, that will be dependent on the final framework. But, again, I'll come back to the point that it is designed to support a broad and diverse media sector, particularly in an environment where the traditional revenue stream is not there as it used to be, so it won't be just concentrated on one particular part of the value chain.

Senator HANSON-YOUNG: You say 'by the end of the year'. Is this something that's going to be in MYEFO, or are we expecting something to be tabled in the parliament before we leave?

Mr Chisholm: That's a matter for the government.

Senator HANSON-YOUNG: Minister, will we see this before the parliament rises, or is this something that will be dropped at a minute to midnight on Christmas Eve?

Senator McAllister: The government will make an announcement when it's ready. I think the officials have told you about the work that's been underway to finalise the program. I know that it's an area of real interest for Minister Rowland, but I can't provide you with an announcement date now.

Senator HANSON-YOUNG: Could I just go back to my questions in relation to streaming. I understand that the arts minister told the Labor caucus this morning that the plans to introduce content quotas for streaming have been delayed. Did your minister know that announcement would be made in caucus?

Senator McAllister: I'm not in caucus, obviously; I'm here. But I indicated to you earlier that the reforms are taking longer than we'd like, and I was quite up-front about that in my comments to the committee earlier.

Senator HANSON-YOUNG: It's reported that Mr Burke said that the delay was caused by consideration of whether the quotas are consistent with the US free trade agreement and that it is the 'worst possible time' to be negotiating about this, in reference to the US election. So, as for all the questions that I just asked you and you wouldn't answer, the minister has been in his own caucus room answering. So you won't give the Senate the answers, but you're prepared to sit behind closed doors and tell your own members.

CHAIR: Senator Hanson-Young, nobody in this room was in caucus this morning, because we were all in this room.

Senator HANSON-YOUNG: Exactly.

CHAIR: So the minister would have no line of sight of that.

Senator HANSON-YOUNG: I'm sorry. No, no.

CHAIR: No, you're being deeply unfair.

Senator HANSON-YOUNG: Your officers and your staff have not been briefed.

Senator McAllister: No, we're not briefed prior to caucus.

Senator HANSON-YOUNG: Basically, you've sat there and said that you couldn't give us the answers.

CHAIR: Senator Hanson-Young—

Senator HANSON-YOUNG: Meanwhile—

Senator McAllister: May I please respond, because that actually doesn't respond to the answer with which you've been provided. Mr Betts suggested to you that a better time to ask these questions in the program in this hearing would be later in the day.

Senator HANSON-YOUNG: So you wanted to make sure that your own Labor members were given this information before the public was given it.

Senator McAllister: Senator, that is entirely immaterial. Mr Betts gave you a quite reasonable solution, which is why not ask the questions when the relevant officials who have been doing this work are here to provide answers to those questions.

Senator HANSON-YOUNG: But, Minister, we all know how this works. You've all got mobile phones in front of you, you're all being briefed, you've got all these people sitting behind you and you've got ministerial staff, and you're telling me that no-one thought, 'Oh, actually, the arts minister has just stood up in caucus and it has been briefed out to the media that this has happened.' So the US are dictating how Australia's cultural policy will roll. It's absolutely revolting, and it's time that you stood up to them.

Senator McAllister: Senator Hanson-Young, there are so many assumptions in that, but here is the first point that I would make. I don't comment on what happens in caucus and I don't—

Senator HANSON-YOUNG: So Donald Trump will dictate what Australian content will be on our screens.

CHAIR: Senator Hanson-Young, let the minister answer the question.

Senator McAllister: I don't comment on what happens in caucus, and I also can't in this instance because I wasn't there. I think officials have given you a pretty straightforward answer, which is that the best time to ask this would be when the relevant departmental people are here at the table. As I said to you clearly, before, Australia will always take the decisions that are in our national interest. That's the approach that ministers take across the government and it's certainly the approach that's taken in this portfolio.

Senator HANSON-YOUNG: Why should Donald Trump, if elected president, get to dictate what local Australian content is on our television screens and our devices; why should Donald Trump get to dictate that?

Senator McAllister: Senator Hanson-Young, I am simply not going to speculate about the outcomes of an election that is yet to take place in another jurisdiction, and you know exactly why a responsible party of government would not do that.

Senator HANSON-YOUNG: But we've just been told that's the reason that you haven't put the laws in place.

Senator McAllister: A responsible party of government would not do that. I understand that's not how you conceive that's your party's role in this system; but as a party of government, we do not comment or speculate about the outcomes of elections.

CHAIR: We will rotate the call now, thank you. Senator Cadell.

Senator CADELL: I have questions on the conduct of the regional telecommunications review. I will do this very quickly, because I'm aware of time. I am looking at the functional directory. There were a few staff have been allocated to this. How many staff, and how were they allocated?

Mr Grunhard: Could I just clarify: are you talking about the staff that are supporting the operation of the review?

Senator CADELL: Supporting the review—yes, that's correct.

Mr Grunhard: I don't think we have the exact numbers before us, but we're happy to provide that to you on notice.

Senator CADELL: Roughly? I won't hold you to misleading the Senate standards on this.

Mr Lange: Roughly, seven FTE are working on it.

Senator CADELL: I have lots of set-up questions, but I wouldn't get through them on time. We've had a report of the conduct of one of the board members or panellists, or whatever you call them, at a hearing in front of others. The person reporting was concerned and thought the conduct amounted to bullying. Have any allegations been made or actions taken regarding bullying of staff members by any of those seven panellists?

Mr Grunhard: I think we'd be very cautious about entertaining such questions in a public forum. Obviously, there's a whole range of issues that you have to be careful with here about privacy of staff, and I'm not sure that it would be helpful for us to canvass these things in a public forum and on *Hansard*.

Senator CADELL: So the department has not sent a letter to Alannah MacTiernan, outlining for her the requirements in the treatment of staff?

Mr Grunhard: Again, I think I'd just refer back to my previous answer.

Mr Betts: I'd like to take that on notice. Obviously, our priority is to make sure that our people are safe and respected at all times, but I don't think this is the right forum to be answering questions in relation to that.

Senator CADELL: What is the right forum?

Mr Betts: To the extent that there are allegations of that kind, they need to be handled in a sensitive and confidential way.

Senator CADELL: I'm asking a question: did you write a letter to Alannah MacTiernan, regarding behaviour?

Mr Betts: No.

Senator CADELL: The department has not written a letter.

Mr Betts: I didn't write a letter.

Senator CADELL: Has the department written a letter to Alannah MacTiernan, regarding her behaviour and treatment of staff as part of this review?

Mr Betts: I'll take that on notice. We need to check our documentation.

Senator CADELL: So this is the right forum? Have any staff made complaints about their assignment or movement from this taskforce?

Mr Chisholm: On a daily basis, we would interact with staff about—

Senator CADELL: This is specific to this group of approximately seven people and not the rest of the staff, not the 1,500 and not the 2,000.

Mr Chisholm: I guess what I'd say here—and I want to be really clear, and it does go to the point that Mr Grunhard made, because the staff who have been assigned to this review are unknown—

Senator CADELL: I'm not seeking to identify them.

Mr Chisholm: On that basis, and taking into account the secretary's answer, we want to be very careful about entering into those sorts of things in this forum. We need to handle these things very sensitively and carefully, taking into account personal privacy, and we need to take advice on ensuring that we're compliant with the relevant legislation as we do that.

Senator CADELL: But, clearly, if I were wrong and nothing had happened, you would say, 'That's untrue; nothing has taken place.'

Mr Grunhard: Senator, I think we've agreed that we'll take that on notice, because we just want to check very carefully what is wise and what is legally available to us in answering your questions.

Senator CADELL: The questions are: Has the department written a letter to the Hon. Alannah MacTiernan or others? Have any staff sought counselling or support for their treatment at the hands of a board member who was assigned to this? Have any staff received support and, if so, what does that support look like? Is that okay?

Mr Chisholm: We'll take that on notice.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: This is in relation to prominence and anti-siphoning. I'll have some questions for ACMA in relation to this, but I do have some for the department. Is the department drafting, or has it drafted, any regulations in relation to the recently passed prominence and anti-siphoning legislation?

Mr Penprase: We are providing advice to government in relation to those prominence regulations. They are an integral part of the framework. Regulations will be made because they will establish the minimum prominence requirements for the framework.

Senator HANSON-YOUNG: Are you aware that a number of the manufacturers are trying to find ways around the intent of the prominence legislation?

Mr Penprase: We're certainly aware that ACMA has undertaken recent consultation on its preliminary views regarding the making of certain instruments under the framework—three instruments in particular. We participated in two of the roundtable meetings that ACMA convened on that matter. We've also had a look at the submissions that were provided by relevant parties, including manufacturers, to that process. Those views and perspectives, from both manufacturers and others, are all relevant to the consideration of instruments being made, including the regulations that we made under the framework.

Senator HANSON-YOUNG: Will you need regulations to define the primary user interface, making sure that there's a proper definition of that?

Mr Penprase: The statute provides for a definition of the primary user interface; it's a two-pronged definition which sits in the statute book. The regulations can specify what the minimum prominence requirements are. The exposure draft regulations that were put out in February to aid the parliament's consideration of the bill set out a number of matters about the placement of applications on the primary user interface. Those regulations, depending on the position of government, will establish and specify anything that's required in relation to the placement, position and visual representation of those apps on the primary user interface.

Senator HANSON-YOUNG: Is it the government position that the definition of 'primary-user interface' is something that would or would not require scrolling?

Mr Penprase: The final form of any regulations made and whether they address that is really a matter for government, but I would say that those views that were aired through the recent process are front and centre for the consideration of the regulations.

Senator HANSON-YOUNG: Could I ask the minister: what is the government's position? Should you have to scroll in order to see the applications that are meant to be what the prominence legislation was designed to deal with?

Senator McAllister: We want a set of effective regulations that deliver on the objective of the prominence arrangements. As we've talked about a number of times in this committee, that means engaging with what is happening with the technology commercially, within the industry, so that the arrangements we put forward have the intended effect. I think the officials have explained to you that they're quite interested in what industry is bringing forward, because we need to make sure that our regulatory arrangements are responsive to that and deal with it appropriately. Mr Betts or one of the other officials may have more to add.

Mr Betts: The intent is exactly as you've described it.

Senator HANSON-YOUNG: To not have to scroll.

Mr Betts: That's the intent, yes.

Senator HANSON-YOUNG: Thank you; that's the clarity that I wanted. On the anti-siphoning element of that piece of legislation, has the review started yet?

Mr Penprase: The review?

Senator HANSON-YOUNG: The review of the streaming elements and the impact of the anti-siphoning list on streaming services.

Mr Penprase: The statute requires a review to be conducted two years after the scheme has commenced.

Senator HANSON-YOUNG: Yes, within two years.

Mr Penprase: After two years of it being completed. The scheme and the list will commence either on proclamation or on 9 January 2025, so it hasn't commenced yet.

Senator HANSON-YOUNG: Are you preparing for the review to start early next year?

Mr Penprase: The review is designed with that timing in mind, to assess the impact and efficacy of the new framework. It's hard to undertake a review until it has actually commenced.

Mr Chisholm: Obviously, we'll schedule the review in line with timing that allows us to take into account how the scheme is operating. I think the point that Mr Penprase is making is that the scheme hasn't commenced yet, so we haven't commenced the review.

Senator HANSON-YOUNG: And you haven't been given any guidelines from the minister's office or the Prime Minister's office about that review?

Mr Chisholm: No.

Mr Penprase: No.

CHAIR: We will now release program 5.1. Thank you all for your time this morning. I advise at this point that we are releasing the Bundanon Trust from their graveyard shift. We are currently running nearly an hour behind, just for people's information.

Australian Broadcasting Corporation

[12:39]

CHAIR: We now have officers from the Australian Broadcasting Corporation at the table. I'd like to welcome Ms Melanie Kleyn, the Acting Managing Director. Do you have an opening statement?

Ms Kleyn: I do. Thank you, Chair.

CHAIR: Go ahead.

Ms Kleyn: Thank you, Chair and members of the committee. I welcome the opportunity to make a short opening statement. With your permission, I would like to formally table some documents. These are the *Independent review into ABC coverage of 2nd Commando Regiment operation of 2012: interim report*, which was published in September 2022, and the ABC's statement in response to the report. These documents were provided to the committee in advance of today's hearing. Are we able to table them?

CHAIR: Yes; absolutely.

Ms Kleyn: Thank you. The review was commissioned by ABC Managing Director David Anderson and conducted by Alan Sunderland, an independent member of the Press Council and a journalist with 40 years experience. The ABC committed to publicly releasing the review. We have received an interim report from Mr Sunderland, which is now tabled. The ABC will provide an update once it receives the final report, which will

address matters relating to the handling of complaints. Mr Sunderland has advised that, based on the information currently available to him, he expects that his final report will not have a significant impact on the findings and recommendations in his interim report. The statement from ABC News director Justin Stevens acknowledges errors and failures of process that meant some aspects of these stories did not meet our standards. The review found no evidence of any intent to mislead by any ABC employee. The interim report has also rebutted the suggestion that the central focus of the entire story was misleadingly altered. The review has also found that the stories contained important issues that are in the public interest.

In relation to the issue of altered audio, the review specifically states:

I have found no evidence to support the conclusion that any of this was done at the direction of the journalists involved or on the initiative of the video editor in order to doctor or deliberately distort the depiction of the events that occurred.

On the contrary, what evidence there is suggests that it was not a deliberate editorial decision to include additional gunshot audio in order to mislead or deceive.

Nevertheless, I want to be clear: the errors identified in the interim report should not have occurred, and we apologise for them. The ABC accepts Mr Sunderland's findings and is committed to implementing the recommendations. When errors happen, the ABC corrects them and commits to ensuring that they are not repeated.

We also stand by the public interest of our reporting on the conduct of some Australian soldiers in Afghanistan. We are determined to continue to support our journalists in their pursuit of important matters of significant public interest. All the participants in this review have cooperated with Mr Sunderland, with a view to not only upholding the truth but also meeting our commitment to transparency, accountability and the great trust that Australians place in us. We welcome your questions.

CHAIR: It's an interim report, so what further work needs to be undertaken?

Ms Kleyn: Can I assume that the committee has the report? Going to my copy of the report, there is a point in the terms of reference—point No. 6—where Mr Sunderland notes that he's still waiting to complete some interviews so that he can complete that particular point. Aside from that, the report is complete, based on the information that Mr Sunderland has today.

CHAIR: Is there any chance that additional work will alter the findings of this report?

Ms Kleyn: Based on the conversations with Mr Sunderland to date and the information he has, that is not his expectation. As I understand it, Mr Sunderland may make further recommendations on process improvement, but he has indicated that, based on the information he has, he does not expect to materially alter the findings and recommendations that he has found to date.

CHAIR: Thank you. Senator Hanson-Young.

Senator HANSON-YOUNG: Who has received this interim report, aside from us today and executives?

Ms Kleyn: Nobody else has received the report. The report has been provided to me, as acting managing director, and to a small group of executives to ensure that we understand our communications et cetera. Mr Stevens has provided a statement with regard to the report. It's been provided as required for executives; other than that, nobody is in receipt of this report.

Senator HANSON-YOUNG: So it hasn't gone to the board.

Ms Kleyn: I'm sorry; my apologies. The board do have a copy of the report; that's right.

Senator HANSON-YOUNG: Has the board asked for any more detail to be provided or will it wait until it's officially final?

Ms Kleyn: Effectively, last night, within about an hour of receiving it, we shared the final report with the secretariat. Effectively, it is hot off the press. We have provided the report in that manner; we have provided the report to the board. At this point in time, I imagine the board are considering it and, no doubt, will have an extensive conversation with the executive over the coming weeks and months.

Senator McAllister: Senator Hanson-Young, just for clarity, we should add that, of course, the report was provided last night to the minister.

Ms Kleyn: Apologies; yes.

Senator HANSON-YOUNG: Going to that point, Minister McAllister, has any information come to you from the minister's office as to what the minister will or won't do with this report?

Senator McAllister: The minister has received the interim report. I understand that she has sought a briefing and, I believe, received a briefing about the report this morning. Obviously, she also expects to see a copy of the

final report, although, as Ms Kleyn has indicated, it's not expected that will substantially change the recommendations. The minister received the report last night, she has received a briefing and, in time, will respond in the way that she thinks is necessary—like the committee, having seen the material only recently.

Senator BILYK: I'm a little hard of hearing. I want to clarify something. Ms Kleyn, I thought you said that you delivered the final report to the board within an hour, last night, but you might have meant the interim report.

Ms Kleyn: The interim report; I apologise.

Senator BILYK: Just for clarification, and maybe for the *Hansard*, too.

Ms Kleyn: Yes; thank you.

Senator HANSON-YOUNG: I understand the confidentiality element of this and, first up, I want to say that I think you've actually done the right thing by giving it to us as a committee as soon as you possibly could last night. I appreciate that and I think we all would appreciate that. That doesn't happen with every agency, I can tell you. I'm interested in whether you have already received any media inquiries in relation to this report, from other media agencies.

Ms Kleyn: I personally haven't. Mr Stevens?

Mr Stevens: I'm not aware of any immediate queries in relation to the interim report.

Senator HANSON-YOUNG: I wanted to understand that; thank you. Mr Stevens, what's the upshot of this; what is this really saying? From your perspective as director of news, you've had to manage this; what is this really saying?

Mr Stevens: As the director of news, I oversee all of the news teams at the ABC, and I thank you very much for the opportunity to address this. Mr Sunderland has done a very detailed review, sought a great deal of information and spoken to, presumably, a large number of people about what occurred, very specifically, to investigate the claims that had been made about three related stories and, specifically, concerns about the editing of video material, which related to helmet-cam vision from a helicopter in Afghanistan and the use of interview material by Mr Bret Hamilton, who used to work for the DEA. Regarding a specific piece of video, which was embedded in the online article, ran for 56 seconds and highlighted the two key elements of the material, Mr Sunderland found that five additional sounds of gunshots were inadvertently but inaccurately introduced into footage showing a commando firing from the helicopter. Mr Sunderland also found that additional sounds of gunshots were inadvertently but inaccurately introduced into the 7.30 video. but at different points than in the online video. So there's a disparity between what occurred in the editing of the material in both.

There are many key observations from Mr Sunderland but, to pull out one for the benefit of those who haven't had the time to read the report, Mr Sunderland says:

To be clear, I find no evidence that anybody, at any stage, made a conscious or deliberate decision to introduce additional gunshots. It appears to be an inadvertent consequence of attempts to create clean, accurate and effective sequences in the story.

He goes on to say:

I have found no evidence to support the conclusion that any of this was done at the direction of the journalists involved or on the initiative of the video editor in order to doctor or deliberately distort the depiction of the events that occurred.

He then says:

On the contrary, what evidence there is suggests it was not a deliberate editorial decision to include additional gunshot audio in order to mislead or deceive.

He finds:

There is also no evidence that anyone at the ABC ... deliberately doctored, falsified, manipulated or distorted information, material or evidence in order to mislead audiences.

On the contrary, there was significant care taken to ensure the stories were checked, discussed, reviewed and upwardly referred.

Having said that, obviously, this shouldn't have occurred, and we have taken and are taking it very seriously. That's why we sincerely regret and apologise for those editing errors in the video clips, including to members of the 2nd Commando Regiment, and that's why we removed the video when it was brought to our attention.

Underlying the two stories was an exhaustive amount of investigative journalism, where our team went to great lengths to investigate a number of issues that are absolutely in the public interest and not limited to the allegations that Australian soldiers might have fired shots from a helicopter in a manner that may or may not have breached the rules of engagement by seemingly firing at unarmed civilians. There were three other substantive public interest issues which have residual public interest value from the quality of the journalism that our journalists

went to, including and not limited to the allegation that, in preparing for a mission, they discussed a quota that needed to be met during an operation.

Senator HANSON-YOUNG: A quota of?

Mr Stevens: Intimating that a number of people were to be shot at or shot during a particular operation, that Australian soldiers may have shot Afghan prisoners after they were detained and that an Afghan man on the ground was beaten with a stick by an Afghan soldier in the presence of Australian commandos. The team went to great lengths to stack this up journalistically, including two substantive efforts to get material from the ground from direct witnesses in Afghanistan. The great shame from all of this is that, for weeks, various outlets have accused journalists of the highest integrity of doctoring material, which is one of the most offensive and damaging allegations that one can make against a journalist because the meaning of 'doctoring' is to deceitfully change something intentionally. Mr Sunderland's review shows, independently, that our team, journalists and executives at all levels, did not doctor any material.

Senator HANSON-YOUNG: So there were mistakes, but they were not deliberate and there was no doctoring.

Mr Stevens: Absolutely; and, clearly, it shouldn't have occurred. The video edits issues, as well as accepting the finding of Mr Sunderland in relation to the use of one particular grab of Mr Bret Hamilton, didn't meet our expectations and standards. We accept those findings, and we have a great deal to learn from them.

Senator HANSON-YOUNG: You've said that, for weeks, various media outlets have questioned the integrity of your journalists and the work that the ABC has done in this area. When you say 'media outlets', do you mean 'media competitors'?

Mr Stevens: Of course.

Senator HANSON-YOUNG: News Corp, Channel 7.

Mr Stevens: Any other media outlet is entitled to, and, rightly, should be able to, investigate and hold the ABC up to scrutiny.

Senator HANSON-YOUNG: But they're not the ones who are in front of estimates now, are they? It's the ABC.

Mr Stevens: No. But that doesn't undermine the fact that it was via the *Spotlight* program, for instance. It was *Spotlight* and Channel 7 that brought to our attention the video editing issues and brought that attention to *ABC News*, so that's a piece of journalistic scrutiny that is warranted. The perpetuating allegation that it was intentionally doctored is false, as is shown by the independent review, and it is not an accurate characterisation of what occurred.

Senator HANSON-YOUNG: What impact has this had on the journalists involved in this story?

Mr Stevens: Our journalists have amazing resilience. They hold themselves to the highest account and are people of integrity. The nature of investigative journalism means that we will inevitably tackle uncomfortable issues and events that provide discomfort, and it's not our job to avoid covering issues just for that reason. The overall extensive and protracted investigations that a number of the journalists involved in this story have done have led to really important, substantial public interest outcomes, not limited to but including the first charge of an Australian soldier alleged to have committed a war crime, which is underway at the moment.

Senator HANSON-YOUNG: That has come about because these stories were published and it is now being dealt with by the courts; is that right?

Mr Stevens: Yes. The general lack of civility in public discourse and the nature of some media proprietors elevating that actually has a very damaging effect on individuals and journalists. It actually leads to issues related to their safety and security at times. It's unfair at times. However, at the moment, that comes, part and parcel, with doing strong and important investigative journalism.

Senator HANSON-YOUNG: Regarding the impact of journalists doing their work, have the recent unseemly and thuggish attacks on young journalists doing their work, asking questions and being attacked by Peter Dutton, the opposition leader and person who wants to be Prime Minister of this country, been raised with you?

Mr Stevens: I'm aware of the commentary on and interest in the robust nature of press conferences, including with the opposition leader. As we observe, in the political realm, the nature of questioning and discussion can often be robust; we expect that at press conferences. We'd encourage all politicians of all persuasions to engage with not only our journalists but all journalists with respect, particularly if they're younger and coming through, and still finding their way in the industry.

Senator HANSON-YOUNG: He tends to really dislike the young female journalist asking pesky questions, doesn't he?

Senator CADELL: Have you seen how you've treated some of the witnesses today?

Senator HANSON-YOUNG: They can reject it; they can reject it if it's not true.

CHAIR: That is outrageous.

Senator HANSON-YOUNG: How many young female journalists has Peter Dutton attacked in press conferences this year?

Senator CADELL: How many public servants have you attacked today?

CHAIR: We can go to lunch now, if people don't calm down, or we can have a little more time with the ABC.

Senator HANSON-YOUNG: Have you had to deal with any consequences of the treatment of your journalists by the Leader of the Opposition?

Mr Stevens: What do you mean by—

Senator HANSON-YOUNG: Have any complaints or concerns been raised? Has there been any official correspondence? Have there been meetings?

Mr Stevens: Not that I'm aware of. I wouldn't comment on confidential staff matters.

Senator HANSON-YOUNG: Fair enough.

Mr Stevens: We want to make sure that our journalists have the scaffolding that they need to be prepared to ask the questions on behalf of the audience; they're not asking them on behalf of themselves. We know at times that it will be inconvenient to politicians, but it won't stop us asking questions that the public are demanding of them.

CHAIR: Senator Henderson?

Senator HENDERSON: Good afternoon to you all. Mr Anderson is not appearing today. Can you explain why he's not here?

CHAIR: Senator Henderson, perhaps I can. It was approved by the committee, in the letter that was circulated and which you would have received over a week ago.

Senator HENDERSON: No, I didn't receive that letter.

CHAIR: Yes, you did. Whether you have read it or not is a different question, but I know that you absolutely did receive it.

Senator HENDERSON: Okay. For the public record, can I ask why Mr Anderson is not appearing today?

Ms Kleyn: Certainly. Mr Anderson is on a period of leave to deal with medical issues.

Senator HENDERSON: Thank you very much. Going to the statement that you've made and the interim report handed down, who was responsible for adding the fake gunshots to the video?

Ms Kleyn: With regard to exact responsibility and the naming of people, Mr Sunderland hasn't provided that detail within his report. Personally, I am not familiar with all of the names of the people that Mr Sunderland interviewed. Mr Sunderland has done that independently, so I wouldn't be able to answer that.

Senator HENDERSON: Mr Stevens, are you able to tell us who was responsible for adding the fake gunshots to the video, bearing in mind that this implicated Mr Russell in allegations of war crimes, which were found to be false?

Mr Stevens: I am happy to discuss that. I note that Mr Russell wasn't named in the publication.

Senator HENDERSON: No, I'm not saying that.

Mr Stevens: I am picking up on the fact that you said 'implicated'.

Senator HENDERSON: That's right; he was implicated.

Mr Stevens: He wasn't named in the publication. I direct you to page 17 of Mr Sunderland's interim report. In the report he takes us through, at great length, the circumstances that occurred. At the bottom of page 17, in the final paragraph, he says:

The video editor, in attempting to assemble a high quality and compelling piece of current affairs television in difficult circumstances with problematic source material, sourced clean audio of gunshots from other source material related to the story where clean audio was available, and combined it with the visuals available of people firing guns. In other words, vision of guns being fired were combined with cleaner audio of guns firing. It needs to be stressed at this point that the editor who worked on the story, while noting that it was not unusual where an audio track is mixed with music and effects or problematic

in other ways for appropriate clean audio to be sourced and used, has no recollection of this happening in relation to specific material shots in this story dealing with the shots fired from the helicopter.

Senator HENDERSON: Who was the video editor who edited the story?

Mr Stevens: The video editor worked across both of the two parts.

Senator HENDERSON: Who was that person?

Mr Stevens: It was a video editor who was employed at the ABC for a long period of time who no longer works at the ABC.

Senator HENDERSON: What was the person's name?

Mr Stevens: I am not sure. Because the report doesn't name individuals I will have to take advice as to whether I am in a position to name individual staff, noting that these staff are not public figures. There would be a disparity if we named some staff and not others.

Senator HENDERSON: I am not referring to the report; I understand that the video editor is not named in the report. I am not attributing any responsibility to the video editor. I want to ask a series of questions, and I want to know whether you can provide that person's name.

Mr Stevens: I'll have to take advice as to whether I am able to provide that.

Senator HENDERSON: Thank you. Was the video editor directed to include those fake gunshots in the story?

Mr Stevens: No. As you'll observe in the report, it is quite to the contrary. Mr Sunderland has found that there is extensive evidence to the contrary; that there was absolutely no direction to do that. The evidence goes from, and is not limited to, 'There are no written instructions asking for it to occur.' As for the interviews he carried out, he says, 'Everyone involved in the edit process says they did not direct the inclusion of such additional audio.' He goes on to say, 'Throughout the entire process of upward referral, all those involved are consistent in telling me that the issue of additional gunshot audio was never discussed.' He says that there is no suggestion from the video editor that at any stage they were 'directed or asked' to do this. He says, 'The video editor is clear that they made no such deliberate decision to additional gunshot audio.' He also says that the fact that the key allegation of inserting five extra shots in addition to the single 'warning shot' in a critical piece of video only occurred in a 56-second online clip 'doesn't match what occurred' in the full 7.30 story. That demonstrates that there was not an intention to achieve consistency with what was added; there wasn't such a consistency. It was inconsistent across those two pieces of video, which, as Mr Sunderland concludes, adds weight to the evidence that it was not doctored.

Senator HENDERSON: On 22 November 2022, Mr Heston Russell's lawyers wrote to the ABC, putting the ABC on notice about these fake gunshots in the video. Why didn't the ABC act then to remedy this terrible injustice?

Ms Kleyn: Specifically, that is point 6 in the terms of reference which Mr Sunderland is still reviewing.

Senator HENDERSON: Hang on a minute. This is fundamental to the ABC's lack of action. A letter was sent by Mr Heston Russell's lawyers to the ABC on 22 November, raising this matter and other important discrepancies. Let's not forget that the ABC falsely accused Mr Russell of being a war criminal. I will table this letter, Chair. Why wasn't action taken when you were put on notice in 2022?

Ms Kleyn: I appreciate the question. A number of weeks ago, we put out a public statement in that regard. As the evidence to date shows us, ABC News were not handed a copy of that letter.

Senator HENDERSON: That's absolutely outrageous, for a start. Who was instructing the lawyers in this thing? Let's remind everyone that the defamation proceedings were on foot.

Ms Kleyn: That's right.

Senator HENDERSON: Mr Heston Russell's lawyers were writing to your lawyers saying, 'You've got it wrong; you've put these fake gunshots in the video' and you are telling me that no-one did anything?

Ms Kleyn: That is what is still being investigated.

Senator HENDERSON: You were well aware of this letter; it has been well-canvassed in the Federal Court proceedings. The ABC was on notice for many months. Are you telling me that the lawyers just sat on their hands and did nothing? Did they tell anyone in News? Did they inform Mr Anderson as editor-in-chief? Mr Stevens, were you put on notice about this at all?

Mr Stevens: No. Firstly, we have a highly skilled group of lawyers in ABC Legal who I respect greatly and we respect greatly. You mentioned the nature of the timing of this; context is important. Not to pre-empt what Mr

Sunderland finds in any way, shape, or form, but a huge amount of correspondence—the volume of material was quite unreasonable at times—was coming into ABC Legal at that time. Secondly, ABC Legal were not responsible for the editing errors that we have identified.

Senator HENDERSON: Mr Stevens, could I take you back to the question?

Mr Stevens: Could I just say one more thing? There was every opportunity after that date, between then and now, for these issues to be brought to ABC News' attention via a formal complaint, via the processes we have in place and, as far as I am aware, that did not occur.

Senator HENDERSON: Mr Stevens, Mr Russell's lawyers wrote to the ABC putting them on notice. It is a very simple letter, just one page, which says, 'Can you please explain the above discrepancies referring to the fake gunshots in the helicopter footage and the further helicopter footage?' I won't read the entire letter, but it sets out the discrepancies, including in relation to the helicopter footage, in a lot of detail. Why didn't the ABC act when it received this letter? My second question is: did anyone in ABC Legal inform anyone else at the ABC about this?

Ms Kleyn: Mr Stevens has detailed that ABC News did not respond to the letter because ABC News weren't in possession of the letter. The circumstances surrounding exactly what happened at that date, why it happened and what we would do differently is the outstanding element of Mr Sunderland's review. I repeat what Mr Stevens said with regard to the professionalism and the great skill of the legal team.

Senator HENDERSON: Ms Kleyn, with respect, we are in Senate estimates. The review is one thing: that is your own internal process. I am asking you: firstly, on what basis did the ABC not respond in 2022 and correct these terrible injustices that we now know about? Secondly, did ABC lawyers inform anyone else at the ABC? Thirdly, who is instructing ABC lawyers? I have worked with ABC lawyers over many years, and good lawyers don't act without instructions. So who was instructing ABC lawyers, and did ABC lawyers bring this to the attention of anyone else at the ABC? I am asking for a direct answer.

Ms Kleyn: I don't wish to repeat myself, but that is what is being reviewed. I can't answer the question beyond the fact that I did not get the letter and I don't believe that my colleagues who sit with me here today received the letter. I am unclear if it was or was not passed to anyone else. That is what will be reviewed.

Senator HENDERSON: Ms Kleyn, I am not asking about the internal review. According to my understanding, in the time available Mr Sunderland has done a very good job, but he had very narrow terms of reference. I would ask for all correspondence in relation to the to-ing and fro-ing about the terms of reference. I am also seeking all internal correspondence on this matter, including between ABC editorial staff and lawyers. But going back to my question, I am not concerned about the review. I am asking you, as the acting managing director—

Ms Kleyn: Understood.

Senator HENDERSON: and as the acting editor-in-chief, whether anyone at ABC Legal put anyone else on notice, including in news and current affairs, about these discrepancies, which were notified to the ABC in November 2022?

Ms Kleyn: I don't know the answer to that question. I do not know whether the lawyers did or did not provide the letter to anyone else. As we put forward in a statement, we don't believe that the news team were in possession of the letter. This is what Mr Sunderland is reviewing. He is an adviser—

Senator HENDERSON: But you are the acting managing director.

Ms Kleyn: I am.

Senator BILYK: Senator Henderson, do you have the letter?

Senator HENDERSON: I've got the letter. I need to work out the provenance of that letter before it gets tabled. The minister has tried to table it. For the information of the committee, the letter was publicly part of the defamation proceedings in the Federal Court, so it is a public document. I am very concerned about your answer, Ms Kleyn. This is not the ABC that I know. Could you answer my question? Who was instructing ABC lawyers in these proceedings?

Ms Kleyn: When you say, 'Who was instructing ABC lawyers?' I am not sure that I understand—

Senator HENDERSON: Maybe the fact that you are not able to tell me who was instructing ABC lawyers is part of the problem. Lawyers don't act of their own volition; they act on instruction. Are you saying to me that ABC Legal was not acting with any instructions?

Ms Kleyn: I am not saying that. If the question is, 'Did anybody instruct ABC Legal about what they should or should not do, once they were in receipt of this particular piece of correspondence?' the answer is no, I do not

believe so, nor do I have any reason to believe that. I draw you to one point in Mr Sunderland's report that may be of help, and I'm happy to take your other questions on notice. On page 26, at point 7, the question is raised, 'When did the ABC and its journalists first receive complaints in relation to the editing of the helmet-cam footage and/or the interview with Mr Hamilton, and what actions did the ABC take in response?' Mr Sunderland writes, 'Other than the matters raised during legal proceedings, which there is no evidence that ABC News was aware of, the ABC received no editorial complaints about either the helmet-cam footage or the interview with Mr Hamilton until after the *Spotlight* program had aired.'

Proceedings suspended from 13:13 to 14:01

CHAIR: We will resume with the Australian Broadcasting Corporation. Senator Faruqi.

Senator FARUQI: Good afternoon, everyone. I will start off with the *Independent Review into ABC Systems and Processes in Support of Staff who Experience Racism* that Dr Janke conducted for you. Reading Dr Janke's review, it is pretty clear that racism is systemic at the ABC, which is incredibly damning. The quotes from staff members, in particular, were very disturbing and harrowing to read. One said, 'The most racism I have experienced in my life has been at the ABC.' Another described colleagues laughing at them when they reported that they had been racially abused on the street. The report notes that there is a cultural issue throughout the organisation that allows racism to exist and persist at the ABC. Now that David Anderson is leaving and Ita Buttrose has left, are there others at the ABC in leadership roles who should resign for allowing this culture of racism to fester? Who else needs to take responsibility?

Ms Kleyn: Just to make a point of clarity regarding your comment around Ms Buttrose and Mr Anderson, there is absolutely no connection between the previous chairs, who completed their term in the normal course, and the managing director, Mr Anderson; in this report, there's absolutely no connection.

Senator FARUQI: So the leadership has nothing to be responsible or accountable for regarding a culture of racism that is systemic at the ABC. What do you mean by 'they have no connection'? They were leading the ABC at the time that racism was festering.

Ms Kleyn: What I was clarifying was that the decisions around their leaving the ABC, whether it be through just the natural ending of their term of being the chair of the ABC, are in no way related to this report.

Senator FARUQI: So no-one has been held accountable for this festering racist culture; who has been held accountable for this?

Ms Kleyn: I would say to you that the entire leadership team holds itself accountable. We have accepted the report. I would like to say it again: we have unreservedly apologised to the staff who have come forward, and we're very grateful to the staff who have come forward; it was incredibly brave to do so. For context, we had invited all current and former ABC staff to come forward. This was a completely independent review, so I wouldn't imagine it would comment on who those people were, even if we did know who it was who came forward. But we know that 120 people came forward and they shared their experience with us. We're incredibly grateful to them for doing that; it is an incredibly brave act to come forward and share that experience. As a leadership team, we take accountability and responsibility, which is why we've accepted the recommendations in the report.

Senator FARUQI: The Janke review points out that many in positions of power are not First Nations or culturally and linguistically diverse and that key decisions are often made by people who have not experienced racism firsthand. It again points out that, without a deep and consistent grasp of how racism works, the actions taken to address it tend to be uncoordinated and short term. I've been pointing this out for a number of years now. Obviously, if you have people in management who have never experienced racism, how on earth can they be trusted to make decisions to combat racism? So my question to you is: has anything changed since the review, in terms of people in management and who they represent in the community?

Ms Kleyn: Do you mean the construct of the leadership team?

Senator FARUQI: Yes. Has anything changed since then; and what tangible actions have you taken to proactively address this particular aspect of anti-racism?

Ms Kleyn: I will actually pass to Ms Amorelli, our Chief People Officer, to go into detail on those specific questions.

Ms Amorelli: I guess that the first comment I'd make about the make-up of the leadership team is that one of the recommendations in the review spoke to the appointment of a director on the leadership team who was First Nations, so we've moved to act on that immediately. Ms Kelly Williams, who was the head of our Indigenous, Diversity and Inclusion team has now been appointed to the leadership team as our inaugural Director of First

Nations Strategy. Both Ms Williams and I are accountable for the delivery of the recommendations in the review, and we've been working very closely together.

Senator FARUQI: So it's just you and Ms Williams at the moment. You were there beforehand; is that right?

Ms Amorelli: Yes, I joined the ABC—

Senator FARUQI: So there's been only a one-person change in the make-up of the leadership team since the review has told you that there's systemic racism. What other plans are there for making more changes?

Ms Amorelli: We're working together. The entire leadership team is accountable but, in terms of operationalising the recommendations, Ms Williams and I will be working to ensure that we're able to implement those recommendations. I joined the ABC in March this year and so have been able to come in with fresh eyes, I suppose, in terms of picking up some of the opportunities that have been identified. As I've said, we are moving to implement those recommendations.

Senator FARUQI: How big is the leadership team; how many people are in it? I can see four of you here.

Ms Amorelli: There are 10.

Senator FARUQI: Out of those 10, there is one First Nations and one person of colour.

Ms Amorelli: There are other CALD members of the leadership team, including my colleague here, Mr Fang. Ms Kleyn also has—

Senator FARUQI: I'm talking about First Nations people—

Ms Amorelli: Sorry; First Nations people.

Senator FARUQI: and people of colour.

Ms Amorelli: Yes.

Senator FARUQI: There are just two of you. I want to go to staff diversity as well. How many First Nations people and people of colour do you have in the team that is in parliament?

Ms Amorelli: I would have to take that question on notice.

Senator FARUQI: Are there any?

Ms Amorelli: I'm sorry, I don't know, but I'm happy to take the question on notice and come back.

Senator FARUQI: I guess that this gives me an indication of how serious the ABC is about improving diversity if you don't even know. From what I understand, the vast majority if not all of them are white. So please take that on notice. Also, if nothing has been done about it, please also take on notice what you are doing about it; and, if there are people of colour who have recently left, who have replaced them.

Ms Kleyn: Perhaps I can just jump in here. Of course, we will take that question on notice; however, for absolute clarity, we don't enforce on our staff the disclosure of that information. So we can take that on notice and will provide the information to the best of our ability, but I do want to clarify that point: there is no obligation on our staff to disclose personal information that they may not wish to disclose.

Senator FARUQI: I'm not asking for the obligation on your staff. I'm asking you, because you are doing something about this, and there has been a requirement from the Janke review to make sure that, in the leadership team, we have First Nations or CALD people. How are you going to do that if, firstly, you don't know whether those people are from those backgrounds; can you answer that question?

Ms Kleyn: That's what I would like to clarify. As an example, I would note that there was perhaps, for want of a better word, an 'assumption' about me because of my appearance; I am from a culturally and linguistically diverse background. So I would just repeat: in order for us to answer that with 100 per cent accuracy, we would be imposing on our staff an obligation to disclose that information to us, and we will not do that.

Senator FARUQI: I'm not asking you to do that at all; I'm just asking you to give me an indication of the diversity of people in your team here.

Ms Kleyn: Which we will do, to the best of our ability.

Senator FARUQI: It is pretty clear that some people of colour have left your team here.

Ms Amorelli: We can absolutely take that question on notice. We do gather information from our staff around diversity, and there are various groups that people belong to. About 60 per cent of staff have completed or provided that information to us and so, based on the information that we have, we can provide that to you.

Senator FARUQI: I don't need individual—

Ms Amorelli: Yes, and we don't have that.

Senator FARUQI: Yes, absolutely.

Ms Amorelli: I just want to talk a little bit about some of the other things that we're doing immediately, as perhaps that would be helpful.

Senator FARUQI: Perhaps I could come back to that. I happen to have a question to ask a little later on that.

CHAIR: Senator Faruqi, you're just about at time, so we'll come back to you. Senator Davey.

Senator DAVEY: I know that this was dismissed by Senator Faruqi, but I am interested in hearing about your 10-person executive team. You've said that you've got one Indigenous First Nations person and one person of colour, and you were about to clarify that you also had people from culturally and linguistically diverse backgrounds. Can you finish the answer that you were providing before it was brushed off.

Ms Amorelli: I was going to point to two of my colleagues sitting here, beside me, who are also from culturally linguistically diverse backgrounds, so that makes four.

