



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ENVIRONMENT,  
COMMUNICATIONS AND THE ARTS

ESTIMATES

**(Additional Budget Estimates)**

MONDAY, 18 FEBRUARY 2008

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE STANDING COMMITTEE ON  
ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND  
THE ARTS**

**Monday, 18 February 2008**

**Members:** Senator McEwen (*Chair*), Senator Bartlett (*Deputy Chair*), Senators Birmingham, Kemp, Lundy, Parry, Webber and Wortley

**Senators in attendance:** Senators Abetz, Allison, Barnett, Bernardi, Birmingham, Colbeck, Eggleston, Fielding, Fifield, Johnston, Kemp, Lundy, Ian Macdonald, Marshall, McEwen, Moore, Nash, Parry, Payne, Ronaldson, Webber and Wortley.

**Committee met at 9.03 am**

**BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY PORTFOLIO**

**In Attendance**

Senator Conroy, Minister for Broadband, Communications and the Digital Economy

**Department of Broadband, Communications and the Digital Economy**

**Executive**

Ms Patricia Scott, Secretary

Mr Col Lyons, Acting Deputy Secretary, Communications

Mr Andy Townend, Deputy Secretary, Digital Australia

Mr Abul Rizvi, Deputy Secretary, Broadcasting, ICT, Regional Strategy and Corporate

**Corporate and Business**

Mr Frank Nicholas, First Assistant Secretary, Corporate and Business Division

Mr Mike Hutchings, Assistant Secretary, Information Technology and Facilities Branch

Ms Liz Lawler, Acting Assistant Secretary, Human Resources and Communications

**Finance and Budgets**

Mr Vincent McMahon, Acting Chief Financial Officer

**Broadband**

Mr Simon Bryant, Acting First Assistant Secretary, Broadband Division

Mr Lindsay Barton, Assistant Secretary, Broadband Development Branch

Mr Rohan Buettel, Assistant Secretary, Networks Competition Policy Branch

Mr Philip Mason, Acting Assistant Secretary, National Broadband Network Branch

**Telecommunications, Network Regulation and Australia Post**

Mr Keith Besgrove, First Assistant Secretary, Telecommunications, Network Regulation and Australia Post Division

Mr Brenton Thomas, Assistant Secretary, Networks Operations and Spectrum Branch

Mr Richard Desmond, Acting Assistant Secretary, Consumer Protection and Australia Post Branch

Ms Sabeena Oberoi, Acting Assistant Secretary, Communications Security Branch

Ms Caroline Greenway, Acting Assistant Secretary, International Branch

**Regional Strategy, ICT and Research**

Mr Ashley Cross, Acting First Assistant Secretary, Regional Strategy, ICT and Research  
Ms Liz Forman, Assistant Secretary, Regional Strategy Branch  
Mr Tom Dale, Assistant Secretary, ICT Strategy Branch  
Mr Ben Utting, Acting Assistant Secretary, Indigenous Telecommunications and Regional  
Telecommunications Review Branch  
Dr Judith Winternitz, Assistant Secretary, Research, Statistics and Technology Branch

**Broadcasting and Content**

Dr Simon Pelling, First Assistant Secretary, Broadcasting and Content Division  
Mr Gordon Neil, Assistant Secretary, Broadcasting Industries Branch  
Mr Robert McMahon, Assistant Secretary, Digital Broadcasting Branch  
Mr Lachlann Paterson, Acting Assistant Secretary, Content Programs Branch  
Ms Saima Tuisk, Acting Assistant Secretary, Content Regulation Branch

**Australia Post**

Mr Michael McCloskey, Corporate Secretary  
Mr Rod McDonald, Group Manager, Human Resources  
Mr Don Newman, Acting Group Manager, National Logistics  
Mr Michael Tenace, Group Financial Controller  
Ms Elizabeth Button, Group Manager, Retail Channels and Infrastructure  
Mr Stephen Walter, Group Manager, Corporate Public Affairs  
Ms Catherine Walsh, Manager, Employee Relations

**Australian Communications and Media Authority**

Mr Chris Chapman, Chairman  
Ms Lyn Maddock, Deputy Chair  
Mr Chris Cheah, Member  
Mr James Shaw, General Manager, Strategy, Analysis and Coordination Division  
Ms Nerida O'Loughlin, General Manager, Industry Outputs Division  
Mr Giles Tanner, General Manager, Inputs to Industry Division  
Mr Marcus Bezzi, General Manager, Legal Services Division  
Mr Derek Ambrose, Executive Manager, Corporate Services Division  
Ms Dianne Carlos, General Manager, Corporate Services Division  
Mr Paul White, Executive Manager, Industry Outputs Division  
Ms Andree Wright, Executive Manager, Industry Outputs Division  
Mr Grant Symons, Executive Manager, Industry Outputs Division  
Mr Andrew Kerans, Executive Manager, Inputs to Industry Division  
Mr Tony George, Manager, Allocations Administration

**Australian Broadcasting Corporation**

Mr Mark Scott, Managing Director  
Mr David Pendleton, Chief Operating Officer  
Mr Murray Green, Director, International, Corporate Strategy and Governance

**Special Broadcasting Service Corporation**

Mr Shaun Brown, Managing Director  
Mr Jonathon Torpy, Chief Financial Officer  
Mr Bruce Meagher, Director, Strategy and Communications

Mr Paul Broderick, Director, Technology and Distribution

Ms Paula Masselos, Director of Radio

**CHAIR (Senator McEwen)**—I declare open this meeting of the Senate Standing Committee on Environment, Communications and the Arts. The Senate has referred to the committee the particulars of proposed additional expenditure for 2007-08 for the portfolios of Broadband, Communications and the Digital Economy, and Environment, Water, Heritage and the Arts and certain other documents. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has fixed Thursday, 10 April 2008 as the date for the return of answers to questions taken on notice. Senators are reminded that written questions on notice should be provided to the secretariat by close of business next Monday.

The committee's proceedings will begin with its examination of the broadband communications and the digital economy portfolio commencing with Australia Post. Agencies will be called in accordance with the agenda. 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 to a committee.

The Senate by resolution in 1999 endorsed the following test of relevance of questions at estimates hearings. Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the 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 the discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

The Senate has resolved also that an officer of a department of the Commonwealth or of a state 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 prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for the claim. An officer called to answer a question for the first time should state their full name and the capacity in which they appear and witnesses should speak clearly and into the microphones to assist Hansard to record proceedings. Please switch off your mobile phones. I welcome Senator, the Hon. Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and portfolio officers. Minister, do you wish to make an opening statement?

**Senator Conroy**—No, thank you.

**CHAIR**—I now call for the officers from Australia Post and I invite questions, Senators.

**Senator BIRMINGHAM**—We start with the outlook for Australia Post please. In the annual report, Mr John says:

Unless we are able to raise our prices in line with costs, next year the profitability of our letters business will be even further affected by internal and external cost pressures such as wages and fuel charges.

I understand that just last week application was made to the ACCC for an increase in the price of the basic postal rate. Could you take me through the cost pressures facing Australia Post, please, and the unit cost, if you work in that type of terms, or the changes in the cost for the delivery of mail items.

**Mr McCloskey**—There is a range of cost pressures that all businesses are faced with these days. There would be transport fuel pressures, wage pressures and the like—just general rising costs. With reserved domestic letters, there has been no increase in the basic postage rate since 2003, and between that time and the target date for the proposed increase, which is July of this year, the cost of the CPI will have risen by around 15 per cent. So we are seeking in part to recover some of that cost insofar as our domestic reserve letter service is concerned. The revenue that we receive for the basic postage rate—in other words, the 50c revenue to Australia Post—is just over 45c after the GST is taken into account, and we actually get as of now only marginally more revenue than we received in 1992 for the basic postage rates. So there has been very little price movement in that period.

It is estimated that our domestic reserved letter service this year will lose around \$12 million. If there were to be no price rise, the estimate for next year is a loss of over \$80 million. On that basis, we have applied to the ACCC for a consideration of a proposed price rise which covers both the basic postage rate—the 50c rate—and also our bulk rate for business for PreSort mail. In relation to PreSort mail, I might just mention that there has been no general rise in PreSort mail since 1992. Even with the proposed rise for PreSort mail as part of this application, the price to business of the key part of PreSort mail would, in fact, be less than it was in 1992. Just as a general statement, Australia Post is very proud of the way it has been able to maintain price stability across its domestic letter services over that extended period.

**Senator BIRMINGHAM**—In terms of the actual cost of delivering the basic unit of mail, do you have an estimate for how much, on average, it costs you to deliver a domestic basic letter?

**Mr Tenace**—We have a number of different routes throughout Australia Post, as you would understand. The number of delivery points is growing across the corporation and continues to grow. It really depends on what route you are looking at. There are a whole range of different costs that Australia Post has to incur to meet its obligations. It is quite varied.

**Senator BIRMINGHAM**—I understand that it is varied and complex, but I take from the figures you have said that, for a basic domestic customer's 50c letter, delivery of that is at a loss. Does that equate to the fact that it costs you 60c or \$1 to deliver that?

**Mr Tenace**—As Mr McCloskey intimated, it really depends on whether or not the price increase does go through. That will determine the profitability of each sector. In terms of an



average cost, we do have those figures available but not here today. I would have to take that on notice.

**Senator BIRMINGHAM**—Thank you. What is happening to the volume of mail that you are handling? Is that increasing or decreasing?

**Mr McCloskey**—Addressed letters have been increasing by, on average, about 0.3 per cent over the last five years—so very modest increases. That is actually running counter to international trends where, in many countries, letter volumes have been decreasing.

**Senator BIRMINGHAM**—Do you expect that increase to be sustained in the forward years?

**Mr McCloskey**—Yes, I think we would expect increases in that order to be maintained for the next couple of years, but ultimately the expectation is that letter volumes will start to decline at some stage as electronic substitution and consolidation of mailing starts to take greater effect.

**Senator BIRMINGHAM**—You said in the annual report that you saw a drop in the letters business profit of 8.4 per cent in the last year. How much does a turnaround of 8.4 per cent amount to in dollar terms?

**Mr McCloskey**—I think that the annual report refers to the segment of the letters business, which is letters and associated services. That is wider than just domestic letters. The profit last year in that segment was \$160 million.

**Mr Tenace**—It is \$14.6 million down from the prior year for that segment.

**Senator BIRMINGHAM**—\$14.6 million? Thank you. You have applied to increase the basic postage rate by 5c. With the bulk postage rate, what are the changes you are seeking there?

**Mr McCloskey**—It is an average of 2.7c. For small letters, it will be 2.6c on average and, for large, it will be 3.5c.

**Senator BIRMINGHAM**—You are seeking to implement all of these changes from 1 July?

**Mr McCloskey**—The target date is July, the new financial year.

**Senator BIRMINGHAM**—You have just made application to the ACCC. That was lodged only last week?

**Mr McCloskey**—No, the application to the ACCC was lodged on 5 February.

**Senator BIRMINGHAM**—By what time line would you expect response from the ACCC?

**Mr McCloskey**—The ACCC process involves putting an issues paper for discussion, on which they invite responses, and then they consider those responses and come to a preliminary view on our application. We would hope that that could be done in a matter of months. I think they give four to six weeks for responses on their issues paper.

**Senator BIRMINGHAM**—That is a preliminary view?

**Mr McCloskey**—That is a preliminary view, that is right. Then based on the ACCC's preliminary view, Australia Post would then put in a formal price notification. What we have actually lodged with the ACCC is what is known as a draft notification, because under the relevant legislation the ACCC has I think 21 days within which to respond to a notification. So the process we go through is to give them more time to consider the application. It is done by means of a draft notification on which they then offer an in-depth review and we take that into consideration in formulating our final and formal notification on which they then have 21 days to respond.

**Senator BIRMINGHAM**—Does the minister then have final sign-off on those approvals.

**Mr McCloskey**—In relation to the basic postage rate, under the Australian Postal Corporation Act the board must formally advise the minister of a proposal to raise that basic postage rate. The minister does not in fact sign off under the legislation on it but he or she has 30 days within which they may disallow the proposal.

**Senator BIRMINGHAM**—Minister, do you support the application for the increase?

**Senator CONROY**—We are awaiting the ACCC's consideration of it. Do you support it?

**Senator BIRMINGHAM**—I am not the minister, sadly, but you obviously are aware that this application has been made? Do you support the agency in their application?

**Senator CONROY**—I am awaiting the findings of the ACCC, as is appropriate.

**Senator LUNDY**—Can I ask a question on this issue? I am interested in whether Post are establishing new delivery centres to keep pace with the increase in the number of delivery points, I guess, as a result mainly of expanding residential development and the fast growth corridors of South-East Queensland, South Perth, North Melbourne et cetera.

**Mr Newman**—I am just a little bit unclear on the nature of your question. Could you clarify that?

**Senator LUNDY**—I would like to know what new delivery points Post is investing in given the rapid urban expansion particularly in our fast-growth corridors, but not only there. We are experiencing growth in a number of areas around the country.

**Mr Newman**—We always have forward planning on delivery facilities, and our solution to that depends on where the need is and the geography and really the availability of land and other variables. But by and large, we try to predict growth corridors and, where it is suitable for the construction of a delivery centre, we will do that. We have other options though to control growth. We sometimes construct annexes to existing delivery centres, which is a very effective way of managing rapid growth. For example, that is fairly typically in Perth where there is rapid growth and it is difficult to get vacant land. We have other alternatives. For example, we will build larger but more centralised delivery centres, which increases the capacity in that locality. So there is a variety of solutions to that.

**Senator LUNDY**—Can you provide me with a little more detail about where new centres are being built at the moment as opposed to annexes?

**Mr Newman**—I would probably have to take that on notice.

**Senator LUNDY**—Are you building any?

**Mr Newman**—I believe we have just completed some. For example, there was one recently completed at Essendon, in Melbourne. I really would prefer to take that on notice. I simply do not have the current building program with me. There is also the future building program, which we plan out by about five years.

**Senator LUNDY**—So off the top of your head you cannot think of any new centre that you have built, apart from Essendon.

**Mr Newman**—I am sorry, I just do not have the information with me.

**Senator LUNDY**—Can you confirm that there are other new centres or not?

**Mr Newman**—I would have to take that on notice.

**Senator LUNDY**—How many of these annexes have you built on existing centres to service growth areas?

**Mr Newman**—I believe there have been a couple either built or planned in Western Australia. I would need to check if there were additional ones in other parts of Australia.

**Senator LUNDY**—Do you have any financial figures to show how much you are spending on the building of new delivery centres, say, in the current financial year? Do you have a capital works budget perhaps?

**Mr Tenace**—For delivery centres it has been around the \$20 million mark per annum, but it does fluctuate from that depending on the size and nature of the delivery centre.

**Senator LUNDY**—What is your expenditure to date in that budget, for this current financial year?

**Mr Tenace**—I do not have that information with me, but I can take that on notice and get back to you.

**Senator LUNDY**—Is it more or less than it has been in preceding years?

**Mr Tenace**—It is fairly consistent.

**Senator LUNDY**—Does that mean around \$20 million or does it mean \$10 million?

**Mr Tenace**—It is around the \$20 million mark.

**Senator LUNDY**—With the fast growth that we have been experiencing, particularly in the corridors around Perth and south-east Queensland et cetera, can you point to a specific program designed to assist Post to service the needs of residents in those areas? Do you have a particular strategy designed to deal with that fast growth or is it part of your normal program?

**Mr Newman**—To extend that question from before, in fact there is a delivery centre being built in Heathwood, in the south-western suburbs of Brisbane, which slipped my mind before—

**Senator LUNDY**—You have just remembered?

**Mr Newman**—Yes. But each area is taken on its own merits. That is managed at the local level, at the state level. Each growth corridor or growth area is tracked, and that goes into the

forward planning. It is just unfortunate that I do not have the capital program here with me today.

**Senator LUNDY**—I am asking these questions because I am interested to see the extent of your capital works investment and how that relates to your proposed price increase—whether or not you can point to the pressure on your expenditure for capital works to improve delivery services and whether that is a factor in the price increase that you are promoting.

**Mr Tenace**—Yes, it is certainly a factor in the price increase. As mentioned earlier, the expanding delivery points are critical. The expansion in south-east Queensland is a major area of investment. We are going through proposals at the moment to develop business cases to ensure that we have adequate support for those facilities that we are looking to change. But at this stage no formal plans have been endorsed, so we are really just going through the feasibility with regard to that.

**Senator LUNDY**—So you cannot actually point to an expanded capital works budget that is currently factored into your existing plan?