Senator DAVEY: People can make assumptions based on what they see before them, but there is actual diversity, as you quite rightly point out. You also rightly point out that it is not a legal requirement and nor can it be a legal requirement for staff, through their employment agreement, to disclose their heritage, background or anything like that. But you are working, to the best of your ability, to deliver on the recommendations in the review.

Ms Amorelli: Correct.

Senator DAVEY: I also want to talk a bit about staff diversity, in a completely different way though. This is this year's annual report. According to the budget papers, entity resources and planned performance on page 101, the total staff figure is put at 4,313. Can you clarify whether that is an FTE number?

Mr Stevens: It's the ASL headcount

Ms Kleyn: I'm sorry; can I ask for that page reference again?

Senator DAVEY: It's page 101 of the parliamentary budget papers.

Ms Kleyn: My apologies. I'm looking in the annual report.

Senator DAVEY: Your annual report actually has 5,114. That's why I was asking whether the 5,114 is the headcount and what we have in the budget papers is the FTE.

Ms Kleyn: The budget papers refer to average staffing levels.

Senator DAVEY: The annual report breaks that down to 4,520 metro-based staff—

Ms Kleyn: Yes.

Senator DAVEY: and a mere 594 rural and regionally based staff, which is over 88 per cent metro and less than 22 per cent rural. I note that the new ABC Chair, Kim Williams, was in Ballarat recently to deliver the 2024 Menzies Oration, in which he quite rightly pointed out that there is a need for a very strong regional ABC and he said, 'While we're a highly urbanised nation, I think many Australians don't realise just how many of us live outside the capital cities.' He quoted the figure of 28 per cent or over seven million who are living outside of capital cities. He said, 'Servicing those citizens inclusively is a big part of what the ABC does,' but the staffing levels outside of capital cities don't quite match. It seems that, every time there are restructures at the ABC, it is the regional offices that suffer.

Ms Kleyn: Senator, I can respond to that. I point out that I don't believe it is the regional offices that suffer. Indeed, a few weeks ago, we had a board meeting in Toowoomba where our chair confirmed that we would not back away from our commitment to the 60 new journalists that we appointed with the Meta and Google funding, notwithstanding that the Meta funding will cease quite shortly. We have no intention of withdrawing our regional commitment. In fact, with the Meta money we not only added regional journalists but expanded our footprint. We added some new locations as well. Some are quite small, some are pop-up offices, but that allows for that presence to be there. It's a known and publicised commitment that we won't withdraw those services. In particular, that goes to our broad commitment to emergency broadcasting, to be in those communities when commercial media is withdrawing. I'd say quite comfortably that we don't go to those roles when restructuring.

Senator DAVEY: Do you get the sense that the new chair is putting more of a spotlight on the regional services and the need to ensure that there is a continuation of that fundamental service to regional areas? I am thinking particularly of things like regional radio, which plays such an important role in emergency broadcasting and local community broadcasting.

Ms Kleyn: Our chair is exceptionally clear in his communication and his views—that I suggest we all share—on our commitment to regional journalism and, in particular, to those radio services. Absolutely; I think our chair is very clear.

Senator DAVEY: Speaking of regional, I facetiously put my tongue firmly in my cheek when I ask: how's the move to Parramatta going?

Ms Kleyn: The move to Parramatta is actually going very well; thank you. We've spoken before about that. We are taking space in the Promenade, which is on Parramatta Square, so we have a public presence. We have our local radio teams now live from the Promenade, which brings in that local presence and that connection to the community. We also have audio studios that are fully lit up on level 39. We've still got some work to do in relocating some people. We've still got some work to do with the technical fit-out. By and large, we're very pleased with the way that it's gone. We've had an official launch. We've got local radio in the Promenade. For a project of that size, we're pretty much on time and we're on budget.

Senator DAVEY: When I tune into *Thank God it's Friday!* on Friday afternoons, are they now based out of Ultimo or Parramatta?

Ms Kleyn: That particular program, I believe, is based out of Parramatta, but it also goes on the road from time to time.

Senator DAVEY: Yes, I know. They go to Chatswood sometimes too. I listen to my radio.

Senator McAllister: You and I will be in estimates on Friday afternoon, Perin, so you won't be doing that.

Senator DAVEY: I know. I'll miss it this week. Is Radio National getting special treatment? Where are the Sydney offices of Radio National broadcasting out of?

Ms Kleyn: I wouldn't say Radio National is getting special treatment. Radio National—without being facetious—as in its title, is a national program. We have prioritised local services because they're more engaged with the community. We will rotate services like Radio National and perhaps Triple J or other national programs as appropriate. We will do certain things in Parramatta around festivals or Book Week that may be fitting. But the focus has been on local, our local radio services, our local newsrooms, as a matter of priority.

Senator DAVEY: You said that you're expecting the move to be on time. How about on budget?

Ms Kleyn: Yes.

Senator DAVEY: What's the expected final cost of the move?

Ms Kleyn: I absolutely know the number because I get a budget update weekly. I'm hesitating because we have done the project as the Sydney accommodation project, which is a combination of Ultimo and Parramatta, which is how it was also presented to the public works committee for approval. The total budget for the project is approximately \$67 million, and we are on budget.

Senator DAVEY: Is Ultimo going to remain?

Ms Kleyn: Ultimo will remain, yes. What we've done as part of the project is refurbish a large area of Ultimo for a range of reasons. We had to lift the building to an appropriate work, health and safety level and address accessibility issues. One of the primary motivators was our commitment that the rental cost of Parramatta would be at least offset by the leasing that was coming in through Ultimo. So we have freed up floors in the Ultimo tower.

Senator DAVEY: That will now be leased to other businesses?

Ms Kleyn: That's right.

CHAIR: Senator Rennick.

Senator RENNICK: I refer to an article that was posted on the ABC website back on 3 August, where the ABC talked about the warming over the last 100 years. I asked the ABC about this a number of years ago. When you talk about weather temperatures, you need to distinguish between actual temperatures and homogenised temperatures. When you've quoted the bureau's homogenised figures, you haven't distinguished those figures from the actual observed figures. Can I get a commitment from the ABC that when they report on weather records they will make it clear which temperature dataset they're going to use and report on?

Ms Kleyn: I might ask our director of news to respond.

Mr Stevens: I'm happy to follow up on that specific article, Senator. It's not coming directly to mind, but we will follow up and have a look at the nature of that article and the terminology you refer to. The commitment I can make is that any reporting on climate change will be grounded in scientific evidence.

Senator RENNICK: This isn't grounded in scientific evidence. This is grounded in changing weather records, then creating a whole new dataset, and then reporting that new dataset without distinguishing it from the observed records. In the field that I'm in, in finance, if I amended a prior set of records I'd go to jail. It's very important that people understand the quality assurance that's used by the bureau when they report historical weather records.

Ms Kleyn: Could I ask—and I do apologise because it may be that you have provided that particular article previously—are you able to provide that to us?

Senator RENNICK: Yes; absolutely. I'll table it. It's not hard to understand. There are a variety of weather records that have now gone from an observed set of records to homogenised datasets. They've now got decimal points. They do 1.2, 2.2, 2.3. I actually can't keep up with it. They're making numerous changes. I think it's important that the ABC reports the fact that what people are reading in these so-called weather records has been homogenised by over half a degree over the last century.

Ms Kleyn: We will review that document. Thank you.

Senator RENNICK: No worries. Thank you.

CHAIR: Thank you, Senator Rennick. Senator Hanson-Young.

Senator HANSON-YOUNG: I think Senator Faruqi has some follow-ups.

Senator FARUQI: Thank you.

CHAIR: I'm trying to be fair and spread it around.

Senator HANSON-YOUNG: Yes, but not taking from the Greens' time.

CHAIR: Go right ahead.

Senator FARUQI: Thank you. Minister, I have a couple of questions to you. I wrote to Minister Rowland on 15 August with regard to the lack of diversity on the ABC Board. I received a response 2½ months later, on 28 October, which noted an update to the criteria for non-executive board roles, which was made in September—

Senator McAllister: Yes.

Senator FARUQI: which now includes a new requirement that appointees possess an understanding of the communication needs of Australia's diverse society. The letter said:

The Government pays due regard to the gender, diversity and geographic balance on the ABC Board in the interests of the ABC reflecting the diversity of the Australian community.

On 27 September, the minister announced the appointment of a new ABC Board member. Do you know if the new board member is a person of colour or a First Nations person? What diversity do they represent?

Senator McAllister: Senator, I don't know the answer to your question, in terms of the particular characteristics of the appointment.

Senator FARUQI: Do you know if that person has firsthand experience of racism?

Senator McAllister: Senator, I am representing the minister. I'm trying to find the information—

Senator FARUQI: Does anyone in the ABC know? I'm just asking these questions because it has been specifically noted that there needs to be diversity in management, on boards and in the organisation. When you have specifically introduced new criteria for that, I want to know—because there is absolutely zero diversity on the board—is that person increasing diversity at all?

Senator McAllister: The information I have is that on 2 October this year, Ms Katrina Sedgwick OAM commenced her five-year term as a non-executive director on the ABC Board. She was a candidate recommended by the nomination panel. She has extensive experience in the arts sector, including performance, production, product commission and administration.

Senator FARUQI: Shouldn't diversity have been a top consideration in hiring? We know it should have been a top consideration because the Janke review said, in recommendation 5, that the ABC should 'improve diverse representation in management and leadership'. You don't even know if that has happened, which tells me that the government isn't serious about addressing the issue of racism.

Senator McAllister: Senator, I don't think you can draw that conclusion.

Senator FARUQI: Yes, you can draw that line. Absolutely.

Senator McAllister: Senator Faruqi, I don't think you can draw that conclusion. The government does acknowledge the importance of the diversity of boards, and that includes for the national broadcasters. The revised ministerial instruments, as you've already observed, set out the criteria, and they apply for all new

selection processes undertaken by the nomination panel. As you've said, a new requirement in the selection criteria instrument is that appointees—

Senator FARUQI: You're repeating what I told you, Minister.

Senator McAllister: I understand that, Senator Faruqi. I understand that the new criteria, where appointees need to possess an understanding of or the ability to credibly represent the communication needs of Australia's diverse society, do reflect comments from targeted consultations with the ABC, the Special Broadcasting Service and the nomination panel.

Senator FARUQI: Could you take it on notice, Minister, to see how this new person meets the particular criteria of diversity on the board, which has no First Nations, no person of colour and no person from the LGBTIQ+ community or the disability community?

Senator McAllister: Senator, yes, I can. I will make the broader point that the position is subject to a merit selection process, having regard to the criteria—

Senator FARUQI: So you think no disabled person, no LGBTIQ+ person, no person of colour and no First Nations people have merit to be on that board?

Senator McAllister: No, Senator. That is not the assertion and that's not the evidence that I'm providing to you. I am saying that, in making recommendations to the Governor-General for appointments to the board, the Australian government pays regard to gender, diversity and geographic balance in the interests of the ABC Board reflecting the diversity of the Australian community.

Senator FARUQI: Could you take it on notice and let me know how regard was taken in the appointment of the new board member, when the board desperately needs some diversity, especially given the racism at the ABC? Thank you, Minister.

Senator McAllister: Yes, Senator.

Senator FARUQI: Recommendation 4 of the Janke review was for the ABC to improve its responses to public attacks on journalists. On the day the Janke report was released, Anushri Sood, an ABC reporter of colour, was thrown under the bus by the ABC after she was treated with real hostility by Peter Dutton and the right-wing media over a question at a press conference. ABC News communications lead Sally Jackson, on 1 October, from what I can understand, refused to defend the reporter, instead saying that her questions were 'not a piece of reporting'. What happened there? Did your management not read the Janke review?

Mr Stevens: The first thing to say is that Sally Jackson does an excellent job in communications for the ABC. Anushri Sood is a highly valued employee in our Sydney newsroom, and her exchange at a press conference was subject to coverage in different ways. The ABC was responding to questions which were querying what sat behind those questions, implying an agenda which didn't exist. The ABC was stating, very factually and clearly, that the questions were not taking a position. The questions were not a piece of reporting and therefore should not be judged or compared against our editorial standards in that sense. Support will look different in different situations; it's complex. We are on the receiving end of multiple queries about our staff from some outlets each day—including over the weekend, I would add. If we were to issue public statements in response to the innumerable requests, queries and commentary about our staff, we'd be issuing countless statements a day. We're not going to do that.

I'd note as well that, a fortnight later, when a more publicised exchange, or an equally publicised exchange, with a reporter in Bunbury took place, we issued a statement talking about the nature of reporters generally and their need to ask questions of politicians, noting reporters reference other known incidents. The final thing I would add is that support is, in some respects, public facing but it's also what happens behind the scenes. I can assure you that, in a management sense, we were very keen to support that particular reporter behind the scenes, and we did.

Senator FARUQI: That's good to know. Surely, given that the reporter was a young woman of colour and that the racism review had just come out, you can acknowledge that it was important to support publicly at that time the journalist who was being aggressively attacked by Peter Dutton.

Mr Stevens: With respect, Senator, for decades journalists have been subjected to robust exchanges with politicians at press conferences. That bridges journalists who are culturally diverse and those who are not. The point is not whether someone of colour or cultural diversity is subjected to a to-and-fro with a politician—

Senator FARUQI: It is a point, because racism exists systemically at the ABC. If you want to deal with it, you need to show people of colour that they can trust the ABC. It has a direct connection.

Mr Stevens: I would also note that we did put out a very public statement in support of Tony Armstrong, in response to racism he was being subjected to.

Senator FARUQI: I'm asking about Anushri Sood at this point.

Mr Stevens: I'm pointing out that, when you look at the gamut of all of our responses, we go out of our way to support staff, culturally diverse and non-culturally diverse, and we will continue to do so.

Senator FARUQI: The MEAA has called Peter Dutton's recent treatment of two ABC reporters asking him questions 'unnecessarily aggressive'. The *Guardian* noted that the ABC 'is prepared for an election campaign marked by a tendency for politicians to act in a hostile manner towards the press or sections of the press', especially after the review. What is the ABC specifically putting in place to protect journalists, particularly journalists of colour, from vile attacks from the likes of Peter Dutton and the far right?

Mr Stevens: We issue a large amount of training to our journalists. With every single journalist in the ABC, we arm them with the training they need to ask good questions that are in the public interest. That relates to everything from interviews to press conferences and doorstops. We're particularly mindful, with an election approaching, with unrivalled presence of journalists across Australia, that our journalists need to be equipped and able to ask authoritative questions, on behalf of the public and audience, of politicians of all persuasions. We're investing a lot in making sure our journalists are equipped to do that and that they have the scaffolding around them to be able to do it well.

CHAIR: I need to rotate the call, Senator Faruqi.

Senator DAVEY: A point of order.

CHAIR: Certainly, Senator Davey.

Senator DAVEY: I ask that Senator Faruqi withdraw her terming of Peter Dutton's robust questioning—fair enough—of an ABC journalist as 'violence'. It was not violent; it was not violence. Using that terminology is an imputation.

Senator HANSON-YOUNG: It was pretty thuggish.

Senator FARUQI: I didn't say 'violent'.

Senator DAVEY: It was not violent.

Senator FARUQI: I did not say 'violent'.

Senator DAVEY: You did say 'violent'.

Senator FARUQI: I did say 'vile attacks'. 'Vile' is quite different from 'violent'.

Senator HANSON-YOUNG: And thuggish.

CHAIR: We will rotate the call.

Senator HENDERSON: On the point of order, and if I could make a brief submission, I would ask all senators not to reflect on any member of the other place. I understand there seems to be some point of difference as to what Senator Faruqi said. I accept what you say, Senator Faruqi, but could we ask all senators to be mindful that they cannot reflect on any member of the House or the Senate.

CHAIR: All senators, Senator Henderson.

Senator HENDERSON: That's right. I didn't want to target Senator Faruqi.

CHAIR: We will rotate the call. If we all observe that, that would be great. We will go to Senator Roberts.

Senator ROBERTS: Thank you for appearing here today. Mr Stevens, the ABC has continually and arrogantly defied calls to apologise to veteran Special Forces commando Heston Russell. The ABC lost a defamation case to him. You wasted millions in taxpayer money. After that, the ABC has been caught publishing manipulated video with inserted gunshots, claiming it's Heston Russell. For how long are you going to oppose doing the right thing? Just apologise to Heston Russell; that's all he's asked for, from the start.

Mr Stevens: Senator Roberts, thanks for the question. You raised a series of things implying each of those matters was connected. There are a number of issues you raised that we can separate out and talk in detail about. With the defamation trial that you referenced, they were not the publications that we are talking about today, in the context of the Sunderland review. They are separate publications.

Senator ROBERTS: Can you say that again, please?

Mr Stevens: The publications on which Mr Russell sued the ABC, in the defamation trial that you referenced, were not the publications that were subject to Alan Sunderland's independent review. They're separate matters. It's important to distinguish the difference.

Senator ROBERTS: Did you lose that case?

Mr Stevens: We did, and we respect the judgement of Justice Lee.

Senator HENDERSON: Can I ask a clarifying question? That's not the case, Mr Stevens, because on 30 November ABC lawyers actually produced the helicopter video in the Federal Court. In its defence, the ABC pleaded truth, and said that Heston Russell was the shooter. The helicopter video was absolutely front and centre of these Federal Court proceedings.

Mr Stevens: Would you like me to respond to that, Senator?

Senator HENDERSON: Yes.

Mr Stevens: With respect, the vision you're referring to was not a publication. It was vision from helmet-cam that was used and utilised in these publications, but they were not a publication in their own right. They came up during legal proceedings in the context of one of the ABC's earlier defences.

Senator HENDERSON: That's not the case, Mr Stevens, because that was published. That helicopter video, those fake gunshots, were published by the ABC on a number of different occasions. I'm sorry to cut in, Senator Roberts, but I can't accept the way that you're trying to mischaracterise these proceedings.

Senator ROBERTS: Did the ABC lose the defamation case to Heston Russell?

Mr Stevens: Could I clarify, Chair, who I'm responding to?

CHAIR: This is really not very helpful because you're both talking at cross-purposes. Let's let the witness clarify these separate issues, so that we're really clear about what we're talking about. Senator Roberts has the call.

Senator HENDERSON: Yes, I appreciate that.

CHAIR: We'll keep with that line of questioning, to minimise this level of confusion. Mr Stevens, would you like to step that out?

Mr Stevens: Yes, the ABC did not win that defamation trial, Senator.

Senator ROBERTS: They lost it?

Mr Stevens: Yes, Senator.

Senator ROBERTS: Thank you. Are you going to apologise to Heston Russell?

Mr Stevens: The managing director, Mr Anderson, has previously been asked in Senate estimates that very question, immediately after the trial, and was very clear as to the ABC's position on that. In relation to—

Senator ROBERTS: What is that position?

Mr Stevens: I don't have the transcript with me, Senator Roberts.

Senator ROBERTS: What's Mr Anderson's position?

Mr Stevens: He's the Managing Director of the ABC.

Senator ROBERTS: No; what is his position that you're referring to now, in terms of—

Ms Kleyn: Senator, could we please provide that on notice? Mr Anderson absolutely provided information on the record. We don't have that in front of us. We would like to be able to access that information, so that we give a true account of what Mr Anderson said.

Senator ROBERTS: Why are you afraid of apologising to Heston Russell? You've done him a disservice. Why are you afraid of that?

Mr Stevens: There's no means of being afraid or not, Senator Roberts. We're happy to talk at length about any of the matters in relation to either the defamation trial that you've referenced or the very separate publications which were subject to the independent review. I'm not sure whether you've had an opportunity to read that yet. The review has been tabled for this committee. The review makes it very clear, and we accept the findings of that independent review. In relation to the specific mistakes, in relation to that review, we have absolutely issued an apology for the video editing errors that occurred. We're not hiding from that. That apology extends to members of the 2nd Commando Regiment.

Senator ROBERTS: As I understand it, Heston Russell has done distinguished service for this country and you've defamed him. Your organisation has defamed him. All he wanted in the first place was an apology, as I understand it; yet we have spent millions of dollars avoiding an apology. What's so difficult?

Mr Stevens: Senator Roberts, in relation to the matters that have been tabled today, in regard to the independent review into our three related stories in *Line of Fire*, we're not hiding from the fact that we have apologised for the video errors that have occurred in that. That apology extends to members of the 2nd

Commando Regiment. Mr Russell was not named in those publications. The nature of defamation, at risk of stating the obvious, is that we accept the judgement. The judgement came with quite a sizeable amount of costs to Mr Russell. The court does not dictate or call on the other party to apologise. Mr Anderson was very clear in his answer previously in relation to the defamation trial, and the ABC's position on that. As I said, I'm happy to take you through in detail the ABC's response to Mr Sunderland's review.

Senator ROBERTS: We'll have that on notice, please. Who signed off on the video of the extra gunshots that were manipulated into it?

Mr Stevens: Senator Roberts—

Senator ROBERTS: I know this has been asked before, but I want to know who signed off on it.

Mr Stevens: As the Sunderland review makes clear, the two publications for 7.30 were subject to robust editorial discussion. As director of news, those publications were referred up to me, and I take full responsibility for signing off on those publications.

Senator ROBERTS: You signed off on the doctored video?

Mr Stevens: With respect, Senator Roberts, I'd ask you to withdraw the allegation that it was doctored. The independent review showed that there was no evidence of doctored.

Senator ROBERTS: Isn't it manipulated to have multiple shots when only one shot was on the original video? Surely, that's manipulation, doctored—fabricating?

Mr Stevens: Senator Roberts, as you'll observe, when you get an opportunity to read the independent review, Mr Sunderland has, in detail, explained how it didn't occur. I would emphasise that his independent review found, without a shadow of a doubt, that there was no evidence that the material was doctored. The editing mistakes were inadvertent. We don't hide from the fact that they were—

Senator ROBERTS: Excuse me; editing mistakes were inadvertent?

Mr Stevens: Yes.

Senator ROBERTS: So there were mistakes made in the editing. What sort of mistakes?

CHAIR: Senator Roberts, do you have a copy of that report?

Senator ROBERTS: No, I don't.

CHAIR: Maybe we can furnish you with a copy of that report, which may assist you, which was undertaken by Mr Sunderland to investigate these issues. His findings are stepped out in there.

Senator ROBERTS: Are you saying that it was accidental?

Mr Stevens: It would probably be beneficial to quote Mr Sunderland, who said in his report: I find no evidence that anybody, at any stage, made a conscious or deliberate decision to introduce additional gunshots. He went on to say:

I have found no evidence to support the conclusion that any of this was done at the direction of the journalists involved or on the initiative of the video editor in order to doctor or deliberately distort the depiction of the events that occurred.

He said:

On the contrary, what evidence there is suggests it was not a deliberate editorial decision to include additional gunshot audio in order to mislead or deceive.

Senator ROBERTS: You said a minute ago—unless I'm wrong—that it was a mistake; it was an error.

Mr Stevens: It was an editing mistake, yes.

Senator ROBERTS: An editing mistake. In other words, it wasn't deliberate, but it still happened?

Mr Stevens: Absolutely.

CHAIR: We'll need to rotate the call, Senator Roberts. You have one last question.

Senator ROBERTS: The Federal Court found that Mark Willacy was combative and overly defensive, and that likely led to millions of dollars being wasted by the ABC on this court case. Now there's outright proof that the ABC 'errored' in its gunshots on the video to make Heston Russell look worse. All the while Mr Willacy was trying to sell his own book about the issues that have caused the ABC all these problems. Why won't you step him down? What disciplinary action have you taken against Mr Willacy?

Mr Stevens: Can I clarify? Was that a direct quote from the judgement?

Senator ROBERTS: Which aspect of it?

Mr Stevens: You said, 'the judgement' and then you went on to say something.

CHAIR: That is an editorialisation, I think.

Mr Stevens: Was that a direct quote from the judgement?

Senator ROBERTS: I don't know if it is a direct quote; that is my understanding. The Federal Court found that Mr Willacy was 'combative and overly defensive'. That likely led to millions of dollars being wasted; that's my addition, 'millions of dollars'.

Mr Stevens: The court found that Mr Willacy genuinely believed that the publications are in the public interest. The court also generally accepted Mr Willacy's evidence.

Senator ROBERTS: As I understand it, the court found that Mr Willacy was 'combative and overly defensive'.

Mr Stevens: There are various descriptions in the judgement about the nature of the intense criticism the ABC was under and the ABC's response to that over a period of time. Mark Willacy is a highly esteemed journalist. We back his work a hundred per cent.

Senator ROBERTS: So you are not going to step him down?

CHAIR: Senator Roberts, we need to move on. We will give you another chance later.

Senator HENDERSON: I have some more questions on the Heston Russell matter. Before I do, I want to clarify that I checked over the lunch break and I didn't receive the letter, the email, in relation to Mr Anderson. That information wasn't furnished to me. As I am a participating member of the committee, I want to make that clear and put that on the record.

CHAIR: My apologies, Senator; I was under the impression you had received that.

Senator HENDERSON: No problem. Thank you, Chair. I want to go back to the letter I have tabled. I did say it was 22 November at one point; it is actually 29 November 2022. Two paragraphs make it clear that the helicopter vision had been misrepresented with the additional shots. Mr Russell's lawyers said, 'Can you please explain the above discrepancies in the helicopter footage and the further helicopter footage?' The ABC was on notice on that day, 29 November 2022. The following day, on 30 November, ABC's lawyers in the court produced the video in their possession. Who was instructing ABC lawyers? That video would have been held by ABC News. Was it the case, Mr Stevens, that you were giving instructions to ABC Legal in relation to this case?

Mr Stevens: I will have to take that question on notice. In regard to the timing—we would have to check this, as well—it is important to distinguish that there are two separate pieces of video source material. The first is a compilation video, which runs to over 60 minutes, and which has two portions of what is about five minutes of helmet-cam vision. At the time of broadcast in September—we will have to check for you, but my understanding is in November 2022, at the time you're talking about—the ABC did not have in its possession the raw five-minute video helmet-cam footage. That was subsequently tendered in the following April, in the context of the ABC's initial truth defence.

Senator HENDERSON: Mr Stevens, that wasn't my question. I understand you didn't have all of the raw, unedited vision, because you didn't ask for it until March 2023. I am saying to you that on 30 November you handed up that vision. Were you instructing ABC lawyers, and how did ABC lawyers get that vision unless ABC News was communicating with ABC Legal about the substance of the case?

Mr Stevens: With respect, the vision was publicly available after we had broadcast it in the previous September.

Senator HENDERSON: Mr Stevens, can you answer my question? Did you give the ABC Legal department the instructions in relation to the day-to-day matters concerning this case?

Mr Stevens: I'll take that on notice. It was a complex case and it involved a number of different members of ABC management at different points in time. In regard to the implication that the ABC provided that video material to the court in November, I am pointing out that it was publicly available for two to three months prior to that. There is no great revelation that it was available to ABC Legal in the following November.

Senator HENDERSON: You are misconstruing what I am asking, Mr Stevens. I am asking whether you were working with ABC Legal—I am not interested in anyone else—and providing them with instructions in relation to this case because on 30 November the Federal Court received a video from the ABC, which could have only come from your department. So were you instructing ABC Legal and dealing with them in relation to this case?—because someone must have been.

Mr Stevens: I will have to take that on notice. You are talking about a matter that went for almost two years and you are talking about a specific date.

Senator HENDERSON: No, I am asking generally. Did you at any stage talk to ABC Legal, Mr Stevens? It is not appropriate for you to take it on notice if you know the answer.

Senator McAllister: The ABC are independent. I am happy for them to provide all of the evidence that the committee requires, but procedurally it is possible for witnesses to take questions on notice. It is a longstanding practice.

Senator HENDERSON: Mr Stevens: do you recall having any communications at all with ABC Legal in relation to the day-to-day matters about this Federal Court case? The court case ran for about a year.

Mr Stevens: Senator Henderson, ABC Legal and I were in contact about the case. In the context of the November date you are referencing, we would have to check. I am not sure if you know this. I am hazarding a guess that, even though the material was publicly available anyway, the material would have been provided as part of a notice to produce.

Senator HENDERSON: That's exactly right.

Mr Stevens: The notice to produce would have preceded the letter that you are identifying in later November.

Senator HENDERSON: That's exactly right.

Mr Stevens: They are separate issues.

Senator HENDERSON: The notice to produce was raising questions about the helicopter vision from October. So ABC was on notice from October 2022 that there were problems with this helicopter vision. The letter of 29 November spelt this out. It wasn't until March 2023 that the ABC sought from Mr Russell the full unedited vision, which you didn't have. What I am putting to you, Mr Stevens, is that you knew about this discrepancy back then. I ask you to confirm to the committee what you knew about these fake gunshots in the video back in 2022 and 2023.

Mr Stevens: There are a number of things in that question. I am happy to tackle each thing. The first time that I can recall being aware of any audio issues with the material you're talking about was in September this year. After the *Spotlight* program on Channel 7 had promoted their story, I proactively contacted the head of news—I am clarifying his role title—at Channel 7 to request questions and definitive detail on the allegations they were levelling at our staff and journalism. That was subsequently forthcoming. They had made a very vague mention earlier in a broad interview request, but never followed up with direct questions about that matter before promoting it. We acted swiftly when that was brought to our attention.

Senator HENDERSON: I put it to you, Mr Stevens, that you didn't act swiftly. The ABC was clearly on notice over many months about this doctored vision—or 'altered vision', to use your words—and nothing was done. I have tabled the document. I want to ask you because Mr Anderson, in a statement on 20 September 2024, said:

It has now come to my attention that in November 2022 ABC Legal was sent a letter raising concerns about audio editing. Regrettably, at no point was this letter or the information in the letter disseminated to ABC News.

Mr Anderson has waived legal professional privilege because he is discussing communications between lawyers. On that basis, I ask that all communications between ABC Legal and any other person who had worked for ABC or who is now working for the ABC, including you—all of that correspondence—be tabled.

CHAIR: Senator Henderson, you asked for these documents before lunch, as well.

Senator HENDERSON: No.

CHAIR: They have taken it on notice to see what they can provide you.

Senator HENDERSON: I want to clarify that I am seeking all documents between ABC Legal and any other member of the ABC in relation to the helicopter vision because it was the ABC's false allegation against Mr Russell that he was the shooter in this helicopter vision.

Ms Kleyn: We will take that question on notice and we will make sure we understand what we can and can't provide under privilege. We will take legal advice in doing so.

Senator HENDERSON: It is clear that you have waived legal professional privilege. I ask that all of that correspondence is tabled to the committee.

Ms Kleyn: I don't have any legal qualification myself, so I would not like to make any assertion one way or another. I will seek advice from my legal team.

CHAIR: I am confident that they have what you are after. They are going to take that away.

Senator HENDERSON: Thank you.

Senator HANSON-YOUNG: I want to ask some questions about the current funding of the ABC. I noted, following the release of the annual report, that on page 159 it read that in real terms you do not have record funding: the ABC's funding is down \$150 million in real terms since 2013-14. That was in the lead-up to the terrible Abbott budget cuts. I ask you to outline for us the current funding situation. We know that media agencies across the board are feeling it. As the public broadcaster, where does this lie?

Ms Kleyn: I note your reference to page 159 of our annual report. Yes, in real terms, over the last 10 years our funding has declined by approximately 14 per cent. That is \$150 million plus in real funding cuts that have been returned to government. Alongside that, we have also had our own efficiency initiatives to enable us to invest where we have needed to invest. That includes in developing digital products, so we can serve audiences across platforms that audiences are coming to. That includes some increased investment across growth in transmission costs, for example, which is tied to very fixed inflators. We have both the decline of around 14 per cent in real terms, which equates to about \$150 million plus, plus the things we have done to ourselves either to be more efficient or just to meet our basic requirements of being the ABC. The second part of your question was: now let's look forward. If we look forward, with our funding, we were very grateful in the October 2022 budget to receive additional funding. That was related to the Better Funded National Broadcasters, and some specific security-enhancing Pacific engagement measures. Certain of those measures are terminating measures; they terminate in FY27. Where we sit now is with a focus on FY27.

Senator HANSON-YOUNG: To be clear, you are saying 2026-27?

Ms Kleyn: Yes, FY27, the 2026-27 financial year. We have terminating measures. They are compounded by a few things. They are compounded by the withdrawal of Meta, for example. They are compounded by just general rising costs. We have rising costs across our transmission services. We have rising costs because we are trying to do both things for audiences. We won't withdraw from our commitment to linear services. On top of that we're adding in our digital services. We have got a number of rising costs. Production costs continue to grow. I think we all know that our production costs continue to grow with different competition in the marketplace and different impacts on our production sector. As we look forward to FY27 we are starting to see a gap of in excess of \$40 million.

Senator HANSON-YOUNG: The extra funding that was given at the beginning of this new parliament will effectively expire in 18 months time.

Ms Kleyn: That's right.

Senator HANSON-YOUNG: What about the core funding of ABC? When is the next contract due? Is it the same time frame? When does this funding round, which you're currently in, run out?

Ms Kleyn: The five-year funding commitment comes to an end at FY26.

Senator HANSON-YOUNG: So it's the same time frame.

Ms Kleyn: Yes.

Senator HANSON-YOUNG: I just wanted to clarify that it's the same time frame.

Ms Kleyn: Yes.

Senator HANSON-YOUNG: If there was—

Ms Kleyn: Sorry, Senator. I need to clarify that. That's FY27. So in the fifth year of that five-year funding period is FY27. My apologies.

Senator HANSON-YOUNG: So that not next year's budget but the budget the year after should be the budget that's setting the next round? The Federal Government budget 2026 should be when you understand what the next round of funding would look like?

Ms Kleyn: We've always got an indicator in our forwards within our portfolio budget statements and within the normal cycle of government funding. We always have a sense of our forward funding envelope, which spans over a five-year funding period with regard to the portfolio budget statement. We do have a line of sight over the years coming. The point we are making is that the line of sight tells us that in FY27 we've got terminating funding measures compounded by, for example, the withdrawal of Meta and the rising costs.

Senator HANSON-YOUNG: Based on what you know is the extra funding that will run out in 18 months, and in terms of the withdrawal of the Meta funding, there are rumours—well, not just rumours, Google is saying, 'Well, if Meta don't have to do this why should we have to do this?' How much in total do you think the ABC will be behind?

Ms Kleyn: In FY27, in excess of \$40 million.

Senator HANSON-YOUNG: What about that extra money that was given because of Meta, which was spent on regional broadcasting and delivery of services? In last estimates Mr Anderson told us that those services would be secured, but you've had to fund that out of other things; is that right?

Ms Kleyn: That's right. We've made a commitment to the preservation of those 60 new roles that have been appointed through the funding provided to us by Meta and by Google. In making that commitment we've acknowledged that, in the absence of other new replacement funding—for the want of a better term—absolutely it is a whole-of-ABC challenge that we would need to seek a manner across the ABC in which we can continue to fund those roles.

Senator HANSON-YOUNG: Can you tell us what's being sacrificed to do that?

Ms Kleyn: At this point we have not done any detailed decision-making on where we would look if we had to find a solution to a \$40 million funding gap. In terms of our financial structure—I think I've said this before on the record—we have a relatively simple financial structure for a complex operation. There are essentially four areas we can go to. We have our employee costs. We have our transmission costs, which are largely fixed through long-term contracts. We have our property costs and what attaches to that from a decentralised operation. I think you've heard me say here already that our commitment to that decentralised operation is that delivery to regional communities. We have our expenditure with the production sector. They're the four areas we can look to. Exactly how we do that and the decisions we would make, we have not done anything in detail on that at this point in time.

Senator HANSON-YOUNG: The role of ABC, particularly in regional areas, but everywhere when it comes to emergency service announcements and broadcast is essential during summer. We're being told that this summer is going to be dangerous. We've had a few mild summers recently. We have been warned that this summer is going to be extremely hot and dangerous. Has the ABC looked at what that is going to mean in terms of costs? Are you preparing for that? I want to get a sense of what the season looks like for you.

Ms Kleyn: I can absolutely talk to cost. If we want to go to detailed operational operation, I'll throw to Mr Stevens. In terms of cost, the challenge for us is twofold. We've got our long-term commitment. That's where I talk about infrastructure and the criticality of our infrastructure and maintaining our infrastructure in a very decentralised manner, as well as maintaining that transmission and our transmission footprint across Australia. We have a longstanding commitment to that, which in itself is a very significant base operational cost. That just exists for us. On top of that, in terms of our very specific resourcing, we have a very dedicated emergency broadcasting team. We have increased our investment in that team. They are very much a coordinating team. They have extremely critical relationships for us with emergency services operators. Again, when I pass to him, Mr Stevens can correct my terminology if I am getting any of it wrong. They hold a critical coordination role for us.

Then we go to all of our resources who actually do the coverage. That's very extensive. That is across a range of teams—our radio teams, our news teams and any other supporting teams that sit around that. That's where we really have to peak our resource. What tends to happen is that it is over a time period that you would otherwise hope your people could be taking annual leave, for example. We have a very carefully planned year. We have a surge resource capability so that we have enough people on standby, as we may require them, to meet those emergency broadcasting needs.

Senator HANSON-YOUNG: I understand the complexities of all of that. Is there a figure that you think that will cost you this summer?

Ms Kleyn: Senator, I didn't mean to cut you off. With respect to what it will cost this year, I can't really put a figure on that. The figure that I put on the maintenance of those services is actually millions and millions of dollars of infrastructure. It is the infrastructure that you maintain. It is your property footprint that you maintain and your broad base resource that you maintain so that you are always there and available. That's step one. I wouldn't want to sound extreme to actually say that rounds to over a hundred million dollars plus, plus. That is the maintenance. In terms of the surge capacity, it depends. It can be anywhere from a few hundred thousand to quite a few million, depending on who you need to bring in to resource and where that may be. Once you know where you need to be and how much might be running in parallel is near impossible to predict. Obviously the more that is running in parallel the more surge capacity you need. You then have the complexity of trying to figure out, 'Do I need to start flying my teams around?' That's where you start running into the millions.

Senator HANSON-YOUNG: Minister, could I ask whether government has considered extra funding for the ABC as the national emergency broadcaster for this summer, given all predictions that it's going to be a horror show?

Senator McAllister: I am not being difficult. Did you attend the seasonal debriefing?

Senator HANSON-YOUNG: No, I wasn't able to get there.

Senator McAllister: It is not actually as you describe. I should clarify. The seasonal outlook runs to December, rather than the full summer, but it will be hotter and wetter than usual, with above average expectations in parts of Australia for rainfall.

Senator HANSON-YOUNG: Adelaide is on extreme fire warning all week.

Senator McAllister: If I could please finish. I do think about this, for very obvious reasons.

Senator HANSON-YOUNG: I know. I am asking whether the government has considered any funding for this season, given the work that the ABC does; have you or have you not?

Senator McAllister: I am seeking to clarify. We should try to give Australians the best information we can about what's actually predicted. It's true that there are higher-than-average expectations for fire risk in your home state of South Australia, particularly in the South East and in parts of northern Australia. But it's no uniform picture. The way in which you characterise it isn't the way that the bureau has described it to us. That said, every summer is a difficult summer for Australia. We actually have a really volatile climate. It is unpredictable. We should always prepare for emergencies. We do highly value the services that are provided by the ABC in the emergency management space. It is part of the reason that we sought to stabilise funding for the ABC by putting them onto these five-year funding rounds and actually returning a measure of predictability to the way in which the ABC can plan and manage their resources.

Senator HANSON-YOUNG: Could I take on notice: will the South Australian ABC bureau get extra funding to help with the reporting and emergency broadcasts, given we are already in an extreme fire season this week? Already this week we have been on high alert, day after day. It started on Friday and it is still going.

Senator McAllister: We are worried about South Australia. It is one of the areas where we have an indication that soil moisture is very low, conditions are dry and hotter-than-usual conditions are anticipated.

CHAIR: Senator Darmanin.

Senator DARMANIN: I will just follow on from the questions about funding. You referred to the five-year funding terms that commenced in July 2023. I wonder whether you could talk to what kind of difference having five-year funding has meant, in terms of your ability to plan and your strategy, and perhaps expand a bit more on regional programming. I know we have talked about that a little, but has the change in the funding arrangement made some difference there?

Ms Kleyn: We view five-year funding in a few different ways. Certainty is always a great thing. There is no question about that. Having certainty around where you are heading, understanding your funding envelope, is certainly something we welcome and we are very grateful for, of course. I would add that the certainty of that does tell us, with certainty, that we have these terminating funding measures in FY27. That's where we have significant focus at the minute. As we look forward and we understand our activity, of course we plan. Depending on which area of the ABC we're looking at, whether that is resourcing internally or longer term views of our production commitments, we look two, three, four—many—years out. Five years funding certainty is great. Less certainty as you move through the funding cycle is less great. In terms of what it means for our regional commitment, I would say there is a level of certainty that we apply to our commitment to regional that is a core part of being the ABC and a core part of being who we are. As I said before, given that commercial media has withdrawn, it is a critical role for the ABC. We absolutely have certainty around certain things.

I think I mentioned the Meta role. They were enabled through new money. While that money may not exist into the future, we have maintained that commitment. We have done that at different times. We were very grateful for the enhanced news funding, for example, being rolled in on an ongoing basis, because that enabled absolute certainty for those roles. Having said that, the roles would have been certain anyway because we had them for nine years. I am probably talking around a few different things, but certainty is great. Certainty that our funding is reducing in FY27 is less great. We maintain our commitment to regional, no matter what.

Senator DARMANIN: I think this has been touched on. I wonder if you could speak more about the ABC expansion into the Pacific—what sorts of initiatives that has meant and a bit of an overview of how that is going.

Ms Kleyn: I will start by saying that we are incredibly grateful for the additional funding we got for the initiatives in the Pacific. They have enabled us to expand our transmission footprint. They've enabled us to have more content that we can specifically allocate. We've had some news initiatives that I might pass to Mr Stevens to talk to in a moment. Also, quite importantly, we've expanded our media capacity, strengthening and developing

media literacy and supporting the different media outlets across the Pacific. Mr Stevens, do you mind touching on some of the things relevant to you as well?