**Mr Tenace**—We do have forecasts that are factored into the capital expenditure expectations that relate to the pricing review. There are details, but they are just plans at this stage.

**Senator LUNDY**—Are you able to shed any more light on whether or not that is going to be around \$20 million?

**Mr Tenace**—I would anticipate that that would be in excess of \$20 million.

**Senator BIRMINGHAM**—Can I turn to the EBA negotiations that have taken place over the last year. I understand that, during those negotiations, a dirt sheet of sorts was posted in postal centres and distributed to employees. Is that the case?

**Mr McDonald**—That is totally incorrect.

**Senator BIRMINGHAM**—You are not aware of any such documents circulated by any parties during the EBA?

**Mr McDonald**—During the EBA various documents float around but, certainly on the management side, Australia Post cite absolutely no evidence of anything like that being circulated. We would take that extremely seriously.

**Senator BIRMINGHAM**—What is the substance of things that circulate during the negotiations?

**Mr McDonald**—There are comments made about respective positions, which is totally legitimate; arguments why a particular claim is there; and arguments why Australia Post has a particular response in respect of that claim. That is part of the normal communications process.

**Senator BIRMINGHAM**—Did the AEC become involved during the negotiations?

**Mr McDonald**—No, not that I can recollect. We spoke to the AEC about getting ready for the ballot, but that ballot has not taken place as yet.

**Senator BIRMINGHAM**—So at this stage the only communications with the AEC have been in relation to preparation for the ballot?

**Mr McDonald**—I cannot recollect any communication other than that.

**Senator BIRMINGHAM**—Where would you describe the enterprise agreement as being at, at present?

**Mr McDonald**—It is, unfortunately, at a bit of a stalemate. We reached an agreement with the union on 23 October on the provisions of the EBA. Both parties took the position that, with the high mail volumes through November and December—when staff are obviously heavily involved in processing mail—we would do the extensive communications process that accompanies any EBA through the course of February and we would do a staff ballot in March. We were working to that objective. Unfortunately, the union came back to us in early January, when we were getting ready to have discussions with them on communications, and added a claim that was unacceptable to us. We have told them that so, at this stage, we are prepared to run with the agreement we made and we would hope that the union reconsider their position and also honour that agreement.

**Senator BIRMINGHAM**—So you believe that you had a broad agreement in terms last year?

**Mr McDonald**—Yes, I do. That was clear.

**Senator BIRMINGHAM**—And the union has now indicated that it is not honouring that agreement?

**Mr McDonald**—The union has sought to add a claim. It was a claim that we had had discussions about during the course of the EBA, which we rejected and will continue to reject. We are extremely disappointed that the union is seeking to move beyond the agreement we reached.

**Senator BIRMINGHAM**—What is the claim the union is seeking to add?

**Mr McDonald**—As part of the EBA, we have a series of accompanying letters which relate to positions of intent—for example, on work-life balance and on contracting out. Each EBA has had these accompanying letters, and that is quite common with EBAs with organisations. The union is seeking to have those letters enshrined as common-law agreements. Common-law agreements are not acceptable to us as industrial instruments. We believe the appropriate course is through the Industrial Relations Commission, not through courts. At the end of the day they are letters of intent, and Australia Post has honoured and will continue to honour letters of intent it has provided.

**Senator BIRMINGHAM**—You state that common-law agreements are not suitable to Australia Post in your employee arrangements. Is that the case?

**Mr McDonald**—They are not suitable for an EBA industrial condition for a number of reasons.

**Senator BIRMINGHAM**—You do not use common-law agreements anywhere across the agency?

**Mr McDonald**—No, we do not use common-law agreements for industrial conditions.

**Senator BIRMINGHAM**—And you do not believe they would be appropriate in the future either?

**Mr McDonald**—Some of our managers are on common-law contracts in terms of pay and performance, but they are not appropriate for this situation. For award categories, we have a collective agreement. That is what we have had for six previous EBAs, and that is the appropriate course in our view. We have made that clear in every EBA negotiation we have had with the union. We have never had common-law agreements covering what should be covered by an EBA.

**Senator BIRMINGHAM**—You do use AWAs fairly widely, though?

**Mr McDonald**—No, we do not. We would have around one per cent of our workforce on AWAs.

**Senator BIRMINGHAM**—How many would that equate to?

**Mr McDonald**—About 300 out of a workforce of 35,000.

**Senator BIRMINGHAM**—Are you continuing to offer AWAs?

**Mr McDonald**—I am sorry, I will correct that: the exact figure is 245 out of a workforce of 35,000.

**Senator BIRMINGHAM**—Thank you, Mr McDonald. You are continuing to offer or negotiate AWAs at present?

**Mr McDonald**—No, we are not. As a result of the new legislation being introduced into parliament last Wednesday, we have looked at what we should do in terms of future AWAs and we have made a decision as a corporation that we will no longer offer AWAs to staff. We communicated that on Thursday. So we have changed our position as a result of that.

**Senator BIRMINGHAM**—When was that decision taken?

**Mr McDonald**—Last Thursday.

**Senator BIRMINGHAM**—The decision was taken last Thursday, following an article in the *Australian* last Wednesday, I note, saying:

The Communications Electrical and Plumbing Union has asked the Government's two nominal shareholders—Communications Minister Stephen Conroy and Finance Minister Lindsay Tanner—to direct Australia Post to drop the contracts.

**Mr McDonald**—There has been no direction to Australia Post. The corporation has made a decision following the introduction of legislation into parliament on Wednesday. We have had regard to that, and we have had regard to the very small number of people we have on AWAs. The corporation have made a decision that we will no longer offer them. The collective agreement suits our purpose.

**Senator BIRMINGHAM**—So up until Wednesday you were still negotiating AWAs with employees?

**Mr McDonald**—Yes, we were.

**Senator BIRMINGHAM**—And then, after this matter became public, the week before a Senate estimates hearing, you changed policy?

**Mr McDonald**—We changed the policy following the introduction of the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 into parliament on Wednesday. As a corporation, we reviewed what we should do for the future, having regard to that legislation, and took the view that, whilst existing AWAs will stay for existing employees on them, we will not be offering new AWAs.

**Senator BIRMINGHAM**—Will the corporation be using the interim agreements, the ITEAs, within the new workplace relations laws?

**Mr McDonald**—They are yet to become law, obviously, but we will be looking at what the way going forward should be. We have made no decision on that other than that new staff, for the moment, will be put onto the award conditions.

**Senator PARRY**—Just on that point, if I could: you are prepared to change the entire arrangements for employing staff, based upon a bill introduced into the parliament on Wednesday, yet you are not prepared to say whether you will move onto the interim award measures because that has not become law. Really, you are having a bet each way.

**Mr McDonald**—No, it is not so. We will certainly look hard at the ITEAs.

**Senator PARRY**—What if the law does not pass?

**Mr McDonald**—We have made a decision as a corporation that we will not be offering AWAs. It only covered a very small part of our workforce. It covered substantially people who were in delivery manager or facility manager type roles. We have had the view that the bulk of our workforce should be on a collective agreement.

**Senator PARRY**—Does Australia Post constantly make decisions based upon a bill that has been introduced into the parliament rather than waiting for the actual outcome? Is that standard procedure?

**Mr McDonald**—Each situation is looked at on its circumstances. In this case, we have been reviewing the AWAs generally. The legislation, now it has been introduced, sets out the intention.

**Senator PARRY**—The legislation has not been introduced; the bill has been introduced into one house of the parliament.

**Mr McDonald**—Yes, the workplace relations transitional bill was introduced into the parliament, so we have had regard to that and also particularly had regard to the fact that we have only used AWAs for a very small part of our workforce. They are not something that we have seen a desirability to extend.

**Senator PARRY**—So the decision has been made solely on the basis that the bill has been introduced into the parliament, not by ministerial direction?

**Mr McDonald**—No, there has been no direction to the organisation. This is a management decision.

**Senator BIRMINGHAM**—How long have you been using AWAs?

**Mr McDonald**—About six years, I would think.

**Senator BIRMINGHAM**—A significant period of time, and they have obviously become, albeit for a small proportion of your workforce, a key part of the management tool within that small proportion.

**Mr McDonald**—I would not call it a key part of the management tool. We introduced it for delivery managers and facility managers. We did consider it for other categories over the last three years and made a decision that it did not serve our purpose. We decided to maintain a situation with the collective agreement.

**Senator BIRMINGHAM**—Had there been any discussion prior to last Thursday about not continuing to use AWAs?

**Mr McDonald**—We had been considering, as the legislation was mooted, what we should do for the future.

**Senator BIRMINGHAM**—Had considerations been taking place at board level?

**Mr McDonald**—No, just internal consideration as to what was the way forward and what was the best way for a collective agreement. We took a decision, for example, when we went into EBA 7 negotiations, that we wanted to stay with a collective agreement. It served our purpose. We have a very large, diversified workforce. Rather than individual AWAs, it suits our purpose to have a collective agreement.

**Senator BIRMINGHAM**—But it also suited your purpose to use AWAs in some circumstances.

**Mr McDonald**—Yes, for delivery managers.

**Senator BIRMINGHAM**—And you are reserving the right to use individual contracts under the new legislation, should that be passed.

**Mr McDonald**—Yes. We need to consider whether or not that provides any advantage to us. At this point we see it as appropriate to put people on awards.

**Senator BIRMINGHAM**—Between now and assent being given to the new legislation, you will live with the fact that you cannot access any form of individual statutory contract.

**Mr McDonald**—Could you repeat that.

**Senator BIRMINGHAM**—Between now, having made the decision last Thursday, and assent being given to the new legislation, whenever that may take place—assuming it ever takes place—you will avoid using any form of individual statutory contract.

**Mr McDonald**—We have instructed people at the moment, for any jobs that come up, to put people on the award conditions. I should say that the point we have taken in the past has been to offer people the alternative anyway. Some people have taken an AWA; some have taken the award conditions. We have instructed that people will go on to the award provisions. If there are other interim arrangements we need to make, we will give consideration to them, but at this point we have not.

**Senator BIRMINGHAM**—So a delivery service manager who five years ago chose to go on an AWA because that was what they wanted and because that suited their flexibility, and whose AWA expires between now and the availability of the new interim agreements, will not have the choice of accessing an individual contract of any form.



**Mr McDonald**—The AWA would continue until either party chose to end it, for existing staff on existing AWAs.

**Senator BIRMINGHAM**—Thank you.

**Senator PARRY**—Who makes the final decision in Australia Post concerning AWAs—that decision you just mentioned earlier?

**Mr McDonald**—The chief executive, the managing director.

**Senator PARRY**—Solely, without any board consultation?

**Mr McDonald**—It would be up to the managing director to make a decision on a matter like that. Certainly, in terms of this decision, it was a matter of discussion between the managing director and me as to the way forward.

**Senator KEMP**—On this point, can I ask a question. The minister has shown commendable restraint in freezing the salaries of government ministers, shadow ministers and parliamentarians. That has been supported, of course, by the opposition. Could you indicate to us: will the CEO of Australia Post be freezing his salary over the next 12 months?

**Senator Conroy**—Was that a question to me or to the officers?

**Senator KEMP**—To the officers but, Minister, you are at the table; you are entitled to also make a comment.

**Mr McCloskey**—The managing director's remuneration is determined by the board and no consideration has been given to any review of his remuneration at this point in time—certainly not since the announcement was made last week about parliamentary salaries.

**Senator ABETZ**—But Australia Post seems to be very responsive to announcements, doesn't it, when it comes to AWAs? You were very quick to respond then; why not to this?

**Senator LUNDY**—I would say that they are slow to respond to government—

**Senator ABETZ**—You are not answering! If you were good enough you would have been appointed as a minister to answer this.

**Senator MARSHALL**—If you were good enough, you would still be one—and you are not! And I wonder why that was.

**Senator LUNDY**—Is that the best you can do?

**CHAIR**—Senator Kemp, you have the call.

**Senator MARSHALL**—Yes, keep talking about AWAs. It is terrific.

**CHAIR**—Order!

**Senator KEMP**—My colleague Senator Abetz always makes a good point. This is a very clear policy. It came out last week. It was given extensive press. The government is requesting CEOs and senior executives to freeze their salaries for the next 12 months to set an example. Can I ask: what is the Australia Post policy on this issue?

**Mr McCloskey**—The managing director and senior executive salaries will be next up for review around the middle of the year, and I have no doubt that the policy as announced by the government and followed by the opposition will be taken into consideration in that review.

**Senator KEMP**—I appreciate the awkward position you are in with this and, having been in the political game for some 18 years, I well know a weasel word when it comes out. But, Minister, you are experienced here at Senate estimates. Perhaps you might like to indicate what the expectation of the government is. Does the government expect that the CEOs of the Australia Post and other highly paid executives will follow the government's example and freeze their salaries?

**Senator Conroy**—The expectation of the government is that the board of Australia Post will set the broad policies of remuneration in Australia Post, as is the case with any CEO, and that is not a matter for the government.

**Senator KEMP**—Hold on, Mr Rudd has made a big announcement in the parliament and he has indicated that he will be freezing your salary—and that is presumably pretty tough on you, Senator—and he expects CEOs around Australia to follow his example. I think I am right in saying it that way.

**Senator Conroy**—The board are aware of Mr Rudd's comments, as are most Australians. The setting of a CEO's salary ultimately is a matter for the board policies, the remuneration committee of the board.

**Senator KEMP**—Minister, can we get a clear statement from you? Would you expect the board that sets the remuneration to take account of the government policy and freeze those salaries?

**Senator Conroy**—The board of Australia Post, I am sure, will be conscious of the comments from Mr Rudd and—

**Senator KEMP**—But you are the minister. You are the new minister and you have got the levers in your hand, Senator. You are best friends with Sol Trujillo and all these other people. Minister, you are meant to be one of these new gung-ho people that wants to implement change. Could you give us a straight answer? Are you going to have a quiet word with Australia Post and ensure that the CEOs and senior executives fall into line with the government proposal for a pay freeze? Just give us a straight answer.

**Senator Conroy**—I am sure the board of Australia Post have seen the comments—

**Senator KEMP**—Stop reading the brief.

**Senator ABETZ**—Let us not labour them, Senator—

**Senator Conroy**—Just the brief.

**Senator KEMP**—Do you have a clear answer? Just give a clear answer.

**Senator Conroy**—The clear answer is very simple: I am aware of Australia Post's status—you are aware of it, Senator Kemp—

**Senator KEMP**—Yes, but you have an opinion. You are a minister—

**Senator Conroy**—My opinion is in agreement with the Prime Minister's. It may come as a surprise to you or it may come as no surprise to you: I agree with what the Prime Minister said. I am sure the Australian Post board are aware of what the Prime Minister has said, and I am sure that the Australia Post board will take that into account when they are considering the

remuneration policies and that the remuneration committee of Australia Post board look at the remuneration of its CEO—

**Senator KEMP**—I accept that obviously you have got a brief there and you have been told to read and, fair enough, I am well used to these things but, Minister, can I just ask you—

**Senator MARSHALL**—You are used to the experience.

**Senator KEMP**—Close up the computer, can I get a straight answer from you, Minister: do you want the CEO of Australia Post and the senior executives to meet the government fully and ensure that their salaries are frozen? I want your opinion.

**Senator Conroy**—The remuneration policy for executives of Australia Post is set by the board. I am sure they will be conscious of Prime Minister Rudd's comments.

**Senator KEMP**—I have to say, Senator, it is not a strong performance—not a strong start.

**Senator MARSHALL**—Talk about strong performances!

**Senator KEMP**—All around Australia, CEOs will be looking at Senator Conroy and saying: 'Here's a government minister. What sort of an example and what sort of a lead is Senator Conroy going to give?'

**CHAIR**—Have you got a question, Senator Kemp?

**Senator KEMP**—They will look at the *Hansard* and see those weasel words. I have to say, Senator, they might come to the conclusion that the government is not serious.

**Senator BIRMINGHAM**—On the issue of wage restraint, does it concern you that, having given an indication that they would accept a 16 per cent pay rise over 40 months, the communications union has now backed out of those enterprise agreements with Australia Post and is in disagreement?

**Senator Conroy**—I do not remember ministers under previous governments giving running commentaries on industrial negotiations between Australia Post and the union, and I am not intending to be different from previous ministers on that.

**Senator BIRMINGHAM**—This government is making—

**Senator Conroy**—This is an industrial matter between the union and Australia Post.

**Senator BIRMINGHAM**—This government is making a great virtue out of wage restraint at present. The union negotiated an agreement that Australia Post thought had been reached last year only to find that subsequent to the election that agreement had been backed out of. This would suggest potential for wages escalation that I would have thought would concern the government.

**Senator MARSHALL**—There is no such thing. You were told what the claim was. It was about incorporating existing arrangements.

**Senator BIRMINGHAM**—Bad luck, Gavin. You are sitting over there.

**Senator MARSHALL**—The senator should be honest with the committee. He should not rewrite the evidence that has been given.

**CHAIR**—Order!

**Senator MARSHALL**—I know you are new at opposition estimates, but—

**Senator BIRMINGHAM**—The officials indicated they had reached agreement.

**CHAIR**—Can we go back to questions, please?

**Senator Conroy**—Verballing the witness is—

**CHAIR**—One moment. Who was talking?

**Senator ALLISON**—If Senator Marshall has something to say, he should raise a point of order or wait his turn.

**Senator KEMP**—Hear, hear!

**Senator ABETZ**—Hear, hear!

**Senator Conroy**—Senator Birmingham should not verbal witnesses. The officials of Australia Post said no such things as you have described. They described the process that they have been going through and it is disappointing that Senator Birmingham feels the need to verbal them.

**Senator BIRMINGHAM**—I do not believe I am verballing them at all. If they wish to clarify the earlier comments that indicated that agreement had been reached in I think they said about October last year—

**Mr McDonald**—That is correct. That is what I said, Senator. I said that the union subsequently raised an additional claim which related to common-law agreements.

**Senator BIRMINGHAM**—The union subsequently made an additional claim to the agreement that was made. Does that concern you, Minister?

**Senator Conroy**—That is a matter of ongoing discussion between the union and Australia Post. I am not intending to run a commentary on the industrial arguments between Australia Post and the union. No minister of yours ever did and I am not intending to deviate from that practice.

**Senator BIRMINGHAM**—So the Prime Minister will run his commentary on national wages restraint, but you will show restraint in any commentary.

**Senator Conroy**—If you could make your mind up whether you are talking about CEOs or the workforce, it might clarify your question.

**Senator BIRMINGHAM**—I have been speaking of both.

**Senator Conroy**—You might want to clarify your question. You seem to be jumping between a prime ministerial statement about the CEOs and now, all of a sudden, a call to do with the workforce.

**Senator BIRMINGHAM**—I think you will find the Prime Minister's statement urged wage restraint across the board.

**Senator Conroy**—If you could clarify your question, we might be able to progress.

**Senator BIRMINGHAM**—I think the question was very clear.

**Senator KEMP**—If I could just assist here: Minister Conroy, could you perhaps explain to the committee what you understand Mr Rudd's message is on wage restraint? Does it apply

just to CEOs and highly paid executives, or does it apply more widely? I think that is a question for you to answer rather than your officers.

**Senator Conroy**—I am not sure it is relevant to the duties of Australia Post. You asked me to comment on the Prime Minister's statements.

**Senator KEMP**—No, just explain—

**Senator Conroy**—No, you asked me to make a comment. That is not a question.

**Senator KEMP**—Could you perhaps make it clear what Mr Rudd's policy is?

**Senator Conroy**—That is not a question to put to the officials. That is a question of policy to be put to me.

**Senator KEMP**—I am putting it to you.

**Senator Conroy**—Mr Rudd's policies are for a freeze on parliamentary salaries, which you support, and a call for restraint from CEOs.

**Senator KEMP**—A call for restraint in the public sector and private sector. Does that also include highly paid executives?

**Senator Conroy**—What is your definition of a highly paid executive.

**Senator BIRMINGHAM**—One would assume anybody over a postie's salary—

**Senator KEMP**—Let us say someone who is paid a salary of a cabinet minister.

**Senator Conroy**—A postie, as Senator Birmingham is trying to suggest?

**Senator KEMP**—Yes.

**Senator Conroy**—I am just trying to clarify your question.

**CHAIR**—Are there any questions?

**Senator KEMP**—I think we are still trying to get this clear, because this is actually very important.

**CHAIR**—Can you ask the question please, Senator Kemp.

**Senator Conroy**—Is it relevant to the estimates?

**Senator KEMP**—It sets the context for the question. Senator Conroy has been upset with the questioning, but just to make it clear: Mr Rudd's or the government's policy is to call for a freeze on CEO salaries. My understanding was that—and we can all quibble what is a highly paid executive—it also applied to highly paid executives. Am I right or wrong in suggesting that?

**Senator Conroy**—What is your definition of a highly paid executive?

**Senator KEMP**—What is yours? This is the government's policy. I am just trying to get it clear. You are a senior minister, an influential minister, one of the people who put Mr Rudd in place. We have got your agencies before us in Senate estimates to do with the expenditure of agencies. What I am trying to do is to get clear on the wages and salary issue what the government policy is. My understanding was that it was to call for a freeze on CEO salaries—we have agreed on that—does it call—

**Senator Conroy**—No, we didn't—don't verbal me.

**Senator KEMP**—Hullo, this is interesting.

**Senator Conroy**—Restraint is not a freeze.

**Senator KEMP**—Just restraint on it, okay.

**Senator Conroy**—That would be actually what he said.

**Senator KEMP**—Restraint, just restraint.

**Senator Conroy**—Do not try to verbal the Prime Minister or me.

**Senator KEMP**—I am not trying to verbal; I am just trying to get a clear answer from you.

**Senator Conroy**—You did, I am sorry, Senator Kemp.

**Senator KEMP**—I am sorry to say, Senator Conroy, I am just trying to get a clear answer from you.

**CHAIR**—Senator Kemp, there is a point of order.

**Senator LUNDY**—I was just going to make the point of order that Senator Kemp has spent the last 10 minutes trying to work out what question he asked. Perhaps he should sit back, work out his question and, when he has got it, actually ask it.

**Senator KEMP**—That is no point of order.

**Senator Conroy**—It is excellent advice though.

**Senator LUNDY**—In the rest of the time we can ask our questions.

**Senator Conroy**—Come back when you have actually got a question, Senator Kemp.

**CHAIR**—Senator Kemp, you have had a fair go on this. You can have a couple more minutes and then we will move on.

**Senator KEMP**—Madam Chair, I have not finished my questions. The tradition has been that estimates are essentially for oppositions to ask questions, and Senator Lundy, who questioned me for days on end, will certainly back up that point. I do not think we have to be too precious on this issue. Just get it clear: you are calling for restraint from CEOs so you are calling for restraint from the Australia Post CEO.

**Senator Conroy**—The Prime Minister's statements are very public—I think they were in the other place—and I am confused why you are confused about them.

**Senator KEMP**—I am confused because I am trying to get a very clear statement from you. I have asked you whether you are going to be putting that message to Australia Post, and I think the view is that you are not putting that view to Australia Post because you assume that the Australian Post people have read the newspapers so I assume that that is not the case. Then I asked: are you asking for restraint from the senior executives and highly paid executives at Australia Post, and I cannot get a clear answer to that question.

**Senator Conroy**—The Prime Minister has publicly called for restraint, and I am sure that the board of Australia Post will take the Prime Minister's comments into account when they are considering the remuneration of the CEO.

**Senator ABETZ**—Can we try it this way: your Prime Minister has said that even backbenchers earning \$127,000 per annum should be given a wage freeze. How many people in Australia Post earn \$127,000 per annum or more, and how many of those will be asked by you, Minister, through the board to exercise the sort of restraint and example that is being imposed on backbenchers. I daresay you would not necessarily have the numbers, but I would be interested in your approach.

**Senator Conroy**—I am sure you are correct.

**Senator ABETZ**—If you can take the numbers on notice.

**Senator Conroy**—I am happy to take the numbers on notice. As you are aware, with the support of your own party and your own leader—

**Senator LUNDY**—They obviously don't support it now.

**Senator KEMP**—We are supporting it.

**Senator ABETZ**—We are trying to help you. We are trying to help and you are resisting.

**Senator LUNDY**—It sounds like you are undermining it to me.

**Senator Conroy**—I agree with my colleagues. It does not sound like you are particularly supportive of Dr Nelson's position on this, but I will leave that for you.

**Senator KEMP**—We are trying to help you, Senator Conroy.

**Senator Conroy**—You continue to try and suggest that Mr Rudd's position is—as Senator Birmingham suggested earlier—that there should be a broader freeze. That is not Mr Rudd's position. Mr Rudd's position is very simple and straightforward.

**Senator ABETZ**—So why does it apply to backbenchers if it is not to be broadened?

**Senator Conroy**—Mr Rudd's position is very simple.

**Senator ABETZ**—Too simplistic is the word.

**Senator Conroy**—We, as politicians, are taking a pay freeze, which you support.

**Senator ABETZ**—That is right.

**Senator KEMP**—Absolutely.

**Senator Conroy**—He has called on CEOs to show restraint. It is very simple. It is very straightforward. If you want to waste your time kicking it around then that is fine.

**Senator KEMP**—We will be the judge of that.

**Senator Conroy**—Senator Kemp, you do not have to grab your microphone, you just have to speak into it.

**Senator KEMP**—At least we are reasonably clear on Mr Rudd's policy in relation to CEOs. Is the government also calling for restraint for highly paid executives?

**Senator Conroy**—What is your definition of a 'highly paid executive'?

**Senator KEMP**—Let us use the backbench salary of \$127,000. Is that also coming under the restraint area?

**Senator Conroy**—Mr Rudd's comments are fairly simple. They are straightforward and plain.

**Senator KEMP**—But what is the answer to the question?

**Senator Conroy**—Mr Rudd said CEOs.

**Senator KEMP**—Only CEOs. Okay, that is fine.

**Senator ABETZ**—So if you are a managing director, you are not a CEO. Is that right?

**Senator Conroy**—Is that a rhetorical question, Senator Abetz? You are asking me to pass judgements—

**Senator ABETZ**—No. Does it depend on your title or does it depend on how much you earn? I think most people would not have understood it as meaning that you have to be classified as a CEO, but rather somebody that is on a high salary as determined by your Prime Minister—that is, \$127,000 and above. Now you are trying to say it is only if you are a CEO. That is fine. But then tell us whether that means that if you are classified as a managing director as opposed to a CEO, you can escape the request of the Prime Minister.

**Senator Conroy**—Mr Rudd's comments are on the public record. They are very straightforward and I am sorry that you are struggling with them.

**Senator KEMP**—We are looking for leadership from you too, Senator Conroy.

**Senator ABETZ**—There are a lot of concerned people in the back of the room because they earn more than I do.

**Senator Conroy**—They clearly do not seem to be as concerned as you are, Senator Abetz.

**Senator LUNDY**—I have a point of order. I actually have some questions for Australia Post. We have been going now for some 15 minutes on something unrelated to Australia Post. I know it is a powerful irony that I am waiting to ask Australia Post some questions. I am seeking direction from the chair as to how long we need to listen to something that is arguably outside of the purview of today, namely talking to Australia Post about their budget reports.

**CHAIR**—Opposition senators have had a fair go.

**Senator KEMP**—Madam Chair, let me just make it clear once and for all. The general practice has been that opposition senators get the call. We do not exclude the right, of course, for government senators to also ask a few questions. That is why we have set time limits—I am well aware of the history of this—for the estimates, with the agreement of the opposition and the government, so that Senate estimates is largely for the benefit of questions from the opposition. If Senator Lundy does not like our questions, that is just tough. We are sorry about that because we try to keep her awake but, if she does not like our questions, that is just tough. We intend to get clarity and we are trying to encourage the minister to show some leadership on this very important point.

**Senator Conroy**—Is that a question?

**Senator KEMP**—No, I have just made a comment in response to Senator Lundy's comment.

**CHAIR**—Senator Kemp, will you get to your question please.



**Senator Conroy**—Before we move on, I will add for clarity—because Senator Kemp was not a long-term member of this committee, I do not think, over the last few years—that what the previous government actually did was to impose individual time limits on individual senators.

**Senator KEMP**—Not you, mate.

**Senator ABETZ**—It was not the government; it was the committee, Minister.

**Senator Conroy**—Then, it was the government members of the committee. Senator Macdonald, one of the more regular attendees, is attesting right next to you. In fact, what they did was to set individual time limits on each senator—for instance, Senator Kemp would get 10 minutes and, if he chose to waste it with commentary rather than questions, he wasted it.

**Senator IAN MACDONALD**—Madam Chairman, a point of order: this is not the minister's portfolio or his expertise. Could we move on with—

**Senator Conroy**—It is not my portfolio?

**CHAIR**—I think it is.

**Senator Conroy**—It is my portfolio!

**CHAIR**—If I could respond to Senator Kemp: I know in the past that time has been allocated equally to senators on this committee and I do not need a revision of history. My intention is to be fair to everybody here. You have had a fair go on this particular issue. Senator Abetz has some more questions. If he would like to ask them for a while, I will refer to one of the government senators when he is finished.

**Senator ABETZ**—How much of Australia Post's budget is made up of wages? Roughly—a ballpark figure—what sort of percentage are we looking at?

**Senator IAN MACDONALD**—Chair, while this break is on, can I just indicate that we started with No. 2 on the program, which was Australia Post. I did want to talk to the minister about general portfolio arrangements.

**CHAIR**—The idea was that Australia Post—

**Senator IAN MACDONALD**—I am conscious of that; I am just indicating to the minister and his departmental people that they should not assume that we have moved on from that. They should hang around.

**CHAIR**—Senator Abetz, you had questions of Australia Post.

**Senator ABETZ**—I think somebody was trying to assist with a ballpark figure.

**Mr Tenace**—The figure is around the \$2 billion mark.

**Senator ABETZ**—Which represents what? Eight per cent of your overheads? Fifty per cent?

**Mr Tenace**—It is probably around the 47 per cent mark.

**Senator ABETZ**—About 50 per cent. So wages is a very important component. When we see how many people in Australia Post earn \$127,000 or above, it might be quite instructive.

Thanks for that. I have a few questions about mail contractors. Can I be told whether there is such a thing as a mail contract management manual? I understand there is.

**Mr Newman**—Yes, there is.

**Senator ABETZ**—Is that made available to all Australia Post mail contractors?

**Mr Newman**—The management manual is not.

**Senator ABETZ**—Why not?

**Mr Newman**—It is Australia Post's considered opinion that the information in that is of commercial sensitivity. The decision was made that we would provide information, as requested, to contractors. The detail in that is about how we assess contract costs et cetera and, from our point of view, would not be appropriate for contractors to have that?

**Senator ABETZ**—Wouldn't it help mail contractors to know exactly how you assess them? In this new era of transparency and openness under the Rudd government I would have thought, having heard about that announcement by Mr Rudd, Australia Post would have fallen over itself to provide such openness and transparency.

**Mr Newman**—The next issue would be in respect of potential contractors, who in our considered opinion would then be left at a disadvantage. To have an even playing field we would need to supply it to all potential tenderers, which becomes impractical.

**Senator ABETZ**—I do not agree with that, but let us move on. Do we have an explanation as to why some post offices attract a higher fee for the rental of a post office box? I understand there are four different categories: standard, specified, GPO and reduced rate.

**Mr McCloskey**—Yes.

**Senator ABETZ**—First of all, are there those four rates?

**Mr McCloskey**—That is correct.

**Senator ABETZ**—So can we explain why the public should pay substantially more to rent a post office box at a specified office? Does it cost you more?

**Mr McCloskey**—Yes. They are normally in very high-cost accommodation areas and also where there is a very strong demand. There are a small number of prescribed offices that fit into that category and have a premium over the basic rate. That has been in place for probably 15 years, I would guess.

**Senator ABETZ**—As I understand it, page 24 of Australia Post's current *Post Charges* booklet tells us that licensed post offices are classified as 'specified' for the purposes of private mailbox rentals. Is that right?

**Mr McCloskey**—You mentioned licensed post offices, on page 24.

**Senator ABETZ**—Yes, that is right.

**Mr McCloskey**—I am looking at page 24 now. I just cannot see the reference, I am afraid.

**Senator ABETZ**—Forget the reference. Is it correct that licensed post offices are classified 'specified' for the purposes of private mailbox rentals?

**Mr McCloskey**—I would have thought it was the opposite. I am told that there are possibly two licensed post offices that fit into that category.

**Senator ABETZ**—Only two? Are we sure of that?

**Ms Button**—The information I have been provided with is that we have two licensed post offices that have specified rate boxes.