Mr Stevens: Thanks. The funding has been invaluable in terms of what we've been able to create by way of content for the Australian public, to bring greater cognisance and understanding for the Australian public and our audience about the Indo-Pacific. Australia is in the Indo-Pacific region. Historically, Australia has not been as cognisant as it ought to have been about our neighbours across the Pacific. This funding has been an absolute game changer for us in terms of expanding our footprint across multiple countries in the region. It has allowed us to create all sorts of additional content that we wouldn't have otherwise. I'd highlight, for instance, the work of the local correspondents who we have hired and the training role we're playing in local news media and journalism. They are telling their stories, bringing them to an Australian audience at large. I would highlight, too, that they're not just featuring across one or two programs. I am sure you're all cognisant of seeing them on *News Breakfast* or stories on 7.30 and whatnot.

Through the funding, we have been able to create some remarkable programming that is bespoke to the region, including *The Pacific* and *Asia News Week*, which is a really exciting capturing of what is unfolding in the Asian region by way of a specific news program. We have some really innovative and interesting collaborations with local broadcasters—for instance, Timor-Leste public broadcasting—and other training initiatives across the region. The role of ABC International in this is critical, as is our Asia-Pacific news team, based in Melbourne. It's been an absolute game changer.

Senator DARMANIN: Thank you.

Senator HENDERSON: On notice, Ms Kleyn, I am seeking copies of all text messages and all other messages in relation to the helicopter video, the video editing errors, as you call them, and, more broadly, Mr Sunderland's review. If you could make sure to let relevant staff know to maintain those records, including on their devices, so that nothing is deleted, we would be really grateful. I am seeking that on notice as well. Ms Kleyn, you've apologised to the 2nd Commando Regiment, which included Heston Russell, for the editing errors. Do you apologise to Mr Russell for calling him, falsely, a war criminal?

Ms Kleyn: As we've stated, we have apologised clearly and sincerely for the editing errors. That is the apology we have made.

Senator HENDERSON: Do you apologise to Mr Russell for falsely calling him a war criminal?

Ms Kleyn: We have made the apologies as detailed this morning.

Senator HENDERSON: Why won't you apologise to Mr Russell for such an egregious breach of good faith and such a shocking journalistic mistake?

Ms Kleyn: We've made a number of statements and put a lot of information on the public record. Mr Anderson has spoken at length. We have answered numerous questions on notice with regard to the defamation trial, which is quite separate from the Sunderland report. We have provided responses on both things. We have apologised today quite clearly. We have put that on the record. We have also published that.

Senator HENDERSON: You have made an apology in relation to the video editing errors. Why won't you apologise to Mr Russell? I understand you are not required to, as part of the Federal Court judgement, but why won't you do it as a matter of good faith to someone who you egregiously called a war criminal?

CHAIR: A point of clarification: I believe you took on notice earlier to review Mr Anderson's statement and come back.

Ms Kleyn: That's right. Thank you, Chair.

CHAIR: They have been very clear that they wish to check that position and come back to you, Senator Henderson.

Senator HENDERSON: I can add some information to that. I did ask Mr Anderson whether he apologised. He declined to apologise. He cited as the reason that the ABC was considering its position on appeal. You are now obviously not appealing that case. I now ask you why you are declining to apologise to Mr Russell.

Ms Kleyn: My answer remains the same. I would like to take the opportunity to review the previous information that is on the record that the managing director has provided, which I believe is comprehensive and extensive. I would like to respond to you completely.

Senator HENDERSON: Can I ask about the video editor, who has now left the ABC. Was this person required to leave the ABC? Was this person sacked? Is there any connection in relation to this matter?

Ms Kleyn: I don't personally know the individual. We can take that question on notice.

Senator HENDERSON: Mr Stevens would know.

Ms Kleyn: That would relate to that person's personal information with regard to their employment with the ABC. I would like to take that on notice and provide that, with an understanding of their personal privacy.

Senator HENDERSON: Mr Stevens, was the video editor encouraged to leave the ABC or sacked in relation to this matter?

Senator McAllister: Ms Kleyn has already provided an answer and has taken it on notice.

Senator HENDERSON: Yes, I understand that.

Senator McAllister: It is the same question, is it not?

Senator HENDERSON: I understand that. I am now asking the head of news and current affairs of the ABC. I assume he worked in your department. Is that correct?

Senator McAllister: As you observe—

Senator HENDERSON: If I could just finish my questions. I want to get through them quickly.

Senator McAllister: As you observe, I am not in any way seeking to constrain the way that the ABC answers your questions—

Senator HENDERSON: Thanks, Minister. Mr Stevens, can you add any information?

Senator McAllister: But when witnesses take—

CHAIR: Just let the minister finish.

Senator McAllister: When witnesses take a question on notice, they are entitled to do so. The acting managing director has done so.

Senator HENDERSON: Except, Minister, I am now asking Mr Stevens. Mr Stevens—

Senator McAllister: She has done so on behalf of the organisation.

Senator HENDERSON: Was this video editor forced to leave the ABC—

Ms Kleyn: My concern is with regard to an individual's personal circumstances, their employment at the ABC. That's why it's important to me that we are able to take this on notice.

Senator HENDERSON: You can take that on notice. Mr Stevens, I assume this person was working within your department. Are you able to add any information as to whether he or she was forced to leave the ABC? I am worried that maybe someone was thrown under the bus here.

Ms Kleyn: My concern is that it relates to the personal circumstances of an individual's employment at the ABC. They should be afforded the privacy that goes with that. I would like to be able to take that on notice.

CHAIR: Senator Henderson, they have taken it on notice.

Senator HENDERSON: I am asking another question, Chair. Thank you. The general counsel of the ABC resigned last month. Did she resign in connection with this case?

Ms Kleyn: No, Senator.

Senator HENDERSON: Has any other lawyer at the ABC resigned in connection with this case or been required to leave?

Ms Kleyn: No, Senator.

Senator HENDERSON: Is there any review underway in relation to the management of this particular case by individuals?

Ms Kleyn: We absolutely have a review; that is nearly final. We have an interim review that Mr Sunderland has provided to us and that we have provided to the committee. We would like to allow Mr Sunderland to complete that review.

Senator HENDERSON: Mr Stevens, you also issued a media release last year in relation to this case. You have given evidence today that you were in contact with ABC Legal. Based on what I can see, it does appear that you were the principal person who was having day-to-day communications with ABC Legal—unless you can nominate anyone else. I put to you that you have improperly, quite improperly, managed this on behalf of the ABC.

Mr Stevens: You are welcome to put that to me, Senator.

Senator HENDERSON: How do you respond?

Mr Stevens: I respectfully disagree because I can assure you that at all times I carried out my job and duties with the utmost integrity. I don't see any massive revelation that the director of news at the ABC would have any form of contact with ABC Legal. I greatly enjoy my collaboration with them because they are highly esteemed and good at their jobs. I see no revelation in that. I see no—

Senator HENDERSON: The revelation, though, is in the fact that ABC Legal doesn't run a case without instruction. My concern is that the ABC was on notice about a whole range of grievous errors that it made in relation to this story and it refused to do anything about it until it was caught out by the Channel 7 *Spotlight* program.

Ms Kleyn: May I just clarify that. I believe that you've just indicated the revelation that they ran the case without instruction. If I was unclear in my answer that I did not know the exact individuals who instructed them, my intent was not to imply that they did not have instruction. They of course had instruction. My statement to you is: I don't know, over the course of the months, exactly who each of the individuals were, nor how we would respond to that with regard to privilege and any other legal advice I would like to take. It was never my intention to have a revelation that there was no instruction.

Senator HENDERSON: Thank you very much for that clarification. In relation to the editing of the video, I have sat in many ABC edit suites and edited with editors. They don't edit stories on their own. They normally edit with the producer or a journalist.

Mr Stevens: They might have been editing film in your day, compared to—

Senator HENDERSON: No, Mr Stevens, they weren't, actually. I was working in television when video was invented. Thank you very much for that. What I will ask you is this: who was the person from the ABC working principally with the video editor? Could you address that question? In the original vision, you had the party vision with the music over it. There was obviously a decision made to remove that music so that you could then play the video without the music, and the gunshots were edited into the video. There wasn't just one decision made about the editing of the video, to put extra gunshots in; there was also a decision made to remove the audio of the music and to add extra gunshots. Who was working with the video editor in the making of those decisions?

Mr Stevens: The appropriate reference point is the independent review and the interim report. The report details the nature of how the story came together, the nature of video editing, the nature of collaboration and where that starts and ends. The report makes it extremely clear that the producer and reporter kept in regular contact with the video editor, and there is absolutely no evidence that they directed the editor to additional sounds. That's what the independent review has found. The review found as well, as you would be aware, Senator—also, being privy, yourself, to long-form current affairs, as a former esteemed reporter at the ABC—that, in attempting to assemble a high-quality and compelling piece of current affairs with problematic source material—by 'problematic', I am assuming Mr Sunderland is referencing not clean audio—

Senator HENDERSON: That's right.

Mr Stevens: As would be the case in a number of edits across the board, where there would not have been a significant impact, or being at risk of impact, as there was in this, that vision of guns being fired was combined with cleaner audio of guns firing. It goes on to say:

It needs to be stressed at this point that the editor who worked on the story, while noting that it is not unusual where an audio track is mixed with music and effects or problematic in other ways for appropriate clean audio to be sourced and used, has no recollection of this happening ...

That's why—

Senator HENDERSON: The video editor was interviewed by Mr Sunderland; is that correct?

Mr Stevens: It's an independent review. I'm not privy to the nature of interviews that Mr Sunderland conducted. I can only assume, from the nature of the interim report, that he was absolutely in contact with the editor and a number of other individuals.

Senator HENDERSON: On notice, could I please ask for Mr Sunderland's interview notes and any other records that he holds in relation to his work, so that the committee can also review that work as well.

Mr Stevens: I think that is important. I would add, because it is relevant to these questions, that, in the concluding remarks, Mr Sunderland says:

There is strong evidence of rigorous and thorough journalism in the preparation of the Line of Fire stories. This included gathering information from a range of sources ... the examination of a large amount of material ... sending local reporters to Afghanistan on two occasions ... The stories themselves, and the issues they raise, remain important.

I think that is a very important point. He goes on to say:

There is also no evidence that anyone at the ABC, from the reporter to the video editor to the producer and to all those involved at higher levels in the ABC News and Legal divisions deliberately doctored, falsified, manipulated or distorted information, material or evidence in order to mislead audiences.

On the contrary ...

I think the independent review speaks for itself and it exonerates any allegation of doctoring in any way, shape or form.

Senator HENDERSON: Do you regret that this was not fixed up when you—

CHAIR: We will move on, Senator Henderson.

Mr Stevens: I am sorry, I couldn't hear what you were saying.

Senator HENDERSON: Do you regret that this wasn't corrected, as you've now done, when the ABC was first put on notice in November 2022 about these fake gunshots?

Mr Stevens: When the video-editing concerns were brought to my attention, I moved extremely quickly to get to the bottom of what occurred, as did my colleagues, to ascertain how on earth it happened. We moved quickly to remove the video, upon further investigation.

CHAIR: We will go to Senator Roberts.

Senator ROBERTS: I have skimmed the recommendations and the conclusions of the independent review by Mr Alan Sunderland, who apparently had 40 years at ABC and SBS. Recommendation 1 is:

Editorial policies and guidance should be reviewed to ensure the importance of maintaining the integrity of crucial source material is maintained, particularly in investigative stories.

The key word being 'integrity.' It raises questions as to whether there was a lack of that. Recommendation 2 is:

Training should be reviewed, in particular for non-editorial staff working in investigative areas, to ensure everyone is aware of key editorial principles including the need to maintain the integrity of source material.

It seems that people are not adequately aware. Recommendation 3 is:

Editing practices should be reviewed to ensure there is regular, timely and detailed face-to-face contact between editors, reporters and researchers during the editing process.

Are they inadequate? Are they substandard? Recommendation 4 is:

When multi-platform stories are being prepared, consistent and equal scrutiny should be applied to all elements of the story across all platforms.

Was there inadequate scrutiny? Finally, recommendation 5 is:

News should review the guidance note on interviews and discuss.

I'll go into that. The ABC's current guidance note on interviewing has one short section dealing with the need to take care to ensure that, as far as possible, you are properly reflecting the gist of the person's position on the key issues being discussed. Mr Stevens, it seems to me that integrity is being questioned here, and, at best, this is an incredibly sloppy outfit. You are at the top of it, aren't you?

Mr Stevens: You are correct to reference the term 'integrity'. I would clarify, however, that Mr Sunderland is referencing the integrity of crucial source material. They are eminently sensible recommendations, and our editorial director can speak to our adoption of all recommendations.

Mr Fang: The interim report has provided a series of recommendations, which we will obviously go through incredibly carefully. You have read out some of those, which I think is really important. I am happy to go through them again. In relation to source material, what Mr Sunderland is reflecting from his review is that, in the process of doing editing, where there may be a situation, as he has raised in his review, around looking for clean audio, we need to look at our processes around doing that, to ensure that we don't make this type of inadvertent mistake again. We will review the advice around that very clearly. He also spoke about the training we should be doing at the ABC, including for non-editorial staff. We will have a look at that. Training is a really important part of what we do. We are consistently working with ABC staff about editorial policies and providing guidance, and making sure they are equipped to meet our very high standards. But we will take on board the recommendations of the interim report.

Mr Sunderland also spoke about, as you have mentioned, editing and the regularity of face-to-face checks. Editing at this time, in this era, is complicated. Our teams are regularly producing a variety of different pieces of material for television, for online and for different video sources. Ensuring that process works in the best possible way will be something that we will look at.

As you have pointed out, he's asked us to look at an extension of that, which is really the oversight of multiplatform stories. As you would be aware, we have teams that make stories for multiple programs and multiple outputs. We need to make sure that there continues to be real clarity, and that we look at how we're ensuring that communication is best handled across those different platforms.

Senator ROBERTS: The panel from the ABC, the four of you, keep calling this an independent report. Alan Sunderland previously worked as the head of policy and staff development with ABC News, and he was a journalist for 32 years. He began as an ABC cadet in 1979, before spending more than 20 years as an on-the-road reporter with the ABC and SBS. His experience includes five years as political editor with SBS in Canberra. He returned to the ABC and to news management in 2005. When did Alan Sunderland leave the ABC? Could you not find someone who was even vaguely independent of the ABC? Is this an independent report or an insider report?

Ms Kleyn: I would answer very clearly that it is an independent report. I would have to take on notice the exact date of Mr Sunderland's departure from the ABC. From memory, it was around six or seven years ago; I am not sure. We can absolutely take that on notice. Mr Sunderland is an independent member of the Press Council. We are comfortable in asserting quite clearly that Mr Sunderland is independent, and he operated independently throughout this review.

Senator ROBERTS: In 2017, Alan Sunderland wrote, 'Well, let me try to tell you exactly what's wrong with it.' That was in response to calls for ABC reporting to be fair and balanced. Is this really someone who can be trusted to write an independent review of this subject? Who appointed him, and what were the criteria for his selection?

Ms Kleyn: Mr Anderson appointed Mr Sunderland. Mr Stevens, is there something that you want to add?

Mr Stevens: A couple of things. Firstly, before questioning the integrity of Mr Sunderland, I'd encourage the senator to read the report in full before forming any judgements about it. Secondly, the fact that Mr Sunderland has made findings against the ABC would undermine any sense that it's a report free of criticism.

Senator ROBERTS: Ms Kleyn, what did you learn from this whole episode and the millions of dollars in taxpayer money that have been wasted? That's why we are here; it's an estimates session.

Ms Kleyn: Understood.

Senator ROBERTS: Money has been flowing out.

Ms Kleyn: We've all learnt a lot from the report.

Senator ROBERTS: What did you learn?

Ms Kleyn: I have learnt that we have some processes on which we need to make process improvements. We have five recommendations detailed here. I take those recommendations very seriously. My colleague has just explained how the recommendations have been laid out, and our intention to adopt the recommendations and do what we need to do to make sure these sorts of errors don't happen again.

Senator ROBERTS: Bearing in mind witness guide 4.15, what actions will you take as a result of this experience? Without names, because we want to make sure privacy is respected, was anyone's employment terminated as a result of this?

Ms Kleyn: I can confirm that no-one's employment has been terminated. What actions will we take? We will adopt these recommendations.

Senator ROBERTS: Did anyone leave the ABC as a result of this?

Ms Kleyn: To my awareness, no.

Senator ROBERTS: Mr Stevens, did anyone leave the ABC as a result of this?

Mr Stevens: I have not left the ABC.

Senator ROBERTS: Did anyone leave the ABC?

Mr Stevens: No, not that we're aware of. We can take it on notice. There would only be the need for someone to leave if there was evidence of misconduct on the part of staff. As you'll learn, in the report there's no evidence of misconduct.

Senator CADELL: Going back, you can say that the editor didn't leave because of this. In answer to the earlier question about the editor, you specifically said you didn't want to comment regarding the privacy of an employee. By that comment, saying no-one left because of it, you're saying he or she didn't leave because of this?

Mr Stevens: I did say I would take it on notice.

Senator CADELL: You just said then that no-one left.

Mr Stevens: To my knowledge.

CHAIR: To their knowledge. To clarify, every point has been to their knowledge. They said they will take it on notice and investigate further. What I am hearing is that they don't know of anyone at this point. As I've said, Senator Roberts, we need to rotate the call.

Senator ROBERTS: Ms Amorelli, are you aware of anyone who left as a result of this, or was pushed out or left voluntarily?

Ms Amorelli: To my knowledge, no.

CHAIR: We will go to Senator Faruqi.

Senator FARUQI: From what I understand, your internal editorial guidance on covering Israel and Palestine goes to extraordinary lengths to minimise Israel's actions, and says that the important point to note is that there are arguments on both sides and it is not the ABC's role to make the final decision. That line of argument in your guidance is used to excuse not using the term 'apartheid'. The guide says, 'It is not the ABC's role to decide guilt or innocence.' You have used that same line of argument in your guidance to excuse not using the term 'genocide'. It says that coverage must include or refer to both principal perspectives. You've used that line of argument to not even refer to a war crime, because the guide says, 'It is not the ABC's job to label a particular act a war crime.' I want to remind you that several human rights organisations have called Israel's decades of occupation and domination and the treatment of Palestinians apartheid. The ICJ has published an opinion calling it apartheid. The ICJ has also found that there is a plausible case of genocide. The ICC has accused the Israeli Prime Minister and defence minister of crimes against humanity and applied for their arrest warrants. This is not about impartiality. This is about ABC minimising Israel's crimes because you are refusing to tell people the truth of what is happening. Why are you minimising Israel's crimes? Why are you covering Israel's actions in Gaza and in Lebanon, and covering up a genocide?

Ms Kleyn: I think the question is either for Mr Stevens or Mr Fang. Are you wanting us to refer to specific coverage or to our editorial guidelines?

Senator FARUQI: Your editorial guidelines determine the coverage, don't they? I am asking: why is there a reluctance to use the words 'genocide', 'apartheid' or 'war crimes'? It has been determined that those words are true. You might say that you are being impartial, but you are minimising Israel's crimes. The role of the ABC is to tell the truth.

Ms Kleyn: Mr Stevens will lead with an answer.

Mr Stevens: I respectfully disagree that we would ever minimise the actions of anyone. The guidance note, which is comprehensive and has a great deal of detail for our staff, does not at any point encourage minimising the actions of anyone or any party. In regard to allegations of war crimes, we have very specific guidance around that, which relates to the prosecutor of the ICC asking the court to issue warrants for Hamas leaders. It also references Israeli leaders Netanyahu and Yoav Gallant in their roles in the Israel-Gaza war. We make clear in our guidance, which as far as I am aware may have been updated without my knowledge in recent days, that a decision is yet to be made. We say that information must be included when referencing that. We have specific advice around the ICJ genocide case, which goes to the need for staff to refer to it as the ICJ, not ICC. That case is ongoing; it's not complete. The editorial guidance is largely overseen by my esteemed colleague Mr Fang. He can add detail on those specifics.

Senator FARUQI: Mr Fang, who was consulted while updating these editorial guidelines recently?

Mr Fang: What are you referring to, Senator? What update?

Senator FARUQI: I am referring to the latest iteration on your guidance on covering Israel and Palestine. Who in the organisation was consulted?

Mr Fang: We have a Middle East guidance, as you have indicated. It involves a panel which is led by me. It has representatives from the editorial policies team, from our news division and from our content division. Where required, we will speak to staff to seek further feedback. Largely that editorial guidance team works to provide guidance, as required, for staff on the changing circumstances and changing guidance for our coverage.

Senator FARUQI: Does it have a diversity of voices? I keep banging on about diversity. Does it have people of colour, maybe Muslims, Arabs, people from the Middle East, who might be guiding you?

Mr Fang: It has people of expertise and understanding in regard to what has been happening in the Middle East. It has a wide range of perspectives. I am not sure if the cultural make-up of that group particularly guides the guidance. However, we have a large staff base. We speak to people as required. For our guidance we look to the factual basis about what is happening around the world. You mentioned a few different things. One is human

rights organisations and their claims. We would report on those. We would also take on board as a perspective in our story output and in our guidance what is going on, on the ground and seek expert feedback on that. You mentioned a few other things. We have published stories about the ICJ opinion. We have published stories about the South African case around genocide. We have published stories about claims about crimes against humanity. Our overarching principle here is that as journalists we look to provide factual information, but we also look to clearly attribute that information to where it is coming from.

Senator SHARMA: I have a few questions about corporate matters, such as the process for recruiting the new managing director. When do we expect the new managing director to be announced? Has the process to find a new managing director commenced?

Ms Kleyn: I will pass to our chief people officer.

Ms Amorelli: The process has commenced. Under the direction of the chair and the board, we have appointed our search firm, Spencer Stuart, who are assisting with that recruitment process. We are moving through that now. When we might announce depends on that process.

Senator SHARMA: Have you started interviewing candidates?

Ms Amorelli: We have not yet interviewed, but we have received applications.

Senator SHARMA: The show *Q+A* came up with Mr Anderson at the last estimates. Mr Anderson said you were rethinking the program's future, noting that it had gone from 40 episodes last year to 24 episodes this year, and that the ABC was reconsidering its format. Has that consideration progressed since Mr Anderson provided that update?

Ms Kleyn: I don't think it has progressed in any meaningful way to provide you with a meaningful update. His reference was that it was from the 40 to the 24. There were some changes with the host. We have taken the show outside of being in-studio in the capital cities. They are the changes to date. I don't think there are any other changes to report on at the moment.

Senator SHARMA: You expect the show to go to air next year?

Ms Kleyn: I am not sure. I don't think we have made exact programming decisions for next year.

Mr Stevens: The schedule for next year will be announced at the ABC Upfront in a matter of weeks. I am happy to extend an invite to you, Senator, for that. The team is certainly planning to return, given it is an election year. Patricia Karvelas, the host, the EP Eliza Harvey, and the team are doing a superb job—a cracking show last night, previewing the US election. It performed really well. It had, roughly—don't hold me to it—250,000 people watching.

Senator SHARMA: I was sitting here last night.

Mr Stevens: It was a good program last night. The team are committed to evolving and making sure they are connected to the community as much as possible.

Senator SHARMA: Can I ask about the rebrand that was recently announced back in August, the new look and features and the restoration of the news team? When did that rebrand exercise commence?

Ms Kleyn: I might pass again to our director of news, who I think led that.

Mr Stevens: The ABC News has periodically updated its branding. This particular exercise happened over a number of months. It was a piece of work that covered a number of different departments at the ABC. We wanted to make sure we were clear on what the audience is looking for and that it reflects visually the values and identity of what ABC News is. We are very happy with the outcome.

Senator SHARMA: What was the total cost of the rebrand exercise?

Ms Kleyn: The rebrand exercise was approximately \$800,000.

Senator SHARMA: Was that spent internally? Did you bring in external consultants, graphics, and design firms?

Ms Kleyn: It was primarily external. Can I say, just to get in a plug for the ABC, that the ABC News is the top news website in the country in digital news audio rankings across the total digital news markets. This was in the latest Ipsos ranking. We count that as a win of our rebrand.

Senator SHARMA: Have you seen an uptick in audience numbers since the rebrand?

Ms Kleyn: Yes, we have.

Senator SHARMA: Is there a correlation there?

Ms Kleyn: We track this carefully week in and week out. Absolutely there is a correlation; it is one of those things. We track our activity like this. We track our story activity week in, week out. We have seen an uptick; there is a correlation.

Senator SHARMA: Has the ABC done any research since to track how the rebrand has been received by audience segments? Would you normally do that?

Ms Kleyn: It is ongoing. The manner in which you do a rebrand like this is that we are constantly seeking feedback from our audiences on the usability.

Senator SHARMA: How many third-party design firms were involved in this?

Ms Kleyn: I would have to take that one on notice.

Senator SHARMA: When was the last such rebrand?

Mr Stevens: We will have to take that on notice; somewhere between seven and 10 years. This was a more ambitious rebrand, for lots of reasons. One was that we took the opportunity to update our ABC News website at the same time as updating our look and branding assets across video, TV broadcast and the website. That was a much bigger exercise. You will have observed that we now have a uniform look between our news channel and the website, with a great deal of intention. We observed that the nature of how people use our news today is very different to the last time we did this, almost a decade ago. In terms of audience uptick and feedback, we receive a great deal of audience feedback week to week. We received specific feedback, for instance, which was positive about the rebrand. We also received some feedback around subtle things, like the ticker at the bottom of the ABC News channel. There was a view from some of our audience members that the opacity made it harder to read. We responded to that audience feedback because we respect the audience; they are our bosses. We made it darker and more visible than it was. That has worked really well. The ABC News website this year, as Ms Kleyn intimated, has been performing really well. I am particularly excited to get a plug in about our forthcoming coverage of the US election across news channel ABC1 and our news website and LiSTN app tomorrow.

Senator SHARMA: All right, I will. Thank you.

CHAIR: We will take a break now. We will return with the ABC.

Proceedings suspended from 15:57 to 16:15

CHAIR: I advise that we are formally releasing the Classification Board. They will no longer be called. We will now return to the ABC.

Senator CADELL: With respect to the female representation on the *Insiders* program—I raised the numbers the last time—I have been given an update today, which is interesting. It's only at 17 per cent for this year. With the 44 per cent representation of female politicians in this parliament, is the ABC doing anything to look at equal representation for female politicians on your political shows?

Ms Kleyn: A good question.

Mr Stevens: That figure is not good enough. Are you referring to the figures for the political interview?

Senator CADELL: Yes, correct.

Mr Stevens: We can take on notice and provide you a list of requests we've made that have been knocked back. I know that, for instance, a number of requests have been made to both members of cabinet and shadow ministry who inevitably have declined interview requests.

Senator CADELL: That would be handy. That way I won't get beaten up when I walk back in the office.

Mr Stevens: Gender diversity on the program goes beyond the political interview to the couch. *Insiders* gives us an opportunity to showcase some of the incredible women in the press gallery that are formidable and fierce in the way they go about their jobs. With respect to the interview itself, we are beholden to who says yes or no in the context of a political interview. We would encourage any women across the ministry and shadow ministry to engage with the program.

Ms Kleyn: Just say 'yes'!

Mr Stevens: Or the Greens for that matter. We're struggling to get the Greens on. I'll take that on notice.

Senator HANSON-YOUNG: I'm available!

Senator CADELL: Mehreen Faruqi has been on. They are Dai Le, Katy Gallagher, Penny Wong, Mehreen Faruqi, Zoe Daniel, Jane Hume and Bridget McKenzie. They were the women who have been on this year.

Mr Stevens: And we very much appreciate them taking part.

Senator CADELL: Obviously Mr Anderson can't be with us. I hope he is well. I reached out to him on his announcement and said, 'Thanks for coming and putting up with us'. How's the search for a replacement? Do we have a timeline on that? Do we know when that's looking like happening?

Ms Kleyn: I will pass that on to our Chief People Officer.

Ms Amorelli: We are in the process of shortlisting candidates at the moment. The applications have closed. We are moving to interview in the next few weeks. It really just depends how that process plays out.

Senator CADELL: Is there a goal ETA to be on the ground by, without ruining a subplot?

Ms Amorelli: It would be great to have somebody appointed within the coming months. We're just moving through that process. The first round of interviews will be in the next couple of weeks.

Senator CADELL: Is there strong interest in the role?

Ms Amorelli: We have good interest in the role, yes.

Senator CADELL: Was there international interest in the role?

Ms Amorelli: We did search internationally as part of the process. We are really looking for individuals who are Australian, for example, people who are overseas who might be looking to come home. The search was both domestic and international.

Senator CADELL: How is the Parramatta move going?

Ms Kleyn: The Parramatta move is going well. We have moved most of our teams now out to Parramatta local radio and broadcasting from the Promenade news teams. The way we phrase it is that we have shifted. The balance now is higher in Parramatta than in Ultimo in terms of our local news team.

Senator CADELL: Local news is still in Ultimo?

Ms Kleyn: We have local news across Ultimo and across Parramatta. We have more of our staff now in Parramatta. We will be broadcasting our 7 pm news from the Promenade, with the goal to have that happening by the end of this year.

Senator CADELL: Other than local news, who is left in Ultimo?

Ms Kleyn: We still have a lot of staff in Ultimo.

Senator CADELL: Are there divisions or are they just left out?

Ms Kleyn: We have a lot of the support staff there; the people and culture team, finance teams and a lot of the corporate services teams still exist there. We have national programs still in Ultimo. I think that Radio National was mentioned earlier. We still do have a substantial number of new staff in Ultimo. That may be international news. They are also spread across the whole of the country. We have got content teams still in Ultimo. We still probably have around about 1,600 people.

Senator CADELL: How much has the move cost so far? What is the expected final cost and how does it compare to budget?

Ms Kleyn: The total budget for the project was \$67.2 million. We are progressing very well to budget. My expectation is that we will not exceed that number. Exactly where we are at to date, I'd have to take that on notice. We are very close to the end of the project, which is why I have comfort that we will be on budget.

Senator HENDERSON: Mr Stevens, this morning I received an email from an ABC reporter who doesn't want to be identified. This person writes:

I work for ABC in the regions. We have not had any updated recording gear to make content for the past seven years. Metros and all other departments within ABC have all had major camera gear updates over the last 12 to 18 months, but for content makers in the bush we're left with a phone and a tired, outdated camera that's over seven years old that we all have to share with each other within the office. A lot of us have been asking for new gear for some time but what we keep hearing back is 'Next financial year. Next financial year'. A lot of us have actually gone out and bought our own cameras, just so we can make good content to serve our audiences. I am wondering, is this fair?

Mr Stevens: Thanks for the question. I'd encourage the journo, if they are at ease, to contact me later. I am very happy to have a conversation with that team member to reassure them that we want to make sure that our journos around the country have what they need.

Senator HENDERSON: Can I ask you that question?

Mr Stevens: We are looking at the best cameras to get for our teams across regional teams. We've got over 40 bureaus, as you know, across the country. At the moment they are serviced with two cameras. They have a mini P2, which is a very resilient camera that does a good job, with a good strong zoom lens. The phone they alluded

to is something called a MoJo kit, which is a more recent piece of innovation from our tech teams and which has transformed the way we can hear from our outstanding regional reporters around the country. That's why you can see across our news channel more regional reporters than ever before. But also in emergency events, how we are able to get material out is by connecting an iPhone to what's called a live view kit, which transmits it straight back to station. We are looking at what the options are for—

Senator HENDERSON: Just on the concerns raised by this journalist, I won't be able to provide you with the details of who this journalist is because this person asked not to be identified. This person has raised serious concerns of discrimination between ABC journos in the bush and those in the cities. I would ask why they're operating with such outdated gear when they have been requesting this over a number of years?

Mr Stevens: I can reassure you and the staff member that, over time, it is on our radar to improve the technology they have got. I can reassure you that, at the moment, we are aware of the technology they've got, the MoJo Kit, the mini P2s. I was recently in our Broken Hill bureau and met with the local regional editor. We took with us one of the new cameras that we're looking at, which is a Sony. It's the update effectively of how we would update the Panasonic mini P2. It comes at a sizeable cost. As with any major expenditure like that we need to go through a proper process and make sure we get the right technology for them.

Senator HENDERSON: Are you going to compensate those who have had to buy their own gear because they haven't been able to access proper gear where they're working?

Mr Stevens: I will have to follow-up with the individual who has contacted you about their specific situation. We discourage staff to get their own gear or to utilise their own gear for lots of different reasons, but mainly because it is often not compatible with the technology and systems that we use.

Senator HENDERSON: That's not true, Mr Stevens. When I worked at the ABC, the only way I could get myself a computer was to buy it myself. It seems like things have not changed. Journalists are still purchasing their own camera gear in the bush because they cannot get updated gear. To say, 'We'll look at it', is what this journalist has been told for a number of years.

Mr Stevens: I can say that we are looking at it.

Senator HENDERSON: The can keeps getting kicked down the road. When are journalists in the regions, who play the most important role for our nation, going to be treated fairly and equally?

Mr Stevens: We're certainly not aware of any inequality in the nature of their access to technology. The vast majority of MoJo kits they have is far in excess of any other team or department. I'd also highlight that you're seeing more regional journalism across all news platforms than you have ever seen before. We want to make sure that we constantly evolve and update what they've got. I am not disputing the fact that we are keen to do that when we're in a position to.

Senator HENDERSON: How much does the new Sony camera cost?

Mr Stevens: I don't know off the top of my head. If you extrapolate that times the number of regional teams we've got, it's a sizeable investment. That's why we have processes for these things.

Senator HENDERSON: On notice, can you provide the committee with details about your camera gear? How much camera gear you hold at the ABC in your division, which is news and current affairs. I would put to you that the value of the camera gear held in the cities would be far greater than anything in the bush.

Mr Stevens: We can follow up. Each team, depending on the nature of their team, has different access to different types of cameras and technology. What a camerawoman or cameraman has, say, for *Foreign Correspondent* when they travel overseas to a war zone is a very different camera setup to an *Australian Story* camera operator or to a news operator who is filming courts, for instance, versus a regional bureau where the majority of the material they're shooting will be different and needs to have the right technology for the nature of the work they're doing. We will follow up and provide that to you.

Senator HENDERSON: I would appreciate that. I wanted to raise concerns about the ABC's coverage of the war in Gaza and Lebanon. What training does the ABC provide its reporters in relation to antisemitism and the dramatic rise of antisemitism in this country?

Mr Stevens: It's well known amongst our journalists who are expected to be knowledgeable of all contemporaneous events and issues that antisemitism is an intolerable issue that's unfortunately prevalent in our society. Mr Fang can speak to how extensive our coverage of that has been, along with how we go about training our staff more generally.

Mr Fang: We conduct editorial policy training with all our content makers across news in the content division. We would focus broadly on the way to approach our journalism and about being accurate and impartial,

rather than necessarily focusing a session on antisemitism. We would encourage our staff to pursue stories where they are. We have done extensive coverage about the issues of antisemitism in Australia, particularly since the October 7 terrorist attacks. I think we have done more than 120 stories at last count, year to date. We've covered extensively the issues around that, including the anniversary of the 7 October terrorist attacks and the impact on the Jewish community in Australia. We've covered the appointment of Jillian Segal as the special envoy. This has been done across our news and current affairs platforms. In some of our more in-depth platforms, such as our *Religion and Ethics Report* on Radio National, we've done detailed interviews on and examinations of antisemitism, about what it is and the origins of that. For the audience, we've explored this issue quite extensively across all of our platforms.

Senator HENDERSON: I refer to one news report, and there was some coverage about it, on 1 October 2024. I will need to, on notice, provide a transcript if you can't pull one up. This was following the death of Hezbollah's terrorist leader. There was no mention in this report that some protesters were openly supporting Hezbollah or that terrorist symbols were on full display. Are you aware of the report to which I am referring?

Mr Fang: Yes. I think you are speaking about a story in our 7 pm program.

Senator HENDERSON: Yes.

Mr Fang: Which I can speak to.

Senator HENDERSON: There was one interview, a vox pop with a woman who said that the Hezbollah terrorist leader 'brought comfort and security to Lebanon'. Nowhere in this story was there any contrary view. From what I have seen on the ABC, it is one of the worst examples of appalling coverage of this conflict, where a terrorist leader was openly praised in your coverage but there wasn't even a contrary view. In fact, there wasn't any reference to the fact that this person was a terrorist leader.

Mr Fang: I am happy to speak to that. That was one story in our 7 pm program on that evening that was part of a run of three stories about the killing of Hassan Nasrallah, which all ran together in that 7 o'clock program. The initial story focused very heavily on the killing and the comments of the Israeli Prime Minister, Benjamin Netanyahu, where he outlined Hassan Nasrallah's background as a terrorist and Hezbollah's actions as terrorist actions. The second story went into more detail, where it provided additional context about Hezbollah and about Hassan Nasrallah. The third story was intended to focus on the response of Australians to the killing. You are correct: it did include one vox pop, as you quoted, with one member of the community. The story was not intended to be seen in isolation. It was intended to be viewed by the audience together with the two preceding 7 o'clock stories.

Senator HENDERSON: I have to say, I don't accept that. With every story that is broadcast on ABC News there is a responsibility to report the story accurately and impartially. In relation to that particular story, that did not occur.

Mr Fang: I take your opinion on that. Our editorial policy standards speak to providing the relevant perspectives in a reasonable period of time in a program. It's our expectation that an audience member sitting down to watch the 7 o'clock and getting to the third story in that rundown would have seen those two previous stories. However, we accept that when the story was posted separately, by itself, that was inappropriate. We agreed that, in isolation, it shouldn't have been posted as a video clip and we took action to repair that and to fix that.

Senator HENDERSON: More broadly, that worries me, if journalists are being told that they're not required to be impartial or accurate or honest if there are other stories in the 7 pm bulletin that might present a different view or perspective. Surely, every journalist at the ABC is required to comply with your editorial policies? There is, after all, a statutory duty. I am reading from your editorial policies:

The ABC has a statutory duty to ensure that the gathering and presentation of news and information is accurate according to the recognised standards of objective journalism. Credibility depends heavily on factual accuracy.

Mr Fang: I think Mr Stevens would like to contribute as well. The impartially standard and the edpols, which I am happy to provide more information on—they are publicly available on our site—do speak to the idea that we provide relevant perspectives over a reasonable period of time. In our 7 o'clock program, that story did not exist without those other two stories that preceded it.

Mr Stevens: Senator, I note two things. The reporters aren't always responsible, nor do they have the time, for the distribution of our individual pieces of content across multiple platforms. That's on a number of staff. Certainly, there are some lessons here to make sure that where individual items are not in the context of a broad news bulletin, as Mr Fang detailed, there is the requirement for that context to be added. I would add that the

reporter, Nabil Al-Nashar, has been subject to various forms of criticism, including from some media outlets. He has our full support. He's a terrific journalist, coming through our teams.

Senator HENDERSON: I wasn't even going to name the journalist because I've got no reason to reflect on him. I don't know much about his other work. I looked at that story and I thought that really missed the mark and reflected very poorly on the ABC's obligations to Australians. Can I clarify with you that your editorial policies don't require journalists to disseminate news and information accurately and impartially within one story; they can consult with their colleagues and find out what else is being broadcast that night? That seems a completely inappropriate way for journalists to operate, Mr Stevens.

Mr Stevens: With respect, I think that is a mischaracterisation of our editorial policies.

Senator HENDERSON: But that's what you're suggesting. You're saying, 'Look, it's okay if there are other stories in the 7 pm bulletin which might present different views.'

Mr Stevens: No. Unless I misunderstood, I took it that you were implying that we do not require our journalists to be accurate or impartial in their reporting. We absolutely do. We take that, as do our reporters, incredibly seriously. Your critique, with respect, would have more credence if it was a standalone item that didn't have the two items immediately prior to it that had the information that you said that report lacked. The report itself did not have any accuracy issues. The nature of that report was filming a protest that was of news interest. The reporter covered that accurately. We take, as do our journalists, the requirements of editorial policies extremely seriously.

Senator HENDERSON: Mr Stevens, that story had major issues concerning impartiality. There was no reference to the fact that the person being praised was a terrorist leader, or all the other comments that were made in relation to the demise of that terrorist leader, for want of a better word. I would put to you that it is deeply concerning that journalists can present a particular perspective on the basis that there might be other stories in the 7 pm bulletin.

Mr Stevens: The story was an accurate report of the protest. The information that you've reflected on was clear in the preceding reports, except that you are expressing an opinion on your view of the stories.

Senator HENDERSON: I am saying to you that it wasn't impartial. It seemed that, when you referred to the fact that it was broadcast as a standalone item, you agreed there were some concerns.

Mr Stevens: As a standalone item—

Senator HENDERSON: That's right.

Mr Stevens: which the reporter in that instance was not directly responsible for the distribution of, and we quickly added an editor's note to make sure that was abundantly clear to the audience.

Senator HENDERSON: What was the editor's note that you added?

Mr Stevens: I don't have it to hand, Senator. We are happy to take that on notice and table it.

Senator HENDERSON: I would appreciate that. More broadly and very quickly, I've previously raised concerns that some of your reporters are not qualified journalists, particularly those who work on the TikTok platform. How many journalists don't have qualifications at the ABC?

Ms Kleyn: We'd have to take that on notice. We would not know off the top of our head the exact number. We would want to get that completely accurate.

Senator HENDERSON: What's the minimum requirement to be a journalist at the ABC, in terms of qualifications?

Mr Stevens: With respect, I observe some critiques of the vertical video team and reporters on vertical video. Our vertical video team do a fantastic job of disseminating complex information and news events to audiences. They absolutely are just as important journalistically, and as equipped journalistically, to report on major news.

Senator HENDERSON: I was asking another question, though. That was: what are the minimum qualifications required to be a journalist at the ABC?

Mr Stevens: Not specific to that team; you mean broadly?

Senator HENDERSON: No; across the board. To join ABC News or 7.30 or *Four Corners* or *Australian Story*, what are the minimum journalistic qualifications that are required?

Ms Kleyn: That question is best answered on notice so that we can give you absolute detail. There will be different requirements for different styles of journalism across our organisation. It wouldn't be one size fits all.

Senator HENDERSON: Can you add to that at all, Mr Stevens? If you are employing someone in ABC news and current affairs, are they required to have minimum qualifications or minimum experience as a journalist?