**Senator ABETZ**—Could you take that on notice and correct it just in case that is not the event.

**Ms Button**—Certainly.

**Senator ABETZ**—I have been advised that there would be a lot more than that. The suggestion is that, because licensed post offices are required to charge a higher rate than regular post offices, a lot of the businesses et cetera do not have boxes at the local licensed post office but go into bigger towns and cities to hire their post office boxes because there is quite a price differential. How many franchised Post Shops are presently operational?

**Ms Button**—We have 23 franchised Post Shops operating at the moment.

**Senator ABETZ**—Has Australia Post converted any licensed post offices to franchised Post Shops?

**Ms Button**—No, we have not at this stage.

**Senator ABETZ**—How many corporate post offices have been converted to franchised Post Shops?

**Ms Button**—Fourteen.

**Senator ABETZ**—Has Australia Post permitted a reduced turnkey price at some franchised Post Shops?

**Ms Button**—No.

**Senator ABETZ**—How is the Australia Post service centres trial progressing?

**Ms Button**—We ran the service centre trial for a few months and we decided that our offer was probably not sophisticated enough to sustain a service centre format similar to the ones we were trialling, so we ceased the trials.

**Senator ABETZ**—When you say ‘not sophisticated enough’, you mean it was not making money for you.

**Ms Button**—It was not the money so much as that we found that customers were not necessarily taking up the sorts of things that we thought they would.

**Senator ABETZ**—So will it not be extended, or are you looking at rejigging it?

**Ms Button**—We have no plans to extend that format; we are just looking at different ways that we might enhance our customer service.

**Senator ABETZ**—Is the post office service centre off the agenda?

**Ms Button**—It is, yes. We closed the trials down.

**Senator ABETZ**—It is off the agenda?

**Ms Button**—Yes.

**Senator ABETZ**—I understand that last year at Senate estimates Australia Post advised that it proposed to spend \$110,000 on its Licensee Advisory Council.

**Ms Button**—Yes, Senator.

**Senator ABETZ**—Was that amount spent? Was it more? Was it less? If you do not have the figure ready, I would be interested in the figures for 2005-06 and 2006-07, together with the detailed budget for the LAC, or Licensee Advisory Council, in 2007-08.

**Ms Button**—The response that we provided said that in 2005-06 and 2006-07 the expenditure was in the order of \$100,000 and that the budget for this financial year is in the order of \$110,000.

**Senator ABETZ**—The budget was \$100,000. Was it spent in those two previous years?

**Ms Button**—Those were actual expenditures.

**Senator ABETZ**—Does the LAC have to report to ASIC?

**Ms Button**—The answer is yes, it does.

**Senator ABETZ**—It has met its reporting obligations? ASIC is quite happy? There have not been any requests for further information et cetera from ASIC?

**Ms Button**—No.

**Senator ABETZ**—What criteria does Australia Post use to provide a commercial company with a list of licensed post offices?

**Ms Button**—We do not provide companies with lists of licensed post offices.

**Senator ABETZ**—As a result, the next question—as to what fee is charged—is obviated, but can I tell you that there is a very strong suspicion amongst licensed post offices, given the mail that they receive from time to time—I suppose junk mail or whatever else—and approaches that they get, that that is in fact the case. But you tell me that you do not do that.

**Ms Button**—We do not.

**Senator ABETZ**—All right. According to a response to a question in May last year, Australia Post has 202 corporate post offices which are open for extended hours. Let us assume that that is right. Does Australia Post find it profitable to extend the business hours of a corporate post office?

**Ms Button**—The reason we would have extended hours is not just about profitability; it is mainly around customer demand, but also the location that we are in might require us to have extended trading.

**Senator ABETZ**—So, with corporate post offices, you do a mix and match and see if it is worth while for it to be open for extended hours?

**Ms Button**—Sometimes, but sometimes we do not have a choice: we do have to have extended trading.

**Senator ABETZ**—What is Australia Post's policy regarding opening hours for a corporate post office located in a shopping centre that does have extended shopping hours?

**Ms Button**—That would depend on the requirements of the shopping centre. I would have to take that on notice if you were interested in any particular locations.

**Senator ABETZ**—All right. Is Australia Post pushing licensed post office owners to open for extended hours, including Saturdays?

**Ms Button**—No.

**Senator ABETZ**—In country towns?

**Ms Button**—No, we do not push licensees to have extended hours. They often choose to as part of their customer service charter.

**Senator ABETZ**—So, if I have received a complaint from a licensed post office, you are saying that they are only doing that because they want to be open for extended hours?

**Ms Button**—I would have to take the individual case and look at the details.

**Senator ABETZ**—All right, thank you. Have any post offices been relocated in the past five years due to a history of hold-ups or break-ins? If you do not know, take that on notice.

**Ms Button**—I will have to take that on notice.

**Senator ABETZ**—In the event that we get a positive to that, were any of them licensed post offices; if so, was the licensee fully consulted and was the licensee in agreement with the move? Does Australia Post assist with the cost and provision of security equipment in licensed post offices?

**Ms Button**—I do have the answer somewhere.

**Senator ABETZ**—Fine. If you have difficulty finding it we can put it on notice. I understand that in other countries, such as the UK and New Zealand, they do, so I am wondering if that practice is adopted in Australia as well.

**Ms Button**—Australia Post provides, at no cost to the licensees, on-site security assessments every two years. We provide a safe for cash and valuables and, where warranted, Armaguard safe cash collections and time-lock cash containers. We also source competitively priced surveillance equipment for licensees to purchase and install, and we also work with the licensees to develop a cash-management plan, which helps to reduce their exposure to robbery and theft.

**Senator ABETZ**—Does Australia Post's public liability insurance for community mail agencies and community postal agencies go out for public tender, or will it go out for public tender for the 2008-09 year?

**Ms Button**—I would have to take that on notice and get back to you.

**Senator ABETZ**—As I understand it tenders have not been called in previous years. Can you indicate to us whether that is right and, if that is right, for how many years has Australia Post failed to call tenders for the public liability insurance?

**Ms Button**—Certainly.

**Senator ABETZ**—Does Australia Post have a protocol to identify and correct management bullying in the workplace and, in particular, not in the workplace per se but towards its

contractors, licensees and agents? It would be interesting to get an answer to those four categories and what the different approaches might be.

**Ms Walsh**—I may ask for clarification on that question. I will seek to answer some of it. We certainly provide assistance to licensees and mail contractors to put in place the appropriate policies to deal with workplace bullying and harassment. We have also extended the operation of our whistleblower hotline, which is a hotline run by a third party and which people can call to register any complaints about those issues, and they are dealt with appropriately.

**Senator ABETZ**—Is this third party, which can be approached in the event of bullying or inappropriate practices, well publicised to workers, contractors, licensees and agents?

**Ms Walsh**—We certainly had brochures put together at the time of its launch.

**Senator ABETZ**—When was that?

**Ms Walsh**—Two years ago now.

**Senator ABETZ**—The chances are that you might have a few new licensees and workers since then, so is there a suggestion that you would update this on a regular basis?

**Ms Walsh**—It would be included in the manuals that are available, but we are also in the process of updating and putting out a new set of brochures and for an ongoing advertisement campaign around those issues. The other issue with the advertisement or how those policies are promulgated is that the licensees, agents and mail contractors run small businesses. We assist them to properly develop those policies but essentially it is also their responsibility to ensure that they are properly promulgated in their workplaces.

**Senator ABETZ**—Thank you for all that. Does Australia Post have a succession plan? If so, how often is it updated and how does the organisation attract personnel from outside the industry?

**Mr McDonald**—Yes we do have a succession plan. We are continually reviewing our succession planning processes. We identify people in the organisation with potential and what their development needs are and, where appropriate, we do recruit externally, but that is an ongoing process.

**Senator ABETZ**—What controls and checks are placed on managers to ensure that they are performing their work satisfactorily, and who sets the targets?

**Mr McDonald**—Our managers have performance agreements and remuneration as regard to the particular objectives that are set for those managers. Obviously those objectives will differ according to the particular work requirement, and that includes the appropriate key performance indicators. So the managers are assessed by their managers, and that is an ongoing monitoring process.

**Senator ABETZ**—How much influence or control does the managing director have in appointing managers and setting their wages and targets?

**Mr McDonald**—Any executive appointment has to be approved by the managing director. The remuneration is set by the managing director. He is personally involved in the setting of

senior executives' objectives. We have regard to the overall corporate wide objectives, which are cascaded through the managerial levels.

**Senator ABETZ**—Thank you.

**Senator MARSHALL**—I have some questions about the carbon footprint for Australia Post. Could you explain to me what work you have done to establish what it is and what plans you have in place to reduce it.

**Mr Walter**—Thank you for the question. By way of introduction, we adopt the most stringent federal and state legislation as our absolute minimum standard. There are approximately 60-plus pieces of legislation. We are currently, under the Energy Efficiency Opportunities Act, in the middle of an energy efficiency audit that takes in 100 of our facilities being benchmarked to cover all our facilities in terms of energy usage. We are also looking at our fleet to minimise the carbon footprint. It is a very long road, but we are committed to it. We are already making serious inroads, and we are already engaging our staff very heavily in not only what they do at work but also what they can do at home.

**Senator MARSHALL**—Is the audit finished?

**Mr Walter**—No, it is in the early part of its second year. An example could be the Hunter mail centre, where as a result of the audit we have already identified where there could be savings of up to 30 per cent on energy—things like air-conditioning levels and usage, lighting control and replacing inefficient lighting and old wiring. There are common elements to it, but every facility in Australia Post will be subject to this review, benchmarked through these 100 facilities that have been looked at. Some are 24-hour-a-day facilities, so you can drive past at night and see lights on and so on, but we are looking at all of those things.

**Senator MARSHALL**—So, as the audit rolls out, work is then done to reduce the carbon footprint in each of those facilities on an ongoing basis?

**Mr Walter**—Yes.

**Senator MARSHALL**—What have you budgeted for that?

**Mr Walter**—It is several million. The audit itself is well over \$1.5 million, I understand. I do not have the actual figures, but we are committed to doing whatever we need to do. I would have to take the actual figure on notice, but it is a very substantial investment to take whatever action we can take.

**Senator MARSHALL**—I would appreciate it if you could work out for me the amount of expenditure that you are expecting to do this work and over what period of time. It is broken up, you said, in terms of facilities management. That is mainly lighting and air conditioning, I would expect.

**Mr Walter**—It is every aspect. With our new facilities, for example, it will be the actual siting of the facility. Our new facilities will be built to the highest green standards. There is a new Australia Post headquarters coming on stream at the end of 2009. We do not own the building, but it will get a very high green rating because we will do everything that we need to do. When actually building a facility, we consider even the siting of it in terms of reducing energy usage, and all the things that you mentioned and a range of other things. I am not an expert in the field but apparently it is a very thorough audit and everything that can be done

will be done. Staff play such an important role in this. We have already put out publications and worked with staff on energy usage in the workplace but also water usage in the workplace—which is not a huge issue for Australia Post but certainly a huge issue more generally—so they can take that information home and apply it there as well.

**Senator MARSHALL**—Is there a team or a department doing this? I am interested in what sort of support is provided to each facility manager or location manager. Who actually has ultimate responsibility for ensuring that the facilities are reducing the carbon footprint?

**Mr Walter**—This is such a widespread issue that every key element of Australia Post will have and has responsibilities—the transport fleet in our mail networks division, our retail outlets, our mail processing facilities. There is a corporate social responsibility and sustainability unit that was established last year within my group, which includes environment expertise. But it will be up to everybody in Australia Post. Every operational area of Australia Post, everybody in Australia Post, will have key responsibilities as we go forward. As I say, it is a long-term project, but we are absolutely committed to doing everything we can in that area.

**Senator MARSHALL**—What about the fleet itself? How are you actually managing a reduction there?

**Mr Newman**—There are quite a few things we are doing with our fleet. A lot of the technology for fleet is emerging at this time. We have been involved for a couple of years in a couple of elements, particularly trials. I think at the last Senate estimates I spoke about the hybrid vehicle that we were trialling, which was a Toyota Hino. It is rather small; it only holds six of our cubic containers. So it has limited use, but it did demonstrate through the trial that we could get a saving of 25 per cent.

**Senator MARSHALL**—Purely in fuel consumption?

**Mr Newman**—Yes, just in fuel. While we believe that actually proved the technology, and the price differential is reasonable at this point, clearly as the next years come on there will be bigger trucks that will be more suitable for our carrying capability. So the trial was successful but the truck is not the right size for our usage.

**Senator MARSHALL**—What is Australia Post's fuel bill over a financial year?

**Mr McCloskey**—I am told it is between \$35 million and \$40 million.

**Senator MARSHALL**—So initially we are looking at, just with the first trial, a potential saving of 25 per cent, which is a significant amount. Is that sort of saving that you are projecting the amount of money that is going to be spent on assisting further reductions in emissions and efficiencies across the board?

**Mr Newman**—I do point out that the trucks do not exist at this time; it is a single truck from a single supplier.

**Senator MARSHALL**—The point I am getting is that obviously in all areas where we are reducing consumption there may be a cost in getting to that point, but there are also significant savings just on the economic side, putting to one side the environmental savings of course. I am just trying to get a picture for what your medium to longer term plan is in terms of meeting your longer term objectives.



**Mr Newman**—There are several other things that we do have underway. Firstly, we are in the process of replacing our van fleet. There is a new contract starting this year. It has the latest emissions technology from Europe—I believe it is called Euro 4. The supplier—in fact, this was one of the things considered in the tendering assessment process—has a lengthy forward research program on low emissions technology, so, when the market finally develops a van that is a hybrid vehicle, that will have a very big usage for Post, because that would be very easy for us to use. It just happens that it does not exist at the moment. Similarly, we are trying to procure the latest electric motorbikes from Europe. At this stage they are very expensive. We have actually purchased one, but to date we have not got the Australian design rule permit to put that into production. But we believe that will be the case. We also have to get it licensed for usage in the environment we deliver.

**Senator MARSHALL**—So this is on a trial basis?

**Mr Newman**—It will be a trial. They have been purchased in Europe, but we need to trial them here because our terrain, environment, heat and distances are vastly different. They have a limited speed, limited carrying capacity and limited range, but our early estimates show that there are probably several hundred delivery rounds where they will have an application. The fuel usage, because it is electricity, is very low. But we are unsure yet about what the maintenance factors are. Additionally, we have a current trial using LPG fuel injection in diesel trucks, which is supposed to give us a 30 per cent benefit. Our trials have been extended out to 250,000 kilometres. When that is finished we will strip the motor to see the effect on maintenance. To date the trial is probably not anywhere near that 30 per cent; it is probably around 15 per cent less diesel. But then you have to add on the cost of the LPG, which erodes that a little bit further. Our passenger vehicle tender this year is being issued for LPG vehicles, which have lower emissions. In summary, what we have tried to do is place ourselves on this emerging technology, and we will experiment and trial that as it develops. That is a bit of a high-level summary of what we are doing.

**Senator MARSHALL**—Does Australia Post have internal targets for emissions reductions?

**Mr Walter**—There is a lot of work done on that. I do not have the information.

**Senator MARSHALL**—If you could take that on notice I would appreciate that. What influence, control or assistance will you be providing to your contractors, agencies et cetera to assist them in also reducing emissions and energy efficiency? Are there any or are they left to their own devices?

**Mr Walter**—We will be taking our stakeholders, the immediate Australia Post family, on this journey with us. We will be taking our suppliers and others as well, because this has to go right through supply chains so that we operate in the most effective way. For example, the energy efficiency audit of the 100 locations will include retail outlets. Of course, that will be shared with licensees and so on so that we can absolutely do the best we can in that area.

**Senator MARSHALL**—Do you intend to put emission reduction targets in contractual arrangements with contractors and agencies?

**Mr Walter**—I am not aware of that at this stage. We are working through a whole range of issues. It is a long journey. We are addressing that sort of issue right now, but I do not have an answer for you at this stage.

**Senator MARSHALL**—Thank you.

**Senator ALLISON**—In describing this long journey, what time frame are you talking about?

**Mr Walter**—I think it is forever, actually. There are some immediate things we are doing. The energy audit is a three-year program that will hopefully see all our facilities shortly thereafter running as efficiently as they possibly can. But I think the CSR and sustainability journey is not just for Australia Post but for all corporations—one that will be never-ending, basically. That is what I meant.

**Senator ALLISON**—And you are not setting targets—that is what I understand from Senator Marshall's questions.

**Mr Walter**—There are targets on a range of issues but we do not have the detail that Senator Marshall was asking about—individual contracts and so on. There is a target of at least a 10 per cent reduction as a result of this audit itself.