Mr Stevens: We have very clear expectations of what we require of our journalists. We also accept that, as you'd be aware, Senator, we invest a lot of time and energy in equipping younger journalists and staff who are coming through the organisation with the journalistic skills they need, and we can layer on top of that. The endeavour of improving journalistically is at the outset of one's career and even after many years. Training and minimum requirements of what we expect of our journalist relate to new staff and new hires. A lot of them come through journalism schools. A lot of them have prior experience in different forms of community journalism or regional journalism. We make sure that we are very clear on our expectations and that we assess the skills of the staff we are hiring. We make sure we supply them with the skills that they need journalistically in time as well.

Senator HENDERSON: Thank you very much for your time today. No more questions.

CHAIR: Thank you for coming along. We will let you go.

Special Broadcasting Service Corporation

[16:42]

CHAIR: Mr Taylor, I note that you are, for the second year running, Australian podcaster of the year. Can you give us a few highlights of that great accolade?

Mr Taylor: That is very kind of you, Chair. In fact, we are nominated for a third time as podcaster of the year. Fingers crossed that we will walk away with the prize. It's lovely to be recognised for our podcasting work. The broader story to tell is that it acknowledges that SBS is doing all within its funding and its capacities to reach audiences where they are. If you go onto the SBS audio app you'll see a wonderful cornucopia of new and exciting podcasts which reflect the way audiences are increasingly consuming audio content. In fact, at our upfront last week, we announced that we're the first media organisation in the country to bring our live audio offer into SBS On Demand, to sit alongside all of our video assets. We will be bringing our podcasts into SBS On Demand as well, to create a one-stop shop for all of SBS's audio and video offers.

CHAIR: That is really good to hear. I have one other quick question. Would you update us on where NITV is at and what you have on the slate for the coming year.

Mr Taylor: NITV is making a really valuable contribution to SBS and its audiences. It has grown its audiences by about 25 per cent, year on year, on linear. It is moving a significant amount of content through our on-demand platform. Season 6 of *Going Places with Ernie Dingo* has just gone live

We have announced a couple of new programs, again last week. There is *Big Backyard Quiz*, which is a fantastic game show style presentation presented by First Nations presenters. We're also doing a co-commission across SBS and NITV called *2.6 Seconds*, which is about the tragic death of Kumanjayi Walker and the circumstances surrounding that. So there is content covering an array of genres that is really reaching out to bigger audiences each year. It's a real credit to the team.

CHAIR: Thank you very much.

Senator HENDERSON: Good afternoon to you all. I want to ask about claims broadcast by the Sharri program on Sky News related to SBS's decision to remove and then refuse to run four interviews that presented Israel's size of the war in Gaza. My understanding is that SBS claimed these stories did not meet editorial standards. These involve the work of a Jewish SBS journalist by the name of Amit Rehak. I understand that this journalist has now left the SBS. There may be a dispute that is continuing. I understand that legal action may have commenced. I'm not sure; you might be able to tell me about that. Could you please provide some information in relation to this matter, Mr Taylor?

Mr Taylor: Absolutely, Senator. I have an awareness of the allegations made on the program you referenced. It is true, Senator, that in some circumstances we have either edited or removed individual stories presented by that journalist. That was through our efforts to ensure that our coverage remains balanced and impartial in accordance with our code of practice. I am sure you are familiar with that document. It is the case that we sometimes take these decisions to edit or remove content when it doesn't comply with our code. In a couple of examples here, we have done so.

I will answer the second part of your question. I am not aware of any legal action currently on foot. I understand that Mr Rehak has indicated that he is considering his legal options, but that has not resulted in any legal action. I should note that Mr Rehak's departure from SBS was not in connection to the editorial interventions I have just described.

Senator HENDERSON: Okay. Mr Rehak did an interview with the distinguished British commander Richard Kemp.

Mr Taylor: Yes.

Senator HENDERSON: In it, the wartime Mr Kemp said that Israel was taking care not to kill civilians. That was removed, or perhaps it wasn't broadcast at all. Can you clarify that? Mr Rehak also did an interview with the relative of a hostage, but SBS refused to broadcast that, which seems particularly shocking. Could you please provide some information in relation to those decisions?

Mr Taylor: Absolutely, Senator. In relation to the first interview you referred to—the interview with Colonel Kemp—the interview was not removed because of any comments made by Mr Kemp per se. He was a legitimate interview subject. In fact, the programming manager for the Hebrew program, the person to which this journalist reported, was aware that the interview was planned. The interview, though, was posted before the manager had an opportunity to review it. The line of questioning was not in keeping with our standards. It wasn't so much what Mr Kemp said. It was the way in which the questions were posed that were not in keeping with the relevant code of our code of practice. So that interview was removed after it was published.

The second interview you mention with the relative of a hostage was not completed at the time that Mr Rehak resigned from SBS. It remains uncompleted. We have provided a confirmation to the program that covered this on Sky that we will be completing that program and publishing it when the new journalist for the Hebrew program joins us. They have started on staff. The program is going to air in later November. We will be picking up that story. It wasn't that we denied publishing it. It was that it wasn't completed at the time of Mr Rehak's resignation and rapid departure from SBS.

Senator HENDERSON: In relation to the interview concerning Colonel Kemp, there are two issues. Is it the case that journalists are posting stories before they've been approved by their editorial manager? Is that what happened in that case? If so, on what basis is that permitted? Secondly, on notice, could you please provide the committee with a copy of the transcript of that story and identify the questions asked by the journalist that did not comply with your code of conduct?

Mr Taylor: Code of practice, Senator, to be clear.

Senator HENDERSON: Code of practice.

Mr Taylor: Senator, I'm very happy to. There's a very clear rationale, which has been well set out, in relation to the problems with that story. I'm very happy to share them with the committee. You asked whether or not in this case it was appropriate for the story to be published before review by the manager. I think that was your question, Senator?

Senator HENDERSON: That's right.

Mr Taylor: You're right; it should not have been. In fact, in this case, there was an agreed content plan for the week, as is customary, particularly for programs covering conflicts. We want to make sure we understand the stories being covered and the way they are being covered. In this case, the interview with Colonel Kemp was part of an agreed content plan, but it was published by the journalist without permission and before a referral to their manager.

Senator HENDERSON: What platforms are they published on? Can you clarify?

Mr Taylor: An audio interview was published on our website, as I understand. I will clarify specifically which platforms it was on, because sometimes things are disseminated more broadly. It was published on the SBS website, as I understand it, as an audio interview without going through the previously agreed process whereby a manager would customarily review this sort of an interview before it was posted. The work was done outside of ordinary work hours when the individual was not rostered to be on.

Senator HENDERSON: That's not the first time that a journalist has worked out of hours, Mr Taylor, with respect. Many journalists work much longer hours than they are paid for, including at SBS.

Mr Taylor: I wasn't making a judgement about that, Senator. I was simply observing that in this case it was the case that the manager had not expected the work to occur, and nor was it communicated before publishing.

Senator HENDERSON: Why wasn't that story remedied? I can't make a judgement because I haven't seen the transcript. Why wasn't that remedied rather than the entire story be deleted?

Mr Taylor: I'll take it on notice. When you see the transcript and our explanation, you will understand why it wasn't able to be remedied. Of course, our first and most desirable effort is to remedy a story when it can be remedied. That was not possible in this case.

Senator HENDERSON: What is going to happen in relation to the story involving the relative of a hostage?

Mr Taylor: We absolutely would be very motivated to share the perspective shared by that relative, which is why we chose to interview them in the first place. The story, I think, was captured a bit earlier this year. We would probably seek to reengage with that individual to update the story and then publish it once completed. Of course, we're very grateful when anyone is willing to come on SBS to talk about their story, particularly to tell such a painful story as this individual was sharing.

Senator HENDERSON: So how many complaints have been received in relation to your coverage of the Israel-Gaza conflict, which obviously also extends to Lebanon?

Mr Taylor: We've had 440-odd total pieces of feedback, some of which I understand will be code complaints and otherwise. Let me come back to you, Senator, on notice with a detailed breakdown of the way in which complaints have accrued across the organisation since, I guess, 7 October.

Senator HENDERSON: I don't know whether you just heard me questioning the ABC in relation to its coverage of a protest following the death of the leader of Hezbollah, a terrorist organisation. That terrorist leader was not identified as such in the ABC's story. What is your policy in terms of ensuring that your stories identify terrorist organisations such as Hamas and Hezbollah as terrorist organisations?

Mr Taylor: I might hand over to Ms Wicks. We may as well utilise her expertise. She can answer that question with your permission.

Ms Wicks: Our approach is for SBS to use balanced and impartial language. However, we absolutely use terms such as 'terrorist' when attributed to a particular individual who has used the word or an organisation that has used the word.

Senator HENDERSON: Do you have a policy of ensuring that when Hezbollah and Hamas are referenced in stories it's clear that they are a designated terrorist organisation?

Ms Wicks: We will often say that the Australian government has classified them as a terrorist organisation.

Senator HENDERSON: But sometimes you wouldn't?

Ms Wicks: Where it's relevant to the story. If we're talking about an individual in Gaza, we might reference the term 'Hamas'. We won't necessarily always then add that to the story. Where it is relevant, we absolutely do say that many believe it is a terrorist organisation and has been classified as such by the Australian government.

Mr Taylor: For example, if you looked across an array of our content, you would see a regular reference to those two points.

Senator HENDERSON: I'm about to run out of time. I will ask another couple of quick questions before I lose the call. What is your policy in relation to the balanced coverage of this war? Could you sum that up for me?

Mr Taylor: The code of practice applies in relation to balancing impartiality, so we have the same expectations of coverage of this conflict as we would of any theatre of war or, indeed, any other topic. That is set out quite clearly in our code of practice. I think it is section 3.1, if I'm not mistaken. We apply that across all of our content. Of course, when there is a conflict going on, be it Russia-Ukraine or this conflict in the Middle East, we are particularly enlivened to the sensitivities around the coverage and making sure that the coverage complies with our standards.

Senator HENDERSON: Do you have any concerns about the assessments made in relation to Mr Rehak?

Mr Taylor: No. I don't. I think the editorial team exercised good and sound editorial judgement based on a firm understanding of what professional journalism should look like. They applied our codes clearly and in very clear communication with Mr Rehak.

Senator HENDERSON: I will take that information I asked for on notice. I have to say that I have been asking questions of you in estimates for a number of years now. This is the first time that I have raised concerns about SBS's impartiality. Obviously from my perspective that is disappointing. How hard are you working to ensure that these issues don't arise again? It seems that there are some legitimate grounds that this journalist has raised in relation to how his work was treated.

Mr Taylor: Well, I don't accept that, Senator. Actually, I think you would be comforted that we are applying the standards that you care so deeply about without fear or favour across the organisation and in this case, where the journalist demonstrated an inability in particular examples to comply with those clearly stated objectives and expectations.

Senator HENDERSON: I will leave it there. Thanks, Chair.

Senator DAVID POCOCK: Thank you for your time this afternoon. I have a few questions. I have had a number of people in the ACT write to me and raise with my office the closed captioning of SBS programs. What percentage of your SBS On Demand catalogue has closed captions?

Mr Taylor: I'll take that on notice, Senator. I can tell you bullishly that we exceed the minimum requirements, but I don't know by how much. I can't tell you specifically how many hours. Clearly, we endeavour to do as many as possible. It's obviously of utility to people who have a fundamental need for the captions and people who sometimes watch their TV with the volume turned down. I see feedback about closed captions as well. I know that it is frustrating to people when they turn on a program and they want to see the captions and can't find them. Technology is going to be our friend over time as the cost of provisioning those captions becomes cheaper. I will get you the information on notice that you have asked for, Senator.

Senator DAVID POCOCK: Do you have an aspiration or goal around that, or are you just happy to be above the minimum standard?

Mr Taylor: We see it of great audience utility, so it is something that factors heavily in our thinking about it. In addition to the very obvious specific use case for captioning, we would like to continue to exceed the targets. Of course, it comes down to funding and relative priorities, Senator. I will finish by saying that SBS On Demand is the highest rated streaming platform in both the Apple and Android app stores. That is because we care very deeply about the needs of audience members.

Senator DAVID POCOCK: Congratulations. Thanks for the work you are doing there. How many On Demand accounts are there?

Mr Taylor: There are approximately 13½ million. I will be fact checked on that by a member of my team. We have been engaging in some clean-up of dormant accounts. This is an active exercise under our privacy obligations. I think it is a bit over 12 million now as we clean up inactive accounts.

Senator DAVID POCOCK: Twelve million active—thank you. That's useful. At the last estimates, we were talking about the fact that you have gambling and alcohol advertising but you have a self-exclusion option where you can go into your settings and choose not to see them. I am interested in how many people or accounts have chosen not to see alcohol ads.

Mr Taylor: I will take that on notice. I will give you some broad statistics and then I'll clarify. We've had about 1,300 people in total opt out of one of gambling, alcohol or QSR—which is quick-service restaurants, or fast food. Of the 1,300-odd that have opted out, approximately 90 per cent have opted out of gambling and the remaining 10 per cent opted out of either alcohol or QSR. On notice, I will provide you the specific details. When someone contacts us to express a concern about this issue, we refer them to the portal so that they can opt out. We also promoted it just recently at our Upfronts and the year before. We will be doing some more to promote that functionality directly to our audiences over the coming six months.

Senator DAVID POCOCK: Sure. Are you concerned that 1,300 out of 12 million probably suggests that people don't actually know about this feature, or does that kind of work for your business model?

Mr Taylor: No. We launched it because we want to provide the utility and allow people to avoid advertising that they find harmful or in other ways not to their tastes. It's worth noting that we are the first and only media organisation in the country that launched this functionality. We launched it in February this year, so not long ago. We wanted to make sure that the technology worked appropriately. Every person who writes to us gets referred to the portal. We will be promoting it more heavily across our user base over the next six months so that anyone who has missed the offer has the opportunity. It was put out on radio. There was quite a bit of publicity around it this year in our Upfronts and last year when we announced the functionality. I absolutely acknowledge your point that we might expect to grow that community over time.

Ms O'Neil: We've also passed on to ACMA the details so that if anyone complains to them, they can direct people to the opt-out functionality as well.

Senator DAVID POCOCK: Thank you. I understand that you have to raise revenue. You are also a publicly supported broadcaster. I would urge you to ensure that people know about that. I have been really frustrated seeing these ads while watching Gina Chick on *Alone* or whatever it might be. I had no idea that I could go into the settings and actually say I don't want to be bombarded by an alcohol ad every 15 minutes. I encourage you to ensure that people know that.

Mr Taylor: Indeed, Senator. Thank you for the encouragement.

CHAIR: Any further questions? Thank you very much to SBS for joining us. Sorry to have made you wait so long, but we do appreciate you taking the time. We will now let you go.

Mr Taylor: Thank you, Chair.

Australian Communications and Media Authority

[17:03]

CHAIR: I now call officers from the Australian Communications and Media Authority. Welcome, Chair. Would you care to make an opening statement?

Ms O'Loughlin: Thank you. No, thanks. We're happy to take questions.

CHAIR: Thank you for coming along.

Senator BILYK: Welcome. It is nice to see you all again. We all know that it's really important for customers experiencing domestic and family violence to be able to access support when they need it most in a safe, secure and timely manner. Can you advise me what is being done to strengthen safeguards for those customers experiencing domestic and family violence?

Ms O'Loughlin: Thank you, Senator. The Communications Alliance is the peak industry association. We're currently in the process of working with the Communications Alliance, which is the peak industry body for telecommunications. They are updating what is called the Telecommunications Consumer Protection Code, which is a core regulatory code that covers a whole range of different consumer protections. In that code, they hadn't really included very specialist requirements around domestic and family violence. We have asked them to make significant improvements to the code. Unfortunately, when we saw the code come back to us, we didn't think they had improved it as much as we wanted. As requested, the Minister for Communications has directed ACMA to make a formal standard around domestic and family violence. I might hand to my colleague to take you through some of the detail.

Ms Rainsford: Yes, certainly. Following on from the Chair, let me say that the standard is a piece of direct regulation that, once made and if breached, will give us very strong enforcement powers. I will go to the substance of what that standard might have. There will be a process involving extensive consultation with, we anticipate, experts in the domestic and family violence field. That will help us understand and shape a suite of protections within the bounds of the direction we expect to get from the minister. It will help to provide a suite of protections for family and domestic violence victim survivors in their interactions with telecommunications companies. At the moment, the department is working on supporting the minister to settle and provide that direction to us. We will then undergo a period of consultation and expect to make that direction at some point in the course of next year.

Ms O'Loughlin: I will add to that. As Ms Rainsford said, once we receive that direction, we want to be able to work really closely with those people and organisations involved in this area so that we can come up with a standard that really works for people and addresses their particular concerns. We've had some strong concerns for some period now that the way some of the telecommunications companies are dealing with some of the inquiries just don't work for those types of people in those situations. For example, if a victim survivor of domestic violence has to change their phone account, in some cases they've been told that they have to go into a shop to change that account with the perpetrator. That just cannot work. We're very keen to make sure we're working with those people who understand the space so we can develop a standard that will apply to the entire telecommunications industry.

Senator BILYK: Thank you. You mentioned that there was room for improvement. I think you asked for improvements.

Ms O'Loughlin: Yes.

Senator BILYK: Can you outline for me some of the gaps in the current framework and how the standards are going to address those gaps?

Ms O'Loughlin: I think it goes back to the comments I made earlier. The systems and processes the telcos have in place tend to be for the general public. We recognise that people in these circumstances may need bespoke systems put in place by the telcos to be able to deal with them. That includes the ease of changing account numbers; not needing to have the other account holder agree to a change; the protection of people's private information; and, if they have changed an account, the privacy of those numbers so that they can't be used to track them down. It is those types of issues where we saw very large gaps in the regulatory framework.

Senator BILYK: Thank you. You also mentioned that there would be enforcement powers. Who will be responsible for the enforcement of the standard?

Ms O'Loughlin: The ACMA will be responsible for enforcement.

Senator BILYK: Do we know yet what sort of enforcement powers?

Ms O'Loughlin: The standards are a full range of administrative law powers. That might go from remedial directions, formal warnings and infringement notices through to civil penalty.

Senator BILYK: I know we are running quite over time. I think these are really important safeguards. They will definitely help to address those serious issues that we know are faced by victim survivors of domestic violence. Thank you for the work you are doing.

Ms O'Loughlin: Thank you, Senator.

Senator SHARMA: I thank the witnesses for appearing today. I want to have some discussions about ACMA's resourcing and preparedness for dealing with the misinformation and disinformation legislation, assuming it passes through the parliament. Does ACMA believe it will need additional resources if the bill is passed? Have those conversations commenced with government?

Ms O'Loughlin: We have previously received some resourcing in this area. We believe that we're well placed to proceed with what we need to do if the parliament passes the legislation. I think our immediate priorities will really be around publishing some guidance to industry to understand whether they are actually captured by the bill. There are some definitions in the bill, so we really need to make sure that industry knows who is caught if the bill is passed. Obviously, there is educating the general public about the new powers and obligations. It is also continuing to engage with the industry around some of the areas we are concerned about. These involve what sort of reporting and metrics we will be looking for them to provide to us to support the provisions in the bill.

Senator SHARMA: What sort of additional resourcing have you received already?

Ms O'Loughlin: In the 2023-24 budget, the Australian government announced that ACMA would be provided with \$7.9 million over four years from 2023-24 to combat online disinformation and misinformation. That increased our existing capacity and capability. To monitor the effectiveness of the current self-regulatory arrangements, there is existing code put in place by DIGI, the industry association. It was to bolster our ability to measure the effectiveness of that code. That resourcing is also being used to assist the government in implementing any new legislation that comes through.

Senator SHARMA: What about the level of expertise required to be an arbiter of whether codes or rules that the digital platforms establish comply with the definitions of misinformation, disinformation and inauthentic behaviour excluding dissemination—these various terms that are used in the legislation? Ultimately, ACMA will need to reach a view as to whether the digital platform rules are complying with the definitions in that act. What is the level of expertise that ACMA currently has around those sorts of questions? What are ACMA's plans to develop that expertise?

Ms O'Loughlin: I will step back a bit. The bill envisages greater transparency from the digital platforms in their systems, processes and complaints handling. What the ACMA will be looking at is whether or not the digital platforms have those systems and processes in place to deal with misinformation. That exists under the current voluntary code. It will be the platforms that will make the judgements around whether something is misinformation or disinformation. It won't be judgement calls that the ACMA will be making.

Senator SHARMA: But wouldn't the ACMA make a judgement if they think those platforms' judgement calls are inadequate or wrong?

Ms O'Loughlin: We have done research over the last three years about the level of concern in the public about mis- and disinformation. I expect we will be looking more to do research to see what the general community thinks about how those platforms are handling their responsibilities under the new bill, if passed. We would also be looking at things such as complaints to the digital platforms and how they were handled. We are giving much greater transparency to people whose content has been taken down or deprioritised. It will give much greater visibility and transparency to people who have been complaining. I think we will tap into those complaints. We will be looking at different types of things to make our judgement calls. We won't be looking at content.

Senator SHARMA: Surely if there is a situation where a digital platform has established a set of digital platform rules—I think I am using the terminology correctly; please step in if I'm not—that is designed to address misinformation and you get complaints from the public or from other avenues saying that this platform is failing to address known misinformation or disinformation and points examples to you, ACMA will need to, won't you, reach a judgement about whether the digital platform—

Ms O'Loughlin: That is not the role that is envisaged under the act at all. We will not be looking at individual pieces of content.

Senator SHARMA: But you will be making a determination about whether the platforms are complying with the legislation. Correct?

Ms O'Loughlin: We will be making judgements as to whether or not they've got systems and processes in place to deal effectively.

Senator SHARMA: What happens if the public or a large segment of the public alleges that the systems or processes in place are inadequate? Who makes the determination of whether those systems or processes are adequate?

CHAIR: Senator Sharma, I will remind everyone that are you skirting the line.

Senator SHARMA: I know. I appreciate that, Chair.

CHAIR: You are still on the right side of it. This legislation is before this committee as an inquiry. ACMA will be in front of the inquiry on Monday. I remind you that the content of that legislation and the inquiry into that legislation per se is to be dealt with at that time.

Senator SHARMA: I accept that point. I guess the purpose of my line of questioning is to understand the level of expertise ACMA currently has, or has sought resourcing from the government for, in order to assist its functioning under that legislation. I think you were answering.

CHAIR: It was a warning shot.

Senator SHARMA: I understand. Would you mind returning to my previous question?

Ms O'Loughlin: I think we have been oversighting the voluntary code for the last number of years. I think we're very attuned to the systems and processes that have been put in place and, indeed, should be put in place by the digital platforms. Our third report to government that we delivered in September pointed to some of the deep concerns we have around things such as the reporting by the platforms. We find that the reporting they do is inconsistent and doesn't contain enough Australian data. I think we do have expertise to deliver on what is envisaged for us under the bill. It is both the expertise we have gained through oversighting the voluntary code and the significant amount of research we have done pretty much since 2020.

Senator SHARMA: I don't want to get into the topic of the hearing. Some of the submissions to that hearing have made their concerns known that ACMA does not have the expertise, for instance, to assess freedom of religion, which is one of the excluded dissemination grounds under this legislation. Does ACMA have the expertise to assess whether an opinion that is held on the basis of a religious belief is a valid one?

Ms O'Loughlin: That is not the judgement call we will be making.

CHAIR: Again, Senator Sharma, as Ms O'Loughlin has pointed out a couple of times now, the role within this legislation, which you can unpack to your heart's content on Monday—

Senator SHARMA: I will.

CHAIR: is about the codes. It's not about making the judgement themselves. That is not the role of ACMA, as Ms O'Loughlin has pointed out.

Senator SHARMA: How will ACMA's role change? Is it your view that ACMA's role is fundamentally not going to change as a result of this legislation and resourcing? You've mentioned that there are already voluntary codes in effect.

Ms O'Loughlin: I will pass to my colleague Creina Chapman.

Ms Chapman: Yes, it will shift. The first part of the legislation requires the platforms that are captured by the legislation to provide transparency. It doesn't kick in until the six-month mark. They will be required to visibly put their policies. They will be required to publish a risk assessment and media literacy plan. Our role will be to ensure that they do that at the six-month point. The first step will be, I think as the chair alluded to, some education as to who is covered by the bill. The first part of our new role, which does not exist at the moment, will be to ensure that those steps are taken. Our secondary role is to oversee, as both chairs have mentioned, that the platforms have put in place, either via the voluntary code or via other means, processes and systems that comply with the legislation. They will be the ones that are responsible for making the decision about what is serious harm and the exemptions that fall within it, such as the freedom of religious expression et cetera. We won't make a decision about whether they've got it right or not.

What we want to do and what we are required to do under the legislation is then ensure that there is transparency about what those decisions are. That is a process we have already started as part of our voluntary system. We are asking them, because it is a voluntary system at the moment, to publish certain data that gives an idea of how they are dealing with this material—how they are dealing with complaints and what their systems

show them as to whether they do or don't downgrade that material. That will be transparent. That will be the point at which we can say, 'Well, you don't have a complaints system in place. You're not dealing with it.' We're not going to say whether they are making the right decisions on those complaints. That is not our role. If you don't have a complaint system, we step in.

CHAIR: I'm going to rotate the call, Senator Sharma.

Senator SHARMA: This is my last question. I understand that you have a power to issue remedial directions under section 21 of the legislation.

Ms Chapman: That's correct.

Senator SHARMA: Don't you issue those remedial directions when you are satisfied that the digital communications platform has contravened or is not failing to adhere to the digital platform rules under section 19?

CHAIR: Senator Sharma, you have now stepped into that place by citing clauses within the legislation.

Ms Chapman: I can finish it and then, Senator, we can continue the conversation on Monday. Yes, a remedial direction. A classic example of where a remedial direction would be suitable is where a platform doesn't publish their policies. They don't do a media literacy plan. Probably the first thing we would do is write to them. We would then give them a formal warning and say, 'You have X period of time to do it.' If they don't do it, we would then make a decision that they have in effect breached that six-month point. We would then give them a remedial direction. That remedial direction would say: 'You need to publish A, B, C, D and E. We will give you two months.' That is the classic example.

Senator SHARMA: As often is the case, these platform cases are the easy ones. It is the ones in the shades of grey that are more difficult.

CHAIR: Given that the legislation is currently under inquiry within a Senate committee, I am going to move it along.

Senator SHARMA: You can move it along, Chair.

CHAIR: I advise senators that this could be a very painful session if I have to keep saying that over and over again and start reading from the estimates rules.

Senator DAVID POCOCK: I have no questions about the mis- and dis- bill today. I want to ask some questions about the draft update to the Free TV Code of Practice.

Ms O'Loughlin: Thank you, Senator Pocock. We were aware of your questions this morning. Free TV Australia has commenced a long-awaited review, I would have to say, of the Free TV Code of Practice, which covers a broad range of things from factual accuracy through to classification et cetera. One of the proposals in it is that the classification M and MA+ zones would be extended. As a consequence of that, there would be an additional 20 hours a week where M classified programs would be permitted. I think the point you were alluding to this morning is that M classified programming allows for alcohol ads.

Senator DAVID POCOCK: Yes.

Ms O'Loughlin: We were aware of that issue. On 3 October when the Free TV code was released, we also released our views about the Free TV code review. One thing we pointed out in our views was that the change would permit M content over longer periods of the day and will impact the times during which alcohol advertising is permitted. We said that ACMA considers that viewers may have concerns about any extension of time when alcohol advertising is permitted on television. We did call that out. We did have a number of other views in there, certainly around issues such as commercial interests and distressing material. We put our views on the record that we think audiences will be concerned about that. We have been encouraging people to make submissions to the Free TV code on all the matters raised in the code. I think the public consultation process closes next week.

Ms Field: Monday.

Ms O'Loughlin: Yes, Monday.

Senator DAVID POCOCK: Thank you.

Ms O'Loughlin: That code will come to the ACMA. I don't know what timing that will be. It will come to the ACMA and we will be asking for all the submissions from Free TV so we can get a sense of what audiences contributed to that process to allow us to make our decisions as to whether the code provides appropriate community safeguards.

Senator DAVID POCOCK: Thank you. That's good to hear. The Broadcasting Services Act requires:

... that ... broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them ...

It also requires that the industry code 'provides appropriate community safeguards'. I take it from what you've said that you don't think that adding 1,040 potential hours of alcohol advertising meets that.

Ms O'Loughlin: I think what I was saying was that we would want to see what the audiences actually said back to Free TV on that matter. I expect that there would be some considerable concern about it.

Senator DAVID POCOCK: Surely you have to consider the Broadcasting Services Act. That is my question.

Ms O'Loughlin: We will when the code comes to us for registration.

Senator DAVID POCOCK: Sure. Do you think that having an extra 1,040 hours is placing a high priority on the protection of children from exposure to program material that may be harmful to them?

Ms O'Loughlin: I think that is probably a question I would direct to Free TV.

Senator DAVID POCOCK: You are ACMA.

Ms O'Loughlin: We will make those judgements when the code comes back to us.

Senator DAVID POCOCK: That's why I'm asking. Is increasing alcohol advertising in line with that?

Ms O'Loughlin: We haven't formed a view. We've made our views clear that we think there would be community concern about it.

Senator DAVID POCOCK: Sure.

Ms O'Loughlin: We haven't formed a view because we don't have the finalised code in front of us, which may vary from the draft code.

Senator DAVID POCOCK: Sure.

Senator McAllister: I think you're asking the regulator to pre-empt a decision they are yet to make. I think it is fair for the regulator to say that they will make this decision in the ways they are required to at the time they are required to do so.

Senator DAVID POCOCK: Sure.

Senator McAllister: They won't preannounce it at estimates.

Senator DAVID POCOCK: Sure. I'm a bit confused why we need to try to hear again what audiences think given your paper from June 2022 entitled 'What audiences want' shows that Australians want greater safeguards for children, not less. That is on page 24. How will you ensure that this code actually meets expectations, given you already know that?

Ms O'Loughlin: We put out the 'What audiences want' paper in advance of Free TV considering revisions to its code. Free TV adjusted some of its code in response to what 'What audiences want'. It did make the adjustments across all the areas that we suggested they make, which is why when the code went out we reiterated some of our views. Indeed, Free TV put on record that we had concerns about some areas of the code. We have also gone out to say what our views are and where improvements could be made. It is a coregulatory process. We are waiting for Free TV to finish its consultation process for it to come back to us with the code in its final form before we make a judgement on it.

Senator DAVID POCOCK: Sure. Thank you. One reason I raise this is that ACMA has form on this. I know you weren't the chair in 2015. In 2015, ACMA allowed Free TV to exempt all sporting broadcasts from alcohol restrictions, including for games on non-school days. FOI documents show that ACMA was aware that the code change would increase alcohol advertising to children yet did nothing. Should we expect the same this time or, with you being in charge, can we expect that you will be much firmer?

Ms O'Loughlin: I can't express a view on previous judgements of previous authorities.

Senator DAVID POCOCK: I'm asking you to express a view on now when you are the boss—

Senator McAllister: It is a judgement that she is yet to make. You cannot ask an official to speculate about a decision that is yet to be taken.

Senator DAVID POCOCK: I can surely ask about your expectations as the head of ACMA.

Ms O'Loughlin: Senator, I think you referred to our 'What audiences want' paper. That was pretty unique in us going out and saying, 'We've looked at all our investigations. We've looked at research. We think this is what audiences do want out of those codes.' We did a similar exercise with telecommunications consumer protection called 'What consumers want'. It was about the regulator being more directive to the industry about what we

expect them to come back with. We will make the judgement call when they present us with the final code of practice. I think we have been much more explicit than in previous years about what we expect.

Senator DAVID POCOCK: That's great to hear. That 2015 change means that we have alcohol during sporting events, and we know that rates of family and domestic violence go up during sporting events. You are now allowing them to advertise alcohol. We saw the government's rapid review into family and domestic violence highlight that, yet ACMA's submission to the draft code doesn't say anything about this.

Ms O'Loughlin: We had our views publicly available, so we didn't really need to do—sorry, which submission are you talking about?

Senator DAVID POCOCK: Your submission to the draft code doesn't say anything about the fact that we have alcohol ads during sporting events. This was highlighted by the government's rapid response team, which was put together as a commitment to dealing with it.

Ms O'Loughlin: I might need to take that on notice. I'm not quite sure I am aligning those two.

Senator DAVID POCOCK: Sure. In your submission to the draft code?

Ms O'Loughlin: We didn't make technically a submission to the draft code. We provided publicly a document called 'ACMA views on Free TV code review'. It went through a number of existing issues that we had raised in 'What audiences want' which we didn't think had been satisfactorily addressed. It covered areas such as news and current affairs, accuracy, misinformation, corrections, distressing material and classification. It reiterated our view, which we've had for some time, that broadcasters should voluntarily extend the scope of their codes beyond broadcasting to their BVOD services.

Senator DAVID POCOCK: When it comes to alcohol, all you noted was that alcohol ads would increase. Do you not have a view beyond that, given the concerns we are hearing from the community?

Ms Chapman: It's not a submission. The point is that—

Senator DAVID POCOCK: It's your view, though, isn't it?

Ms Chapman: I think it is the first time certainly we're aware of where, when a code has been put out, ACMA has actually expressed some areas that it hoped Free TV would address and did not. That in itself was quite a novel idea. The important thing here is—

Senator DAVID POCOCK: Regulating is a novel idea?

Ms Chapman: This is somewhat of an iterative process given that it is a coregulatory system. What we would hope now is that submissions will be made by interested people of how they feel the code should be either amended further or, if they accept the amendments, how that would occur. We are hopeful now that the consultation process will take its course. Our hope is that Free TV will take those submissions into account and possibly change that code in accordance with those submissions.

Senator HANSON-YOUNG: There's a lot of hoping.

Ms Chapman: But the point being, Senator, at that point when they finally move through that process, they present to us what they say is a final code. The authority as a whole then makes the decision about whether it is prepared, under the Broadcasting Services Act—

Senator DAVID POCOCK: That is why I am raising this early.

Ms Chapman: It's right to raise it. We can't comment at this point in time on something when we don't know what we're commenting on.

Senator DAVID POCOCK: I take that. I assume last time you were also hoping that they would address alcohol ads during sporting events, but they didn't.

Ms Chapman: We can't comment on a past decision.

Senator DAVID POCOCK: Sure. Have you done a review into that? Have you given any thought to what impact that has had on Australian society?

Ms O'Loughlin: The views we had come to in terms of updates to the code are in the 'What audiences want' paper.

Senator DAVID POCOCK: Sure. You are a regulator of Free TV. The rapid review into family and domestic violence highlighted alcohol and the fact that you as a regulator allow alcohol ads during sporting events. You haven't done any evaluation or even just reflection on what that means for future regulation?

Ms O'Loughlin: I don't believe we've undertaken any research in that area, Senator. I'm happy to take it on notice for you.

Senator DAVID POCOCK: Do you think you should?

Ms O'Loughlin: I would reiterate that what we have been doing over this process is being much clearer to the industry, be it the broadcasting sector or, indeed, the telco sector, where we think they have fallen down on the expectations of the audiences or consumers. We are being much more directive about what we expect from them coming forward with the code. We will need to make a judgement of whether they make amendments to that code that end up satisfying us.

Senator DAVID POCOCK: That is really disappointing.

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

Senator DAVID POCOCK: Will do. It is incredibly disappointing. The rapid review made very clear recommendations about reducing alcohol ads during sporting events. You're the regulator that allows that. You are saying you haven't even thought about that?

Ms O'Loughlin: Senator, I haven't reviewed that document for a while. I would suspect that is something—

Senator DAVID POCOCK: How big is your team?

Ms O'Loughlin: I would expect that is a policy decision by the government rather than something that is open to us just under the code. But I'm happy to take that on notice and come back to you on it.

Senator DAVID POCOCK: You are the regulator that has allowed alcohol ads during sport. We have had a fairly landmark review. Given all the interest and the community wanting this issue to be solved, I would have thought that someone in ACMA would have said, 'That's actually our job. Let's look into that.' Am I expecting too much?

Ms O'Loughlin: I would like to take it on notice. My expectation is that would be a matter for government policy, which would guide the regulator.

CHAIR: We'll rotate the call.

Senator DAVID POCOCK: Thank you, Senator.

Senator HANSON-YOUNG: I have some questions about what ACMA has done in relation to the *Kyle and Jackie O Show*. I will ask this page to be given to the chair.

Senator SHARMA: I didn't know you were a listener.

Senator HANSON-YOUNG: I'm certainly not.

CHAIR: What do we have here?

Senator HANSON-YOUNG: Some comments broadcast on the *Kyle and Jackie O Show* in September. These are just a handful.

CHAIR: Are they taken from transcripts?

Senator HANSON-YOUNG: Yes. I would like the chair to have a copy of them. I am happy for opposition senators to have a copy. Ms O'Loughlin, I want you to look at this and tell me whether you think you would be able to read it out to us.

CHAIR: Please don't.

Ms O'Loughlin: I can only say that we are aware of some of these. I'm not quite sure whether we are aware of all of these. I will hand it over to my colleagues. I would prefer not to read it out.

Senator HANSON-YOUNG: You would prefer not to read them out. That is understandable. I don't imagine there are many children watching this Senate estimates. I assume the audience that watches this Senate estimates session is far smaller than those who listen to the *Kyle and Jackie O Show*. I understand why you don't want to read these comments out. They are vulgar, aren't they?

Ms O'Loughlin: I only skimmed them, Senator. I wouldn't think they were appropriate for parliamentary language.

Senator HANSON-YOUNG: Do you think they would be appropriate for broadcast radio between the hours of 6 am and 10 am?

Ms O'Loughlin: I will pass to my colleagues. I will point out that we received 59 complaints about the *Kyle and Jackie O Show* between July and October. As you know, under the co-regulatory framework, complaints need to be dealt with by the broadcaster first and come to us for investigation after that. We can give you some of those statistics. I will pass to my colleagues to do so.

Ms Field: Between 1 October and 31 October this year, we received two inquiries about the *Kyle and Jackie O Show*. Both those inquiries were referred to the broadcaster consistent with the code process. They haven't yet come back to us to say that they were dissatisfied with the response from the broadcaster. I can confirm in relation to the last dot point on the page you have provided that neither of those inquiries reference that particular one. I'm happy to come back to you on notice about the other matters.

Senator HANSON-YOUNG: For those following the *Hansard*, I will describe these comments and this content. It is just a snapshot since September. There are jokes about people being gay; jokes about one of the producer's Asian housemates; jokes about dating men who are not white; jokes about the sexual and racial profiles of journalists from other stations; and divisive and violent language about women and sex. It goes into vulgar detail about sex acts. There are comments on air that refer to fellow hosts as being 'an annoying bitch' and 'ho'. There are jokes about overweight women and mental health. Of course, the final point is about a competition where they got female staff to record themselves urinating and then the boys had to figure out whose bits were contributing to that urine. It is vulgar. It is not just vulgar; it is disgusting. It is belittling of women. It is misogynistic, racist, sexist and off. Would you agree?

Ms O'Loughlin: We have a particular role. I'm not here to give opinion on programming. We investigate complaints that come to us. We have breached the *Kyle and Jackie O Show* previously with regard to their decency provisions at least twice over the last couple of years, including on LGBTQI matters and with regard to comments on the Paralympics. We did accept enforceable undertakings from the licensee as well. I don't believe, as Ms Field said, we've received specific complaints about the broadcasts.

Senator HANSON-YOUNG: You don't have to wait for specific complaints, though, do you? Obviously, if a complaint is made, it's made to the broadcaster first.

Ms O'Loughlin: Yes.

Senator HANSON-YOUNG: If the complainant isn't happy with it, it gets referred back to you. You are also the regulator. You can undertake own-motion investigations, can't you?

Ms O'Loughlin: Yes. That's correct.

Senator HANSON-YOUNG: Why haven't you? This is revolting, sexist, racist, misogynistic, divisive stuff on free-to-air radio from six in the morning to 10 in the morning and you haven't investigated it.

Ms O'Loughlin: We have investigated a number of matters previously. We haven't—

Senator HANSON-YOUNG: Off your own back? Have you undertaken your own motion of investigation?

Ms O'Loughlin: Not on the matters on that piece of paper, no.

Senator HANSON-YOUNG: Against the *Kyle and Jackie O Show* at all?

Ms O'Loughlin: Let's not distinguish between the two.

Senator HANSON-YOUNG: No. I want to distinguish between the two because you have a role as a regulator. When things are provided to you, you have information. There is a reason that power exists. It exists so that you can use it.

Ms O'Loughlin: There is a small technical matter about the way these things work. It is possible for us to gather information and decide that we want to investigate a matter where there haven't necessarily been complaints. Most recently, probably the largest one we did with that would be an investigation into the coverage of the Christchurch terrorist attacks in New Zealand. We have not turned our mind to undertaking such a review. I am happy to take your concerns on notice and discuss that with the authority. I'm not sure whether the complaints that we have before us cover all the matters that you have put on the record.

Senator HANSON-YOUNG: I have just given you a sample of the last month or so.

Ms O'Loughlin: We will take them seriously. We will have an internal conversation.

Senator HANSON-YOUNG: How many of the complaints that have been provided to you in relation to this show have been upheld?

Ms O'Loughlin: I have two before me at the moment. There would have been a large number of complaints about a couple of programs. I'm happy to take that on notice for you.

Senator HANSON-YOUNG: Have any of the complaints been upheld?

Ms O'Loughlin: As I said previously, we previously upheld breach findings around comments around the Paralympics and Mpox. They were both in 2023. I'm not quite sure where we're at with the current complaints. I'm not sure that they cover the material you have given us. Can we reconcile that for you and take that on notice?

Senator HANSON-YOUNG: Thank you. I would like to understand today while I have you, because you are versed in this, whether you would consider that the content I have given you falls foul of the code's decency standards.

Ms O'Loughlin: We would like to take that offline and assess it. I think it would be unreasonable for us to give you an opinion at the table.

Senator HANSON-YOUNG: Really? This is pretty blatant stuff.

Ms O'Loughlin: Well, we've only just been given it, Senator. I think we would like some time to review it.

Senator HANSON-YOUNG: Okay. Is it fair to say that out of the number of complaints that have come, aside from the two you mentioned about the Paralympics and monkey pox, the other complaints haven't been upheld?

Ms O'Loughlin: I haven't said that, Senator. I will pass to my colleagues. I think in most cases what we have been doing is going through a process. If the complaints have come to us and haven't been to the broadcasters, they go to the broadcasters. I'm not sure that we've got any at the moment under investigation. We are happy to give you a breakdown of complaints and where we're at.

Senator HANSON-YOUNG: Is ACMA aware of how many complaints have been made about the program's content to the broadcaster themselves?

Ms O'Loughlin: We're not aware of that, Senator. There's no requirement under the code for people to advise us of that. That would be probably a good question to ask the licensee.

Senator HANSON-YOUNG: Isn't it that the licensee reports these to Commercial Radio Australia and then Commercial Radio Australia provides that information to you in an aggregated fashion?

Ms O'Loughlin: On an aggregated basis.

Senator HANSON-YOUNG: Could you take on notice—

Ms O'Loughlin: Aggregated in terms of the licensee for the whole year, not by program.

Senator HANSON-YOUNG: I see. That's not very helpful, is it?

Ms O'Loughlin: We don't have any powers to compel.

Senator HANSON-YOUNG: Could you take on notice how many aggregated complaints have been made?

Ms O'Loughlin: We will certainly take that on notice.

CHAIR: I need to rotate the call, Senator Hanson-Young.

Senator HANSON-YOUNG: I have one final question. In the discussion with Senator Pocock before, we were talking about the classifications for TV broadcasters. Is there any such classification for radio broadcasting in terms of protecting children from inappropriate, unsafe or harmful content?

Ms Chapman: No. No classification provisions apply to radio. That is why the decency provision is in the code.

Senator HANSON-YOUNG: There is a decency provision because there isn't those other classifications?

Ms Chapman: That's correct.

Senator HANSON-YOUNG: So the decency provision is pretty important, isn't it?

Ms Chapman: Yes.

Senator HANSON-YOUNG: It's pretty useless if it doesn't get enforced. Thanks, Chair.

Senator ROBERTS: Thank you for appearing again this session. I came in as you were saying it, so I'm not sure of the context. I don't want to misrepresent you. It is about greater transparency from digital platforms in association with the misinformation and disinformation bill. Would that include the ability for us to access the algorithms that drive the searches, the sharing of comments and posts?

Ms O'Loughlin: Senator, the bill doesn't go to that. It is more around greater transparency, as my colleague said earlier. It is the requirement to have policies in place to deal with misinformation.

Senator ROBERTS: Thank you. That's fine.

Ms O'Loughlin: It is to make them public so that people have certainty about it.

Senator ROBERTS: Thank you. I have other questions on the misinformation and disinformation bill. Under the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024, ACMA is responsible for taking action against a media company that has not followed the misinformation and

disinformation code. This would include allowing misinformation and disinformation to appear on the media company's platform. Is that correct?

CHAIR: Senator Roberts, I will provide the same alert as I have a number of times today already. The matters of the mis- and disinformation bill are subject to a Senate inquiry. Therefore, the estimates rules mean that the detail of that bill needs to be dealt with in that inquiry. ACMA will be appearing on Monday. Obviously broad questions in the mis and dis zone are okay. I will pull you up if you cross over the line.

Senator ROBERTS: ACMA is appearing in the committee hearing on Monday?

Ms O'Loughlin: With my colleagues on Monday, yes.

Senator ROBERTS: We'll do it then. That's fine. I want to look at a particular case study. It is the case of special forces veteran Heston Russell. The ABC said it was inadvertent and that it wasn't a calculated, deliberate manipulation. They deny manipulating a video to make it look like multiple gunshots were fired at a person. Heston Russell was a victim of disinformation from the ABC. Under the proposed misinformation and disinformation laws, the ABC would be exempt from punishment by spreading disinformation. Correct?

Ms O'Loughlin: I don't think I can form a view on that, Senator.

Senator McAllister: Senator Roberts, I think this goes to the point Senator Grogan was making. You are really asking how the bill will operate in practice. This is a question that has been referred to this committee. You have scheduled hearings to deal with it on Monday.

Senator ROBERTS: I think that is drawing a long bow, Minister, but I'm happy to leave it until Monday.

Senator McAllister: It is an unusual Senate rule, but it is a very longstanding one, Senator. It has been like this the whole time we've been here together.

Senator ROBERTS: I accept that. As I've said, I will comply with it for the other questions. I didn't think that one was about—

Ms O'Loughlin: The only thing I would add to that is that obviously the ABC needs to comply with its own code of practice around things like factual accuracy.

Senator ROBERTS: Yes. And we've seen how that goes. This is my final question. It is about the digital restack. I looked through your annual work program report and found this comment regarding the digital television channel restack. I quote:

Exploring possible parameters and solutions for channel planning relevant to possible new shared multiplex arrangements. This work will provide evidence to inform any future restack—

The restack was to be a closing up of digital TV channels. This sounds like you have something else in mind for the sixth channel, the gap between each station. What is the plan for the restack now?

Ms O'Loughlin: The Minister for Communications gave a speech a couple of weeks ago at our RadComms conference. They were talking about a program of work that needed to be done around the future of television. Her emphasis in that was that free-to-air television is incredibly important in Australia because it reaches 99 per cent of the population. It is free to air. How is that going to evolve over the next 10 years? Will it be terrestrially driven or will some of it go online? The minister was talking about a managed and staged process of thinking about the future of broadcasting, including the broadcasters, ourselves, the department and the audiences for those programs. It is looking at how that future state of broadcasting can be managed. A small part of that is what happens to the spectrum that may be freed up over that process. Part of our job is what that might be and when that might occur. The annual report says that requires channel planning. A whole lot of spectrum planning would have to be done to facilitate any movement of the broadcasters and the freeing up of that spectrum over time.

Senator ROBERTS: What does that mean in English, so that people can understand? What is the reality? You have said managed and staged, which indicates to me that it is more than just a premonition of an idea that something might happen. Something is happening.

Ms O'Loughlin: The minister's announcement was about some things that have happened recently. For example, in Mildura, the Channel 10 services were turned off because the local providers who provided that service didn't think it was financially feasible to continue it. It has an impact on consumers. WIN has made some changes to its arrangements in other parts of the country, where it is sharing its own infrastructure. That has an implication. That has actually not affected those audiences very well. I think what the minister is saying is that if there is going to be an end state where broadcasting wants to go, we need to think about all the steps that have to take place for that to get there effectively. That is what is alluded to. There is what is called a future broadcasting working group, which the minister has asked to be reinvigorated, to start thinking about these issues for the next 10 or 15 years, not the next two or three.

Senator ROBERTS: Are you or the minister anticipating the number of channels that will be going?

Ms O'Loughlin: Not at all.

Senator ROBERTS: Thank you.

Senator DAVEY: I want to ask about last Monday, 28 October, when the 3G shutdown commenced with Telstra and Optus. This shutdown was years in the making. Telstra was originally going to shut down in July this year and Optus in September. One of the reasons for the delay of the shutdown was that it was identified and understood and the telcos were warning that even some 4G compatible devices would not be able to access the emergency calling service once the 3G shutdown had occurred. They put in place a text line. People could test their devices. Imagine people's surprise when on the commencement of the shutdown their 4G compatible device suddenly wasn't working. There was an example on the ABC this Sunday. A man was quoted. His phone was only a month old but it stopped being able to make calls, send texts or do anything much at all. It was a 4G compatible phone. He had been blocked from all mobile networks following the shutdown of Australia's 3G network. Can you explain who blocked those devices?

Ms O'Loughlin: The networks blocked those devices.

Senator DAVEY: At whose determination?

Ms O'Loughlin: We made a determination that came into effect on 28 October. The primary focus of that was to make sure that devices could still get through to emergency call services. Over time, as you correctly indicated, there has been a big communications campaign by the telcos around what people needed to do. For a small number of devices, while it appears on people's phones that they are accessing 4G, they are not running something called VoLTE. Those phones were affected and needed to be taken off the network. I will pass to my colleague Cath, who can take you through it.

Ms Rainsford: Thank you, Chair. Certainly there had been substantial communication between the mobile network operators and users alerting them to the fact that the two final 3G networks would be closing down. That did raise some questions about certain devices being able to work, whether it was because they were purely 3G devices or whether they had some of these characteristics which meant they would otherwise work on 4G or 5G networks but would not work if someone needed to access triple 0 in an emergency.

There were a range of efforts over most of this in order to connect with those customers and monitor progress in terms of understanding how many devices were on the networks that exhibited those characteristics. Obviously, the government was very concerned to make sure that, as far as possible, if someone needed to call Triple Zero in an emergency from a mobile phone, they could have confidence that would happen. The decision was made to block devices that would be problematic. This had the effect, really, that people would then source devices that would connect in an emergency.

Senator DAVEY: I want to clarify. By blocking the devices, you're not enabling them to call Triple Zero? You're actually disabling the device altogether?

Ms Rainsford: That's correct.

Senator DAVEY: I have heard that both Telstra and Optus, particularly with their vulnerable customers, reached out. They contacted them. They provided replacement devices in some instances. The telcos were doing their bit. When was a public announcement made that this determination had been taken that non-VoLTE 4G and perhaps some 5G devices would be blocked post the shutdown of 3G? When was a public announcement made to alert people that this might in fact be happening?

Ms Rainsford: Senator, the minister made a direction to us on 21 August that we needed to update the emergency call determination to require this blocking. I don't recall whether there was a public announcement in the form of a media release or the like at that time. Certainly the direction was made public via the usual processes of publishing it on the federal register of legislative instruments. The authority updated that determination that was made. I think it was in the days before 28 October. I could take on notice the exact dates.

Senator DAVEY: I can probably help you. There was a post on the website on Friday 25 October.

Ms Rainsford: That sounds correct, yes.

Senator DAVEY: Do you think it is adequate? I know we're not meant to ask hypotheticals. Someone could have a 4G device. They could have been reading all the telcos' warnings. They could have texted 3498 and got the text back saying, 'Your device will not be able to make emergency services calls.' I am thinking, 'It's okay, because if I have a crash, I can still call my husband.' All of a sudden, on 28 October, I can't call my husband. I am completely cut off with no warning. Do you think that is adequate?

Ms O'Loughlin: I would have to say that some of this came up in the consultation process that we undertook. We did turn our mind to it. I expect that it is a small number of people. That doesn't negate the need for it.

Senator DAVEY: I've heard figures of up to 300,000. Back in July, we were talking about 700,000 to 800,000 with all the work that had been done. I have heard figures of about 300,000 on 4G. They are not 3G devices. They are 4G enabled phones that may not be able to access VoLTE. Those people had no warning that their device would be inoperable come 28 October.

Senator McAllister: The underlying concern from the government's perspective has been to maintain public safety. There are lots of other commercial imperatives at play here. The decision to shut down these networks was essentially taken by the commercial entities. We expected them to manage it. Nonetheless, questions of public safety in the end must rest with government. It is for that reason we cannot have a situation where phones are in circulation that cannot access the Triple Zero network. That is a foundational idea that we are quite determined to preserve. The change that has been made in terms of directing ACMA to take these steps is intended to maintain the status quo, which is that all phones in circulation should be able to contact Triple Zero. That needs to be a foundational consumer task. I know you know this because you have been through this inquiry process. You have taken a strong interest in the way the shutdown was proceeding. Extensive communication took place between members of the public and the providers of telecommunications services to alert them to the risks and dangers. In the end, the minister formed the view that an intervention of this kind was necessary to prevent the circumstances where people were purchasing phones that would not meet this basic safety standard.

Senator DAVEY: I appreciate that, Minister. I appreciate that public safety is the paramount issue here. My concern is that there was no public warning or information between 21 August, when the minister made the determination that these devices would be blocked, to 25 October, when a website was updated. There was no public declaration or announcement that if you are still owning a non-VoLTE compatible device, your device will be blocked. I would say that it has actually put more people at risk. It has compromised public safety more. These people had no idea that they wouldn't be able to even phone their mother, husband, brother or sister let alone Triple Zero.

CHAIR: Senator Davey, I reckon you've got your clip by now. I reckon we should wrap it up.

Senator DAVEY: This is an issue of—

Ms O'Loughlin: Excuse me, Chair. We want to make one comment.

Ms Rainsford: Senator, in addition to the range of measures the mobile network operators were taking, there were also requirements in the rules we made. We understand that, as of 21 October, about 53,000 4G devices were not VoLTE enabled. They look like they are 4G except when you go to Triple Zero, in which case it tries and defaults back to 3G. Each of those customers should have been directly alerted by their telco that there was a problem with their device, that they needed to take action and that we would be moving to blocking. If that hasn't occurred, that becomes a compliance matter that we can look into under the new rules.

Senator DAVEY: So you are saying it was an obligation after 21 August, when this determination was made, of the telcos to be reaching out to those customers to say, 'By the way, your device may be blocked on the shutdown of the 3G because it is not VoLTE compatible?'

Ms O'Loughlin: I think they voluntarily started that well before that was put in place. That is a requirement under the determination. If people have examples of that, we are happy to take individual cases and look at them and see whether there are breaches of the determination.

Senator DAVEY: So no obligations on ACMA to put out a public announcement that this was also being—

Ms O'Loughlin: I think it was part of the communication by the telecommunications companies as well.

CHAIR: This is your last question, Senator Davey.

Senator McAllister: It was important that we ensure that the telecommunications companies played their part. These are commercial services. They had obligations to their users. The approach that the minister took, at least in part, was designed to make sure that these companies met the expectations of the community and government in terms of their own relationship with their customers. We have discussed this in the Senate before. Of course, there are always responsibilities for governments to step in and provide a baseline level of certainty. Ultimately, these were relationships between telecommunications providers and their customers. We expected them to take responsibility for that. To that point, I understand that the mobile network operators have said they will retain support for vulnerable consumers who are affected by this, including providing low-cost handsets as well as complimentary devices in some circumstances for those in need.

Senator ROBERTS: That is not accurate. It is a one-way ticket. There is no relationship with the customer. This is a one-way ticket for getting more money out of the customers. That is all it is.

Senator McAllister: I will take that as a comment, Senator Roberts. Thank you.

CHAIR: Thank you, Senator Roberts. We will move on.

Senator ROBERTS: Chair, before Senator Pocock starts, my office has told me that the notice for the meeting next Monday came out at 3.52. I'm not complaining about that. The meeting has not been scheduled for Monday. Provision is scheduled subject to a committee meeting tomorrow. Is that correct?

CHAIR: I think the final agenda, yes. Yes, it is scheduled for Monday.

Senator ROBERTS: So it is definite?

CHAIR: Yes.

Senator ROBERTS: Thank you.

Senator HANSON-YOUNG: You'll be there with bells on, won't you, Malcolm?

Senator ROBERTS: I will be. I don't know about bells. You're not having a go at me like Kyle, are you?

CHAIR: Senator Pocock. Let's keep moving.

Senator DAVID POCOCK: Thank you, Chair. I will keep asking questions about the Telecommunications Consumer Protections Code. I am interested in where the process is up to in finalising the TCP Code.

Ms O'Loughlin: Thank you, Senator.

Ms Rainsford: In May this year, the Communications Alliance, the peak body for the telco sector, provided the authority with a draft of a revised code. It was almost complete, as in a draft, but not quite there yet. The authority then considered that code and provided some feedback to the industry in August. That feedback identified some areas where improvements had been made. But there were still substantial areas where we held concern about the level of protection that code would have offered consumers if it were registered. A copy of our feedback is available on the Communications Alliance site. We then asked Communications Alliance to do some more work and come back to us in the initial instance very quickly around responsible selling protections, which were of particular concern, and then with a further draft code ahead of any consultation such that the authority could be assured that its feedback had been properly considered. Communications Alliance has been working since then. They've met the deadlines that we had given them. We are continuing to work with them. Obviously they would like to get to a point where the authority is comfortable with them going out for public consultation on a draft code so there is an opportunity for all interested stakeholders to provide a view before that is given to us.

We are maintaining a very close watching brief over how they are progressing. Obviously, there is a view that if there isn't sufficient progress or uplift in those protections, there are alternative paths that the authority and minister could take to make sure that appropriate protections are put in place for telco consumers.

Senator DAVID POCOCK: Thank you.

Ms O'Loughlin: I will just add that those different pathways have already been taken. The minister directed us to make a financial hardship standard in September. I have already referred to the domestic and family violence standard. They will be lifted out of the coregulatory code into direct regulation.

Senator DAVID POCOCK: Sure. Thank you. When will this happen? You said they are meeting your timelines. What is the timeline for public consultation on a draft code?

Ms Rainsford: We are expecting a final full draft of the code back probably within the next month or so. If the authority is satisfied that it represents a significant enough shift, and it is comfortable with the industry moving to a public consultation, Communications Alliance would be hopeful of that starting in December.

Senator DAVID POCOCK: Wow! So you are hoping to have a draft code, public consultation and have it start in December?

Ms Rainsford: No, sorry, Senator.

Senator DAVID POCOCK: That's what you were saying earlier.

Ms Rainsford: Sorry. Between now and December, we are expecting the industry to provide us with a revised draft code. Subject to the authority being satisfied with that, Communications Alliance would go out for a full public consultation on the draft of that code. After that, the telco act requires them to take various steps, one of which is considering all of the feedback that is provided, actioning as appropriate and some other consultation requirements. Ultimately, it is submitting that code back to the authority for a decision to register it or not under the telco act. I think on the current timeline, we would likely expect, if that is the way this proceeds, that

submission for registration would occur certainly in the first half of next year and probably towards the end of the first quarter. That might depend on how that timing plays out.

Senator DAVID POCOCK: Sure.

Senator McAllister: The officials can correct me if I'm incorrect about that. I understand that it is a 30-day public consultation, which gives you some indication of the sequencing.

Senator DAVID POCOCK: Are you comfortable with the 30-day public consultation over Christmas—December and January? It doesn't seem like a great time to be consulting the public.

Ms Rainsford: I think it is a minimum. I don't have the act in front of me. I'm pretty sure it's a minimum 30-day period. I suspect that the authority might have some views on whether that is sufficient if it is to go out over that period, which we would share with the industry. I expect that they would be both alert to and receptive about it.

Senator DAVID POCOCK: Are you confident that provisions around upselling will be dealt with properly in the code?

Ms O'Loughlin: We have had extensive conversations with the Communications Alliance about the uplift we expect to see in that area. As Cath said, we will be reviewing the code when it comes back to us. If it doesn't reach our expectations, again, we may consider alternative regulatory options.

Senator DAVID POCOCK: Sure. I was asking specifically about upselling.

Ms O'Loughlin: That is part of the selling practices piece, yes.

Senator DAVID POCOCK: You expect that will be dealt with?

Ms O'Loughlin: Absolutely.

Senator DAVID POCOCK: What resourcing is ACMA committing to enforcing activities under the TCP Code given the egregious practices we've seen revealed by the ACCC?

Ms O'Loughlin: We might need to take on notice the exact detail because it is part of a team that has broader regulatory responsibilities.

Ms Rainsford: I can certainly take that on notice. We receive intelligence and reports from a number of sources, including the Telecommunications Industry Ombudsman and a range of advocacy and consumer bodies. Should they raise questions about whether or not any telco is complying with their obligations, be it under the TCP Code or any other regulations, we certainly take a very good look at it. Where there are real questions about compliance, we investigate those matters.

Senator DAVID POCOCK: Thank you. What resourcing is ACMA directing to engage with First Nations consumers in light of recently identified behaviour?

Ms O'Loughlin: I think that would be part of our general approach.

Senator DAVID POCOCK: It wasn't increased after the \$50 million to Telstra two years ago?

Ms O'Loughlin: Senator, I think what you are referring to is the ACCC's role in terms of the telecommunications industry. The ACCC obviously has a whole-of-economy role in implementing, monitoring and enforcing Australian consumer law. The Australian consumer law has general provisions in it about misleading and deceptive conduct, which is the case they took against Telstra previously and the case they've taken against Optus. Sitting alongside the Australian consumer law are the provisions we have, including the TCP Code. They are complementary regimes. They sit side by side. Because of the complexity of telecommunications services, it has been a feature of the regulatory environment since 1997 that more rules are put in place for the telecommunications industry. That is the way it works between the ACCC and us. They are complementary regimes. The action that the ACCC has taken we thoroughly encourage.

Senator McAllister: I will just add that the department officials who would deal with this in the communications department, rather than the regulator, aren't here. I understand that the department made a submission to the code upgrade and highlighted a number of issues. These include domestic and family violence; protections for First Nations consumers; direct debit payment flexibility; responsible selling; credit assessments; billing; customer contracts and order summaries; and the ability to called Triple Zero. Unfortunately, I don't think the relevant officials from the department are here to provide any further detail, but that may be of assistance.

Senator DAVID POCOCK: Thanks, Minister. I'm interested in asking the regulator—

Senator McAllister: Of course.

Senator DAVID POCOCK: that regulates the telcos, which seem to be pretty rogue. Over the last 13 years, you have fined them only \$10 million despite all this egregious behaviour we're seeing. I am trying to find out what is going on here. Is the regulator actually regulating?

Ms O'Loughlin: I am happy to address that. I think there has been quite a lot of misrepresentation of our enforcement action in the public domain. For the period of 2023 to 2024, we have a range of enforcement powers. It is not just civil penalties. We have formal warnings, remedial directions and directions to comply.

Senator DAVID POCOCK: They just don't seem to be working.

Ms O'Loughlin: We have enforceable undertakings. Between September 2023 and September 2024, we undertook 23 enforcement actions, 12 formal warnings, two remedial directions, 20 directions to comply, two enforceable undertakings, infringement notices totalling close to \$7 million and, I think most critically, court proceedings in the Optus data breach matter, which is currently before the Federal Court. We also undertook during that period a whole bunch of audits around requirements of the financial hardship industry standard, obligations under the consumer complaints handling industry standard, obligations for statutory industry providers to publish service area declarations and reducing scam calls and scam SMS codes by SMS aggregators. I reject that we're not an active regulator. I think there is a misrepresentation about our role and the ACCC's role.

Senator DAVID POCOCK: Sure.

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

Senator DAVID POCOCK: Thank you. It sounds like there is a range of things happening. I have a lot of concerns raised with me that ACMA is meant to be regulating all these industries that seem to be doing basically whatever the hell they want.

Ms O'Loughlin: Senator, I totally reject that.

Senator DAVID POCOCK: Okay.

Ms O'Loughlin: There is a complementary regime where ACCC also has involvement in the telecommunications industry around things like contract terms and misleading and deceptive conduct. They do their job. We liaise with them. I am on the ACCC. They are on ours. There is a lot of cooperation between us. In the case of the current Optus case, it's totally appropriate that the ACCC pursue that. They can pursue it quickly. They've got much larger penalties than we have. We totally support it.

Senator DAVID POCOCK: I will go to our conversation earlier. What about ACMA allowing alcohol ads during sporting events?

Ms O'Loughlin: Senator, we discussed previously that was not a decision this ACMA made.

Senator DAVID POCOCK: But you haven't even looked into it. This is a huge live debate in our society.

Ms O'Loughlin: We've indicated previously it was part of the Senate inquiry. Those matters would be matters of government policy.

Senator DAVID POCOCK: As a regulator, you don't see a role for inquiring into those sorts of things?

Ms O'Loughlin: We inquire where we need to. If there is something we need to take on board out of the Senate committee, I'm happy to do so. It normally goes through the process of a government policy process before it comes to us.

Senator DAVID POCOCK: So you are just implementing government policy?

Ms O'Loughlin: We create our own rules as well. We are usually implementing the law.

CHAIR: Senator Pocock, we need to rotate the call.

Senator DAVID POCOCK: What about rules about things like alcohol ads during sporting events, which has been highlighted by the rapid review? There is a live debate. I am hearing that no-one in ACMA has even brought to your attention, 'Hey, boss, this report dropped this recommendation. We're actually the regulator for that. Maybe we should look at this?'

Ms O'Loughlin: We'll discuss with our department what that provision was and take it on board, Senator.

Senator DAVID POCOCK: Thank you.

CHAIR: I will now move on to Senator Hanson-Young.

Senator HANSON-YOUNG: Thank you. What involvement have you had in the consultations that the government is running for the response to the news media bargaining code process? We heard earlier today that they are considering the levy but also an assistance fund. Has ACMA been involved in any conversations with the government about what the assistance fund would look like?

Ms Chapman: No, Senator. We haven't been involved in those discussions.

Senator HANSON-YOUNG: Have you been asked for any advice about which news agencies would be appropriate? You haven't been asked for any advice in relation to this?

Ms Chapman: No, Senator.

Senator HANSON-YOUNG: Did the department or the minister's office contact you in relation to their contemplation of what to do in response to Meta pulling out of the news media bargaining code?

Ms Chapman: Are you talking about previously, a number of years ago?

Senator HANSON-YOUNG: No. I'm talking about this year, since Meta announced that they are going to refuse to comply. Has either the department or the minister's office been in contact with ACMA?

Ms Chapman: Not that I am aware. We managed to take it on notice in the sense of whether there has been any contact with staff. No, I don't think so, Senator.

Senator HANSON-YOUNG: You have a role in this. You list who the platforms should be dealing with. Right?

Ms Chapman: Correct.

Senator HANSON-YOUNG: Have any of those agencies on your list contacted you about their future, given Meta has refused to sign your contract?

Ms Chapman: Not that I am aware, no, Senator.

Senator HANSON-YOUNG: Have you done anything proactive since that news broke?

Ms O'Loughlin: In what regard? Our role is to register sources. We've had some applications to register sources.

Ms Chapman: We continue to consider registrations as they come to us.

Senator HANSON-YOUNG: Have registrations still continued to come since April?

Ms Chapman: Yes. I think we have some data on recent registrations.

Ms Field: Yes. They have, Senator. As of 30 September 2024, ACMA has received a total of 112 applications in relation to 949 media sources. We continue to receive those applications.

Senator HANSON-YOUNG: You have a set of criteria by which you assess these applications. If you deem them to be appropriate, they go on the list and then they are able to negotiate with the platforms.

Ms Chapman: Well, Senator, just to be precise, being on the list doesn't entitle them to negotiation.

Senator HANSON-YOUNG: Yes.

Ms Chapman: The point is that if a platform is designated—

Senator HANSON-YOUNG: They would have to be—

Ms Chapman: At that point, because they are on the list, they would then be able to enter into the mediation and the due process.

Senator HANSON-YOUNG: If there was a designation.

Ms Chapman: That's correct.

Senator HANSON-YOUNG: And there hasn't been any designation?

Ms Chapman: Correct. That's right. Whether they are or aren't on the list, they are perfectly entitled under their own steam to negotiate with platforms as they see fit.

Senator HANSON-YOUNG: Can you give me those figures again? How many media companies have applied? How many have been approved?

Ms Field: Senator, there were 112 applications in relation to 949 news sources. Those comprise 96 applications to register a news business and 15 applications to add or remove a news source that was previously registered. As of 30 September 2024, we have registered 54 news business corporations comprising 436 news sources and 28 applications.

Senator HANSON-YOUNG: That is all publicly available?

Ms Field: It is, Senator, yes.

Senator HANSON-YOUNG: It is on your website, yes?

Ms Field: Correct.

Senator HANSON-YOUNG: Just to be clear, no-one from the department or the minister's office has been in contact with you in relation to what that list looks like or the current criteria or the current assessment process that you are using?

Ms Field: Senator, not that I am aware. I am happy to take that on notice.

Senator McAllister: I think you know this, Senator. The issue around the mandatory bargaining code is led by Treasury.

Senator HANSON-YOUNG: Yes.

Senator McAllister: I want to make that clear.

Senator HANSON-YOUNG: Yes, I know, but ACMA has an important role in this. Has the criteria by which you assess who is on or off the list changed, or has it been set from the beginning and just remained the same?

Ms Chapman: No. It's set in the legislation.

Senator HANSON-YOUNG: Have there been any appeals to you about any knockbacks? Is there any process by which if somebody doesn't make it on to the list they can ask for that to be reviewed?

Ms Chapman: We'll need to take that on notice. There certainly have been conversations that have occurred over the last few years since this started when organisations have been rejected. There would have been discussions. I would need to take that on notice.

Senator HANSON-YOUNG: I want to ask you about the implementation of the prominence regulation. I'm not sure if you heard my questions to the department earlier today. Does ACMA have a definition of what the primary user interface looks like, or does it require scrolling or not scrolling?

Ms Chapman: The definition is set in the legislation. As you are aware, we have undertaken a consultation process with interested parties. We've received a number of submissions, which have now been made public. One of the three major issues in part of that consultation was the definition of public user interface. There were quite divergent views on the interpretation of that legislation.

Senator HANSON-YOUNG: Of that definition?

Ms Chapman: Of that particular definition. We realise that this is very much a central issue. Mr Penprase referred to this morning. It's central to the policy objectives of the legislation. Accordingly, as a policy matter, we've indicated that we won't be making any further directions. We have sought assistance from the government. It's really a matter for them. I think Mr Penprase this morning indicated that they were providing advice to the government about further clarification in regulations.

Senator HANSON-YOUNG: Can I take it from that you don't feel as though it's your place to determine between the differing interpretations and you want government to do that? Is that effectively what you are saying?

Ms Chapman: I think it goes to the heart of the policy outcomes of the prominence framework. Yes, we consider it to be a matter for government to determine that. My understanding of the evidence this morning is that it is a matter that is compatible for the government to pursue.

Senator HANSON-YOUNG: Has the minister responded to you on that? Have you been given a timeframe on that or anything?

Ms Chapman: No, Senator. We haven't been given a timeframe.

Ms O'Loughlin: I think Mr Penprase this morning indicated that regulations are to be made by the end of the year.

Senator HANSON-YOUNG: Yes.

Ms O'Loughlin: And it would be included in those regulations.

Senator HANSON-YOUNG: Right. Were there any other parts of that consultation you had where you felt that elements of the legislation, either prominence or antisiphoning, were not clear?

Ms Chapman: There were three main issues in relation to prominence. There was the issue of what constitutes an offer by a free-to-air for an app to a manufacturer. The first one was in relation to what is a regulated device. They were consulted upon. They were certainly clearer issues, we feel, than the issue of the public user interface, yes.

Senator HANSON-YOUNG: I might give it back to you, Chair.

CHAIR: Excellent. We will now take a break for dinner. Thank you so much for coming along. We look forward to seeing again on Monday.

Proceedings suspended from 18:34 to 19:30

Australian Postal Corporation

CHAIR: I would now like to welcome officers from Australia Post. I welcome Mr Paul Graham, group chief executive and managing director. Would you care to make an opening statement?

Mr Graham: Yes, I would, Chair. Thank you very much. Thank you, Chair and senators. I will start by acknowledging the traditional custodians of the Canberra region, the Ngunnawal and Ngambri peoples, and pay my respects to elders past and present. I thank the committee for the opportunity to provide this opening statement.

During the 2024 financial year, Australia Post delivered 2.3 billion items, paid our licensed post office partners \$581.8 million and permanently changed the letter delivery model for the first time since we became a government business enterprise back in 1989. We continue to transform the business to better meet the rapidly changing needs of our customers and communities and support our long-term viability. Despite reporting an \$88.5 million loss in the past financial year, our post 2026 strategy and modernisation reforms have set the business on a more sustainable financial pathway. We are making good progress. The \$111.8 million improvement on last year's performance was largely due to our focus on simplifying the business, removing costs and strategically investing for future growth. We've continued to invest in regional Australia, with new parcel facilities opened at Avalon, Ballarat, the Gold Coast and a number of other locations.

There's a growing gulf between our two businesses. The letter business is stuck in reverse while our parcel business continues to achieve solid growth in what is a highly competitive environment. Letter volumes have declined to the lowest point since the 1950s. This is despite the Australian population growing threefold during the same period. Our parcel business continues to grow solidly year on year even as we face fierce competition from domestic and global competitors, who have caused widespread disruption in other geographies and continue to invest billions of dollars locally. Our letter business lost \$361.8 million in FY24 despite a 30-cent increase in stamp prices. Letters have now fallen back to our third largest revenue category behind our parcel business and our StarTrack business. Added to this, the cost of delivering letters, which is part of our community service obligation, increased to \$447 million. Our letter business hasn't made money in years, and we don't anticipate that it ever will. However, we will always provide this important service to the community.

Implementing the first phase of our modernisation reforms has been beneficial, including the rollout of our new delivery model that allows for letters to be delivered every second day. However, further reform will be needed to fully futureproof the business. The business is also seeking to operate more sustainably. We already have Australia's largest electric delivery fleet of 5,131 vehicles, including 175 new electric motorbikes, to reduce our emissions profile even further. We've also increased our own solar generation in the past year by 55 per cent.

Bank@Post remains a critical service that both metropolitan and regional banking customers access and value daily. According to recently published APRA data, the big four banks had a net reduction of 190 branches over the past financial year. While Australian banks have had a branch reduction of 41 per cent since FY17, our post office network has had a net reduction of only four per cent during the same period. We expect that Bank@Post will make a loss. We are working with the banks to negotiate new agreements that reflect the changing circumstances to return a small margin to Australia Post and its licensees and meet the community expectations of the banks. We've allowed the banks to leave town with their reputations intact, but we cannot and should not subsidise the essential service to the benefit of the banks' bottom line.

A viable and thriving Australia Post is more important than ever for the tens of thousands of people who work in our facilities and post offices as well as the communities we support. This includes the 71 not-for-profit community groups across the country that are receiving funding as part of our 2024 community grants program for projects to support mental wellbeing, childhood education and community inclusion. We've also launched our first refugee action plan to boost inclusion in our workforce and the wider community. Australia Post has team members from 143 nationalities working in our business, reflecting the diverse communities we operate within and support. We are committed to even greater inclusion across the team.

The safety of our team members remains our highest priority. One of the biggest challenges that post and delivery drivers face comes in the form of our beloved pets. Over the past six months, we've reported 1,277 dog related incidents, which equates to 10 every single day falling victim to a dog attack or threatening behaviour. This cannot continue and comes despite our many pleas for dog owners to take responsibility for their pets. The commitment and dedication of our 64,000-strong team continues to be our greatest strength. Every year, our people step up to the plate for our customers. Last year was no exception. I would like to thank the team for their continuous efforts. Of course, the calendar year is far from over. The next seven weeks leading into Christmas will be our busiest for our permanent team as well as the over 3,000 casuals that we have successfully managed to employ to help us with the traditional peak period.

In closing, Australia Post looks forward to delivering a better tomorrow where we continue to make a valuable contribution to the lives of our customers and communities. We remain optimistic about the future of our business. Thank you, Senator. I am happy to take your questions.

CHAIR: Thank you very much.

Senator CADELL: You mentioned a couple of things in there. There is the loss. A phrase in your opening statement really stood out: banks leave town with their reputations intact. I am increasingly concerned that banks, knowing your business and that Bank@Post exists, are leaving and using the excuse that you exist to justify their exit from towns. I don't think they are paying their fair share for services. They are in fact reducing their operating costs by closing these branches. There is less wages, rent, cash handling and security fees. How are you going with negotiating with them to get a fair price to keep cash handling and banking services in regions when they abandon them and the community and leave you to pick it up?

Mr Graham: Thank you, Senator. Indeed, we are in the middle of those commercial discussions with the banks. We have made the point that despite signing agreements some years ago, which are still running, we feel that circumstances have changed quite dramatically over recent years. Indeed, you may have seen the numbers over the five years of the branch closures. As you say, they have left that responsibility to Australia Post. I have been around a lot of our regional branches particularly in the last couple of months. For one particular licensed post office in Burra in South Australia, the nearest bank is 42 kilometres away in Clare. That small licensed post office now provides cash for not just that local community but, indeed, the surrounding community. That is not an expectation that we signed up for originally at Bank@Post. You also say there is the cost of bringing that cash to that town. We remain hopeful that the banks recognise, as we do, that we have a responsibility to the community to ensure that these essential services are provided and that the burden of providing those services should not fall on Australia Post financially but should be borne by the banks given that they have, as you say, been able to reduce their costs significantly and had Australia Post to step in to pick up those services.

We are in detailed discussions with the banks. We have opened up our numbers to be very transparent on the fact that this is going to be a loss making business. We remain hopeful that they will recognise the role they should play in the community and ensure that Australia Post as well as its licensees makes a small but fair return on the services we provide.

Senator CADELL: Thank you for that. I hope you are successful. I know your team has been great in interacting with us in this way. Please come back to us if it is not going well. I think the regional banking inquiry that we did in the Senate raised things such as potentially increasing banks' licence fees if they don't play good in replacing these regional services. Use this as blackmail as much as you can. I encourage you to do that to get the services. The bush is suffering and the regions are suffering. You are there. I thank you for that. I understand that it is hurting your bottom line. I might have a go at you in other ways you're hurting your bottom line, but on this one I'm on your side. Thank you for all you do. Is there a time line for trying to close the new arrangement? Is there a hope, estimate or guess?

Mr Graham: I would like to see us reach a final position either where we have an agreement in principle that we can jointly commit to or, indeed, we don't because they decide to sit behind the existing agreements. I hope that we have a conclusion on that before the end of the calendar year.

Senator CADELL: Thank you for that.

Senator McAllister: Senator Cadell, although the relevant officials aren't appearing now, I know the department was also involved in convening a roundtable with the Banking Association. A number of the banks, including the Commonwealth Bank, the National Australia Bank, Westpac and the ANZ, appeared to discuss the financial sustainability of Bank@Post. It is a priority for the government, although the negotiations, as Mr Graham has explained, are commercial and are being led directly by Australia Post.

Senator CADELL: We have an ex-premier of Queensland as the head of the Banking Association and on your board. Another great ex-premier of Queensland is Sir Joh. That has to be a confluence of interests that you can make work somehow.

Mr Graham: Well, we continue to engage proactively with the banks. As I say, we remain hopeful that they recognise the responsibility they have. We have certainly recognised our responsibility.

Senator CADELL: I will move to some other stuff. Closures are a real concern still going through. I note we had provided to us a list of closures from 1 July 2023 to 30 July 2024. It is quite long. It runs over four pages. They are closed. I notice there is a list of potentially 22 post offices planned for closure in quarter 1 alone of FY25. One of those is Blacksmiths LPO two beaches down from mine. That is 25 in a quarter. Let's extend that

out to 100 for the year. Is it a fair assumption that we're going to close at that sort of rate? What does it do to your service requirements?

Mr Graham: Thank you, Senator. It's not a fair assumption. That number, again, as we've explained, is what we believe may happen, but it is a very fluid environment that we deal in. We have a number of unexpected closures where a licensee will retire or leave through illness or simply walk away because it's not financially viable or their lease is terminated and expired and they don't want to renew that. We have planned closures, again, on similar lines. We have lease expiry. Indeed, as we've expressed in this forum, our buyback program has identified post offices, particularly licensees in metropolitan areas, where we have significant overlap. We're very conscious of our role, particularly in regional and remote Australia, and therefore look to preserve the 2½ thousand number that we are regulatory required to. It can be difficult. I gave the example of Bank@Post at the post office at Burra in South Australia. Carole and Paul have run that for 13 years terrifically. It took them four years to find a buyer for that licensed post office. The buyer is a retiree who doesn't want to stop working. Again, that is not, in one way, what we would expect.

We will make an assessment. I am not familiar with the particular one you raise. We take a very detailed process of assessment before any post office is closed. Indeed, when one is unexpectedly closed, we will look to ensure that we preserve the services that are important to that community. It's fair to say that there's a difference between metropolitan and regional towns. Metropolitan is all about convenience and parcels. Regionally, we do provide a broader range of services in some towns. Therefore, we look to preserve that. However, in certain places, such as Bendigo, we have 21 post offices. That probably doesn't make sense. It is a fluid network. We are very conscious of our regulatory responsibility as well as, as I say, the critical role we play, be it Bank@Post, mail or, indeed, other over-the-counter services.

Senator CADELL: I love my redhead LPO. I get to spend money on gambling and stupidly across the counter buy a magazine. I think it's great. Thank you very much. You raise the issue about selling and retail, LPOs out there and retirement being a problem. You would have seen from the postal agent associations their concerns that almost one third of country LPOs have been on the market for over three years. You mentioned four years on your own. Many of the owners are past retirement age. They see their post office as their superannuation. It gets complicated because back in the day there were residences attached to some of these, not all of them. Are there any mechanisms? Are you looking at anything where they can be turned into CPOs, where the buyback can be extended to regional areas? Is there anything we can do to help those people in this situation, who are working now well beyond when they wanted to because the business isn't everything they want and they can't sell them?

Mr Graham: It's a very good question. As you say, they were good businesses a decade ago. They have changed dramatically. We've seen a 28 per cent reduction in over-the-counter transactions in the last three years, so it is a significant reduction. That is taking into account the rise we've seen in banking transactions. If you actually take them away, non-banking over-the-counter transactions have reduced even further. I have been to a lot of those regional post offices. The people are hanging on for, as you say, maybe that super payment because they've seen the post office as their super fund. Indeed, a lot of them are hanging on because they really feel they have an obligation to the community and no-one else wants to pick up the baton and take it over. I saw one person recently in their late 70s who is still working behind the counter every day. It is more to do with a community obligation; they feel it is an important role they play.

It is a very difficult situation. The buyback program we have in place is related purely to metropolitan areas where we have significant overlap. In Brunswick in Melbourne, we have 72 post offices in a 7½ kilometre radius. In Surrey Hills, it is about 74 within a 7½ kilometre radius. It has not been extended to regional areas, primarily because we feel we may be inundated with requests. What we don't have is a viable alternative. The viable alternative is for Australia Post to actually put in our own post office infrastructure. Again, that is not financially viable. What we are doing when those occasions do come up is looking at what we can do to either get an in-association type of postal service or, indeed, validate what services that community requires. We have been very clear that where there is a Bank@Post service in the town and if for whatever reason there is a change or a closure, we will still find a way to maintain that essential service. I think it is a very difficult situation at a time when the business has changed quite dramatically in the last decade or so. We are faced with those changes as part of our transformation. Like other industries, we are facing generational change.