**Senator ALLISON**—By when?

**Mr Walter**—It is a three-year program. It would not all be complete within three years.

**Senator ALLISON**—So a 10 per cent reduction by 2010-11?

**Mr Walter**—As Senator Marshall opined, he was correct. We are actually doing things as the audit tells us the things, but the actual audit is a very thorough one where every aspect of the facility is looked at. As soon as the information comes out from that we are acting upon it. So it will be just over a three-year period; the whole process will take the best part of three years to complete.

**Senator ALLISON**—Most energy efficiency audits discover savings of closer to 30 per cent than 10 per cent.

**Mr Walter**—This is just an initial view, but, at the Hunter mail centre that I mentioned to Senator Marshall, it has been established that there is a 30 per cent reduction possibility, which is being implemented as we speak. It is early in the second year of the process and we have already done over a third of the hundred so far.

**Senator ALLISON**—Mr Newman, I would like to go back to fleet vehicles. Has Australia Post considered the vehicles that actually go door-to-door with suburban, domestic mail delivery being electric motorbikes?

**Mr Newman**—Yes. That was part of my answer before. The only one that we have found on the market is an electric motorcycle from Europe. We have purchased one.

**Senator ALLISON**—Is this the Vectrix?

**Mr Newman**—I do not actually have the trade name. It is actually called the Post Scooter. That is the tag they have put on it. I think it has that name because it is being purchased by a

couple of European postal administrations. The bike is actually in Melbourne under bond waiting the final regulatory approval, which is the Australian design—

**Senator ALLISON**—There is already an electric motorbike here.

**Mr Newman**—Yes, one.

**Senator ALLISON**—There is one—the Vectrix.

**Mr Newman**—Yes, but it is still under bond. I am not sure what one you are referring to. We are talking about the bike from Europe.

**Senator ALLISON**—This one is also from Europe.

**Mr Newman**—Yes, okay. I would have to take that on notice because we may be talking about the same bike. I only have the term that we use in the postal industry. It has been designed specifically for carrying heavy loads, stopping and starting and getting to a reasonable speed. I just do not know that brand you are using.

**Senator ALLISON**—That is okay.

**Mr Newman**—It could actually be in fact the same bike.

**Senator ALLISON**—I will look at the *Hansard* instead of asking you to answer that question again. I am sorry; I was out of the room. Presumably it is still a possibility, is it?

**Mr Newman**—It is definitely a possibility. It is just that we have to test whether it is suitable for our terrain, our geography and our conditions.

**Senator ALLISON**—Our terrain and our conditions?

**Mr Newman**—The range is 60 kilometres and that exceeds some of the length of our delivery runs. The speed is 45 kilometres which means that operation on some major roads will make it extremely difficult. That may or may not be the case in high-density areas in Europe, for example, because that is where it was developed. What we are saying here is that we need to have a look at the terrain in terms of distance and speed limits to keep the postie safe. As I said before with the other answer, we believe there are several hundred runs, or posties' rounds, where it will be suitable, but we just simply do not have our hands on it yet. As soon as we do, we will be putting it into service under trial conditions and any round that is suitable will be considered. I do add that they cost \$10,000 each at this stage, which is significantly above the current cost of our Honda motorbikes.

**Senator ALLISON**—Would it cost about \$50 a year to run, or something in that order?

**Mr Newman**—I believe the fuel cost is about \$70 per year, or that is what is advertised.

**Senator ALLISON**—So what would that payback period suggest?

**Mr Newman**—The payback period would be accelerated, but remember that that is off the brochure. We would need to confirm that. Also, it does not comment on maintenance costs. On fuel alone, it has a big advantage, yes. However, I do mention the cost, the speed, the range and the carrying capacity, which are all constraints in Australia.

**Senator ALLISON**—Thank you.

**CHAIR**—Thank you, Senator Allison.

**Senator IAN MACDONALD**—Senator Parry has some questions.

**CHAIR**—We are going to the break at 10.45.

**Senator PARRY**—When?

**CHAIR**—At 10.45.

**Senator PARRY**—I should conclude by then. I just want to compare the people represented here today from the Australia Post agency to executives listed on the 2006-2007 annual report. Has there been a turnover of executives, or is there a different group that attend here for estimates hearings?

**Mr McCloskey**—The team here today is pretty much the team that was here last May and the team we have been bringing over successive estimates hearings for the last five or six years.

**Senator PARRY**—I am not critical of this, but is there a particular reason why the managing director isn't here?

**Mr McCloskey**—There has never been a need for the managing director to attend in the past.

**Senator PARRY**—Have the executives and the directors listed in the 2006-07 annual report changed? There are six executives listed.

**Mr McCloskey**—The composition of the board has not changed from last year.

**Senator PARRY**—And the executive team?

**Mr McCloskey**—The executive team, from memory, would be the same, yes.

**Senator PARRY**—With Australia Post being a wholly owned government agency with two shareholder ministers, as has been mentioned before, salaries are set by a small group that the minister referred to earlier. Could you outline the people who constitute that group?

**Mr McCloskey**—Basically, the managing director's remuneration is set by the board. It is done within parameters that have been approved by the Remuneration Tribunal.

**Senator PARRY**—So the Rem Tribunal has been instrumental in setting salaries for key executives?

**Mr McCloskey**—No, Senator, I said for the managing director.

**Senator PARRY**—Only?

**Mr McCloskey**—The board sets the remuneration—

**Senator PARRY**—You have confused me. You indicated that the board sets the remuneration and also that the Rem Tribunal sets remuneration. How does it work?

**Mr McCloskey**—No. The Rem Tribunal agrees. The board is obliged to consult with the Remuneration Tribunal about the parameters within which the managing director's remuneration can be set and the considerations that need to be taken into account. But, under the legislation, it is the board that determines the managing director's remuneration.

**Senator PARRY**—Within a bandwidth?

**Mr McCloskey**—No. Under GBE governance arrangements, the board is obliged to consult with the Remuneration Tribunal about the framework and the parameters within which it can set the managing director's remuneration.

**Senator PARRY**—Is the board obliged to comply with that instruction or advice?

**Mr McCloskey**—Yes, it is part of the GBE governance arrangements.

**Senator PARRY**—It sounds complicated. You have not really explained it to my understanding. Does the Rem Tribunal gives some indication or sets some parameters—yes or no?

**Mr McCloskey**—This was established some years ago. The board has discussed with and has agreed with the Remuneration Tribunal the appropriate parameters to be taken into consideration in establishing the managing director's remuneration.

**Senator PARRY**—It sounds as though the board has the ultimate authority; it makes the ultimate decision.

**Mr McCloskey**—That is correct.

**Senator PARRY**—How are the salaries and conditions set of the six executive officers—I will not name them—who are listed in the report?

**Mr McCloskey**—They are not set directly by the board. The managing director is the person who finally decides on the amount, but it is within parameters that have been approved by the board.

**Senator PARRY**—So the managing director sets them?

**Mr McCloskey**—He has the final say on it. That is correct.

**Senator PARRY**—Earlier today there was mention of a corporate group that sets salaries. Without having the *Hansard* to go back to at this point, is there a core group of three or four people? Is it the board? Is it the managing director and some key executives? Is it the managing director and the minister?

**Mr McCloskey**—The board has a human resources committee, and it reviews the remuneration arrangements across the corporation on an annual basis at the executive level and the increases and whatever—

**Senator PARRY**—That consists of how many individuals?

**Mr McCloskey**—I think four directors make up that committee.

**Senator PARRY**—Does that include the managing director?

**Mr McDonald**—Yes.

**Mr McCloskey**—The managing director is part of that committee.

**Senator PARRY**—Have the guidelines that are used to set salaries been established for a long period of time? Are they ad hoc? Do they exist in any policy format?

**Mr McDonald**—No, they are ongoing guidelines. There is a review done at managerial ranks about what the markets movements are. We use consultancy advice for that. The board

sets the overall quantum. The individual allocation of salaries is with the approval of the managing director.

**Senator PARRY**—So the managing director—he or she—has ultimate authority to determine the final salary outcome for any individual executive. Would that be correct?

**Mr McDonald**—That is correct.

**Senator PARRY**—Looking at the range of total salaries for the executive group alone, one sees that they range from the lowest at \$526,000 per annum to the highest at \$940,000 per annum. Are they set within market rates?

**Mr McDonald**—There is a continual appraisal of market movements.

**Senator PARRY**—Since the Prime Minister's announcement, has there been any discussion of either reducing or freezing those salaries?

**Mr McDonald**—Not to my knowledge. No, there has been no such discussion.

**Senator PARRY**—Would the managing director, if he were here, be able to answer that question, do you think?

**Mr McCloskey**—There has not been any discussion. The announcement was made late last week, from memory, and, as I think I indicated earlier, I expect that the elements of that announcement will be taken into consideration when next the remuneration levels for executives are considered, which would be around the middle of the year.

**Senator PARRY**—So, Mr McCloskey, you are indicating that the managing director would not have had discussions, are you? Are you confident that he would not have had any discussions, even on an informal basis, with any other director or the committee that would determine executive salaries?

**Mr McCloskey**—I would need to confirm that, Senator, but I am fairly confident that there have not been any discussions.

**CHAIR**—Senator Parry, are you nearly finished with your questions?

**Senator PARRY**—Yes.

**Senator KEMP**—I think it is an important series of questions.

**CHAIR**—It is just that we are scheduled to go to a break, Senator Kemp.

**Senator PARRY**—As secretary of the agency, would you consider that the managing director has taken into account that these salaries are relevant and comparable in corporate Australia for comparable jobs or positions?

**Mr McCloskey**—As I think Mr McDonald indicated, they are based on advice as to what the median in the market might be for comparable jobs.

**Senator PARRY**—It would be very interesting to know where the advice comes from. How is that advice obtained?

**Mr McDonald**—We have individual consultancy advice. We use remuneration specialists to advise on market movement. We also use specialist advice in relation to what the market is paying for a particular job of a particular type.

**Senator PARRY**—Being a government agency, does the Rem Tribunal have any input? I understand the situation with regard to the managing director, but what about the senior executives?

**Mr McCloskey**—No, there is no role for the Remuneration Tribunal in that regard.

**Senator PARRY**—Is that because these salaries are probably in excess of what the Rem Tribunal would normally handle?

**Mr McCloskey**—No, it is just that there is no provision for the Remuneration Tribunal. This goes back many years—probably to when we were corporatised in 1989.

**Senator IAN MACDONALD**—But did you not say that the Rem Tribunal—

**CHAIR**—Senator Macdonald, we are scheduled to go to a break. I am conscious that people have made arrangements for the break.

**Senator IAN MACDONALD**—There are two questions I will ask after the break. So you will have to come back; I am sorry.

**Proceedings suspended from 10.47 am to 11.05 am**

**Senator IAN MACDONALD**—I will just conclude what I was asking before the break. You said that you spoke to the Remuneration Tribunal about the salaries for board members, but they have nothing to do with the salaries of executives.

**Mr McCloskey**—The Remuneration Tribunal determines the salaries of directors. In so far as executives are concerned, the board is required under GBE governance arrangements to consult with the Remuneration Tribunal about its determination of the remuneration level for the managing director.

**Senator IAN MACDONALD**—Are you aware that the government has recently ignored completely the Remuneration Tribunal in relation to the minister's own salary and parliamentarians' salaries? Does that suggest to you that the Remuneration Tribunal now will have no standing in the arrangements that you come to for salaries of board members and executive members.

**Mr McCloskey**—No. I assume that the Remuneration Tribunal will continue to directly determine the remuneration levels for our directors and the board will continue to consult with them with regard to the framework for the managing director.

**Senator IAN MACDONALD**—I will ask the minister then: as your government has ignored the Remuneration Tribunal in relation to parliamentarians' salaries, would you now be taking a more hands-on approach to salaries of boards appointed by your government and to senior executive staff of those boards?

**Senator Conroy**—Let me refresh your memory on the Prime Minister's statement. Appreciate that it was given in the other place, so we were not directly there. He described it as a modest exercise in wage restraint. The government decided to propose to the parliament a regulation which will have the effect of not increasing MPs' salaries until the middle of next year. Furthermore, the government proposes that when this measure comes to a close in mid-2009, there will be no clawback mechanism for any salary foregone between now and then. He stated:

This is a modest measure, it does not of itself solve the nation's economic challenges or problems but it does, I believe, indicate to the public at large that the Government - and I hope through the parliament - is serious about the overall challenge of wage restraint.

The Prime Minister went on to say:

Markets ultimately determine these things, but in the difficult challenges we face ahead this year on the economy and inflation, I would hope that those in the most privileged positions in the corporate sector also reflect carefully on the need for CEO wage restraint in the year ahead.

**Senator IAN MACDONALD**—Bearing in mind the managing director of this corporation—and I am sure he is worth every cent of it—gets upwards of \$2.5 million a year, wouldn't your government be very interested in ensuring that wage restraint is practised there?

**Senator Conroy**—As Mr Rudd has indicated, and as I have read out to you, and I can read it out to you half a dozen times if you like—

**Senator IAN MACDONALD**—I can hear that, but you are the minister in charge of this agency. All of the senior executives—and I am sure they are worth every cent of it—get twice your salary. I wonder what you are going to do as minister to indicate to this agency, which is directly responsible to you, what they should be doing with the—

**Senator Conroy**—I am confident that the board of Australia Post have seen the Prime Minister's comments and will take that into account when they are considering the remuneration of the CEO.

**Senator IAN MACDONALD**—Do you have any reason for that confidence? Have you spoken to the chairman?

**Senator Conroy**—No. It is a very competent board, so I am sure that they have seen the Prime Minister's statements and I am sure they will take that into account.

**Senator IAN MACDONALD**—Do you have much interaction with the board or the chairman?

**Senator Conroy**—I have met the chairman on a couple of occasions since I took office. I do not think I have met the rest of the board members at this stage.

**Senator IAN MACDONALD**—What is your role in relation to the board? You must pass on government policy to them.

**Senator Conroy**—I am joint shareholder with Mr Tanner. My job is to appoint the board and then allow them to run the organisation.

**Senator IAN MACDONALD**—So, as a shareholder, you would be wanting to ensure that the board is a board that follows the Prime Minister's pronouncements?

**Senator Conroy**—No. I will repeat it again, seeing that you are having some difficulty. Markets ultimately determine these things. The Prime Minister said:

In the difficult challenges we face ahead this year, on the economy and inflation, I would hope those in the most privileged positions in the corporate sector also reflect carefully on ... CEO wage restraint in the year ahead.



**Senator IAN MACDONALD**—Minister, you are the shareholder. If the board that you elect does not comply with the Prime Minister's urgings, you would be looking to change them. What would your policy be?

**Senator Conroy**—I will read it out to you again. I am happy to repeat the Prime Minister's—

**Senator IAN MACDONALD**—What is your policy in relation to appointment of board members?

**Senator Conroy**—Our policy in relation to the appointment of board members is to appoint the appropriate people to the board to manage with the sufficient range of skills and expertise.

**Senator IAN MACDONALD**—But you would want people who would take up the government's policy direction in relation to wage restraint.

**Senator Conroy**—It is not the policy of this government to appoint a series of political flunkies like you have appointed in the past, Senator Macdonald.

**Senator KEMP**—That is very provocative, Minister. What did Kim Carr just do?

**Senator Conroy**—We are appointing, using new processes in terms of the ABC, SBS and public sector appointments. You may have seen some announcements about that which go to merit. That is our stated policy.

**Senator IAN MACDONALD**—I hope you are not suggesting that the board members of this board are 'political flunkies'.

**Senator Conroy**—Fortunately you did make some good appointments.

**Senator KEMP**—Good; I am glad that your comment has been retracted.

**Senator IAN MACDONALD**—That should be a clear statement to this board: they are paid what they are worth. I am trying to get an indication of what you are going to do. The Remuneration Tribunal looked at all relevant matters in relation to parliamentarians.

**Senator Conroy**—I thought you supported a motion indicating that we were going to go down this path. I believe it involves writing to the Remuneration Tribunal on politicians—

**Senator IAN MACDONALD**—To tell them you are not really interested in what they believe any more.

**Senator Conroy**—Well, neither are you apparently, if you voted for it, under your own phrasing. I am disappointed to see that you do not seem to be giving Dr Nelson your full support.

**Senator KEMP**—Your marching orders are not to make provocative comments, to keep your voice low and say the same thing. Why don't you stick to the rules?