Senator CADELL: In April, the BPR went up 30c to \$1.50. Has that had any effect? I know we're haemorrhaging on letters by volume. Has that had any effect on cash flow or profitability on the letter side? Has it been a price elasticity change, or is it just still declining at the same rate?

Mr Graham: We've seen some elasticity recently in terms of the decline. It is fair to say that it has held up stronger than we anticipated. Why that's the case we're not really sure. Is it because banks and utility companies et

cetera, who send 98.5 per cent of the letters we receive today, send bills or non-personal letters and their systems are not able to generate an electronic version? Is it because there are certain regulatory frameworks in place that require something still to be sent by mail? There are elements of that, but it doesn't completely answer why the volume has held up. It has held up. Certainly getting an increase in the stamp price has helped minimise the significant losses, but the losses are still significant. As I said in my opening statement, we do not see the mail business ever making a profit.

Senator CADELL: This is something I raised with your staff. We had a conversation about your marketing. I drove past an innovative thing, which is your coffee van outside Newcastle when I was on my way to the office. It was parked outside the uni, so there were lots of students getting free coffee. It was not targeting customers so much. What are your marketing costs? We have to be effective if we are loss making. How are you targeting your markets? I know the phrase that 50 per cent of marketing spend is wasted; I just don't know which 50 per cent. How are you looking at a return on that investment?

Mr Graham: It is a key focus for us. We've significantly reduced our overall marketing spend in the last couple of years. We were doing some very good marketing, but it was more about the brand and loving the brand. We think the brand is loved without having to spend the marketing to validate that. Our marketing spend is about \$10 million, which, for almost a \$10 billion corporation with a high-profile brand, is actually quite small. What we are doing with that spend is making sure it is very targeted on the services we wish to promote and the ones our customers want to avail themselves of. It is our lockers, our parcel app and our parcel business. It is Bank@Post. That is where our focus is. It's very much targeted at the products and services we believe are viable for us and the ones that our community want to be informed about.

Senator CADELL: The number I think I have is 1,277 dog attacks.

Mr Graham: Correct.

Senator CADELL: That's a lot. Any serious attacks where your staff have needed significant time off?

Mr Graham: Yes. We have some staff who will never return to work again. As I said, that is on a weekly basis. We have a big campaign that we put out through the media. I must say that the media has responded quite well to that. We are continuing to work with local councils and state government. The Queensland government has been quite proactive. We're also working with other industries that have similar challenges, such as home delivery or food delivery businesses and electricity meter readers or gas meter readers. It is a very significant problem and one that we are doing everything we can to minimise. We saw some global research that said it is the high visibility uniforms that make them go off, so we tried blue uniforms. That didn't work. We are now trying citronella spray, which seems to be having some impact.

Senator CADELL: Who is the poor person who has to try a uniform knowing that a dog has had a crack at it before?

Mr Graham: Well, if it helps prevent the dog attack, it is worth trying. We've introduced the electric motorbike because, again, research shows that the sound of a motorbike can be a trigger. Frankly, the biggest trigger is that during COVID we adopted a million pets or more. As people returned to work or returned to more normal habits, the dogs became more anxious when people were not at home. We had one particularly bad attack last week. A bull mastiff was on a chain. Our postie was at the front door and heard the click of the chain breaking. The bull mastiff attacked the postie and actually ripped off the calf muscle on their leg. That postie will never do a postal round again. One thing we are doing, though, that we haven't done in the past is that we are prosecuting the individual home owner on behalf of the postie. Under the law, the postie has to take the prosecution. We are obviously supporting that financially. Any claim that the postie gets will go to the postie. We've had two successful claims so far and that money has gone. We hope that, by doing that, one, it sends a clear signal to the community that we will take action and, two, as most of these claims will end up being paid by the insurance companies, the insurance companies will look to enforce better controlled fences or other things when it comes to dogs. But it is a significant issue for us.

Senator CADELL: How many non-delivers are there? Are they increasing from these dog attacks?

Mr Graham: When there is an attack in a street, we immediately stop delivery to that street.

Senator CADELL: The whole street?

Mr Graham: Yes. We inform everyone in that street, particularly if it is a dog on the loose, that we are not delivering mail. If it is at a household, we stop delivery for that household. We will work with local council to ensure that fencing is improved or that other means can be taken to protect it. Obviously, in some of our areas, such as rural areas in Queensland, where there is not a lot of fencing, the dog is around the back. The postie doesn't see it. They close the gate. They are inside the property. There is very little room for escape and they are

trapped. We've got really clear protocols about what our posties should do during a dog attack, particularly if they are on an EDV. Roll the EDV. Stand in the middle. Use the EDV as a shield. When you are walking around or on a bike and you have got off to basically knock on the front door—I have seen the videos, unfortunately, because we have cameras with our posties and on their bikes—it is a split second. Literally in 10 seconds they can do serious damage.

Senator CADELL: It sounds like you have a lot of serious dog attacks. That is a big number. Are there issues with roos or anything like that?

Mr Graham: In rural areas we encounter the odd roo. We've done a significant job in improving critical accidents within our environment, where we control the environment. The vast majority—now 99 per cent of serious accidents—occur outside our environment. Dog attacks and motorcycle accidents occur. Particularly with our motorbikes and our EDVs, there is a lack of visibility. SUVs particularly sit high up. The EDV is slightly lower. We are working with the state governments to try to get flashing lights, but we are told that only emergency vehicles can have flashing lights. But ice-cream vans can have flashing lights. Maybe we'll convert our EDVs into ice-cream vans.

Senator CADELL: We had that conversation. With some states—

Mr Graham: In Western Australia, we're making some progress. We are making some progress with the New South Wales government as well. There is not a national standard. That is what we would like to see adopted. We are trialling various degrees of flashing lights and lights that flicker. We've got flags on the back of our EDVs and different high visibility uniforms. Whatever we think can help, we will invest the money to try it.

Senator ROBERTS: Thank you, Mr Graham, and your colleagues for being here. I am advised by multiple Australia Post licensees that the new Australia Post point-of-sale system, Post+, is in most aspects of its operation not fit for purpose, yet licensees are required to operate using this system. My questions test that contention, which I'm sure you will disagree with. On Monday, 27 May, the system went down for several hours. Australia Post offices were unable to process transactions. According to the licensed post office network, this cost their outlets \$200,000 in lost transactions and wasted staff time over several days due to the errors generated in the breakdown. Who pays that loss—you or the licensee?

Mr Graham: Australia Post pays that loss. We repaid that. This is a brand new point-of-sale system that has been rolled out to almost 4,000 post offices. It is a state-of-the-art system replacing what was a 30-year-old system that was well beyond its use-by date. It is fair to say that when you implement any brand new system to the scale that we have implemented it, there will be teething problems. However, I challenge and ascertain that the vast majority of post office licensees are very pleased with the system. I have been around our post offices a lot, particularly in recent months. It does what it says on the box. It has delivered and will continue to deliver even greater efficiency than the old system. That one outage was an unfortunate event. We were still able to transact, but not obviously online. Any cost to the licensee for that was fully compensated by Australia Post.

Senator ROBERTS: Thank you. In the outage, some transactions that were in the process of completing when the system went down failed to complete. In some cases, money went missing. Your helpdesk instructed post office licensees to put in the amounts that went missing from their own pocket to ensure your system balanced with the promise that you would investigate and pay them back if it were sorted out. How much money went missing in the outage? How much money was put in by licensees?

Mr Graham: Well, those statements are not correct, Senator. We did not ask the post offices to put the money back in to balance it out. We provided a report for all those transactions that were not processed through. We did a reconciliation and audit trail working with the individual licensees. We balanced the books with them and had them put through those transactions when the system was up and running.

Senator ROBERTS: Judging by your reaction—we've heard this from licensees—you don't think it's fair for licensees to put their own money in to make your system balance when the fault was not with the licensees but with the system. So you would disagree that it is happening?

Mr Graham: Well, they didn't put their money in. They weren't asked to put in their money.

Senator ROBERTS: So you would disagree?

Mr Graham: Yes. We strongly disagree, yes.

Senator ROBERTS: What is the longest outage Post+ has experienced? I have received reports that Post+ can go down for days and that, while it is down, the post office can't trade.

Mr Graham: No. That is completely false, Senator. I think we are talking minutes. We had that one outage, as you said, for a couple of hours in the very early days when it was launched. We are talking in minutes. I can't

remember when we last had a P1 on that system. As I say, it is built with state-of-the-art architecture. It sits in the cloud. It is fully backed up every day. The reconciliation process that happens at the end of the day, which used to be a very manual process for the licensees, is now fully automated. We've launched a new suite of reports that show them every transaction. It enables them to get detailed analysis of the trading during the day. This is a modern system. Those statements are totally incorrect. I strongly object to those statements. I would also say that it is a very small minority of licensees who have made the noise around this system and have done so, in my view, not because of the fact that the system is not performing—it is—but for other mischief.

Senator ROBERTS: Okay. Let's continue. Licensees report that the system does not provide an adequate reporting function, with the outcome that the licensees don't have the data they need to run their daily business.

Mr Graham: Again, Senator, as I said, we have had a reporting system from day 1. We have recently launched the latest update of that. That report, and indeed the review of the system, is done in conjunction with licensees. We have a licensee steering committee that meets on a regular basis to look at enhancements and improvements to the system. We have a whole team of people who are working on these systems and improvements on a day-to-day basis. This is a very collaborative effort. I argue that if you were to go around and speak to licensees, you would get a very positive reaction to the system.

Senator ROBERTS: Maybe that is what I should do. Licensees are reporting Post+ runs slower than the system it replaced, meaning licensees are having to put on extra staff at their own expense. How is that an improvement? LPOs are small businesses. They can't afford to bankroll your system development. That is the way they see it.

Mr Graham: Well, again, I would say that is a very small minority of licensees. Obviously when you are replacing a system that is 30 years old that people basically know how to operate in their sleep and you introduce a brand new system, it is like going from a rotary phone to a smartphone; it takes time for people to get used to the new navigation of that system. That is something that we highlighted to every post office before the implementation. The actual system itself, in terms of processing transactions, providing more meaningful insights and data, is significantly superior to the 30-year-old COBOL coded system that was in place.

Senator ROBERTS: You have a helpdesk which logs every disputed transaction from a post office. It must be a simple matter to get out data on those reports?

Mr Graham: It is, Senator. We have released, as I say, an updated and enhanced data report a couple of weeks ago that gives insights, visibility and transparency to every transaction that takes place in that system.

Senator ROBERTS: On notice, could you please provide the number of transactions that have needed to be sorted by the helpdesk, the total value of those transactions, how many are currently in the process of being resolved and, finally, how many were resolved in a manner that required the post office to make good the transaction?

Mr Graham: I'm happy to do so, Senator. I know from looking into that issue that it is a very small amount. We will provide that detail.

Senator ROBERTS: Thank you. The next issue is a missing transaction. Licensees have suspected that money is going missing in the normal operation of the system. Some have started running transaction reports hourly. This is catching your system out by showing the licensee putting the money in for the customer and the money then just disappearing into the ether—gone. At this point, your help desk tells them to put the money in again out of their own pocket. Licensees are reporting thousands of dollars have to be made up per outlet. Are you aware of the problem of missing money?

Mr Graham: That is totally incorrect, Senator. I dispute those claims strongly. The system provides clear transparency on everything that is transacted. There is a complete electronic audit trail, which didn't occur in the old system. We know every transaction that is reported. What we do find from time to time is that there are operator errors. For example, someone processes a cheque but they put it in as cash. We have to go into the system and talk to the licensee and reverse that transaction so that we can actually record the right dollars going into the right account. This is a modern, state-of-the-art point-of-sale system. As I say, it is replacing a 30-year-old system that was not cybersafe and that had lots of challenges and issues. I would say very strongly that the value that the system will create and is creating will be of significant benefit to the licensees going forward.

Senator ROBERTS: Previously, sales of merchandise through the Australia Post Shop went into the licensee's bank account on the day of the sale. Under Post+, the money goes into your bank account and is sent back to licensees in 48 hours. It is longer on weekends. How is adding that extra step and introducing payment delays to LPOs an improvement?

Mr Graham: Senator, I'm not aware of that issue, but I'm happy to take it on board. I wouldn't see any reason why we would want to delay payment. We understand the importance of cash flow to the licensees. We have done a number of things to improve cash flow to the licensees. In terms of merchandise they buy, we give them credit for that merchandise straightaway even when it has not been delivered by us. We don't take the money out until they physically do it. I am happy to take that query on notice. It doesn't sound correct to me.

Senator ROBERTS: If you could, please.

Mr Graham: Yes, certainly.

Senator ROBERTS: This is a question of whether or not you're abusing power over licensees by requiring the LPOs to cover the losses of a system you are requiring LPOs to adopt. What incentive is there for Australia Post to get this right if you don't wear the losses from this going wrong?

Mr Graham: Well, first of all, Senator, again, I would restate that we do not expect the licensee to suffer any loss for what may or may not be a system failure. That is not an expectation of Australia Post. If the system is down and we have caused any financial harm to the licensee, we will refund whatever harm that is. We are very clear—indeed, it would be a breach of the franchise code if we were to do that—so that does not occur. If the licensees can show us that they have suffered a financial situation because of the system or an error in the system, we will happily make good on that loss.

Senator ROBERTS: I'm sure they're watching.

Mr Graham: I'm sure they are. I am happy to talk to them.

Senator ROBERTS: What is the budget for Post+ implementation?

Mr Graham: The total budget for Post+ was about \$270 million.

Senator ROBERTS: That is \$270 million?

Mr Graham: Yes. It is a very large investment we made. Australia Post made that investment to improve the efficiency, improve the security and improve the features and benefits that were available to our customers as well. It has many benefits to our customers in terms of electronic receipts and SMSs et cetera. It does a number of other things that benefit the end customer.

Senator ROBERTS: Where did the money for Post+ come from?

Mr Graham: It came out of our normal capital investment cycle.

Senator ROBERTS: Is there software code commonality between the UK system known as Horizon and Post+?

Mr Graham: Absolutely not, Senator. The Horizon system was built 16 years ago. This is a brand-new state-of-the-system built in the cloud and built with global best practice around point-of-sale systems.

CHAIR: I will need to rotate the call, Senator Roberts. Make this your last question.

Senator ROBERTS: I need to come back afterwards.

CHAIR: Sure.

Senator ROBERTS: Is it your testimony, then, just to make sure I'm clear, that if a review of the software was done, there would be no code commonality between your system and Horizon?

Mr Graham: I am not a technical expert, Senator. Given the Horizon system was built in a completely different software language 14 or 15 years ago, I would be very surprised if there were any coding similar to that and done by a completely different company.

Senator ROBERTS: Thank you.

Senator HENDERSON: Good evening to you all. Mr Graham, I want to ask about the 13 per cent increase in your total remuneration. It was published in your annual report. You are now earning \$2.687 million. You had an increase in your salary of \$301,952. What was the basis for such a large increase?

Mr Graham: That is not a matter for me, Senator. My salary is reviewed by the independent Remuneration Tribunal. They would have set that. It would have been signed off by the board.

Senator HENDERSON: Given Australia Post made a loss again this year, I'm wondering why you received such a significant increase in your salary.

Mr Graham: Again, Senator, that is a matter for the independent arbiter in the Remuneration Tribunal. It is a matter for the board. The number you mentioned is both my fixed and at-risk remuneration.

Senator HENDERSON: Yes. That's true. I'm looking at some of the other increases for your senior executive team. Mr Starr received \$179,000, a 15 per cent increase. Ms Davies, the head of people and culture, received a 16 per cent increase, to \$181,000. There are a few other very large increases. I guess I am raising the concern in this cost-of-living crisis, Mr Graham. This doesn't look good. You are an organisation that is obviously owned and funded by the taxpayer. I'm not attributing direct responsibility to you. I understand that. Did you make any representations that you shouldn't receive this sort of increase?

Mr Graham: Senator, it's not for me to make those representations. I will correct you. We are not funded. We are completely self-funded. We are owned by the taxpayer, but we are completely self-funded.

Senator HENDERSON: You are owned by the taxpayer, yes.

Mr Graham: Correct. I want to make that correction. Again, Senator, we are in the middle of one of the most significant transformations in Australian corporate history. We are in a war for talent. We have to ensure that we attract and reward the best talent. The percentages that you mentioned also include, as I say, the at-risk component for those executives. We set a stringent set of KPIs that we need to achieve to participate in that at-risk component. We met some of them and exceeded a number of them. There are others that we didn't meet.

Senator HENDERSON: But even your base salary has gone up from \$1.48 million to \$1.644 million. Even on the base salary, you are looking at a very significant increase. Given Australia Post is essentially funded by the taxpayer—I know you are partly commercial, but many Australians are now paying \$1.50 to send a letter, so Australians make a very significant contribution—I am raising concerns, in this cost-of-living crisis, about how you could receive such a massive increase in overall salary.

Mr Graham: That is over a period of a couple of years. Again, it's a matter for the Remuneration Tribunal. The increase in the price of a stamp, we believe, is about a cup of coffee to the average household per year, given the number of stamps used by the average household. We of course take any cost-of-living increase into consideration. But we are a commercial enterprise at heart. So \$7.6 billion of our almost \$10 billion in revenue is in our parcel business. It is openly active and one of the most highly competitive businesses in the world. A core part of our business is out there in the commercial environment. Therefore, attracting and retaining talent is a key part of our ability to compete.

Senator HENDERSON: Thank you very much, Mr Graham. I have no further questions.

CHAIR: Thank you. Mr Graham, maybe you could remind us the average number of letters that a household would potentially send in a year?

Mr Graham: It's about eight at the moment, Senator.

CHAIR: Eight per year per household?

Mr Graham: Yes. We have even seen a significant reduction in Christmas cards. People are now sending them electronically more so than by mail. It was 12 two or three years ago. Based on the research we do, it's now about eight. So 98 per cent, almost 99 per cent, of all mail is corporate mail.

CHAIR: Would you anticipate seeing a drop again this Christmas?

Mr Graham: Yes, we would. We saw about a 12 per cent to 13 per cent drop in volume last financial year.

CHAIR: Just in one year?

Mr Graham: Yes. We expect that will continue. We thought it would be a further decline because of the increase in the postage stamp cost, particularly in the corporate mail. As I said, for whatever reason, that has held up. We are seeing in the last four months a greater decline in corporate mail. It has been slower than we anticipated.

CHAIR: Thank you very much.

Senator ROBERTS: I have a brief few questions. Do you, Mr Graham, or Australia Post have access to the software code for Post+ to review? Did Australia Post review the code before implementation?

Mr Graham: Yes. We have a comprehensive review process. We have also had that process externally validated. We have ownership of the source code of that software platform. It is a core, obviously, operating platform for our retail business. Therefore, it is really critical that it does what it says it does on the box and that we maintain and continue to invest in updating that software to reflect improvements we can make both in its operating system in relation to the enhancements that can be provided to customers when they transact with us over the counter and being able to make it more efficient for our team members and the licensed post offices that use it. I will give you an example. One of its features is an online training program. If you are in a transaction and you are stuck, you can go to the screen. It will show you and explain how that transaction could be managed.

None of that was available in the old system. The old system was literally a rotary telephone equivalent to what is now a smartphone.

Senator ROBERTS: So you manage it yourself internally—your Australia Post people?

Mr Graham: No. We work with the software provider who worked with us to build the software. They work with us. We have our own team of software engineers. They have their team. We work with them to implement the enhancements, do the normal backups and all the other things you would do with a large-scale technology system.

Senator ROBERTS: So the company installing the point-of-sale system is Fujitsu. Is that correct?

Mr Graham: No. That's not correct, Senator. They are installing the hardware—the screens and the keyboards. The company that is involved is a company called OVC, which is an American company.

Senator ROBERTS: What is the name of the company?

Mr Graham: It is OVC. They specialise in point-of-sale systems. They built the software in conjunction with Australia Post. The role that Fujitsu plays is a role that they've played with us through a contract. They have responsibility for servicing our screens, laptops, keyboards and all the normal—

Senator ROBERTS: Hardware only?

Mr Graham: Hardware only—correct.

Senator ROBERTS: Fujitsu is the company that provided the UK Horizon system. Correct?

Mr Graham: Fourteen or 15 years ago, that's correct, Senator. Correct. They've had no role in the software provision of Post+.

Senator ROBERTS: They cannot go in and change the data in a system such as account balances, as they testified they could in the UK?

Mr Graham: Correct. It is a closed system. They have no access to the software. They have no role in the software. It's completely closed. The only people who have access to that are our engineers. Again, we have a clear technology audit trail for when people access the system as well as OVC.

Senator ROBERTS: Thank you. This is the last question in this thread. I have a few more after that on another topic.

CHAIR: You are the only one left, Senator Roberts. You can keep going.

Senator ROBERTS: Money is going missing, according to the LPOs. Where is that money going? It has to be going into someone's bank account.

Mr Graham: Senator, first of all, again, I would strongly challenge that claim. Money is not going missing. We have a full electronic audit trail of every single transaction that takes place. We provide that report both to the licensees and to our own internal team. Again, I would highlight that there is a very small noisy contingent of one licensee group that is not representative of the vast majority of licensees. I have been out there. I have met with them. I have been in town halls. I have been around the country, as has our retail team. The vast majority of people—again, I am happy to accompany you to visit our licensees—are very positive about the system, having replaced an old creaky system that was 30 years out of date.

Senator ROBERTS: So is this small disgruntled group scattered across the country, or are they in a locality?

Mr Graham: I couldn't give you that. I know it is a very small group. As I said earlier, we believe they are pushing a broader agenda, not just around Post+. Therefore, they are creating noise when we believe there is no noise. We take very seriously to ensure that the system does what it says it does. We have spent \$270 million. It had better do what it does. This is going to be around for a long time. We have made sure that we will do an upgrade of this system every year. That is unlike the old system, which was well out of date and had not been upgraded and was a cyber risk. This system, again, is built in the cloud with modern architecture and modern infrastructure. We are committing tens of millions of dollars to continually make sure it is upgraded and reflects the needs of both the users, which includes the corporate post offices as well as the licensees, and our customers.

Senator ROBERTS: So you don't know how big this small group is that you're talking about?

Mr Graham: No. We believe it is a small minority based on surveys we've done in relation to Post+, activity when we have been out talking to licensee associations and, indeed, the day-to-day backwards and forwards we have with all licensees.

Senator ROBERTS: So they are not in any one of the two licensee groups?

Mr Graham: They may be, Senator, in one group.

Senator ROBERTS: What are their main issues? What are they disgruntled about?

Mr Graham: Well, I think it has been a longstanding issue with Australia Post over a long time. As I have said, I cannot fix the problems of the past. They are in the past. My job is to fix today and tomorrow and to listen and to respond to any genuine concerns they have. We have done that. We are not perfect. Occasionally we do make mistakes. We open up and put our hand up about those mistakes. They have, I guess, motives around the role that Australia Post should play in banking, for example. We believe that our Bank@Post service is the right service for us. We don't believe we should go beyond that. As I say, there are historic gripes that go back some time. We have worked very hard to ensure that we resolve any outstanding issues. I say again, and with strong conviction, that the vast majority of our licensees have a very positive attitude to Post+ and have a very positive attitude to the investments we are making. Both associations stood behind our licensee buyback program in metropolitan areas. They clearly recognised the significant overlap and the financial strain that a lot of these licensees in metropolitan areas were undergoing.

Senator ROBERTS: I will move to the next topic. Can I pay my Telstra mobile telephone bill at Australia Post?

Mr Graham: You can. You will pay a fee for that, which Telstra has imposed on you as a Telstra customer.

Senator ROBERTS: Who gets the fee?

Mr Graham: The fee gets split, I believe. I will take it on notice. I believe it gets split between the licensee, who gets money for the transaction, and Telstra.

Senator ROBERTS: Recently, Telstra updated their terms of service for some mobile phone customers. It no longer allows payments to be made at post offices. Have you just lost a customer?

Mr Graham: Well, this is not uncommon, Senator. As I said, our over-the-counter transactions outside Bank@Post have gone down 28 per cent over recent years. More and more companies are encouraging their customers to pay bills digitally or electronically or online. We have seen a significant decline in what we call our Billpay services for paying gas bills and telephone bills et cetera because customers are being encouraged to pay electronically or, indeed, are being penalised if they pay over the counter.

Senator ROBERTS: The banks like doing that to us anyway.

Mr Graham: Well, that's an opinion one could express, Senator, yes.

Senator ROBERTS: I'm not asking for your opinion. Has a long-term solution been found for the cost of carrying cash, such as with Armaguard?

Mr Graham: It's a very good question, Senator. I don't believe a long-term solution has been found. Again, this is where Australia Post plays an important role. Whilst we've had the banks and, indeed, the RBA, confirm that cash use in the economy is declining, we cater to a demographic and a profile of society where cash is the main form of transacting. It is the elderly. It is people who don't have English as a first language. It is areas where there is a high immigrant intake or a distrust of financial institutions. We are on the other side. We are seeing growth in that area of transactions. My observation is that these are customers who may not be that attractive to the bank because they don't have mortgages or they don't have business banking accounting. We are the service provider that is providing that service and will continue to provide that service. As I said in my opening statement, whilst we remain very happy to do that, we need to do that at a small margin so we can continue to invest in that service. That service is on track to make a loss for Australia Post.

Senator ROBERTS: Didn't you say maybe 12 months ago when I saw you that Australia Post has the largest retail network in the country?

Mr Graham: We have, in terms of our footprint, over 4,181 branches, correct.

Senator ROBERTS: I will come back to that in a minute. Do you have plans to change any post offices from manned to unmanned using kiosks?

Mr Graham: We have a whole range of different formats, including unmanned kiosks for self-service terminals. They are both our parcel lockers as well as where you can go to buy a stamp, envelope or satchel. That's part of the broad range of services we provide. As I said, when we look at a suburb or a neighbourhood, we look at what services they are demanding. For example, a group in a Sydney area recently was looking for postal services. We had a town hall. We met with the community. It's a community where a lot of parents both work. They wanted the convenience of picking up their parcels out of hours, so we installed three locker banks. That more than satisfied that local community along with some self-service terminals. In other cases—

Senator ROBERTS: Excuse me. That is to enhance a manned post office rather than to replace a manned post office?

Mr Graham: It's to enhance availability and convenience. In other places, such as growth corridors that we see in Western Melbourne or, indeed, Newcastle and west of Newcastle, we will work with community to put in a new post office or a new range of services. We continue to see customers demand convenience with their parcels. They want to be able to pick them up 24/7 and access them through the postal pap. It's not a simple one-size-fits-all. We look to try to adapt a range of offerings to meet community needs.

Senator ROBERTS: Thank you. This is my last question and the last topic. Some months ago, you were very positive about the possibility of an Australian postal bank. What are your thoughts now on the possibilities of that? Are you getting any support from the government?

Mr Graham: Senator, I've always made it clear that is a matter for government. We are very happy to continue providing our Bank@Post over-the-counter transactional services. We would be even happier if we make a small margin and our licensees could get more money for that. Anything beyond that is a matter for government.

Senator ROBERTS: Thank you.

CHAIR: Thank you so much, Mr Graham. We really appreciate your time.

Mr Graham: Thank you, senators.

CHAIR: We are sorry to have kept you waiting so long.

Office of the eSafety Commissioner

[20:21]

CHAIR: I now ask officers from the Office of the eSafety Commissioner to come forward. For those who are listed to appear later tonight, we are running significantly over time. I have limited clarity about how easily we are going to catch up. That is for people's information. If senators can put questions on notice, please consider doing so.

Welcome, Ms Inman Grant. Would you like to make an opening statement?

Ms Inman Grant: I have submitted a reasonably long opening statement. If it pleases, I can give you an abbreviated version, or we could go right into questions. Given that you are behind, I want to be considerate to the people behind us as well.

CHAIR: Maybe you could give us the elevator pitch, as it were.

Ms Inman Grant: Okay. I will start by saying that 2024 was a very monumental year for esafety. For the first time in our nine-year existence, we appeared in both the Federal Court and the Administrative Appeals Tribunal to progress our regulatory actions and to test our powers under the Online Safety Act 2021. We've also completed our first phase of our enforceable codes and standards designed to put the onus back on industry to tackle the highest harms, such as child sexual abuse and pro-terror material. Six phase 1 codes are already in force. The final standards will come into force next month and will provide meaningful safeguards on things like open source AI developers and the platforms and libraries that host them.

The phase 2 codes aimed at protecting children from exposure to pornography and other high-impact material are well underway, with early industry drafts already out for public consultation. Our expectations are for a layered safety approach where every sector of the technology stack implements appropriate community safeguards, distributes responsibility across the industry and mitigates the risks to prevent any single point of safety failure.

Of course, we've continued to use our transparency powers to great effect, forcing the tech industry to face some uncomfortable truths about a range of harms that may be playing out on their services. This includes delivering 19 non-periodic transparency notices to more than 30 major online services, some of which have resulted in meaningful safety changes. This includes Apple introducing a feature just last week allowing Australian children to easily report unwanted nude images directly to the company. This is rolling out in Australia first and then to other markets. Other meaningful changes have been implemented by Discord, Microsoft and Meta in response to our transparency reports.

We will be releasing our section 20 notices to eight companies in early 2025, assessing their age assurance readiness. We'll also see our first set of periodic notices being delivered in January next year. For those of you who have read our annual report, you will have seen that 4.7 million unique website visitors came to esafety.gov.au last year. That is an 85 per cent increase over the prior year.

We have touched more than 1.4 million Australians, including educators, parents and young people themselves, through our trusted esafety providers but also through our direct programs. We've helped young

Australians have an important voice in co-designing our resources and managing our SCROLL with esafety Instagram channel and in participating in a range of policy submissions and inquiries, including the Joint Select Committee on Social Media and Australian Society last week.

Responding to public complaints and serving as a safety net is one of the most important things that we do. We have been able to help Australians who have come to us for help when things have gone wrong online and they've not had proper recourse from social media platforms. We've seen a 37 per cent increase in youth cyberbullying reports. I can talk about some of the trends there. With almost a 90 per cent success rate in remediating the harm with image based abuse, our success rate is close to 98 per cent of the time having that material removed. That is from more than 947 locations and 191 different platforms. We've had about 41,000 complaints through our different regulatory schemes.

I will end by saying that some of the important work we've done around technology horizon scanning and the anticipatory approach we've taken—

Senator ROBERTS: Did you say ID scanning?

Ms Inman Grant: No.

Senator ROBERTS: What sort of scanning?

Ms Inman Grant: Anticipatory—to anticipate technology changes that might be coming so that we're ready for them and we're on the front foot. I will give you an example. In 2018, we launched the Safety by Design initiative. It took really extended and concerted effort to gain traction. Now 10 major AI companies have signed on to safety by design principles. Most of the online safety global regulatory regimes dealing with online safety have safety by design as a fundamental underpinning. Again, our work on deepfakes in 2020 helped us prepare us for the creation of synthetic CSAM and pro-terror material and deepfake image based abuse. Being able to think about the changes that are coming our way rather than having them hit us in the face and being on the front foot has proven a useful tactic.

CHAIR: Thank you very much.

Senator ANTIC: Thank you, Commissioner. I have questions on a couple of topics. The first one I want to raise with you is an interaction we had back in, I think, estimates of May 2023. I asked you about a matter involving the deletion of a Facebook account for the spokesperson for Binary Australia, Kirralie Smith. I asked you on that occasion whether you were familiar with that matter and whether your office was familiar with that matter. You said, and I quote the *Hansard*:

There was no matter that I'm aware of that was reported to the office. I have seen some of her allegations in the media that her Facebook account was deleted. To my knowledge, we have no reports.

It goes on. That wasn't true, was it?

Ms Inman Grant: Actually, it was true. I think it is quite an insinuation that you are making. I answered your questions very accurately. Very literally, you asked me about the deletion of Kirralie Smith's Facebook account. I said there was no matter that I am aware of that was reported to the office. I had seen some of her allegations in the media that her Facebook account was deleted. To my knowledge, we have no reports. All I would say is that Facebook took that determination on its own. Facebook does not delete accounts unless there are at least five strikes of serious suspensions or violations of their terms of service. Then you asked:

So there were no reports made through your office—no complaints?

I said:

There were no complaints and no action taken by our office around her account.

The reason I am saying literal, Senator, is that we don't have account removal powers. In response, we can remove content. When you go through the FOI request, you get it through there. That is a common misperception. We do not have account removal powers.

Senator ANTIC: I asked you whether you were familiar with the matter. Your office, through the FOI application via Ms Smith, returned an email, I think, from your office to what appears to be Meta on 15 February discussing that very matter—that very post. It is blanked out largely, but it does alert you to the complaint. I think your office says:

We wish to alert you to a complaint we have received about potential incitement of violence, abuse, harassment, hateful conduct—

and so forth in relation to that very post. So it's not true that you had no knowledge of it. Your office had quite a lot of knowledge about that. There were other contacts as well. I think on 8 March you made a report to Meta concerning a video on which this matter was discussed on ADH TV. On 31 March, there was an inquiry from the

ABC to your office about the very matter. They were all before we had that interaction at estimates. It's all very well to say you are taking it literally, but that is a very cute response and not an accurate one.

Ms Inman Grant: No. It's not a very cute response, Senator, if you would give me the opportunity to respond. It is quite a very serious intimation that you are making here—

Senator ANTIC: It is a very serious body.

CHAIR: Ask the question and allow the question to be answered. Thank you.

Ms Inman Grant: As I said, Senator Antic, we received 41,000 reports and complaints through our reporting schemes last year. We have 45 people who deal with those complaints. There are five different teams and delegations. I do not know every complaint that comes in. Before you jump in, do you think it is reasonable that I would know every complaint from every person? I can tell you what I did know. About six months prior, there had been a memo sent to me about an organisation called Binary Australia. There were concerns by Football Australia that they were targeting a particular Australian adult. They were actually showing up at the games in a very menacing and harassing way. That's what stuck with me. After your letter—thank you; I appreciate you giving me that heads-up—we went back. I can confirm that from 24 May 2023 eSafety did not receive any complaints that specifically sought the removal of Ms Smith's Facebook account. We did not receive any complaints that resulted in a request by the commissioner for the deletion of Ms Smith's account or receive any complaints about Ms Smith's Facebook account that met the threshold of adult cyber abuse under the OSA. The question you asked me was about the deletion of her Facebook account.

Senator ANTIC: So are we to expect that every time you give an answer in this chamber you are carefully navigating the terms of the question? It is a cute response. The question actually was: is anyone here familiar with that matter? Your office was familiar with it. The fact that you get inundated with correspondence is immaterial. The Australian people have an obligation to assume that you are across what is happening in your office. The normal response to that would be, 'I'll take it on notice', but you were quite unequivocal about it. You said, 'No, I'm not aware.'

Ms Inman Grant: I said I was not aware that there was any report about an account deletion, and there was not.

Senator ANTIC: That is an extraordinary response. I think that is quite disingenuous, actually.

Ms Inman Grant: It is not disingenuous. We do not have account removal power. If we go back to the transcript that you quoted from, you said:

I want to ask you about a matter involving the deletion of a Facebook account—

You didn't clarify when I said:

I have seen some of her allegations in the media that her Facebook account was deleted. To my knowledge, we have no reports. All I would say is that Facebook took—

I brought that part. You didn't say content or material. You asked about the deletion of her account.

Senator ANTIC: At the time I asked that question, your office had sent an email to Meta flagging this for their consideration of deletion. That is a fact.

Mr Dagg: Senator, I will clarify. We did not seek the deletion of Ms Smith's Facebook account.

Senator ANTIC: Well, you were flagging it.

Mr Dagg: We did not seek the deletion of Ms Smith's Facebook account. There are a couple of complaints germane to this discussion. I will take you through the details. On 14 February, we received a complaint alleging four posts and comments were made targeting a complainant's gender identity. In relation to this complaint, eSafety determined that whilst the content may have been perceived as offensive and menacing, there was no further information to establish the requirement to intentionally cause serious harm. As a consequence, the adult cyber abuse threshold could not be met. We notified this content to Facebook. I should stress that we notified this content to Facebook for consideration under their terms of service with a request that they take appropriate action. We did not request the deletion of Ms Smith's account. We have no power, as the commissioner has explained, to do so under the Online Safety Act. In this instance, even the material didn't meet the legislative threshold for us to exercise removal under the adult cyber abuse scheme.

In relation to the 29 March complaint, it was similarly provided to us via our complaints scheme. Again, we sent the notification to Facebook for action under their terms of service. We did not make any requests for that account to be deleted. Again, we have no power to do so.

Senator ANTIC: But your office was aware of the matter. I would have thought the standard it expected was, 'We're aware of a matter. It has been referred.' That is the end of the story. The answer given gave the impression that there was absolutely no knowledge of the matter full stop.

Ms Inman Grant: No. I didn't say that. I saw that there was a media article. Another thing is really germane here, Senator, if I may. Many times in this committee when I have been asked specific questions about specific complainants, I say that we don't talk about individual cases. There are very important reasons for that. We have to treat those reports with confidentiality. We treat them as personal information. The Information Commissioner agrees. There are two reasons we do that. One is to protect the member of the public. You did disclose her name. I assume you had information from her. The other is to protect the complainants from potential retribution. If you have a really pernicious and aggressive troll and you let the public know that someone has made about a complaint about them, you're putting them in further harm's way.

Senator ANTIC: That is not the answer you gave. The answer you gave was not designed to do that. The answer you gave was an outright, 'No, we don't have any knowledge of this matter.'

Ms Inman Grant: I did not say that anywhere in this transcript, Senator.

Senator ANTIC: I don't think we're going to agree. I would say that answer was misleading. I want to ask you about another matter. You are aware, I think, or are familiar with a lady who was the former executive director of the Disinformation Governance Board in the United States, Nina Jankowicz?

Ms Inman Grant: Yes. Nina Jankowicz is also an expert on technology facilitated gender based violence.

Senator ANTIC: An expert in disinformation?

Ms Inman Grant: That is one of her areas of expertise.

Senator ANTIC: She is also a person who has expressed some pretty controversial views. There are many non-binary people who give birth, she said at one point. She also expressed some views about the Hunter Biden laptop affair being Russian disinformation and so on. As I said, she was a former executive director of the disinformation board before it was disbanded in the United States. You met with her when she was in Australia on 10 July and did some media interviews on 6 September. You attended a virtual e-safety all-staff forum. Do you think her views are controversial on this issue?

Ms Inman Grant: I didn't engage with Ms Jankowicz about disinformation or misinformation. She is an expert on technology facilitated gender based violence. She wrote a paper on the issue that was commissioned by Vital Voices and Columbia University. She used my trolling episode as a case study. When she came out here, she came out here for a conference called, I think, Everything Digital in Queensland. I did two media interviews with her to release the paper on technology facilitated gender based violence. I met her through the global partnership to counter gender based harassment and abuse. That is an area of her expertise. Disinformation is not in my bailiwick. I meet with experts all over the globe on issues that are of mutual concern. She met with a number of members of the government. I was not the only member of government who met with Ms Jankowicz.

Senator ANTIC: It's a lot of meetings, though, in one trip.

Ms Inman Grant: Two interviews. She came to our office to deliver to staff and do another briefing on gender based violence. I don't think that's excessive.

CHAIR: Four.

Ms Inman Grant: Four.

CHAIR: Four, did you say?

Senator ANTIC: Well, in a short trip, I think that's a lot.

Ms Inman Grant: I understand that it was a two-week trip across the country.

Senator ANTIC: This is my final question. I think there was an Administrative Appeals Tribunal matter in which Twitter or X involved the eSafety Commissioner. It was recently, I think, resolved in some capacity. It looks like consent orders were entered into. What was the cost to the taxpayer to be involved in that matter? This is one I think involving Bishop Mari.

Ms Inman Grant: There was the weekly Federal Court case and then there was the case that X brought to the AAT. Through mutual agreement, both parties decided to dissolve the AAT case. There was a very good reason for that. In fact, saving taxpayer dollars was part of that equation. The questions being tested were around whether or not the Online Content Scheme and our ability to quickly respond to user generated terrorist real world harms was compatible with the National Classification Scheme, which is used to classify produced books and movies. We came to the conclusion that the AAT wouldn't be able to—

Senator ANTIC: I got all of that. What was the cost?

Ms Inman Grant: What was the cost? I think around \$60,000.

Senator ANTIC: Thank you.

Senator DARMANIN: Thanks for your opening statement. You whizzed through it pretty quickly. You touched on a couple of areas that I have some questions about. There has been a lot of focus on takedown powers. You did reference the transparency powers in your opening statement that require or request information from online service providers. You talked about some of the difference that has made in terms of the platform providers. I think you talked about Apple, Discord, Microsoft and Meta adjusting their policies as a result. That is what I heard. Could you expand on the difference the transparency powers and your actions have made?

Ms Inman Grant: I can't divulge all the specific differences. The Apple one was very public. They very rarely pre-brief. They prebriefed us because they wanted, I think, to show goodwill and good faith in making these changes. With respect to Microsoft, I think this was the first time there had been scrutiny around Skype and its use as a vector for livestream child sexual abuse material. The company took it very seriously, particularly in the areas where they didn't have geographical indicators. They took it offline for a while so their engineers could look at it. We were concerned that Discord weren't updating their hash lists. Immediately after the transparency report, they joined the IWF to sign up for their hash list. Meta wasn't sharing certain information between different systems. When they found an offender on one platform, they weren't sharing it with the other. They are remedying that now as well.

Senator DARMANIN: In terms of the actions you have taken, are there any other broad differences that you are seeing that are making things safer? Are there online safety improvements for Australian users in general?

Ms Inman Grant: Well, I think it's very clear that companies do want to be seen in a positive light. They do want to be seen as safe. Being a toxic service that is dangerous for young people is not very good for the bottom line or for the goodwill of the public. We are seeing lots of increases. For instance, Instagram put out its teen accounts figures. Often when one company innovates around safety, others will follow suit. When I was in the industry, we used to refer to that as 'coopertition'. They are competing on some things, but you don't compete in the area of safety; you learn from each other and you share best practice. That is precisely what our safety by design initiative does. We just put out a safety by design paper on good practice around technology facilitated gender based violence. While we did try to call out some of the positives, we also noted that 80 per cent of the technology leaders and their product designers and engineers in Silicon Valley are men without lived experience. We think there is a lot more they could do to understand how misogynistic and targeted abuse manifests and to use their collective brilliance, financial resources and access to advanced technologies to make their online experiences better for half of their user base.

Senator DARMANIN: Thank you. I was going to ask about the safety by design principles and what changes you are seeing worldwide as a result of them. That is a good example, I guess. Are there others that you want to talk about?

Ms Inman Grant: Again, safety by design was something we decided to do with the industry rather than to the industry. We agreed to the three primary principles around what service provider responsibility looks like; what user empowerment autonomy should be, because the burden for safety should never fall on the user; and what meaningful transparency and accountability looks like. As I said, 10 of the major AI companies have signed on to safety by design principles. We're working through the US-Australian joint council to combat child sexual abuse material on a safety by design workshop with Homeland Security, the US Department of Justice and a number of technology companies to make sure that they are deploying these properly. We have developed free risk assessment tools, which have been used all around the world by both start-ups and large companies. As I said, there is the UK Online Safety Bill and the European Digital Services Act. Hopefully when the Online Safety Act review is made public, safety by design will be an important feature there. You cannot have a safer online world if the fundamental building blocks of the services and platforms we're using every day aren't fundamentally safe. They were built to be sticky by design and are risky by design. We need to change the way these companies develop, deploy and even refresh their products.

Senator DARMANIN: Thank you. Under the act, eSafety has an online safety education mandate. I'm not sure exactly how it achieves that mandate across the entire Australian school systems. Could you particularly provide some idea of the education role and how eSafety gets boots on the ground across all Australian schools?

Ms Inman Grant: I am sure you would agree that education and prevention is absolutely essential. We have built up our capacity in a range of ways. I may turn to Mr Dagg, who runs the education prevention inclusion branch. We haven't rested on our laurels. We do everything from training teachers to building tools for schools to

working with trusted e-safety providers. As I say, we've reached 1.4 million Australians over the past year with this information. We formed something call the National Online Safety Education Council. We meet quarterly with 27 different education departments around the country to find out what their needs are and what they are seeing. Dealing with educators at the coalface is important. One thing we learned two months ago was that upper primary school kids and lower secondary school children were starting to spend four or five hours a day on sexualised chatbots. They felt addicted to them. Through our regulatory obs model, we take a lot of this information and then do some intelligence work. It's mutually reinforcing. I think a number of people saw that tragic story published in the *New York Times* about the 14-year-old who took his own life after becoming attached to an AI chatbot. We raised the alarm about that. Of course, AI programmed sexual chatbots are not going to have the same reactions. They are not human. We need to start thinking about how we talk to kids about their interactions with AI. We know that AI can prevaricate, manipulate and hallucinate. We need to be building digital resilience and honing critical reasoning skills. Do you want to add anything?

Mr Dagg: Senator, I might quickly give you a cook's tour of some of the highlight statistics to answer your question about how we achieve that scale. The scaling is a real challenge for us. We're an organisation of about 215 people. We have about 50 people dedicated to the education and prevention work. One of the best things we do, I think, to scale is our virtual classrooms work that has been in place since about 2015. It was one of the first digital programs we rolled out under the children's eSafety Commissioner. Last financial year, for example, we reached over 128,000 children across the country through the virtual classrooms program. Over the life of the scheme, we have reached just over 974,000 children. We're also stewards of a program that enables us to engage with private providers of e-safety education called the Trusted eSafety Provider program. Through that we do a number of things, including ensuring that materials delivered by those within the program are of a particular quality, that they make reference to the eSafety Commissioner and that they reference our curriculum work, for example, and our framework for education. Through that program, private providers have reached well over 1.3 million people just in the 2023-24 financial year. Most of them are students.

We're also reaching educators and parents. We have a number of participants in non-school settings, too. We also work very heavily with teachers through professional learning, preservice and in-service professional learning. As the commissioner said, we're also responsible for the National Online Safety Education Council, which is made up of 27 participants from education sectors right around the country—independent schools, Catholic schools and public schools. We use that regular cadence of meetings to spotlight particular issues that are of relevance to schools. For example, with the spate of absolutely tragic youth suicides related to cyberbullying recently, the December meeting will really focus on cyberbullying and ensure that those who are present who can take this information back into their school communities understand how the eSafety Commissioner can assist.

Ms Inman Grant: We're working on some new online safety advisory products as well. We've started doing online safety advisories, for instance, around sexual extortion. Since 2018, both we and the AFP have seen real spikes, unfortunately, targeting young men. With the National Anti-Scam Centre we actually put out another alert last week and amplified some of their messages about a scam that was claiming to have hacked into your hard drive and accessed your nudes to try and create panic and have people pay money. There are organised criminals that are recycling a lot of these sexual extortion scams. They use a combination of fear and guilt to drive children and young adults to acute distress, with some pretty devastating consequences.

Senator DARMANIN: You have touched on this, I think, but how does eSafety work with police forces in particular?

Ms Inman Grant: I just saw Deputy Commissioner Lesa Gale in the hallway. She was awaiting her time before estimates, too. I'd say that relationship has really gone from strength to strength, particularly with the work that we do around education and prevention but also around referral and sharing of intelligence with the Australian Centre to Counter Child Exploitation and the Joint Policing Cybercrime Coordination Centre. We're doing secondments into both of those centres. We have MOUs that cover all of the major law enforcement agencies and organisations across the country, and that includes a range of activities such as information sharing and training.

Mr Dagg: Just to round off the commissioner's explanation, I think it's probably true to say that our operational engagement with police across the country is a daily affair. We support and buttress some of their operations. In particular, when it comes to the Australian Centre to Counter Child Exploitation, that's a key strategic touchpoint for us into law enforcement. We ensure that any sexual extortion complaints—for example, the concern about under 18s—are immediately referred to the ACCCE. I've been in this work now for well over a decade—from the very beginning of the eSafety Commission's life. I'm pleased to say our relationships with law enforcement have never been healthier.

Ms Inman Grant: And there's the youth crime summit.

Mr Dagg: Yes, we also have a roundtable in June that brings together police forces from around the country as well as other stakeholders from the civil sector—the Department of Communities and Justice, for example—to talk about the phenomenon of youth crime online and the intersection between digital platforms and youth offending. From that roundtable we had some very positive outcomes that reflect, for example, commitments from the platforms to conduct tabletop exercises for police forces so that they can better understand their operational touchpoints and how to share information.

Senator DARMANIN: Thank you.

Senator ROBERTS: Thank you for attending. My first question is about your newsroom statement from 4 October about the social media platform X and a transparency notice on the measures it's taking to combat child sexual exploitation material. Is this the only transparency notice that has not been complied with?

Ms Inman Grant: Thus far, yes. Where we issued an infringement notice, we issued something called a service provider notification to Google for the same set of child sexual abuse material.

Senator ROBERTS: The only other platform is Google, and that hasn't been issued with a transparency notice. Are there any others like Telegram or Facebook? Telegram does a lot of work in that area.

Ms Inman Grant: We are in the midst of a process around a series of very complex transparency notices in relation to terrorist and violent extremist material. Telegram is amongst them, and we're engaging with them.

Senator ROBERTS: Thank you. This thread asks about a subset of your work—material that is violent or distressing. Do you have a transparency portal where your instructions to social media platforms to take down such material are registered in as close to real time as possible so we can see what you're censoring?

Ms Inman Grant: We weren't set up as a censor, Senator. We have frameworks provided through complaint schemes. Members of the public report content to us, particularly when the social media platform or messaging platform hasn't responded. With respect to illegal and harmful online content, we also have very well legally defined requirements. We have both notice powers under the Criminal Code and then removal notices under the Online Safety Act and formal removal notices, which we exercised against both X and Meta during the Wakeley terrorist incident.

Mr Dagg: Can I just explain how we achieve the objective of transparency in terms of our actions. You may know that the Online Safety Act requires us to publish, under section 183, actions that we've taken in relation to a variety of harms. Our annual report has been published. You can find all of the information—

Senator ROBERTS: Your report has been published?

Mr Dagg: The annual report has been published, and we are required to report all of that information in the annual report. You can find that from page 223 in the appendices that relate to the eSafety Commissioner. That will show you all of the actions that we took for the financial year 2023-24.

Senator ROBERTS: Can you give us a bit of background on each one?

Mr Dagg: No—these are aggregated figures, so there's no specific breakdown of each individual matter.

Senator ROBERTS: So there's no breakdown and no opportunity for people to see how you're doing it?

Mr Dagg: It would not be operationally feasible for us to report in real time the actions that we're taking. Parliament expected us to report on an aggregated basis about the actions that we've taken, including requests, but we haven't broken them down—

Senator ROBERTS: It's just the aggregate numbers—

Mr Dagg: The aggregate numbers for a range of operational purposes, including security and operational feasibility.

Senator ROBERTS: So the platforms have to be transparent, and you don't?

Mr Dagg: Well, the platforms report on things in an aggregated way, too, Senator. They're not reporting on each individual specific matter that they deal with. They deal with millions of matters on a yearly basis. So, again, that just wouldn't be feasible for them to do.

Senator ROBERTS: But the platforms have to be transparent to you.

Mr Dagg: Through the exercise of our compulsory transparency powers under the basic online safety expectations. But it's important to note, Senator, that those transparency powers are around how the platforms are meeting the expectations. We're not extracting from them specific information about how they're dealing with this matter or that matter that might be reported to them. We're interested in understanding how they take user reports,

for example—if they've got reporting schemes in place, how their terms, services and policies are developed to meet the objects of the basic online safety expectations. The most recent determination includes some measures in relation to generative AI and how the companies are ensuring that these technologies aren't being used, for example, to produce child sexual abuse material on a synthetic basis. That's the kind of information that we're drawing from the companies. We're not drawing information about how they're dealing with individual complaints.

Senator ROBERTS: The police force has long had transparency to the public through the court system. Whether you agree that the court system is perfect or not, that's not the point. Who do you go through to provide transparency? How can we assess what you're doing, rather than just in the aggregate?

Mr Dagg: When it comes to the principles of open justice, as a former police officer myself, the matters that make their way to court represent a tiny fraction of all matters that are reported to police. The matters that are reported to police are not reported on an individual basis. There are strict privacy concerns, for example, that ensure the protection of complainants' identities and the specific matters that are reported to police forces. The Wakeley matter—the section 109 notice that we issued to Twitter X—is a good example of how that principle of transparency plays out in the Federal Court. The online file, for example, includes all of the evidence that the eSafety Commissioner relied on to make the case that the interlocutory measures ought to be accepted by the court.

Senator ROBERTS: The Senate is the house of review. What facility exists for the Senate to review your take-down notices of material? Where's the supervision of your activity? Who oversees you?

Ms Inman Grant: There are a few different ways. One is through FOI, which you've exercised yourself, Senator. We've had a 2,288 per cent increase in FOIs over the past year. We are held accountable. We have reporting requirements that include any informal actions we take. Of course, we can be challenged in the Federal Court. We can be challenged at the AAT, or now the ART. We can be challenged by the Ombudsman, and a complainant can ask for an internal review to be done. So there are a number of different ways that we can provide transparency when it is asked for or required.

But, as Mr Dagg said, with 41,000 reports this year—and I think Mr Downey, who is now running the investigations branch, is expecting at least 60,000 reports next year—it would operationally be infeasible, and it would violate the privacy of the complainants. As I said before, that confidentiality is important. Even young people understand that one of the reasons children don't report cyberbullying is they don't want to be the doer or the snitch, and they fear retribution. If we were to not treat some of these complaints as personal information—and the Information Commissioner agrees with us—I think it would undermine trust in us as an organisation.

Senator ROBERTS: I get that. Did you say that there was a 2,000 per cent increase in FOIs?

Ms Inman Grant: Yes, 2,288 per cent.

Senator ROBERTS: That's a huge increase. It tells me that people are hungry to learn more.

Ms Inman Grant: Yes, and there have been some campaigns that have also encouraged people to put in FOIs, which we respond to.

Senator ROBERTS: You've used the defence of having so many infringements to take care of. That's a big workload. What I'm interested in is not so much that but how you're being held accountable. How can we see transparently what you're doing?

Senator McAllister: Here we all are, Senator. What is the question that you seek to ask?

CHAIR: We call it estimates.

Senator McAllister: We are at estimates. The commissioner is here to answer your questions. If there are particular things that you're interested in, you really should ask her.

Senator ROBERTS: What about the public? They need to know.

Senator McAllister: You are their representative, as you so often remind us.

CHAIR: You can send them the video of this.

Senator McAllister: You are a humble servant of the people of Queensland.

Senator ROBERTS: I want to go to freedom of information 24118, which asked for any guidelines you have with regard to the implied right to political communication to make sure you aren't infringing on it as you issue take-down notices. I note that your freedom of information decision says: 'There are no dedicated guides or policies with respect to the interaction of the implied right of political communication in use by the eSafety

Commissioner or personnel who implement the various schemes under the OSA.' There are no dedicated guides or policies?

Mr Dagg: We would need to assess each and every action we take through the lens of whether or not the implied constitutional right to political communication is infringed. That's just operationally infeasible.

Senator ROBERTS: So are you saying, 'To hell with the Constitution'?

Mr Dagg: No, not at all. The concern that a particular person's interests may have been infringed in such a way as to raise a claim that the operation of the Online Safety Act is invalid is absolutely a matter that can be pursued through merits review or judicial review. But, to the commissioner's point, we are going to be dealing with 60,000 complained URLs this year, which produces a significant percentage of actions we take. I'm sure you can understand that rigorously assessing whether or not they raise any specific issues in relation to the implied constitutional right makes it very difficult for us to make rapid decisions in line with the threshold set by the act. I think it's important to note that the act contains very clear thresholds and very clear parameters for us to apply in terms of operational decision-making. The act itself, as you would have seen, is supported by a bill which was subject to exhaustive human rights review in its construction. We believe that, by properly administering the act on behalf of the commissioner, we're taking actions which are in line with parliament's expectations. If a person believes that their constitutional right—the implied right—has been infringed, there are avenues for review of that decision.

Senator ROBERTS: I can't see how bypassing the Constitution or not including it as a consideration is in any way okay. The eSafety Commissioner and the delegates ordinarily—this is the quote: 'The eSafety Commissioner and the delegates ordinarily proceed on the basis that the powers given to them under the OSA by the Australian Parliament are reasonably appropriate and adapted'. So you don't turn your mind to whether you're acting constitutionally at all; you just assume you are. How can this Senate be convinced that you are able to act within the Constitution when you don't even have a document outlining the fundamental right of Australians to communicate in political matters? If you infringe on someone's constitutional rights, then they complain? That's it?

Senator McAllister: As you know, the constitutionality of any piece of legislation that comes before the parliament—

Senator ROBERTS: Not the legislation—

Senator McAllister: is quite frequently a matter of some discussion. Unless you seek to challenge it, we can assume that the legislative framework within which the commissioner and her staff operates is constitutional.

Senator ROBERTS: That's a misrepresentation of what I said, Minister. I'm not saying that the act is unconstitutional; I'm saying that the consideration to take someone down needs to maintain constitutional rights—particularly political.

Senator McAllister: I think the two things are interconnected, Senator, because the powers that are exercised by the commissioner and the staff that work with her are enabled by the parliament and by the legislation.

Senator ROBERTS: I get that.

Senator McAllister: As I have indicated to you already, that is quite often subject to a discussion among senators about constitutional arrangements.

Senator ROBERTS: That still doesn't answer the question—the right to political communication.

CHAIR: Senator Roberts, I am going to move on.

Senator ROBERTS: Thank you.

Ms Inman Grant: Chair, may I make a request that we respond to some of the issues around the Constitution and the constitutionality?

CHAIR: Absolutely. Would you like to do that now or in writing?

Ms Inman Grant: I would like to do that in writing.

CHAIR: That would be great. Thank you. You could do that on notice.

Ms Inman Grant: Okay.

Senator SHARMA: Good evening. I just wanted a breakdown—well, not a breakdown, a total figure—on the current funding for the eSafety Commission. I've seen claims made that the funding for the commissioner has been quadrupled since 2022. Could I just get what your total current funding is for the financial year 2023-24?

Ms Inman Grant: I will turn that over to Ms King.

Ms King: Can I just clarify: you said 2023-24?

Senator SHARMA: Yes, please.

Ms King: Absolutely. Our total appropriation for 2023-24 was \$52.688 million. I think what you're referring to in terms of the quadrupling figure is related to our ongoing base funding, which went from \$10 million to approximately \$40 million ongoing in this last financial year.

Senator SHARMA: I see. But has your total funding quadrupled? My read of the portfolio budget statements is that it's been pretty steady. It's somewhere between \$51 million and \$53 million going back about four years now.

Ms King: That claim is related to ongoing funding, which quadrupled. That was done as part of a budget review that was finalised. Last financial year was the first year that came into effect. Our ongoing funding was bolstered by a series of terminating measures. Our overall appropriation was higher than that. But last financial year we had sustained ongoing funding in the forward years, and that's quadrupled from when eSafety was first established in 2015.

Senator SHARMA: Okay, so an element of your funding has changed, but your total envelope of funding has remained?

Ms King: That's correct.

Senator SHARMA: So it's roughly the same. Thank you.

Senator HENDERSON: Good evening to you all and to you, Commissioner. I wanted to quickly touch on your work in Australian schools. I'm just keen to understand the extent to which you are working with the Department of Education and the Minister for Education in relation to e-safety for school children. Can you quickly provide an overview of that?

Ms Inman Grant: I believe that the federal Department of Education is on the NOS app. I have had a couple of conversations with Minister Clare about education and online safety. I know that's an issue that is of great interest to him. Of course, the commitment by the government to supporting the Alannah & Madeline Foundation also contributed to the digital literacy programs that are being rolled out at the federal level.

Senator HENDERSON: Have you made any proposal for further funding to support e-safety in Australian schools?

Ms Inman Grant: We're working with the funding envelope that we have at the moment.

Senator HENDERSON: So you've got enough money?

Ms Inman Grant: How long is a piece of string? Obviously, there is more that we can do with more resourcing, but I think we punch above our weight and we try to be very strategic with how we reach as many people as possible. I'd say that the hardest cohort for us to reach is actually parents. One vector or way to do that is through the schools. When I was speaking at the social media summit, my entreaty to the states and territories—because so much of the education and decisions around curriculum, et cetera, are made at that level—was that we have the fundamental research, resources and the evidence base. We need to partner more closely with the states and territories around the delivery mechanisms and getting this information to all the GPs, counsellors, mental health professionals and teachers. We have a program called the eSafety Champions, where our lofty goal is to get boots on the ground and have an eSafety champion in every single school, to the extent we can.

Senator HENDERSON: Can I ask you to put on notice information about that, including the correspondence you've had with the government—whether it's with the Minister for Education or the Minister for Communications or other departments—about the needs of children in Australian schools and your mission to get these messages into every Australian school? This includes any budget submissions you've made or any correspondence, essentially, since 1 July 2023.

Ms Inman Grant: Okay.

CHAIR: Thank you so much for coming. We're sorry to have kept you so long, but we do appreciate you coming to spend some time with us and sharing your expertise. We will suspend the hearing.

Proceedings suspended from 21:12 to 21:20

NBN Co Limited

CHAIR: We will resume. Welcome back, everybody. We now have officers from NBN Co. I'd like to welcome Mr Phillip Knox, the Interim Chief Executive Officer. Would you care to make an opening statement?

Mr Knox: I would, Chair, thank you. Good evening, senators. Since our last appearance in June, our board announced the appointment of Ms Ellie Sweeney as NBN's new CEO. Ms Sweeney will join the company from Vocus, where she has served as both CEO and chief operating officer. The board and the company are delighted with this appointment, and we look forward to the wealth of experience and deep understanding of the telecommunications sector Ms Sweeney will bring to the role when she commences in early December. I would also like to take this opportunity to mention that NBN's Chief Corporate Affairs Officer, Ms Felicity Ross, has accepted a role at Optus as managing director of corporate affairs and marketing. Ms Ross will be leaving NBN at the end of November. For more than six years, Ms Ross has led this function through prosperous and challenging times and provided exemplary leadership to the company.

As our time is short, I'll keep my remarks very brief. In August, we announced the company's full-year results for FY24. The company met key financial and operational targets set out in its 2024 corporate plan. Highlights for the 12-month period of 30 June 2024 included total revenue of \$5.5 billion. Our earnings before interest tax and depreciation and amortisation, EBITDA, were 3.9 billion—nine per cent higher than the previous financial year. Capital expenditure for the 12 months to 30 June 2024 was \$3.76 billion dollars. In FY24, the company received \$771 million dollars as an equity injection from the Commonwealth government as part of its commitment to provide up to \$2.4 billion towards full fibre upgrades. We raised just under \$6.5 billion from the debt capital markets and bank facilities during FY24, which enabled the company to refinance the remaining balance of \$5.5 billion of a \$19.5 billion Commonwealth loan on time in June 2024. I'm also pleased to share that NBN has achieved its best service performance results since before the initial build of the network was completed. In August, we saw our lowest incoming service incident volume since January 2018 and our lowest mean time to resolve over the fixed-line network since March 2020. In addition, at the end of FY24, fibre to the node service faults were down 27 per cent compared to the previous financial year. We closed the fiscal year 2024 with more than 8.6 million homes and businesses connected to the NBN network. That's an incremental increase of 50,000 premises compared to 30 June 2023.

In other news, we have recently reached a significant milestone with more than nine million homes and businesses now able to access NBN ultrafast speeds. We're seeing demand for fibre upgrades at an all-time high, with more than 500,000 premises across the country already ordering a full fibre upgrade. Since June 2020, and inclusive of the government's contributions, we have announced investments to upgrade the fixed line of fixed wireless networks totalling over \$6.5 billion. The company's network investment strategy is designed to keep ahead of national data demand by rolling out new fibre deeper into communities and enhancing the capacity and utilisation of its fixed wireless and satellite networks in a rapidly evolving competitive landscape, delivering on our objectives and essentials. This is about much more than a commercial outcome, as crucial as that is to sustain the growth of our business. It is also about the intrinsic value that NBN adds to Australia, such as a cumulative GDP uplift of \$122 billion for the period from 2012 to 2022. Growing revenue while driving down cost means we will have the funds needed to reinvest in our network for the benefit of all Australians. This is critical for driving digital inclusion and creating social, economic and environmental benefits for the nation. Thank you, Chair. We're ready to take the committee's questions.

CHAIR: Thank you.

Senator SHARMA: Thank you, Mr Knox. Good evening to you and your colleagues. You mentioned your head of corporate affairs, Ms Ellie Sweeney, is commencing at Optus or going to Optus?

Mr Knox: No; Ms Felicity Ross.

Senator SHARMA: Sorry, Ms Ellie Sweeney is the new CEO?

Mr Knox: That's right.

Senator SHARMA: When is Ms Sweeney commencing?

Mr Knox: On 3 December.

Senator SHARMA: I understand that the former CEO has been paid up until 4 November. Is that right? He's still been the books up until yesterday.

Mr Knox: That's correct.

Senator SHARMA: What's the capacity in which he's been employed? I saw in your financial statements he's been paid \$1.425 million in the last six months, but he hasn't been a key management personnel figure.

Mr Knox: That's correct. In terms of his contractual arrangements, he was required to give six months' notice. As per the contract, he is moving to an industry competitor, so it's important that protocols are respected in regard to IP and those sorts of things. It was important that he fulfilled those terms.

Senator SHARMA: That's why I was curious. What ongoing service was he able to provide the NBN, given he's going to a competitor?

Mr Knox: It was a number of things that were agreed with the board as to how we would like him to contribute to the organisation. One was the handover to me of day-to-day activities, things on his plate, future meetings and those sorts of things. Another was to conduct a year-end review of the executive team, because he was best placed to do that, and a couple of other minor things that didn't contravene the protocols and conflicts of interest.

Senator SHARMA: Has it been like a full-time equivalent commitment, would you say?

Mr Knox: No, certainly not.

Senator SHARMA: Okay, but the figure that you've got in the report is that he's received \$1.4 million in—

Mr Knox: As per the terms of his contractual arrangement. That's correct.

Senator SHARMA: It just seems like a very large amount. I think it's more than the Prime Minister makes each year.

Senator McAllister: These were the entitlements that were established when he first established his contract under the previous government, Senator.

Senator SHARMA: Thank you, Minister. Then, just on the financials more broadly, I was having a look through your annual report—it's still true to say that the NBN is targeting profitability, right? That's the intent for it—to become a sustainable business enterprise that's profitable?

Mr Knox: Certainly—absolutely.

Senator SHARMA: How much debt does the NBN currently have?

Mr Knox: We currently have drawn debt of about \$27 billion.

Senator SHARMA: Okay. How much interest are you paying each year on that debt? What are the financing costs on your borrowings?

Mr Knox: Last year was about a bit over \$1 billion—\$1.1 billion, I think.

Senator SHARMA: What was the—I think I saw a figure here—free cash flow figure for the year ending 30 June 2024?

Mr Knox: It was a negative \$1 billion.

Mr Cairns: Senator, that's referred to on page 88 of the annual report. You can see the free cash flow for the year ended June 2024 of negative \$1,386 million.

Senator SHARMA: Okay, so \$1,386 million and \$1.386 billion. How does that compare to the 12 months ending 30 June 2023 for free cash flow?

Mr Cairns: For 30 June 2023, there was a negative cash outflow of approximately \$1.1 billion. The increase in the cash outflow was due to the network investment strategy that Mr Knox referred to as part of the introductory statement. We spent additional capital expenditure—close to \$3.8 billion—which was primarily to lift both the fixed-line network and the fixed wireless network. That's an aggressive capital expenditure program to deliver the fixed wireless upgrade by December 2024 and to complete the build of the 3½ million FTTN to FTTP by December 2025. That's the key driver.

Senator SHARMA: It's still \$250 million deterioration in the free cash flow?

Mr Cairns: It is. I'd also highlight, at the top of that table, the operating cash flows. So we did generate an increase in operating cash flows from \$3.3 billion in June 2023 to \$3.6 billion. That's really driven by the underlying performance of the business—increasing revenue, reducing operating cost, ongoing efficiencies in how we operate, including the best service assurance results that Mr Knox also referred to. The underlying performance is improving strongly. It's just the additional capex in June 2024 that drove that result.

Mr Knox: That's by design, Senator. What we need to do is to invest to improve and upgrade the network.

Senator SHARMA: Just on that, the customer numbers—I saw a figure that you had: 8.61 million businesses and households connected at the end of June 2024. The figure the year before was, I think, 8.56.

Mr Cairns: It was a 50,000 increase in net activations during that financial year.

Senator SHARMA: That's an increase of what percentage terms—50,000 over 8.56 million? It's about 0.58 per cent growth?

Mr Cairns: Yes.

Senator SHARMA: Is that the sort of growth you target? That's borderline flat growth.

Mr Knox: Well, of the 12 million available premises, we have 8.6 million. That difference at the moment is—

Senator SHARMA: That's your total addressable market?

Mr Knox: That's correct. We have acquired a lot of the premises that are available at the moment—that are freely available at the moment. Then the growth comes from largely new developments. Again, that's always as per plan. This is as was expected—it would taper off. We've had significant growth as we've transferred them off the Telstra network onto our network, and now it's a case of adding it largely through new developments and retaining and acquiring new customers or customers that are no longer on the network.

Senator SHARMA: Would you expect, then, and do your forecasts suggest growth greater than 50,000 households and businesses over the next financial year?

Mr Cairns: We always knew the growth would slow after that initial rollout. In the initial migration period—the mandatory disconnection period—of course, we saw huge numbers of activations. The initial build finished in 2020. Since 2020, we've seen a slowing growth in the activation base. We would anticipate some ongoing growth but certainly at a slower rate, given the number of premises connected to the network remains fairly steady.

Mr Knox: It's the nature of these infrastructure assets. That's pretty much how—you build it, they come on and then it stays at a pretty steady rate from here on in.

Senator SHARMA: But then I'm just curious. How is it you're going to become profitable if you've got negative free cash flow, you're spending about a billion dollars a year in interest on debt, customer numbers are flat and there's no real prospects for growth? When does the NBN become profitable? How does it become profitable?

Mr Knox: The cash flows we just discussed were the investments that we're making in order to upgrade the network.

Senator SHARMA: In that upgrade, do you expect to deliver more customers or higher revenue per customer?

Mr Knox: No, you expect to have a reduction in that investment. So, yes, it does—it also allows us to improve the quality, speed, resilience and reliability of the network. It reduces our costs quite substantially over time because the copper network requires a lot of those elements in order to operate. So it's a reduction in costs and an opportunity to grow our revenue by end users self-selecting high-speed tiers, which we now can provide as a result of investing in the new fibre technology.

Senator SHARMA: So part of it will come from users paying more?

Mr Knox: If they choose to.

Senator SHARMA: Can I just break down these customers, if you wouldn't mind just giving me a figure. The three categories you've got—and please correct me if I'm wrong here—are satellite, brownfields and fixed wireless. Is that correct?

Mr Knox: Ms Perrin can answer that.

Ms Perrin: That's correct.

Senator SHARMA: Can you just give me—what's the current figure or the most recent figure you have for satellite customers and how that's tracked over the past 12 months?

Ms Perrin: I don't have that number in front of me, Senator. I know that our satellite footprint has gone backwards slightly over that period, but I don't have the number to date. Mr Williams may have—

Mr Williams: About 84,000—

Ms Perrin: We'll get that number for you.

Senator SHARMA: I've got a figure in front of me. You could confirm or correct me here: 84,866 in September 2024, which compares to 108,000 in June 2022. That's a loss of over 20,000 customers in satellite in the past two years. Does that sound about right?

Mr Williams: Yes, that sounds right.

Senator SHARMA: Then the brownfields—do you have figures handy for that? Again, I've got figures, but I don't want to—

Ms Perrin: I don't. Again, I know that the brownfields number has gone back as well, Senator, but there's a number of reasons for that I'm happy to talk through with you as well.

Senator SHARMA: Just briefly, if you don't mind—just the headline points for why it's gone backwards.

Ms Perrin: Yes.

Senator SHARMA: And, actually, satellite too—the headline points for why those numbers have gone back if you're able to give me those.

Ms Perrin: With regard to the brownfields number, in the calendar year this year, so from January to the end of September, we've gone back 34,000 premises in terms of the premises count. But there's a number of reasons for that. We don't track customer data, as we've discussed at these hearings before—it's premises. It could be that it's a case where a customer has moved home, so they've gone from one home to the next. They may remain an NBN customer, but we see a disconnect and then a reconnect. That's just the nature of the way we do it—and a million Australians move home a year. There's also another category, though, that shows up in our numbers, which is that we think approximately 25,000 homes every year go from being brownfield to greenfield. Just to clarify what means, you may put planning permission on your house, you may subdivide it and you may build a couple of homes on your site. So 25,000 a year are in that category. Then, of course, we also do face competition in that space, particularly in areas where there's a long copper loop and where performance on the copper may be degrading over time. That's why our fibre upgrade program is so important as well. I'm sure Mr Williams can answer on the satellite.

Mr Williams: I think we've given testimony here in the past about the satellite service. Essentially—

Senator SHARMA: It's good to hear it again.

Mr Williams: The context of regional comms has changed significantly over the last pretty much half decade. There are choices now for customers that there previously weren't. A decade ago, we used to talk about a data drought in the bush. Nobody talks about that anymore. The choice is available for customers in regional Australia and in more remote parts of Australia in the satellite footprint. There are more choices available. Sky Muster is one. There is an expansion in mobile plans and expansion in mobile networks that customers are picking up. There are new satellite offerings in the market that some customers are choosing as well. For NBN's part, as part of our fixed wireless upgrade program, we're actually expanding the coverage of our fixed wireless service to convert what previously were a couple of premises mapped for the satellite service to be fixed wireless. Whether connected or not, the volume of that's about 120,000. On the network report, which I'm sure you're referencing, and the number of ready to connect premises, you'll see the satellite number of ready to connect premises is reducing and the fixed wireless ready to connect premises is increasing. That's as a consequence of us building our fixed wireless service to offer an improved service for our customers in adjacent areas from our existing fixed wireless footprint.

Senator SHARMA: Okay. Fixed wireless—who's the best person to just—

Mr Williams: I can have a crack.

Senator SHARMA: With fixed wireless, again, my understanding is that the numbers are basically flat.

Mr Williams: Yes. The context of fixed wireless—I have a similar response in respect of competition in regional Australia. Where we've been on the fixed wireless service over the past 18 months or so is a significant generational upgrade to that product. Through that upgrade, it has impacted customer experience as we've upgraded some towers. We've invested heavily to initially do night works and then put temporary infrastructure so we can minimise disruption. But the reality is, unfortunately, some of our customers have been impacted. I'd like to thank our customers for sticking with us. We are at the tail end of that upgrade now. We've got more than 85 per cent of physical upgrades completed in that network. The service is now offering a massive uplift in the lived experience for our fixed wireless customers, with actually average busy days of speeds for our most popular products with new terminals of about 100 megabits per second and new speeds up to 400 megabits per second. These are the kinds of speeds that we couldn't have contemplated a decade ago. So we're subject to competition but at a point where we have significantly invested in the value proposition for our fixed wireless customers. We're starting to see what I call green shoots in respect of customer growth in that network.

Senator SHARMA: On fixed wireless, you're starting to see green shoots?

Mr Williams: Yes.

Senator SHARMA: So when you're next here at estimates I'll expect the customer numbers to have increased above 398,000?

Mr Williams: I'd love to be able to report that to you. I can't wait until February.

Senator SHARMA: Okay. Then the last category is greenfield. Is that correct—the full service category? It's satellite, brownfield, fixed wireless and greenfield? What's happening there in terms of customer numbers?

Ms Perrin: We're really pleased with our greenfield growth. We continue to see very strong customer growth in that sector. There are two parts of our greenfield business. We compete for new developments. There are some new developments which are competitive, and then there are some that are part of NBN's mandate. We continue to see great customer number growth from that segment. Overall, for this calendar year so far, we've added about 80,000 customers in that footprint.

Senator SHARMA: Okay. All up, the net 50,000 increase in customers for the financial year has come from greenfield, offset by losses in the other three categories, basically?

Ms Perrin: We are seeing people reconnecting as well, Senator, in our numbers. In the brownfield numbers, there is a lot of movement every month as people move homes. We only see the premises counts, so we don't see the customer side of the ledger, but we can see that there are premises—the reconnection on premises is strong. But what has slowed down is what Mr Knox and Mr Cairns referred to, which is that the acquisition engine in the brownfield space has definitely slowed. That's a result of the fact that there are fewer customers for us to go and acquire for the first time now.

Senator SHARMA: Okay. Do you have a target for when the NBN will become profitable?

Mr Knox: Senator, we don't provide forecasts. We've discussed this at previous hearings. We issue bonds to a global market, and it's not—it's akin to equity, where you cannot provide forecasts. People trade on those forecasts, and if you get them wrong it's quite litigious in various markets. So we don't provide any forecasts.

Senator SHARMA: You don't provide forward guidance on earnings or things like that?

Mr Knox: Not publicly, no.

Senator SHARMA: I am concerned, certainly, about the deterioration of the free cash flow and the stagnation of customer numbers. The only things that can give here are higher efficiencies, lower cost of the provision of goods and more revenue per customer.

Mr Knox: Also, lower investment in total. They lower the Capex. If you halved our Capex, for example, as a hypothetical, then you've got a fair bit of cash being thrown off.

Senator SHARMA: But you're not profitable, then, are you, if you've halved your Capex, for argument's sake.

Mr Knox: But it's about cash. Profit is accounting. There are a lot of historical and complex rules in all of that to give you that result. It's really about how we generate cash going forward.

Senator SHARMA: I do have a question about NBN connection at Glenmore Park, which I think I asked about last time, but I'll put that on notice. Just on the low earth orbit satellites—the request for information that NBN Co put out in June 2023—where's that process up to? This is to offer the Starlink competitor service, for want of a better term. Is that correct?

Mr Williams: The context of our satellite network is that we have two birds in the sky—the Sky Muster constellation. They'll run out of fuel in the early 2030s.

Senator SHARMA: What will happen to them then?

Mr Williams: They'll go into a disposal orbit. There are options now that weren't available at the time. There are options to refuel geosynchronous satellites now. It's not the case that we've got an immediate imperative to see the retirement of those assets. But our mind has turned to what would be or what could be an appropriate alternative technology. To that end, we think we understand the geosynchronous market quite well. The RFI and that process have enabled us to explore other technologies—emerging low earth orbit technologies. There are a range of earnest questions that we would have to be able to make a decision on as to whether a LEO kind of a technology could be or should be part of NBN's technology stable—whether it's technologically suitable, whether we could come up with appropriate operational arrangements, whether there are appropriate security arrangements and whether sovereign issues can be adequately managed. That said, it's important that we undertake a calm and prudent review in the context of not being in a running race. That is continuing.

Senator SHARMA: How many responses have you received to the RFI? Is it closed, the RFI?

Mr Williams: Yes, the RFI is closed.

Senator SHARMA: How many responses?

Mr Williams: We've discussed—I know you have powers to compel. The nature of the responses are confidential. We've taken the view that NBN's position or the position of the counterparties as part of that process could be compromised if we were to breach those confidentiality arrangements.

Senator SHARMA: I'm just interested in the number, not for the names to be identified. How many—

Mr Williams: It was a closed RFI process that went to—we invited—

Senator SHARMA: So it wasn't an open RFI on AusTender or something?

Mr Williams: No, the nature of these low earth orbit—we know who they are.

Senator SHARMA: You know who the players are?

Mr Williams: Yes. It's not a case of just putting it in the local paper. We were able to invite responses from known players in the sector.

Senator SHARMA: Okay. It's true, isn't it, that there are private operators who are considering or have underway plans to provide LEO—LEO is correct?

Mr Williams: Low earth orbit, yes.

Senator SHARMA: But not just Starlink—other players in this space are planning to—

Mr Williams: Yes, companies have made announcements as to their—some of them have made announcements as to their intent and their intended markets, as to whether that's a focus on, for example, consumer-grade service, which is NBN's core mission, versus, say, business-to-business kinds of services. Those are the sorts of considerations that are being explored through that process.

Senator SHARMA: But is there a risk that the NBN will be late to the party, do you think, given that there's already an offering in the market and there's likely to be at least one more in the next 12 months or possibly more?

Mr Williams: I think the fact that we have the 2030s for a replacement decision—

Senator SHARMA: For Sky Muster.

Mr Williams: We're in the market now. I'd say that we are exploring options well before a time frame that we would otherwise—

Senator SHARMA: This is envisaged as a replacement for Sky Muster, not an augmentation or a parallel service offering?

Mr Williams: All of these options we need to contemplate, but the broad answer is yes. The exam question is along the lines of whether NBN should offer somewhere between an NBN known network assets such as the Sky Muster constellation or other technology and operational and commercial models that would make more sense for customers in the bush.

Senator SHARMA: Okay. Thank you.

CHAIR: Thank you very much for coming in. We're going to release you. That takes us to the end of the communications. We will now take a short break while we switch across to arts.

Proceedings suspended from 21:48 to 21:50

CHAIR: We will resume. I welcome Senator the Hon. Malarndirri McCarthy, Minister for Indigenous Australians, representing the Minister for Arts. Minister, would you like to make an opening statement?

Senator McCarthy: Thank you, Chair. I just want to acknowledge that we come together on the lands of the Ngunnawal and Ngambri peoples and pay my respects to elders past, present and emerging. I'm absolutely delighted to be here to represent the Minister for the Arts.

CHAIR: Fantastic. I welcome back Mr Betts and the other relevant officers from the department in relation to outcome 6, Participation in, and access to, Australia's arts and culture through developing and supporting cultural expression, Program 6.1, Arts and cultural development. Mr Betts, do you want to make any opening comments?

Mr Betts: No thanks, Chair.

CHAIR: We will go directly to Senator Davey.

Senator DAVEY: Thank you very much. To start with, I want to quickly pick up on a line of questioning that was put to the communications department earlier today by my colleague Senator Hanson-Young: the issue of content quotas for streamers. There was a self-imposed deadline put forward by the Albanese government of 1 July this year. That deadline has been and gone. I know that prior to that there was a level of consultation with industry, but there's been no furtherance of draft legislation or a model or how it would roll out. Can you let us know why that deadline has been and gone while all industry and others are sitting in limbo?

Mr Betts: Senator, I explained this morning that all those matters are currently before government and have been for some time. As you rightly point out, the time line that was previously enunciated is no longer the one that we're working to. But I'll see if Dr Arnott, who's been leading this work within my department, has anything he wants to add to the comments I made this morning.

Dr Arnott: I have nothing to add. I think we've been answering questions at estimates on this one for a while.

Senator DAVEY: Previously, to be fair, you have still—this time last year, you were still working to a 1 July deadline.

Dr Arnott: That is correct.

Senator DAVEY: Last time, you weren't quite clear on when we might see it. We were still expecting to see legislation before parliament this year, even if it was post 1 July. We've not got very long to go. There's not been any exposure draft and we've got no clarity. That's why you're answering questions on this topic again.

Dr Arnott: Indeed. I understand that, Senator. All I can say is we're still working on the scheme and the legislation. We're still consulting with industry. It still remains a priority for the government, but it is taking longer than expected. It is important that we get this right or as good as it can be, given the impact that it will have across the sector. The government is taking the time to consult genuinely and work out the details.

Senator DAVEY: Senator Hanson-Young noted there was a report this morning that came out of caucus. Minister, I'm not sure if you were able to get to caucus. I know we've all been locked up in estimates, so I appreciate if you weren't. Minister Burke briefed caucus and said that there were potentially some issues relating to the US free trade agreement. Minister, have you been briefed, knowing that this topic was going to come up again because Mr Betts very kindly said that it fitted more in this outcome than the communications outcome? Were you briefed, prior to coming in, on what may or may not have been said in caucus?