**Senator Conroy**—Was that a question, Senator Kemp?

**Senator KEMP**—No, it was a helpful hint to you.

**Senator IAN MACDONALD**—That is all I have, Madam Chair, in relation to Australia Post.

**Senator PARRY**—The salaries, I understand, are \$1.9 billion. You mentioned \$2 billion earlier on today as the total salary costs for Australia Post.

**Mr McCloskey**—I think that is correct; they are the labour costs.

**Senator PARRY**—The annual report indicates that the cost was in the vicinity of \$1.9 billion for last year, so it would be about \$2 billion for this year. I know Senator Abetz has placed on notice a question about executive salary levels, and we used the benchmark figure of \$127,000-plus to work out that percentage. Is there an estimation of costs that you could give at this stage, or a dollar value, for executive level salaries or salaries above \$127,000 per annum?

**Mr McCloskey**—I think we would have to take that on notice.

**Senator PARRY**—I think I will leave it there.

**Senator KEMP**—I have a follow-up question. The annual report lists senior executives and their remuneration. I do not know whether you can answer this off the top of your head, but have these been mainly internal appointments or have they been recruited from outside?

**Mr McDonald**—There is a mix, Senator. Some of these people were recruited a few years ago from other roles. Some have come from the private sector; some have been long-standing employees from their first job in Australia Post. Looking at that, it would probably be half, I would say, that have had their whole career in Australia Post. The other group would be those who have joined Australia Post at some point as a management person externally.

**Senator BIRMINGHAM**—Minister, is it within your power and that of the fellow shareholder, Minister Tanner, to provide direction to the board of Australia Post?

**Senator Conroy**—Yes.

**Senator BIRMINGHAM**—Yes, thank you.

**Senator PARRY**—Excuse me, Madam Chair, a nod cannot be recorded by *Hansard*. We need a verbal answer.

**Senator Conroy**—In some matters, yes.

**Senator BIRMINGHAM**—In some matters. Would it be within your powers to provide direction in terms of policies on wage restraint?

**Senator Conroy**—As the Prime Minister has indicated, and I will repeat it again in case you were not listening, Senator Birmingham—

**Senator BIRMINGHAM**—That wasn't the question, Minister. Would it be within your powers?

**Senator Conroy**—In the difficult challenges we face ahead this year on the economy and inflation, I would hope that those in the most privileged positions in the corporate sector also reflect carefully on the need for CEO wage restraint in the year ahead.

**Senator BIRMINGHAM**—You know that was not the question.

**Senator KEMP**—That is not the question.

**Senator Conroy**—Like yourselves, I am sure the board of Australia Post has noticed the Prime Minister's comments and I am confident that they will take them into account when determining these issues.

**Senator BIRMINGHAM**—Minister, will you and your fellow shareholder extract the quotes of the Prime Minister and provide them as a direction to the board of Australia Post?

**Senator Conroy**—The Prime Minister has indicated the position and I am not going to advance an alternative position at your behest.

**Senator BIRMINGHAM**—So you will not be providing direction to the board of Australia Post to practise wage restraint?

**Senator Conroy**—I am very confident that the board of Australia Post—

**Senator KEMP**—And getting more confident as the morning goes on.

**Senator Conroy**—I am very confident that the board of Australia Post will take into account the Prime Minister's comments.

**Senator KEMP**—There is a point that we need to clarify.

**Senator Conroy**—Are you asking a question or are you just—

**Senator KEMP**—I am just asking if I may butt in.

**Senator Conroy**—I just wanted to clarify that. We have questions, we have statements and we have butting in.

**Senator KEMP**—I have the nod. In terms of the powers of direction you have—and let us exclude Mr Rudd's statement or anything else—do you have the power to direct the board on wage and salary increases?

**Senator Conroy**—I will seek advice. I want to make sure I give you the correct answer. I am advised we do.

**Mr McCloskey**—The minister does have the power to direct under section 49 of the act, I think it is, on matters of government policy.

**Senator KEMP**—I thought that was the case.

**Senator BIRMINGHAM**—We have ascertained that you will not be using that direction. Just straying off wages for a second, how much additional revenue do you expect to bring in from the 5c increase in the basic postal rate?

**Mr McCloskey**—I think the estimate across both the 5c increase and the proposed increase to bulk rates as well is in the order of \$150 million.

**Senator BIRMINGHAM**—Is that \$150 million across both the 5c and the bulk postage rates?

**Mr McCloskey**—Across the whole range that has been proposed to the ACCC.

**Senator BIRMINGHAM**—Are you able to break that down and tell us on the basic postal rate?

**Mr McCloskey**—To provide the particulars of the basic postal increase, we would have to take that one on notice, Senator.

**Senator BIRMINGHAM**—Thank you. With regard to the use of postal services and particularly basic postal services—say, 50c letters—have you done any work or do you have any market understanding of the breakdown between domestic usage and business usage of that 50c basic postal rate?

**Mr McCloskey**—Broadly speaking, the 50c rate accounts for around 50 per cent of mail that is posted. The rest is under business or bulk rates. Within that 50 per cent, I am not absolutely certain. What I can say is that what is known as social mail—in other words, the mail that households would send—accounts for around four per cent of total letter volumes and that has been declining steadily over many years.

**Senator BIRMINGHAM**—Within that four per cent, do you have a market understanding of the demographics of the population that use them?

**Mr McCloskey**—What we do know is that, on average, households send around 50 letter items a year. So with regard to the increase that is proposed—because they will not all be small letters; some of them might be large letters at \$1.10—the impact across the average household is about \$2.70 a year.

**Senator BIRMINGHAM**—I will phrase the question differently. Do older people use the service more than younger people?

**Mr McCloskey**—My expectation is that it is probably older people as opposed to the very young. Very young people do not use mail much at all. So as you go through the ages, yes, I suppose there is likely to be a greater usage among people who still send cards and letters or things like that.

**Senator BIRMINGHAM**—You have not got any market analysis that would indicate whether pensioners use postage services more?

**Mr McCloskey**—I am sure I could get that information on notice, but I do not have it with me at the moment.

**Senator BIRMINGHAM**—If you could, thank you. What have you budgeted for increased wages over the forward estimates?

**Mr McCloskey**—The EBA that has been concluded in principle is four per cent a year over basically four years.

**Senator BIRMINGHAM**—And in dollar terms?

**Mr Tenace**—That is about \$75 million per annum.

**Senator BIRMINGHAM**—And that is across the organisation, or is it just related to those employees under the EBA?

**Mr Tenace**—That is across the organisation.

**Senator BIRMINGHAM**—So that includes executive wage increases and so on in your budgeting as well.

**Mr Tenace**—No, that is just the EBAs, not executives, not salaries.

**Senator BIRMINGHAM**—So it is just for the EBAs?

**Mr Tenace**—Yes.

**Senator BIRMINGHAM**—What have you budgeted for other wage increases?

**Mr Tenace**—Wage increases would again be around the 3½ to four per cent mark.

**Senator BIRMINGHAM**—And in dollar terms the wages would account for how much?

**Mr Tenace**—I would have to take that on notice.

**Senator BIRMINGHAM**—More or less than \$75 million?

**Mr Tenace**—Well less than \$75 million. Significantly less than \$75 million.

**Senator BIRMINGHAM**—But if we are saying that you will net \$150 million from the increase in postage charges from 1 July, it is safe to say that more than half of that is going to be consumed by wage increases.

**Mr Tenace**—Yes, it would be in that vicinity.

**Senator BIRMINGHAM**—So obviously wage restraint plays a very important role in the setting of postage prices and how they affect the community.

**Mr Tenace**—As do productivity and capital investment as well.

**Senator LUNDY**—I would like to ask Australia Post about their policies in relation to sending injured employees to a medical examination by a facility nominated doctor. By way of background, I understand that, on 30 June 2006, Post introduced a determination under section 89 of the act that provides the power to direct employees for examination by a facility nominated doctor after the AIRC determination in May of that year that Post was not permitted to direct injured employees to attend company doctors or threaten disciplinary action if employees did not attend. So my first question is: did Australia Post introduce the determination on 30 June 2006 because the AIRC decided that Post were acting unlawfully under the award when sending injured workers to facility nominated doctors for examination?

**Ms Walsh**—The decision to enter into a principal determination for the purposes of continuing the operation of a facility nominated doctor network and the benefits that are provided to injured workers under that process was not because the commission determined that the process was unlawful. They interpreted a section of the award in a way that left us in a position where we might not have been able to continue it. But the decision was not about its legality or otherwise. It was not even a decision of the commission; it was a statement that was made by one of the commissioners.

So, in reviewing that statement by the commission, the options available to us were to continue with that process or to look at other methods of continuing that program. We looked at the options available to us and decided that a principal determination under our legislation was the appropriate way to deal with that issue, and that was the way we proceeded.

**Senator LUNDY**—So the answer, essentially, is yes, it was a response to the AIRC determination.

**Ms Walsh**—It was a response to the AIRC. It was not a response to a decision that it was unlawful or, indeed, illegal.

**Senator LUNDY**—Once a sick or injured employee notifies or makes a claim for workers comp under the Commonwealth act, does Post automatically direct the employee to a facility-nominated doctor or FND under that determination?

**Mr McDonald**—That would depend on the circumstances.

**Senator LUNDY**—So the answer is no, it is not automated.

**Mr McDonald**—No, it would depend on the assessment of the workers compensation delegate. As to the claim, I would expect in many cases there would be a need for medical assessment. But the delegate may accept the medical evidence as is. So it just depends on each case.

**Senator LUNDY**—I just want to get to the bottom of this point. If an injured employee fronts up to work with their medical certificate after their treating doctor has supported whatever incapacity they have suffered, what happens upon the point where a worker presents that doctor's certificate? Does that invoke an automatic referral?

**Ms Walsh**—No, it is not an automatic referral. There are many different circumstances in which someone will attend work with a medical certificate. It may relate to a workplace injury, in which case, depending on whether they put a claim in and what stage the claim is at, they may or may not be sent off. It may relate to something that happened in their own time and they come with a medical certificate. Again, we need to make an assessment based on the medical evidence provided by the individual and the history of that matter as to whether or not they would then be directed to an FND. It is not an automatic process. In many circumstances the employee has a choice. Of course when it comes to workers compensation we have the regulation of legislation that covers the operation of that regime. On that basis we would be obviously complying with the legislation. It is very difficult to generalise and say, 'In all cases this happens,' or, 'In all cases something else happens.' It really will very much depend on the individual circumstances.

**Senator LUNDY**—Is there any distinction between the policies of Post in referring a worker to the FND if it is a workers compensation matter or perhaps an injury or illness that is not caused by a work related incident?

**Ms Walsh**—There will be different treatment, particularly when it comes to workers compensation, because we are covered by legislation and the requirements of Comcare and our Comcare licence as to how that is properly dealt with. So they are dealt with differently.

**Senator LUNDY**—Yes, but is a referral to an FND specifically covered by Comcare? Are you obliged to refer it to an FND?

**Ms Walsh**—No, Comcare does not require that or legislate for that to occur.

**Senator LUNDY**—So in the event of a Comcare claim is it Post policy to refer the worker to an FND?

**Ms Walsh**—Again, it will depend on the circumstances and the stage at which the claim is at.

**Senator LUNDY**—So it is not automatic?

**Ms Walsh**—No, it is not automatic.

**Mr McDonald**—There is a workers compensation delegate in the organisation who deals with the particular case. They do it in a totally objective, unfettered way. That is, they make the decision. They have a look at the evidence that is provided, including the medical evidence. In some cases it could be accepted purely as it is. In other cases there may be a need for further assessment.

**Senator LUNDY**—So that officer makes a subjective analysis based on what is before them about whether or not they are referred to an FND.

**Mr McDonald**—An objective analysis, I would say.

**Senator LUNDY**—We will never know, will we.

**Mr McDonald**—There is an appeal right, of course, above that decision.

**Senator LUNDY**—Is it true that Post, being a licensed health insurer, under Comcare, prefers the medical opinion of the FND compared to the medical evidence of the injured employee's treating doctor when determining workers compensation claims?

**Ms Walsh**—Again, it will depend on the circumstances and the medical evidence that is put forward. There is no blanket statement that says it will always be preferred. It will depend on the nature of the evidence that is presented in a particular case.

**Senator LUNDY**—Can you give me a better idea about why you would send one worker to the FND and another one not? You claim objective assessment applies.

**Ms Walsh**—Again, it is hard to talk in hypotheticals, but if I were to give the example of—

**Senator LUNDY**—But you must have some policies to guide procedure, otherwise you would not be able to manage the program.

**Ms Walsh**—Certainly. In the circumstances where someone comes with evidence that we would say is an objective analysis that says that possibly the statement that has been made in the certificate is not one that we think marries up with the presenting evidence of the illness, we might seek a second opinion through our FND network. There will be times where we do say that our FND would have a view that we may prefer simply because they are well aware of our workplaces and are trained and visit our workplaces so they understand the nature of the work being performed by our workforce. Many of them are occupational physicians so they have that background as well. They are specialised or are specialists in that field. There will be times when a specialist opinion is, yes, preferred over a general medical opinion given. Again, it will depend on each circumstance. But that might be one where the presenting evidence is something that we do not think marries up with how the individual may present in the circumstance.

**Senator LUNDY**—Is the objective analysis one of the level of trust you have in the particular employee or, indeed, in that employee's doctor of choice, because that is what you are implying with your answer?

**Mr McDonald**—I think it is more in the nature of the type of injury or disability and the circumstances where it occurred. If it is clear-cut that it occurred in the workplace—it is a break to a limb or something like that—that is much more clear-cut than, say, a stress related claim, which may or may not relate to the workplace but to other circumstances. So it is really

a whole range of factors. It is really a case of: what is the evidence, what is the nature of the injury, and circumstances like that, so it is an individual judgement in each case.

**Senator LUNDY**—Do you have any statistics on your referrals to FNDs and the nature and type of injuries as compared to non-referrals?

**Ms Walsh**—Not the nature and type, no. I have the statistics here on numbers and those sorts of things but not the actual type of injury and the like.

**Senator LUNDY**—What percentage of employees presenting with a medical certificate are referred on to a FND?

**Ms Walsh**—I do not have that percentage, but it would be a very small percentage. We have a very big workforce and, as you will understand, people have the right to take sick leave where they have a medical condition, and in the vast majority of cases people would go off on sick leave with their medical certificate unquestioned.

**Senator LUNDY**—How many people presenting a certificate accompanied by a Comcare claim are referred off to a FND?

**Ms Walsh**—I would have to take that on notice.

**Mr McDonald**—We would have to take that on notice.

**Senator LUNDY**—What statistics do you have with you today, Ms Walsh?

**Ms Walsh**—The only statistics I have, if you can call them statistics—they are more numbers—are simply the number of referrals that we have to FNDs over that period.

**Senator LUNDY**—Over a financial year period or financial year to date?

**Ms Walsh**—A 12-month period.

**Senator LUNDY**—What are those numbers?

**Ms Walsh**—We also use our FND network for the use of pre-employment medicals, and there are 9,000 of those conducted each year, or have been in the last 12 months.

**Mr McDonald**—If I could clarify that, that is simply where somebody is commencing work with the organisation and they are assessed as their safety is built into the job from a medical perspective.

**Ms Walsh**—There were 430 fitness for duty assessments undertaken to determine whether an employee was medically fit to discharge their duties. That may be to an existing employee, so that is 430 over a 12-month period. And under the injury management early prevention program, where someone has a workplace injury or a suspected workplace injury—they may not have put in a Comcare claim yet or a workers compensation claim yet—there are 3,850 of those across Australia over a 12-month period.

**Mr McDonald**—Just in relation to that last category, that is a totally voluntary process, so it is up to the employee to decide whether or not they want to take up that offer.

**Senator LUNDY**—Didn't Post inform its employees that, once introduced, the determination of 30 June would override the award despite the previous ruling of the AIRC on the matter?



**Ms Walsh**—It does not override the award; the award prevails over what we say is a principal determination.

**Senator LUNDY**—But the semantics of the matter are that the AIRC gave some direction about the application of that direction and that was then overridden by the subsequent determination. Whatever the semantics of that are, the question is: when you introduced your determination on 30 June, did you consult with employees prior to that or subsequent to that about the impact of it?

**Ms Walsh**—Obviously the employees were informed through our staff information bulletin process as well through a briefing from managers. But, in effect, there was no change from one day to the next; the process and policy that we had in place previously continued under the principal determination. So there was no change as such, except that it was done under the principal determination instead of the award.

**Senator LUNDY**—That does not answer my question. Did you consult with employees prior to that determination?

**Ms Walsh**—No.

**Senator LUNDY**—Why not?

**Ms Walsh**—Because we did not feel that that was necessary given that we were continuing a policy that had been operational for some years.

**Senator LUNDY**—Which had just been reflected on negatively by the AIRC.

**Mr McDonald**—Nevertheless, it was a longstanding process. We were simply continuing that. We advised employees, both through their managers and by written advice, of the continuation of that longstanding process.

**Senator LUNDY**—Have any employees or employee representatives objected to the determination, on the basis that it takes away the rights of injured workers?

**Mr McDonald**—I think we might have had some concerns raised at the time.

**Ms Walsh**—I would have to take that on notice. There has not been a large statement by any of our employees. There have certainly been no complaints over the last 12 months in relation to this policy or process.

**Senator LUNDY**—What about employee representatives, like the unions?

**Ms Walsh**—Certainly during the EBA negotiations facility nominated doctors have formed part of those discussions and negotiations. As part of those EBA negotiations, as I think we have previously commented, the union are now saying that they are not going to support that at this stage. But certainly, as part of that settlement that we thought we had, there would have been a six-monthly meeting with the unions to discuss any concerns or issues that they had with the use of the facility nominated doctor process. We had agreed to that and felt that that was a good way to deal with the ongoing individual issues that come up that the union wish to represent on behalf of their members. We had committed to that.

**Senator LUNDY**—Could you clarify for me whether the award is evoked as part of the EBA?

**Ms Walsh**—As part of EBA7, we put on the table from day one an offer of a fully consolidated EBA that encompasses the award—and not just by reference; the whole document is incorporated into the award.

**Senator LUNDY**—I would have thought so. So, in introducing this determination, which impacted upon the AIRC's interpretation and application of the award, without consulting the parties to the EBA, do you not think that that is reasonable cause for concern?

**Ms Walsh**—In effect, there was consultation through the EBA process—

**Senator LUNDY**—But not on this matter.

**Ms Walsh**—Yes, there was.

**Senator LUNDY**—You just told me that there was no consultation leading up to the 30 June determination.

**Ms Walsh**—Sorry, not with employees; but certainly through the EBA process there was consultation and negotiation with the unions.

**Senator LUNDY**—In the lead-up to this determination on 30 June?

**Ms Walsh**—No, but subsequently in the incorporation—

**Senator LUNDY**—Subsequently does not cut it. You put the determination through on 30 June without consulting. It impacted on the operation and application of the award and the award forms part of the EBA. Don't you think you made a mistake?

**Ms Walsh**—No, I do not, Senator.

**Senator LUNDY**—Can you tell me how many injured workers have been medically retired following liability for a workers compensation claim ceasing or failing to be accepted by the corporation?

**Mr McDonald**—I think we may have provided some information in the past, but we can take that on notice and update that.

**Senator LUNDY**—If an injured worker is incapacitated and fails to receive a workers compensation determination from Post accepting liability, is that injured worker forcibly medically retired by Post once 78 weeks have passed?

**Ms Walsh**—Every case is considered on its merits but certainly under our award there is a provision under there that says that can occur.

**Senator LUNDY**—So how many workers have been terminated on that basis?

**Ms Walsh**—I would have to take that on notice.

**Senator LUNDY**—Can you please provide the answer over the last five years.

**Ms Walsh**—Five years, certainly.

**Senator LUNDY**—Have you introduced any other determinations designed to override the existing award interpretation or as interpreted by the AIRC?

**Ms Walsh**—In effect, principal determinations cannot override the award.

**Senator LUNDY**—Yes, but this one did. So have you done any others?

**Ms Walsh**—We say this one did not. But on the second question as to whether or not there have been any other principal determinations. Principal determinations are usually in conjunction or alongside the award. So, no, not to override the award.

**Senator LUNDY**—Of the injured workers being medically retired after 78 weeks, how many of these decisions, or cases, relied upon the medical evidence provided by an FND as opposed to the doctor of the employee's choice?

**Ms Walsh**—I would have to take that on notice. I do not have that.

**Senator LUNDY**—What is the total number of employees currently working at Australia Post?

**Mr McDonald**—It is around 35,000.

**Senator LUNDY**—Can you provide a breakdown of full-time, part-time and casual?

**Mr McDonald**—We may have some figures that refer to it.

**Senator LUNDY**—Is that in the annual report.

**Mr McDonald**—We can certainly give you that, but we need to take that on notice.

**Senator LUNDY**—What proportion are performing the delivery functions within Post?

**Mr McDonald**—I think it is just over 8,000. I am being advised about 8,500, or 7,500. We responded to a Senate question back in May 2007. So it is around 7,500.

**Senator LUNDY**—How does that compare to previous years?

**Mr McDonald**—I would need to check. I would have thought it would not be that dissimilar.

**Senator LUNDY**—Can you provide the exact number of people employed in delivery and their classification going back five years.

**Mr McDonald**—Yes, we could. I think there are two or three levels of delivery officer, but yes we can provide that.

**Senator LUNDY**—How has Post performed against its targets in delivery standards, or the quality of delivery services?

**Mr McCloskey**—Last year we delivered 96.3 per cent of letters on time, as independently audited. The prescribed standard is 94 per cent.

**Senator LUNDY**—Have staff shortages affected your targets on delivery standards?

**Mr McCloskey**—In the year to date we are still ahead of standard. We are somewhere over 95 per cent. I think it is about 95.6 per cent, from memory, to the half year.

**Senator LUNDY**—How do those percentages compare to previous years?

**Mr McCloskey**—Over an extended period the full year result has always been above 94 per cent, and the highest it has been is about 96.5 per cent, which I think was the best year ever—about 2002. It fluctuates up and down marginally.

**Senator LUNDY**—How many vacant delivery rounds exist in major metropolitan areas—that is, delivery rounds for which you are seeking staff?

**Mr McDonald**—That is a question I could not answer here. We would have to take it on notice, but we continually monitor it.

**Senator LUNDY**—You would not be Robinson Crusoe in finding it difficult to recruit employees; I am just trying to get a little more of the detail of exactly how that is travelling.

**Mr McDonald**—Western Australia is a difficult area for us to recruit—it is no surprise to anyone here—because of the impact of the resources boom and the demand for labour, but we continually monitor that.

**Senator LUNDY**—I will come back to that. Are you having trouble recruiting people to become posties?

**Mr McDonald**—No, generally we are okay apart from some particular areas. Western Australia is one and some parts of Queensland—again due to the resources boom.

**Senator LUNDY**—What about posties on motorbikes?

**Mr McDonald**—Certainly in Western Australia it has been difficult to recruit posties with motorbike licences, so we have been doing other things to try to assist that recruitment process—training people and the like.

**Senator LUNDY**—I have received information that you are trying to recruit posties on some 15 per cent lower wages than existing staff. Is it true that there is a variation in the wage rate offered to new starters in Australia Post?

**Mr McDonald**—We pay people according to the appropriate penalty rate for the hours they start. New starters, in most cases, start at a later time—at 6.30, when a penalty rate of 15 per cent does not apply. The impact of automation has meant that a lot of presorting is able to be done; however, irrespective of that, we have committed to continue to retain existing staff on the times that attract the 15 per cent shift penalty. Most new starters would start on the 6.30 shift, but they are told that clearly before they commence.

**Senator LUNDY**—Do you think that might be contributing to your difficulties in recruiting postie staff?

**Mr McDonald**—No. If it were, we would review that. Western Australia is a different situation; there are particular issues in Western Australia.

**Senator LUNDY**—We might talk about that specifically. Can you outline in more detail the sorts of difficulties you are facing in Western Australia? In particular, can you highlight the areas where you are finding it difficult to maintain the standard of delivery services required?

**Mr McDonald**—As Mr McCloskey said, we are maintaining the level of service standard but clearly recruitment is a difficulty in Western Australia. There is a high turnover compared to the other states. We have varied the way in which we arrange work—we have taken a lot of initiatives there—and we have encouraged staff to find people who might be willing to move into postal delivery situations. The major area would be postal delivery as an occupation in Western Australia, more so than some of the other occupations we have.

**Senator LUNDY**—What are you doing to assist the licensees and mail contractors to attract and retain staff—for example, training staff or anything at all—given you are responsible for the mail delivery standards?

**Mr Newman**—There are parts of Australia where engaging mail contractors is very difficult. We have taken a variety of approaches to that, with local advertising seeking people from different areas. In the final instance, we use corporate staff to make sure we retain delivery, but there are some remote areas in Western Australia, particularly to do with the resources sector where contractors are hard to get. LPO licensees would be under the same arrangement as that.

**Senator WEBBER**—I certainly know the challenges in Western Australia, particularly the north-west. Everyone is having to pay above the odds to get the skilled staff that they need. Is Australia Post looking at that as part of its contractual obligation, or is it just letting the contractors go bust or not get the staff they need?

**Mr Newman**—No. At the end of the day—or I should say, at the start of the day—the contractors will determine their own rate. We are finding that, in an area where the number of people who are interested in a contract is short, the tender price that those tenderers do put in is significantly above what we would regard as being a normal price. In cases where it is appropriate that we pay that, we pay it. Notwithstanding that, there are still some people who, after a period as a contractor, see better opportunities elsewhere and choose to move on. We simply go through that same process again. The market does tend to push up those prices in that area; absolutely.

**Senator WEBBER**—How do you marry that strategy with the statement that says, ‘We are all meeting our obligations and everything is okay’? My feedback in the north-west of Western Australia is that you are having some difficulties in meeting your service obligations.

**Mr Newman**—My understanding is that we are meeting service obligations in that area. I could probably take that on notice to confirm that there are no weak paths there.

**Senator WEBBER**—That would be good if you could.

**Mr Newman**—Whenever there is a weakness, we examine it intently. It is something we watch all the time.

**Senator WEBBER**—It is not necessarily a reflection on management; it is a reflection of the economy in Western Australia. Everyone is suffering with this; all service delivery is suffering with this. So it is a matter of exploring with you what supports you are putting in there to ensure that service delivery continues.

**Mr Newman**—Services in the north-west are not just exclusively affected by labour; there are transport issues, too, in those remote areas, which is sometimes a challenge to keep it going because of its remoteness.

**Senator WEBBER**—Remoteness and cost, and it is not just labour cost; absolutely. It is the cost of transport and fuel.

**Mr Newman**—We have people working on that all of the time. So far we are staying ahead of the game. It is a struggle—I do not mind admitting that—and it is a challenge, but so far we have managed to make enough short-term arrangements to keep it going.

**Senator WEBBER**—So you are confident that you are providing sufficient support to maintain the service delivery that is required.

**Mr Newman**—I believe so. The only thing I would like to add, taking that question about service performance on all of those paths up there, is that I would like the opportunity to check that out to make sure that that is correct.

**Senator WEBBER**—That is fine. I am going back up there next week, so I am sure we will have another conversation.

**Senator LUNDY**—Can you explain why Australia Post permits variations in its interpretations and implementations of your national licensed post office agreements, particularly as they vary from state to state?

**Ms Button**—We have a national LPO agreement and by and large we expect that the implementation will be consistent nationally. However, we do understand that in the more rural and remote areas, we may need to make some slight adjustments to suit the local requirements. But, on the whole, our expectation is that the agreement is implemented nationally in a consistent way.

**Senator LUNDY**—I have been advised that it varies on a state-by-state basis—for example, in New South Wales, Australia Post is choosing to ignore the requirements of the LPO agreement to impose certain conditions upon licensees. Are you aware of any variation on a state-by-state basis?

**Ms Button**—No, I am not. I can certainly look into specific instances but I will make it my business to go back and find out.

**Senator LUNDY**—Perhaps you could confirm that you are meeting time frames for dispute resolution procedures as required under the LPO agreement and LPO manual.

**Ms Button**—Certainly.

**Senator LUNDY**—If there are any delays, could you confirm how many disputes have been affected by delays, in which states the delays are occurring and the reasons for those delays?

**Ms Button**—I will.

**Senator LUNDY**—What parts of Australia Post's future plans involve the LPO network? Is there anything that relates to it specifically?

**Ms Button**—Nothing specifically at the moment. We have an ongoing network plan but, specifically for LPOs, it is our view that we need to keep working with the licensees to improve the viability of the LPO network and we use forums such as the Licensee Advisory Council to do so. But other than that, we have no specific plans at the moment.

**Senator LUNDY**—You mentioned the Licensee Advisory Council. Do they have input into that general direction or general plan that you have?

**Ms Button**—Because we are able to get the views of some 60 licensees through the state and national forums and they are elected by their peers, we certainly do get their views, and we have workshop sessions that allow them to collect those views and put them through. We

take into account some of their requirements as we plan, and our intention is to keep doing that.

**Senator LUNDY**—Do you consult with the retail and delivery sections of Australia Post with respect to those LPO future directions and, if not, why not?

**Ms Button**—The LPOs sit in the retail part of the business. Where they are required to assist with delivery functions, we do work with our delivery colleagues to make sure that the requirements are clear and can be supported.

**Senator LUNDY**—Can you confirm this. You mentioned the licensees' group. What is the name of that group?

**Ms Button**—The Licensee Advisory Council?

**Senator LUNDY**—Yes. Is that the name of it?

**Ms Button**—We call it the LAC.

**Senator LUNDY**—What about the Post Office Agents Association: do you consult with them?

**Ms Button**—Yes, we do.

**Senator LUNDY**—Formally?

**Ms Button**—Formally and informally. We have instituted a number of meetings. Some of them are more regular on very operational matters, and then we formally have a consultative forum that meets.

**Senator LUNDY**—As an organisation, how do you make decisions regarding the establishment of a licensed and franchised post office?

**Ms Button**—It depends very much on the location and our ability to predict how that might grow, or not grow, and about what else is in that location or might be coming along. We have a number of criteria that we would use, very much site specific.

**Senator LUNDY**—How do you accommodate the staff in any proposal to convert a corporate outlet to a licensed outlet? How do you manage that?

**Ms Button**—I think I would like to take that on notice to articulate the process. Essentially, we have some guidelines that have been agreed with the union around the criteria we would use to convert a corporate to a licensed outlet. It is generally a consistent trend of unprofitability, and certainly in the metro areas ones with fewer than three full-time equivalents. The consultative process definitely involves talking to the staff and finding out what their requirements are, and making sure that they find another job that is convenient to them. But I will take that on notice and articulate the process a bit better for you.

**Senator LUNDY**—Thank you. There has been quite a bit of publicity about having post offices co-located or in licensed premises that also have a liquor licence. Does Post believe that the sale of postal services in licensed liquor outlets is helping Post meet its community service obligation?

**Ms Button**—The instance that you refer to in Kariong is a very interim arrangement. It was about finding a location to continue to provide as many postal services to the community as we could until the new licensee gets permission to build new premises.

**Senator LUNDY**—When was that licence granted, and to whom was it granted?

**Ms Button**—The tenders for the licensed post office closed on 10 March 2006 and the successful tenderer then provided the plan for the interim arrangement that is in place.

**Senator LUNDY**—How interim is interim?

**Ms Button**—We are aware that the minister for the department of planning has signed off the development approval for the building that will house the Kariong LPO, and there is now a process which the Gosford council has to go through and the prospective licensee has to go through to get the plans approved and the building built.

**Senator LUNDY**—Whom was the licence granted to?

**Ms Button**—It was a Mr Bourne.

**Senator LUNDY**—Would he be the Mr Bob Bourne, the former local Liberal government councillor in the area?

**Ms Button**—I do not know. I would have to take that on notice.

**Senator LUNDY**—I suspect the answer is yes. Given these arrangements were supposed to be temporary arrangements, do you have a date when the post outlet in that area will no longer be in the same place as a licensed liquor outlet?

**Ms Button**—No, we do not, not as yet.

**Senator LUNDY**—Did you place a deadline on the arrangement or on the agreement with this licence holder or was it open-ended when you signed him up?

**Ms Button**—I would have to take that on notice. I am really not sure about the arrangements that were put in place. Certainly our focus would have been to try and continue the provision of postal services in that community.

**Senator LUNDY**—To what extent is the local government involved now in the approval process? You mentioned the permanent place for an LPO: is that specifically a local government decision?

**Ms Button**—I am sorry, I would have to take that on notice. I am not sure.

**Senator IAN MACDONALD**—Can we now go back to some general questions I wanted to ask the minister before we started just on this?