Senator McCarthy: Two points on that, Senator Davey: one is that I certainly wasn't in caucus; and yes, I did hear the exchange between Senator Hanson-Young and Senator McAllister. I do believe that my colleague Senator McAllister answered the question appropriately and with full detail in terms of where the government's policy is. That consultation is ongoing and continuing. Whilst it might be a little bit disappointing, that delay, it is certainly still continuing.

Senator DAVEY: Dr Arnott, is some of that consultation with the Department of Foreign Affairs and Trade, given that there have now been issues raised about potential issues with the US FTA?

Dr Arnott: I think it's fair to say that we've been working with the department of foreign affairs for some time. The free trade agreement has certain requirements. The free trade agreement interpretation is a matter for the department of foreign affairs, and so we've been working with them for some time on that matter.

Senator DAVEY: Has your department sought your own legal advice on that? As you say, sometimes interpretation varies. Has your department sought its own legal advice to reassure itself that there is a pathway forward?

Dr Arnott: The department of foreign affairs is responsible for providing advice on the free trade agreement, so we wouldn't seek separate advice to the department of foreign affairs.

Senator DAVEY: Interesting. I will—

Dr Arnott: I mean specifically on the free trade agreement, not on the content scheme more broadly.

Senator DAVEY: Yes. The government is still working towards some form of content quotas for streamers, but it is still in the process of consultation and finessing?

Dr Arnott: That's a good summary, yes.

Senator DAVEY: I'll move on. The arts industry, like so many other industries, is facing severe staff shortages, skilled staff shortages, particularly of trained and qualified crew. Has the government got any initiatives or programs in place to address chronic staff shortages in the industry?

Dr Arnott: There are a few things I would say to that. Obviously it's a broad industry and so the skills requirements are different in different parts of the industry. A few things that we have done—in the increase to the location offset, the new legislation which increases the location offset to 30 per cent. There are particular requirements in there for skills development and training for recipients of the location offset. The government has substantially increased the funding to the National Institute of Dramatic Art and the Australian Film, Radio and Television School, as well as the other arts training institutions, to ensure that they can meet the skills demands of their various sectors. Of course, there's also the work in Jobs and Skills Australia, and there's a skills council there that is working on jobs and skills matters from that portfolio.

Senator DAVEY: It's pleasing to hear that both NIDA and AFTRS have got increased funding. I note some students who go to NIDA can also access the HELP program because it's through the University of New South Wales. Are there programs or supports for private companies that offer crew training, such as the Michael Cassel Group and others similar that they might be able to access through the department?

Dr Arnott: Not through the Office for the Arts specifically. We don't have a direct skills program. But they would be able to look at opportunities through the skills portfolio. They've received grants from the Office for the Arts which involve helping them put on productions and so on.

Senator DAVEY: Yes, but not specifically for—

Dr Arnott: Not specifically for training, no.

Senator DAVEY: Since the end of the RISE program, the Restart Investment to Sustain and Expand program, I continue to get calls into my office. I note the last of the previously funded projects is set to conclude this month, November this year. Are there any initiatives that help support the sector in a similar way?

Dr Arnott: I think it's probably appropriate to say that Creative Australia, who you know well, has received significantly increased funding under the Revive cultural policy. There are many opportunities for RISE recipient type companies and individuals to receive funding.

Senator DAVEY: So project funding through Creative Australia? They're coming on later, so I can ask them. We've seen, unfortunately, the suspension or closure of several significant music festivals, including Spilt Milk, Grooving the Moo—I sound so trendy—Harvest Rock and Splendour in the Grass in the past couple of years. Promoters cite various reasons, including increasing insurance and increasing red tape, and despite their best efforts to recover from COVID, some of them just couldn't climb out of the hole. But most recently we've just heard that the iconic Byron Bay Bluesfest—a tongue twister—will be no more post 2025. Can you tell me how much funding the Bluesfest has received under this Labor government since it came into play?

Dr Arnott: I don't know that I have that detail. I'll have to take that on notice, I think, unless any of my colleagues have that detail with them. But we're very happy to give you that on notice.

Senator DAVEY: That's fine. While you're taking things on notice, can you also look and see how much funding they got in the previous government from 2019 to 2022, just so that we can compare the two?

Senator McCarthy: Senator, are you talking about live music programs?

Senator DAVEY: Specifically the Bluesfest, but if you've got the numbers for the live music—because that was going to be my next question.

Senator McCarthy: I was just going to say that we've delivered \$8.6 million through the new Revive Live program to provide essential support to establish live music businesses, including venues and contemporary music festivals. And Revive Live has delivered funding to 110 live music businesses during this critical time of need. We've also set up Music Australia within Creative Australia to support and promote the Australian contemporary music industry. With new funding of more than \$69 million, Music Australia is making investments to stimulate a vibrant and sustainable music industry.

Senator DAVEY: And I've got Creative Australia coming up, so I can grill them a bit more. It's up to you to rotate the call, Chair, but I also know Senator Henderson has some questions.

CHAIR: Thank you very much, Senator Davey. We will go to Senator Henderson.

Senator HENDERSON: Thank you very much, Chair. Good evening to you all. I'd like to ask about the process for appointing members to the Council of the National Gallery of Australia. Minister, is that a matter solely for ministerial discretion?

Senator McCarthy: I can take that question on notice, if you like, Senator Henderson.

Senator HENDERSON: Is the minister provided with a shortlist of potential candidates for appointment?

Senator McCarthy: If I am incorrect on this, I will come back to correct it. But I do understand that as ministers we do receive lists that come to us—certainly I do through the NIAA. But I can check that in terms of Minister Burke.

Senator HENDERSON: Thank you very much. What sorts of criteria are candidates assessed against, and is there a vetting process for candidates?

Senator McCarthy: I can take that question on notice.

Senator HENDERSON: Secretary, can you add to that at all? You may I appreciate that I'm speaking particularly in relation to Mr Abdul Rahman Abdullah and his appointment as a member of the Council of the National Gallery of Australia. He has now resigned after it was exposed in the media that he'd made some very improper posts accusing Israel of conducting a Holocaust. At the time of his appointment, Minister Burke was full of praise. He said, 'It's essential that our important national cultural institutions have authentic leadership that reflects their objectives as well as modern Australia.' What can you tell us about what the minister knew at the time of this appointment, Secretary? Can you enlighten us at all?

Mr Betts: I'll ask the team to talk you through the process that we adopt in working with the minister, recognising that each institution has slightly different legislation or different founding principles, but it's broadly the same process for each of our national collecting institutions.

Dr Arnott: We conduct an expressions of interest process. There's an open process for people to submit expressions of interest to be considered for appointments on the boards of the arts portfolio. The department provides advice to the minister about the skills requirements of each of the boards, so what skill sets they need: finance, governance, arts expertise or so on. The minister considers the candidates that have the relevant skills on the expressions of interest and recommends appointments to the cabinet and the Governor-General in the case of the National Gallery.

Senator HENDERSON: Who assesses the criteria against council members? Is there a vetting process?

Dr Arnott: When you say 'a vetting process'—there are checks done. In other words, there are some background checks undertaken by the department. And each of the boards or councils of the institutions have a code of conduct that council or board members are expected to comply with.

Senator HENDERSON: Were there checks made in relation to Mr Abdullah?

Dr Arnott: I'd have to check for you, Senator.

Senator HENDERSON: In 2020, Mr Abdullah said that Australia was 'a deeply belligerent, inherently bigoted and selfish country that continues to destroy the environment for profit, imprison asylum seekers, and is unable to acknowledge the colonial framework of violence that still defines us'. He made those comments in 2020. Was the minister aware of those comments when Mr Abdullah was appointed in September 2023?

Dr Arnott: I'm not aware. I'd have to take that on notice, Senator.

Senator HENDERSON: Secretary, do you have any information about that? Minister?

Senator McCarthy: I can certainly take that question on notice.

Senator HENDERSON: I'll direct this to both of you. In light of what we know now about Mr Abdullah, was his appointment appropriate to you, Minister?

Senator McCarthy: Senator, artists will always have views. Our government certainly makes arm's length decisions about the quality of art, not about the political views of artists. That's about all I will say at this particular point in time.

Senator HENDERSON: But you wouldn't endorse someone being appointed to a very significant institution like the National Gallery who was a known racist or had engaged in other horrendous conduct, an antisemite. Surely there must be standards.

Senator McCarthy: We've certainly been on the record to say that we don't want to see that divisive nature in our country at any point, Senator. So that is absolutely correct. But, in terms of this particular situation, I would need to take on notice the questions you've asked in relation to this particular appointment and the minister's involvement.

Senator HENDERSON: So you didn't receive any briefing? This has been very broadly covered in the media in recent times.

Senator McCarthy: I've just answered your question, Senator.

Senator HENDERSON: Will the minister apologise to Jewish Australians, particularly Jewish Australian artists, and condemn these comments?

Senator McCarthy: Senator, I believe I've answered your question. I will be able to return to the committee with answers to your questions.

Senator HENDERSON: I understand you can't speak for Minister Burke. But are you aware whether he believes these comments are appropriate? The circumstances are that Mr Abdullah suddenly resigned from the council, and Mr Burke, as the responsible minister, has not made any comment. Are you aware of any concerns that he has in relation to Mr Abdullah's appointment to the role?

Senator McCarthy: I'm not aware, Senator Henderson.

Senator HENDERSON: Secretary, did you discuss this with Mr Burke at all?

Mr Betts: No.

Senator HENDERSON: Did anyone in your department discuss this matter with Minister Burke?

Mr Betts: The discussions that we've had with Minister Burke are around the steps that we've taken liaising with our institutions to ensure that board members across all of those institutions are reminded of their obligations under various codes of conduct which have been adopted by those institutions.

Senator HENDERSON: So in relation to Mr Abdullah, what steps did the department take in relation to his—

Mr Betts: He resigned.

Senator HENDERSON: Yes, he resigned. Did he resign as a result of steps that were taken by the department to remind the National Gallery as to their obligations?

Mr Betts: No; that occurred subsequently.

Senator HENDERSON: So he resigned. Can you describe what happened afterwards?

Mr Betts: I can describe the process that we went through to touch base with each of the boards of the various institutions. But I think I've just described it.

Senator HENDERSON: So you touched base with boards after the resignation?

Mr Betts: These are institutions with their own governance structures, with their own boards, with their own codes of conduct. They are, in that sense, self-governing.

Senator HENDERSON: Secretary, has the government taken any steps to ensure that this sort of issue won't arise again? Have there been more checks on people who've been appointed? Has there been further vetting? Have any steps been taken to change processes at all?

Mr Betts: The processes in terms of codes of conduct remain in place. People have been reminded of their obligations under those codes of conduct. And we've just described to you the process that we go through for ensuring that appropriate processes are followed in appointments to boards. That doesn't mean that the minister can be accountable for every opinion that's expressed by every board member.

Senator HENDERSON: Was there any correspondence between the different institutions and the department or the minister's office in relation to their obligations?

Mr Betts: I'll take that on notice.

Senator HENDERSON: If so, could we please have a copy on notice of that correspondence—

Mr Betts: Sure.

Senator HENDERSON: which obviously sets out the obligations of each of the institutions. Do you believe that this was a code of conduct issue? Was there a—

Mr Betts: This is not an employee of mine. This is somebody who's on the board of an institution which sits outside the department.

Senator HENDERSON: I understand that.

Mr Betts: So it would be an appropriate question to direct to the National Gallery of Australia.

Senator HENDERSON: In your assessment, though—

Mr Betts: I'm not here to offer opinions on the interpretation of other people's codes of conduct, but we have gone through the process I've described to ensure that those codes of conduct are fully understood by board members and applied appropriately.

Senator HENDERSON: Could we also have a copy of the codes of conduct, please, on notice?

Mr Betts: We'll seek to obtain those from the relevant institutions.

Senator HENDERSON: I do appreciate that. Thank you very much. I also want to ask about Creative Australia, Secretary and Minister. There are a couple of employees of Creative Australia. My understanding is that they're employees. I'm checking their social media. I do want to verify that they are employees when Creative Australia appears. One person is a woman by the name of Mariam Ella Arcilla. She is an arts consultant project officer, international engagement, with Creative Australia. Another person is a woman by the name of Tahmina Maskinyar. She's a program manager and visual arts investment consultant with Creative Australia. In the case of Ms Arcilla, she's posted some quite extreme content. I appreciate that you won't have seen this before, so I will table that. I appreciate that—

Mr Betts: We haven't seen it before. And you know Creative Australia are giving evidence later on and will be able to answer questions about their employees.

Senator HENDERSON: I realise that. I do appreciate that they're not your employees, but I think it does give rise to some serious concerns that perhaps the minister might be concerned about as well. One is a post by someone which has been retweeted by Ms Arcilla, and she says, 'Blocking 10 a day keeps the Zios away', which refers to Zionists, which on its face looks antisemitic. Then there is another one that she's liked—and this, again, is an employee with Creative Australia. 'The colony will fall, the colony will fall'—again, very anti-Australian. Then in the case of Ms Maskinyar—and these appear on Insta stories, so I don't know that they're still actually up on their social media. Ms Maskinyar has posted, 'I hate that the West makes Palestinians have to talk about Judaism and antisemitism at all.' And that message goes on. I just want to raise these concerns. I'd be keen to receive any feedback that you might be able to provide now, whether you might take this on notice and investigate. I raise this with the minister but I certainly will be addressing this in more detail with Creative Australia.

Senator McCarthy: Senator Henderson, can I just put on the record—and it'll be important obviously to hear from Creative Australia—that our government does not condone any form of racism, in particular commentary around the Middle East. I cannot stress that enough. Clearly Creative Australia will have its own views to give to the committee. But I do want to put on the record that our government certainly does not condone any commentary that diminishes either the Jewish people or the Muslim people.

Senator HENDERSON: This is quite upsetting. Thanks, Minister. I do appreciate that. In the case of one of the posts which was liked by Ms Arcilla, the primary person who posted, which she liked said, 'So much respect for the legends responsible for hacking off this colonial statue that we had to turn it into a poster or two.' It's a picture of a statue that's been hacked off at the feet. Thank you very much for your comments. Can I ask that you do raise this with Minister Burke. I will be asking further questions of Creative Australia. Secretary, do you have anything further to add at all?

Mr Betts: No.

Senator HENDERSON: Thank you very much. Thank you, Chair.

National Gallery of Australia

[22:18]

CHAIR: We will call on the National Gallery of Australia. Welcome, Mr Mitzevich, and thank you. I believe you are overseas, and I can only hazard a guess at how civilised the time of day is. Would you care to make an opening statement?

Dr Mitzevich: No thank you, Chair. I'm happy to take questions from senators.

CHAIR: Fantastic. Thank you so much. We will go to Senator Henderson.

Senator HENDERSON: Thank you very much. Good evening. I'm not sure where you are in the world. Would you like to share where you are and the time of day?

Dr Mitzevich: In New York at the moment, Senator, on gallery business.

Senator HENDERSON: Are you making any acquisitions that we should know about?

Dr Mitzevich: We're mainly talking to our benefactors in North America—the National Gallery, since 1982, has had many great supporters in North America—and keeping other relationships going.

Senator HENDERSON: Terrific. I hope all that goes well. Can I ask you to respond to the issues that have arisen in relation to the former council member Mr Abdul-Rahman Abdullah? We've just heard from the secretary and the minister. We haven't heard any public comment from Minister Burke, as far as I am aware. But could you please explain to the committee the gallery's position in relation to the comments that were made by Mr Abdullah and the circumstances around his resignation.

Dr Mitzevich: Thank you, Senator. Just to reinforce the minister's comments, the National Gallery of Australia does not tolerate any racist comments in the Australian public. Our job is to bring Australians together to celebrate arts and culture. Those comments are at odds with the National Gallery Council instructions, which define the code of conduct for members appointed by the government to the National Gallery Council.

Senator HENDERSON: So what happened in this case? Mr Abdullah made some deeply offensive comments in 2020. What happened to the vetting process? Why weren't they picked up? He was appointed by the minister in September 2023.

Dr Mitzevich: The National Gallery doesn't have a role to play in the vetting process. It's a role of the minister to appoint members to the National Gallery Council. I myself, as the CEO of the organisation, and all board members, don't have any input into the appointment of board members; it's a matter for the minister. Minister, can

you explain that? My understanding is, from the advice of the secretary, that there was a code of conduct issue and that was referred to the National Gallery. Can I get some clarity on who is responsible precisely for the vetting of candidates to the council?

Senator McCarthy: In my response to you, Senator, I did say that lists do come to me in terms of the NIAA in relation to boards or appointments, and that I would check that in terms of Minister Burke and I would expect that there would be a similar process.

Senator HENDERSON: Dr Arnott, in light of what we've just heard, can you please provide more information? If this was a responsibility of the minister, where did this go wrong? Where did the minister go wrong?

Dr Arnott: As I said to you, Senator, obviously appointments to the arts boards are a matter for the minister. The department provides information about the skills requirements of the boards and collects names from an public expressions of interest program of people who have the required skills for the boards. The department does conduct some checks, social media checks et cetera, and makes the minister aware of any concerns. I don't have the details regarding this particular individual. I would have to take that on notice about what we've discovered in any of those checks.

Senator HENDERSON: Could you do so and could you provide on notice the committee with a copy of the brief to the minister?

Dr Arnott: I'd have to take that on notice, yes.

Senator HENDERSON: Did the department recommend Mr Abdul-Rahman Abdullah? Was he on a list that—you had done that work and put his name forward to the minister?

Dr Arnott: We don't recommend appointments in that way. We provide lists, as the minister outlined, of candidates with the requisite skills.

Senator HENDERSON: You wouldn't provide a list of people that were unsuitable. So I assume that you've done some work to put forward a list of people who you believe should be considered by the minister. Was Mr Abdul-Rahman Abdullah on a list put forward by the department to the minister?

Dr Arnott: I would have to take that on notice. I don't know offhand.

Senator HENDERSON: You don't know?

Dr Arnott: No. We do a lot of appointments, Senator, as you would appreciate.

Senator HENDERSON: Who's responsible for doing the vetting and the list creation in your department?

Dr Arnott: There will be staff in the department that prepare that briefing for the minister.

Senator HENDERSON: Do you perhaps know whether he was appointed of the minister's own volition?

Dr Arnott: I can't recall. I'd have to go back and look.

Senator McCarthy: We can take that on notice.

Senator HENDERSON: Thank you. I would appreciate it. To the National Gallery, are you able to give us any other information in relation to Mr Abdullah's appointment and resignation?

Dr Mitzevich: The appointment, as I mentioned, is a matter for the minister, and I understand the board member gave his resignation to the minister.

Senator HENDERSON: Did you have any concerns at all about this particular council member?

Dr Mitzevich: The National Gallery has an induction process and gives a comprehensive induction into the requirements of being a National Gallery of Australia board member, and council members are constantly reminded of the requirements under the code of conduct that's found in our council instructions.

Senator HENDERSON: Did you come across any of these social media posts or become aware of any of this conduct and draw this to the board's attention or to the minister's attention?

Dr Mitzevich: The National Gallery doesn't vet the social media of our board members. What we do do, Senator, is regularly remind them of their requirements under the code of conduct of the National Gallery.

Senator HENDERSON: What's your view about these posts in relation to your code of conduct?

Dr Mitzevich: The National Gallery doesn't tolerate or endorse any racist comments that divide Australia. Our job as the governing council of the National Gallery, the National Collection, is to bring Australians together in a tolerant manner and advance art and culture that brings people together to celebrate our uniqueness in being such a multicultural Australia. So they're at odds with the code of conduct and at odds with the goals of the National Gallery of Australia.

Senator HENDERSON: How did the resignation of Mr Abdullah come about? Was there a recommendation? Was the minister advised? Did he read it about it in the newspaper? Could you step us through what happened?

Dr Mitzevich: The minister's office advised the chairman and I that the board member had tendered his resignation.

Senator HENDERSON: We will look forward to receiving the other information that I've sought on notice. Thank you very much. Thank you, Chair.

CHAIR: I wonder if you could give us a quick update on how the Sharing the National Collection program is going.

Dr Mitzevich: The Sharing the National Collection four-year program is progressing very well across Australia. I'm really happy to report that across Australia there's been a really extraordinary impact. We currently have 21 partnerships nationally with 158 works across the country, and many of the galleries, 92 per cent of them, have reported a significant increase in their attendance figures and their engagement with public programs due to the impact of Sharing the National Collection. For example, at Maitland Regional Art Gallery with Sharing the National Collection the gallery has noted a 62 per cent increase in its attendance figures since Sharing the National Collection was a part of their programs. In WA, at Wanneroo art gallery, the gallery has noted a 55 per cent increase in its attendance figures and a threefold increase in its engagement with schools and public programs. They're just two examples of the impact that it's having across the country. It is a four-year program, and so we look forward to bringing more cities across the country into that program over the next 2½ years.

CHAIR: That's great. I always love to hear updates on that particular program. I really appreciate hearing that. Thank you so much for dialling in from across the world for us, Mr Mitzevich. We do appreciate it, and we will let you go and get back to your business. Thank you so much.

Creative Australia

[22:29]

CHAIR: Welcome, Mr Collette, and your colleagues. Thank you for joining us. Would you like to make an opening statement?

Mr Collette: I'll make a very short one, if I may, given the time. I hope the information will be useful. I'd like to begin by acknowledging the traditional owners of the lands on which we meet, the Ngunnawal and Ngambri people, and paying respects to elders past and present and to my many First Nations colleagues at Creative Australia.

Since we last appeared before the committee, I'm pleased to say, we have published our first annual report as Creative Australia. This report already shows the impact of our expanded remit. For example, through Music Australia, our direct investment in contemporary music has increased from \$11.1 million in 2022-23 to \$17.6 million in 2023-24. We have invested \$25.5 million in 397 First Nations projects, which was well above our target of 180 applications to be supported with \$13 million. In the past financial year, 15 million Australians attended live arts and cultural events with investment from Creative Australia. Our direct investment in regional Australia has increased by \$5.3 million on the last financial year to \$28.4 million. We have also published Creative Australia's first strategy and corporate plan. We have set ourselves five strategic priorities that are mapped to the five pillars of the Australian government's national cultural policy, Revive. As we say in the strategy, Creative Australia's challenge and great opportunity is to find ways to empower Australian creatives to realise their potential in what remains an uncertain and fast-moving environment. We are committed to doing this not only through direct investment but also through partnership, advocacy, evidence and sector convenings. Thank you.

CHAIR: Thank you so much. Senator Roberts.

Senator ROBERTS: Thank you for attending today. Who decides which publications are listed in the Prime Minister's Literary Awards? Is that entirely a decision of Creative Australia, or does the Prime Minister make recommendations?

Mr Collette: It is neither, in fact. It is certainly not either the Prime Minister making recommendations or Creative Australia. We have a robust process. We appoint industry experts to act as adjudicators. We then call for nominations. Then all those books are read. I can't recall by how many—I can find that out for you—but literally hundreds of books are read over the course of six months. Our selection committee will then choose the shortlist and eventually the winners of each category.

Senator ROBERTS: How many people are on the selection committee?

Mr Collette: I think there are about eight. I'd have to check. I haven't got that with me.

Senator ROBERTS: Industry experts—that means authors, or publishers, or both?

Mr Collette: It means people with a significant record in the book industry.

Senator ROBERTS: What is the age range for each of the categories young adult and children?

Mr Collette: The young adult range goes from 13 to 19 years.

Senator ROBERTS: And children?

Mr Collette: Under that.

Senator ROBERTS: Everything less than that?

Mr Collette: Yes.

Senator ROBERTS: The book *Welcome to Sex* is unclassified, meaning it's available for children of any age. The author of the book has stated it's suitable for eight-year-olds. The book is sold by the publisher without an age guidance. Why was the publication listed under young adult rather than children's?

Mr Collette: I wasn't aware of that, Senator. I would have to check that. The entries were assessed by an independent panel of judges with expertise across young adult writing, which is a category for works written for readers, as we said, between 13 and 19. I can tell you the names of the judges. They've since been published. The title, as you probably know, has been a bestseller in Australia, widely respected by teachers, psychologists and academic researchers. The title won the 2024 Australian Book Industry Award Book of the Year for Older Children in May 2024.

Senator ROBERTS: What are older children?

Mr Collette: Thirteen to 19. The book is clearly aimed at a teen audience, and the book's introduction states, 'Welcome to a book about sex and being a teen.' I note, too, that *Welcome to Sex* has now been recommended as an educational resource for young people 14-plus by eSafety Kids, which is a trusted e-safety provider endorsed by the eSafety Commissioner. I'm not aware of the details of the question you've asked me. I will certainly investigate it. But there is a lot to recommend the excellence of that book, and indeed it has now been endorsed as a text for older children.

Senator ROBERTS: Older children being teens and 14-plus under the eSafety Commissioner—okay. I think the answer to this is no, but I'll ask it anyway. Did the Prime Minister or any member of his staff or department make any representation regarding this publication, either for it to be included at all or for it to be included in a particular category?

Mr Collette: No, certainly not.

Senator ROBERTS: I thought so. Can you confirm that it was your decision to list that publication for a Prime Minister's Literary Award, or was it the committee?

Mr Collette: It was the committee's decision.

Senator ROBERTS: Who made the decision for the publication not to win? If it's won so many awards, why didn't it—

Mr Collette: It would be the committee.

Senator ROBERTS: The book was reprinted with a splash on the cover, 'Prime Minister's Literary Award nominee' and sold many copies based on your endorsement. Did you receive any representation on behalf of the publisher for that work to be included in the awards? I imagine publishers would love the extra sales that result from that recommendation?

Mr Collette: Publishers do love the extra sales. One of the things we've done since we took responsibility for the awards was to bring it forward in the calendar year because, as a former publisher myself, I understand that two-thirds of our books are sold in three months before Christmas. So we had publishers, but more importantly booksellers, urging us to announce these awards early because they mean so much to keeping bookshops afloat. So, yes, we did all that. But the entire selection of that book was made by the panel of experts, as was the winner.

Senator ROBERTS: Thank you.

CHAIR: Senator Davey.

Senator DAVEY: Thank you very much. Thank you for your introductory comments. It's good to see you again, Mr Collette. You said in those comments that \$23.5 million has gone to First Nations, which was more than expected. You had originally expected to fund 180 applicants, or you funded 180? What was the original expectation?

Mr Collette: A target we set ourselves was to fund at least 180 applications. But, given the strength of the applications, we ended up funding 397 First Nations projects.

Senator DAVEY: 387?

Mr Collette: Yes. And we invested \$25.5 million in these First Nations projects.

Senator DAVEY: And you originally expected to invest \$13 million.

Mr Collette: Exactly.

Senator DAVEY: That's quite a lot of bang for the buck when the original target was 180 and \$13 million. What's the timeline for those projects to be rolled out and completed?

Mr Collette: They would cover varying degrees in terms of months and even years. There will be multiyear funding.

Senator DAVEY: Some of it's multiyear?

Mr Collette: Some of it would be multiyear funding, and some of it would be individual artists.

Senator DAVEY: And that multiyear is separate to the other Creative Australia multiyear funding rounds?

Mr Collette: No, it would be part of.

Senator DAVEY: This is just identifying the total investment into First Nations?

Mr Collette: Yes. And the reason we do it is that it's part of our legislation as Creative Australia to invest and advocate. So we measure against—

Senator DAVEY: I'm not having a go. I think they are very impressive numbers. I'm just trying to work out the buckets. It's important data collection, too, to be able to monitor where our arts money is going and what impact our arts funding is having.

Mr Collette: Senator Davey, just to complete the picture, this is before the discrete funding for the First Nations fund has been established, which we will establish in the second half of this year.

Senator DAVEY: So this isn't part of that?

Mr Collette: No, it's not. That fund and the First Nations board will meet for the first time in November this year. That funding starts to be invested from July this year.

Senator DAVEY: Mr Collette, I've always said that, once you turn your attention to things, great things can happen. Of those 397 projects, do you have a breakdown of those ones into regional and metro? I note that you've also identified that regional spending has gone up, which is great. But I'm interested as to whether a lot of those First Nations organisations that are successfully getting funding are also outside the urban centres.

Mr Collette: My educated guess is they very much will be with a weighting to regional and remote, but I'd have to take that on notice, very happily, and we'll come back to you with the detail on it.

Senator DAVEY: I'm happy for you to take that on notice. While you're taking that on notice with the increased funding in regional, could you give me a breakdown by state of where that \$28.4 million has gone.

Mr Collette: We can certainly do that. I can't do it here, but we can do it.

Senator DAVEY: Put it on your list of things taken on notice. That's fine. You also mentioned that one of the biggest challenges is to inspire creatives to meet their potentials. One of my next areas of focus is that a lot of our—particularly smaller—arts organisations, particularly in the regions, are run by volunteers. They've got volunteer boards with varying levels of experience. Is there any program through Creative Australia whereby these volunteer organisations can access support and training to increase their corporate governance, their corporate capacity, to enable them to grow and thrive?

Mr Collette: Yes, there is. Through our sector development work, we run intensive programs on leadership skills, both for those who lead organisations, executives—and I take your point fully that so many of our smaller companies depend on the goodwill of volunteers. But we do have well-known and robust programs. I haven't got the number in my head but I know the participation of leaders who are based in the regions who take advantage of those programs is very, very significant. I think we can find that number for you. Something like 30 per cent plus of people who participate would be—again, my educated guess. Then we also have on our website a governance hub, which is open to all organisations, which lays out the fundamentals of good governance for organisations.

Senator DAVEY: Is that hub free access?

Mr Collette: Yes.

Senator DAVEY: It provides advice, fact sheets, 'This is what your fiduciary duties mean'? I had the great pleasure of attending the Regional Arts Australia summit here in Canberra last month. By all accounts the outcomes of that summit were really positive. It was a great event run by Regional Arts Australia. Also on supporting growth and potential, often, particularly with our regional organisations and our smaller organisations, it's a bit of out of sight, out of mind when we're talking about philanthropic spend. Some philanthropists are just unaware that these organisations are out there. Is there a program whereby Creative Australia builds networks and partnerships to try to foster those relationships so that there is also the potential for these smaller organisations to access private funding and not rely wholly and solely on our government programs?

Mr Collette: Yes, there are. I say this, of course, because, in establishing Creative Australia, the Australia Council and Creative Partnerships Australia were merged into one entity, which I'm happy to say has gone well. Creative Partnerships had long-established programs like MATCH Lab and Plus1 that looked for matched funding between philanthropists and public funding. The Australian Cultural Fund itself gives tax deductibility to any philanthropist that wants to invest through the fund in any projects that are put on that site by artists. Last year it attracted over \$10.3 million worth of funding, which is really quite significant. So as ever it's a work in progress, but our changed legislation allows Creative Australia itself to co-invest with philanthropic and even commercial interests if possible. So I think you will see that start to grow over time. But yes, there are existing programs.

Senator DAVEY: Will you be building an education program so that you can alert particularly our smaller organisations—who aren't sitting at the computer all day, every day, because most of them have other jobs—that there are these further opportunities available?

Mr Collette: We'll certainly think about that. Each of the state managers plays a mentoring role and an advice role to essentially small companies about how to go about attracting philanthropy. So very happy to think about that.

Senator DAVEY: Thank you.

CHAIR: Senator Duniam.

Senator DUNIAM: I think the questions from Senator Davey have covered some of what I was interested in, particularly around some of the exciting actions that have come out of what you've been able to do in the short time you've been in existence. Could you give us a bit more information around what the response of the sector has been to the activities that you've been undertaking and the changes that we've seen over the last year?

Mr Collette: I'm going to give you a slightly qualified answer to that, because I'm very conscious of the sector and how it's working at the moment. I think there is enthusiasm and respect for the way Creative Australia has been established and is going about its investment. I would anchor that on a couple of things. I think we will always remain a grant-giving body, and it will be central to the work that we do for individuals and organisations. But what Creative Australia has allowed us to do is to invest much more broadly in the sector, always keeping the artist at the centre of it. For those of us who've worked in the industry, yes, direct funding through grants and multiyear funding is absolutely essential, but so too is understanding the subtleties of each part of the industry. Music Australia is a fantastic example. When you have dedicated funding for contemporary music, you certainly increase your grant-making capacity to wonderful contemporary Australian musicians. But you can also invest in management training. You can invest in the discoverability of Australian music, which is a huge challenge in global markets. You can invest particularly in export markets. So it's a shift. And you will see the same thing happening with Writing Australia. I think that is really starting to be respected—that this is industry investment in support of the artist.

The only qualification I'd make is that I have to moderate my own enthusiasm, because things are tough. Trading is hard for all the reasons it is, not just in the arts but for anyone who's—on cost of supply and on suppressed demand. I'm amazed the sector seems to be doing as well as it is and we haven't lost an organisation or a major company. Of course we've had pressures in music festivals that have been cited earlier. But on the whole we've seen something come back quite robustly from COVID but with very, very different purchasing dynamics, which I think the sector is having to adjust to. But I think the way we're going our work seems to be enthusiastically embraced.

Senator DUNIAM: Thank you.

Senator HENDERSON: I've got a number of issues that I will race through as quickly as I can, given the hour. In light of recent reporting of taxpayers funding grants to recipients who are promoting pro-Hamas content, what action has Creative Australia taken to withdraw funding from these recipients and to ensure that no such funding goes to any artist or group which supports terrorism?

Mr Collette: I'm going to answer that by stating some principles, because I think they're really important principles. We fund at arm's length from government. That's taken. Our decisions are made—and this is the important bit—on creative merit and impact. That is what our decisions are made on. We do not take a view on people's personal opinions. We do not collect data on religious or political backgrounds of our applicants, and we're very mindful of privacy laws and the protections that individuals have. We do expect—and this is equally important—all individuals and organisations to act within the law, to follow antidiscrimination law and any other law.

Senator HENDERSON: As I said, what is Creative Australia doing to safeguard against providing funding to organisations or individuals who support terrorism, which prima facie is an offence in this country?

Mr Collette: We will continue to fund on the basis of artistic merit and impact, and we will not fund any activity that is unlawful.

Senator HENDERSON: Do you review and vet artists to ensure—

Mr Collette: Senator, we're not responsible for people's personal views.

Senator HENDERSON: I beg your pardon, Mr Collette. This is taxpayers' money.

Mr Collette: It is absolutely taxpayers' money.

Senator HENDERSON: Are you suggesting that it's appropriate to just dole out the money to individuals or groups who outwardly promote terrorism in this country?

Mr Collette: No, I'm not suggesting that.

Senator HENDERSON: Alright. What safeguards have you put in place to ensure that doesn't happen?

Mr Collette: I'd need some evidence of what organisations we've funded that are advocating for terrorism. That would seem to me on the face of it—and I say this advisedly—an unlawful activity.

Senator HENDERSON: I've put so many questions to you today—and I would welcome that advice on notice, including in relation to the assessment of your grants, the description of each grant, your acquittal process services—because there doesn't seem to be a lot of transparency in relation to your grants. They're not all published. They're not published. They're not publicly available. And it's not clear what your grants actually deliver. For instance, I know that Mr Matt Chun, along with someone else, has received about \$42,000, but we don't know for what purpose other than that it was for literature endeavours.

Mr Collette: I would be very happy to find that out for you. I don't have in my head now what Matt Chun got a grant for, but it will be for his artistic work. It will not be for his political or any other opinions.

Senator HENDERSON: Well, he's released a book, *Pull it Down*, and I would like you to verify if this has been funded by Creative Australia, which is deeply offensive, deeply anti-Australian. Alex Dimitriadis and John Ferguson of the *Australian* have said, 'the face of a hideous hatred that has no place in this country'. This is all about a picture book where children are basically encouraged to laugh with statues being chopped off.

Mr Collette: I will absolutely have a look at that. I'm not aware of that book. I'm aware that Mr Chun has been funded by us, but I can't tell you here what the project was.

Senator HENDERSON: Well, I am deeply concerned about the funding of Creative Australia. That's why I've asked you lots of questions. I'm deeply concerned that there are many decisions being made which are improperly funding people in this country who are supporting improper behaviour, anti-Australian hatred, and I would ask on notice that you provide the details of every grant that I've sought, including the people sitting on the assessment panel.

Mr Collette: We're very happy to do that.

Senator HENDERSON: Thank you, Mr Collette.

CHAIR: You've made a range of assertions, Senator Henderson. They will be clarified, but they are at this point assertions.

Senator HENDERSON: Well, I've asked the question. I now want to turn to two people who I believe are employees of Creative Australia. I raised these with the department. I don't know whether you were hearing that evidence. Mariam Ella Arcilla and Tahmina Maskinyar—they're both employees of Creative Australia?

Mr Collette: Ms Arcilla was a contractor with us between February and May. That's the only time she's been employed by Creative Australia. She was a contractor working on, I think, the Asia-Pacific awards.

Senator HENDERSON: Her LinkedIn says that she joined in May and continues with Creative Australia. But she's no longer working for Creative Australia—is that right?

Mr Collette: That's what I've been advised, but I'll double-check that.

Senator HENDERSON: Did you do any vetting in relation to Ms Arcilla before you employed her? On 15 May she posted this shocking message, 'Blocking 10 a day keeps the Zios away.' This is a post encouraging people to block Jerry Seinfeld. It's a shocking antisemitic post. Are you aware of that?

Mr Collette: I wasn't aware of it.

Senator HENDERSON: That was on 15 May. What day did she leave the organisation?

Mr Collette: I will have to find that out.

Senator HENDERSON: Are you aware of another post that she liked, which was before she joined Creative Australia, 'The colony will fall,' depicting a headless statue with a pretty offensive message?

Mr Collette: No, I wasn't aware of that.

Senator HENDERSON: What about Tahmina Maskinyar, who I believe is program manager visual arts, arts investment, Creative Australia? She's been with Creative Australia for four years?

Mr Collette: I can't remember her exact title, but she's the production manager of our Venice program.

Senator HENDERSON: According to her LinkedIn page, she stopped that job and she's now the visual arts manager as of October 2024. Anyway, please provide further details on notice. She's made a really deeply offensive and frankly, I believe, antisemitic post, 'I hate that the West makes Palestinians have to talk about Judaism and antisemitism at all. Palestinians didn't pick the identity of their occupiers.' I won't go on, but I have tabled it. Now, this appears to have been on an Instagram story, so they disappear. They might be in her social media account. Are you aware of this sort of abuse?

Mr Collette: No, I'm certainly not aware of it, Senator. Can I make this point? Our staff working for Creative Australia have to follow a code of conduct and a social media policy which encourages a lawful, responsible, impartial and professional approach when acting in their capacity as any officer of Creative Australia. It is a very clear code of conduct well known to the organisation. Having said that, there is a difference between personal and authorised use. We cannot stop people expressing personal views. They are certainly not the views of Creative Australia, and it is not what anyone representing Creative Australia is encouraged to do.

Senator HENDERSON: But you just said to me that you won't tolerate any conduct in relation to grants that's discriminatory or against the law. We've got one of your employees—you've now told me that she has left the organisation—making what I would consider a grossly offensive antisemitic comment.

Mr Collette: I would agree that if they were doing that as an employee of Creative Australia representing our organisation, then we would not condone racial discrimination or hate speech of any kind.

Senator HENDERSON: But you can't put a chinese wall through your own body. It doesn't matter in what capacity, whether you're doing it after dinner at home or whether you're at work, surely you don't tolerate any employee who has and expresses deeply offensive antisemitic views.

Mr Collette: It's very difficult to—and we don't—oversee the behaviour of our employees who are expressing personal views on their personal social media. We ask them to be cognisant of our social media policy, which is that we don't condone any of those things.

Senator HENDERSON: You ask them to be cognisant. So if someone posts something in their own time that's antisemitic, what do you do about that? Is that a breach of your—

Mr Collette: I'd seriously have to take some advice on that.

Senator HENDERSON: You would have to take some advice?

Mr Collette: Yes, because I'm not sure what our duty and responsibility as an employer might be. You would have to take that advice.

Senator HENDERSON: So, in terms of everyone who works for Creative Australia, how do you safeguard all the employees to make sure that they work in a safe environment which safeguards their wellbeing?

Mr Collette: We concentrate on that as a matter of course. It's the culture of the organisation. We do look after our employees. The Diversity Council of Australia has endorsed us as an inclusive workplace. We are often dealing with very controversial subject matter, so we go to extra lengths to make sure our colleagues are respected. And part of that is to emphasise, as part of our social media policy—

Senator HENDERSON: Could you please provide your social media policy?

Mr Collette: Certainly.

Senator HENDERSON: Could you please provide details of what action you've taken in to staff or employees who have engaged in conduct—I don't want you necessarily to identify them in breach of your social media policy. I'm now looking at another post.

CHAIR: Senator Henderson, you asked for 10 minutes; you've had 12. How long are we going to be? We have Hansard, broadcasting and the secretariat who all need to go home.

Senator HENDERSON: I appreciate that we've just clocked over. There's another post, but I might give that to you notice, because we have gone over time. My final question to you, Mr Collette, is: for employees expressing these extremist views, antisemitic views, how can you then guarantee that the decisions that they make, which may concern grants, are not biased, don't favour particular people in our community? If you've got people working in the organisation who've got very strong arguably anti-Israel, anti-Jewish views, surely that infects your entire operation.

Mr Collette: I'll make two points there. One is that the two people you have cited don't have any oversight of grant making or investment. They work in production, and I think one, as I say, was a temporary contractor. If we had any indication that there was antisemitic or racial expression in the workplace of any kind, we would investigate that very strongly.

Senator HENDERSON: Could I ask you to investigate these posts that I have tabled and come back to us on those?

Mr Collette: I will consider that, because I think there probably are judgements that need to be made about what happens in the workplace and what happens personally. I say that with great respect. I take your point, but we would have to be very sure of that ground.

Senator HENDERSON: I would ask, on notice, if you could come back and report to the committee on the nature of your investigation. Also on notice, have you received any other complaints in relation to this sort of conduct from employees?

Mr Collette: No, I haven't.

Senator HENDERSON: Thank you very much.

CHAIR: Thank you so much for coming in. We do appreciate it. Sorry it's so late. I'd like to thank everyone who's appeared today. Particular thanks go to broadcasting and to Hansard and to our secretariat for the amazing job and the deep and abiding patience that they show us. I will remind senators that the committee has agreed that any written questions on notice will be lodged with the secretariat by 14 November.

Committee adjourned at 23:03