**CHAIR**—About Australia Post?

**Senator IAN MACDONALD**—No, I have finished with Australia Post.

**CHAIR**—We have finished with Australia Post.

**Senator LUNDY**—We did not go to general questions of the department, Senator Macdonald. We went straight to the Australia Post. The department is listed later in the program.



**Senator IAN MACDONALD**—I am conscious of that, I was here. But had I been more alert I would have done that as we normally do right at the beginning, because we need to know what the arrangements are in the ministry and what Senator—

**Senator Conroy**—No, we started with Post. We did not do questions.

**Senator IAN MACDONALD**—I am conscious of that—I was here—but I am just saying—

**Senator Conroy**—We are coming back to it.

**CHAIR**—Have you got a question?

**Senator IAN MACDONALD**—Coming back to what?

**Senator Conroy**—We are coming back to the department.

**Senator IAN MACDONALD**—I want to start that now.

**CHAIR**—You can't.

**Senator Conroy**—Unfortunately, we have got an agreed agenda.

**Senator IAN MACDONALD**—The first one is outcome 1, Development of services and provision of regulatory environment which encourages sustainable—so I want to know—

**Senator Conroy**—My understanding is that it was varied.

**Senator IAN MACDONALD**—But, Minister, I want to know some broad things before we get into all this, like just how department is set up; how has it changed from the previous one; what you have done with personnel, secretaries—those sorts of things.

**CHAIR**—Senator, there will be time to ask those questions after we have dealt with the agencies as listed.

**Senator IAN MACDONALD**—It makes it difficult to work out how the whole thing fits in if you do not get the first things done first, which is how the minister is operating, who is—

**CHAIR**—The committee met last week and approved the agenda, as has been printed, Senator Macdonald, and we will stick to it.

**Senator Conroy**—Senator Macdonald, are you not on the committee?

**Senator IAN MACDONALD**—I am not on the committee. We have a strange rule in our place that shadows, no matter how minor they happen to be, are not part of the committees.

**Senator LUNDY**—That is your choice.

**Senator IAN MACDONALD**—Just on answering questions, but I am not on the committee.

**Senator Conroy**—We are just operating on what was agreed.

**Senator IAN MACDONALD**—But I am not on the committee.

**Senator KEMP**—I think, Madam Chair, there are a number of general questions before it. I think there was a desire to put a number of questions on notice so the information would be available to us when the committee started its hearings, and I do not think that matter was dealt with.

**Senator IAN MACDONALD**—We did ask the minister to provide us with some information.

**CHAIR**—Senator Macdonald, the agenda was set by the committee last week. The questions to which Senator Kemp referred have been referred to the department. It is up to the department to respond to them. The program says that after Australia Post we will go to the Australian Broadcasting Corporation. I notice that officers from the corporation are here and ready to proceed. Senator Wortley has a few questions for Australia Post, and I take it that that will conclude the section on Australia Post. Then we will go the Australian Broadcasting Corporation.

**Senator IAN MACDONALD**—Please be conscious that we are now one-third of the way through the day and we have not got past the first agency.

**Senator KEMP**—In about one-third of the day, Labor senators have asked interminable questions—

**Senator IAN MACDONALD**—Which could have been put on notice.

**CHAIR**—Senator Wortley has the call.

**Senator WORTLEY**—At the last two rounds of estimates, I asked questions relating to a feasibility study and changes regarding incoming mail to Adelaide from New Zealand and Britain and also about the processing of the mail at the then joint Adelaide Post at the Customs facility. I note at this stage that there are still some outstanding questions on notice relating to this. My question today relates specifically to the current state of Adelaide's Post-AQIS-Customs facility. To what extent does the AQIS and Customs section exist at the Adelaide facility post the implementation of these changes?

**Mr Newman**—I am not aware of the current staffing relating to Customs and AQIS. I think I mentioned last time that the staffing for AQIS and Customs is the responsibility of AQIS and Customs. My understanding was that they were going to be relocated through various parts of Adelaide or put onto alternative duties. My understanding is that that has occurred; however, I would need to confirm that. I want to state, though, that normally I would have to contact those agencies and they may or may not wish to tell me.

**Senator WORTLEY**—Could you take that on notice?

**Mr Newman**—Yes, I will.

**Senator WORTLEY**—At the last estimates, I asked a question relating to the impact on Australia Post jobs. Your response was that it would only impact on two jobs. Is that your understanding of what occurred?

**Mr Newman**—That was the advice I had at the time. I have no information to the contrary.

**Senator WORTLEY**—Could you confirm the numbers of Australia Post jobs that it actually did impact on? 'Impact' includes loss of jobs and staff that were required to be relocated as a result of those changes.

**Mr Newman**—I will do that on notice, but this location was at the Adelaide mail centre, which is a big facility. The plan was to absorb those into the many other jobs in the facility.

**Senator WORTLEY**—My understanding was that it impacted on more than two jobs, and that there were a number of jobs lost, but I would like some confirmation in relation to that.

**Mr Newman**—I will do that.

**Senator WORTLEY**—At the time, concerns were also raised about the loss of local knowledge, specifically relating to AQIS and Customs. I would like to know how that is being addressed in South Australia. Is there any monitoring of this?

**Mr Newman**—Local knowledge relative to Customs and AQIS staff?

**Senator WORTLEY**—Local knowledge relating to the importing of illegal firearms and narcotics et cetera.

**Mr Newman**—I really do not have the capability to answer that. If that relates to AQIS and Customs staff, I would find it remarkable that, given the other border facilities in Adelaide, that that would occur. However, that is an issue that really needs to be referred to those agencies.

**Senator WORTLEY**—There were concerns raised at the time that, with the loss of AQIS and Customs workers, there would be a loss of local knowledge in South Australia if that role were carried out interstate. Could you look into that as well?

**Mr Newman**—Yes.

**Mr McCloskey**—With respect, that is probably a question that needs to be addressed directly to AQIS or Customs in whichever committee they may appear before, as part of estimates.

**Senator WORTLEY**—So it is—

**Mr McCloskey**—Australia Post would not have any interaction with AQIS or Customs at this stage in relation to what their skill sets, experience and everything would be in South Australia.

**Senator WORTLEY**—It was a joint facility in Adelaide, and my understanding was that they were all working together. I suppose that is no longer the case, if—

**Mr Newman**—Let me just explain it a little bit more. Australia Post's role is to make the mail available to those agencies, and that is what we do.

**Senator WORTLEY**—I am familiar with that.

**Mr Newman**—Once we hand it to those agencies, we have no further part in it until they hand it back. In terms of what they do and how they execute their risk profiles and assessments, that is really unknown to us. Any residual knowledge from AQIS and Customs, as said by Mr McCloskey, would really be an issue for clarification through those agencies.

**Senator WORTLEY**—Thank you. You have taken questions on notice, and perhaps the outstanding ones from the last estimates could be answered as well.

**Mr McCloskey**—As far as the last estimates are concerned, we have certainly provided all the answers to the questions quite some time ago. I am not aware of which ones you may not have seen yet.

**Senator WORTLEY**—I have checked it with the secretariat, but I will look into that further. That is my understanding, at this stage. Thank you.

**CHAIR**—There are no further questions for Australia Post. Thank you to the officers of Australia Post.

[12.11 pm]

#### **Australian Broadcasting Corporation**

**Senator IAN MACDONALD**—My colleagues have lots of bouquets to offer to the ABC, and I will leave most of it to them. I just wanted to start off with a couple of bouquets, very briefly, about the *Heywire* program, which was completed last Thursday night. Mr Scott, is it the intention of the ABC to continue that program indefinitely?

**Mr Scott**—Yes, it is. We were delighted to celebrate the 10th anniversary of *Heywire* last week. There is a terrific selection of young men and women from around Australia who won a competition to come here by telling their stories in various forms, and we are delighted to be able to broadcast those stories on ABC Radio and make them available online. We are 10 years into it. It has gone very well. It is a success by any measure, and we certainly do intend to continue.

**Senator IAN MACDONALD**—Minister, I am not sure if you are aware of the program, but it does receive some government assistance. Mr Scott, do you have a general idea of what sort of assistance comes from the government?

**Mr Scott**—I would have to check on the precise detail of the funding. It comes out of our radio and regional budget. Really it is a permanent staff member who is involved in coordinating this activity, and then the transportation costs—

**Senator IAN MACDONALD**—It has cash donations from several government departments.

**Mr Scott**—There are several government departments that roll in. I believe there are about five government departments that are responsible.

**Senator IAN MACDONALD**—I just wanted to seek from the minister an assurance that his government will continue the generosity of the previous government in supporting what I think is clearly one of the best youth programs that our government had and which your government generously continued to fund this year.

**Senator Conroy**—The *Heywire* program is an excellent program, as you said. The ABC have no plans that they have advised me of to cut it back, and I could not foresee a reason why there would be a need to. I guess ultimately it is a matter for the ABC.

**Senator IAN MACDONALD**—It does require funding from other government agencies.

**Senator Conroy**—They are probably questions you would need to put directly to those agencies. I am not actually in charge of anything other than my own.

**Senator IAN MACDONALD**—Can I suggest that your department might consider some contribution as well.

**Senator Conroy**—Thank you for the thought!

**Senator IAN MACDONALD**—Just while we are there, in a very general way, Minister or Mr Scott, with the new government and different approaches, has there been any suggestion of a change to the way the ABC is set up? In particular, I am interested in rural, regional and local radio in particular. Have there been any suggestions or directions or otherwise given to the ABC by the new government or by the minister—I do not care whether the minister or Mr Scott answers this—in relation to the actual way the ABC operates its radio and television services?

**Mr Scott**—On behalf of the ABC, can I say there is no change at all. My understanding is that the government is fully committed to the ABC's services in regional and rural Australia. We have made an extensive investment in that local radio network—60 local radio stations broadcasting local voices into local communities—in recent years. That has come just at the time commercial radio networks have been withdrawing from the provision of services to those regions. So we believe it is vital, and it is certainly core to our charter. We are continuing to invest in those areas and, in coming months, we will outline new initiatives in those areas. My understanding is that that is the sentiment of the government, also understanding that the ABC plays a vital role in those communities, and there is no change envisaged.

**Senator IAN MACDONALD**—I am delighted to hear that. As you know from previous contacts, I have the highest regard for ABC rural and regional radio whilst having a very poor regard for a lot of the capital city television news outputs. But, certainly, regional radio is very balanced, very fair and a great credit to the ABC and to Australia. Can you tell me who makes the decision on funding for, specifically, regional radio? Is it a fact that your decisions in relation to regional radio are determined by the government's funding allocations to the ABC?

**Mr Scott**—In the main, those kinds of decisions are made by ABC management and ratified by the ABC board as part of our usual budgetary procedures. We are given a block funding allocation.

**Senator IAN MACDONALD**—That is really what I was saying: there is no individual line allocation.

**Mr Scott**—No, it is a block funding allocation.

**Senator IAN MACDONALD**—A total block?

**Mr Scott**—Yes. There is some additional money that is made available through projects such as the National Interest Initiative, which we have taken and allocated significant blocks of that money through to our services in regional and rural Australia. But, in the main, the ABC funding is block funding, apart from some special initiatives that are tied.

**Senator IAN MACDONALD**—Finally, is it yours or someone else's determination to put NewsRadio in Townsville? It is just a very parochial question; I am sure my colleagues will allow me that indulgence.

**Mr Pendleton**—NewsRadio, in Townsville, is part of the NewsRadio extension program—part of phase 2 of the rollout—with special funding.

**Senator IAN MACDONALD**—They came and briefed me in Townsville, and they have all sorts of problems.

**Mr Scott**—There are transmission difficulties that they are trying to resolve.

**Senator IAN MACDONALD**—Which all seems to me to be ridiculous, because I was asking these questions, regrettably, last time we were in opposition and we still have not got there. NewsRadio operates everywhere else in Australia but not in Townsville for some reason.

**Mr Scott**—There is a new system that they are attempting to implement—an interference management system. ACMA has approved the trials of that, and Broadcast Australia is set to commence. We are waiting for final funding for those trials and, when that funding comes through, those trials will be underway.

**Senator IAN MACDONALD**—So the funding comes outside your budget?

**Mr Scott**—There is special funding that is allocated as an extension of NewsRadio. The first stage of that is completed, and we are awaiting—

**Senator IAN MACDONALD**—Is the funding allocated by the government?

**Mr Scott**—Yes, it is a special funding allocation for NewsRadio transmission extension.

**Senator IAN MACDONALD**—Minister, they are waiting for the money. When will the money be available for that service?

**Senator Conroy**—It may come as a surprise, but we have a budget coming up in the near future and all will be revealed on the night. I am sure you would understand that, as much as I would love to give you a scoop, you will just have to hang out until budget night.

**Senator IAN MACDONALD**—I will look forward anxiously to money for Townsville out of the budget. I take it that Townsville will be looked after, so thank you for that.

**Senator KEMP**—Senator Conroy, you have in fact promised a lot more money to the ABC. I have just been going through some of your press statements over the last year or so, and you indicated the ABC needs far more money to provide the services that you think are important. So I assume we can read from that that they will be delivered?

**Senator Conroy**—The ABC is part of the budget process this year. It may come as a surprise to you that, when their triennium funding is up next year, there will be lots of opportunities. I would not want to give you a scoop.

**Senator KEMP**—You were very specific on figures, Senator Conroy. I am a bit stunned. This is not a backflip, so early in the piece, is it?

**Senator Conroy**—I would not want to give you a scoop. I know we are good friends—even though you barrack for Carlton—but I could not bring myself to give you a scoop.

**Senator KEMP**—I would just like you to record—I know you would expect me to do this—that you have made a lot of promises to the ABC. You have made a lot of promises about additional funding. The ABC are fully aware of those; they have thick files on those things. I note that, quite appropriately, you have to go through the budget process, but you have made those promises and people will note how effective you are in the delivery of them.

I have one quick question just so we can move off the salary issue. We have Mark Scott here, the CEO of the ABC. Mr Scott, you have heard the comments by Mr Rudd about

restraint, particularly as it applies to CEOs and their remuneration. Can you tell me whether you will be abiding by the instructions of Mr Rudd?

**Senator Conroy**—Mr Scott, you should not be misled by Senator Kemp's questions. There are no 'instructions' from Mr Rudd. I am sure that you are aware of that.

**Senator KEMP**—It is getting softened every hour, on the hour. It is bad luck you did not come tomorrow; you would not have to do anything.

**Senator Conroy**—Mr Scott does not set his own salary. The board of the ABC, with all the expertise you have endowed it with, will consider this when it next considers Mr Scott's salary. It is a little unkind to ask Mr Scott to comment on his own salary, especially when he does not set it.

**Senator KEMP**—Can I say, Senator, I would not be too precious. We in this parliament constantly comment on our own salaries.

**Senator Conroy**—And you are supporting wage restraint.

**Senator KEMP**—What we are trying to do is to get the reactions of various governmental bodies to what the Prime Minister said. Mr Scott has had time to think about an answer, and it was very nice of you to duck in there.

**Senator Conroy**—Mr Scott does not need my help to deal with you, Senator Kemp.

**Senator KEMP**—Why don't we hear what Mr Scott has to say?

**Mr Scott**—My salary is set by the board, and it is a matter for them.

**Senator KEMP**—That is true—no-one argues that—but you, as an ABC leader and someone who can give a lead on these matters, are able to say to the board what you would like to happen in light of the government's policy.

**Senator Conroy**—Perhaps I should inform you—you seem to have forgotten since we last chatted—about the Prime Minister's comments. I will just take you to them again.

**Senator KEMP**—Mr Scott and I have been at these committees for a long period, and he can handle himself extremely well.

**Senator Conroy**—I have no doubt he can handle you with both hands tied behind his back.

**Senator KEMP**—He does not need to be protected by you.

**Senator Conroy**—My concern is that you seem to have forgotten my earlier evidence, so I just thought I would repeat it. Markets ultimately determine these things—

**Senator IAN MACDONALD**—We are not interested in this, Madam Chair. We have heard this.

**Senator Conroy**—but in the difficult challenges we face ahead this year on the economy and inflation, I would hope that those in the most privileged positions in the corporate sector also reflect carefully on the need to see wage restraints in the year ahead.

**Senator IAN MACDONALD**—Madam Chair, this is just wasting time. We have heard this. We have got a lot of work to do.

**Senator Conroy**—Mr Scott has indicated he does not set his salary. You have actually agreed. Perhaps you would like to ask another question.

**Senator KEMP**—I think that the press are obviously watching this and are gripped by it. They notice, Senator Conroy, the very lack lustre support—

**Senator Conroy**—It sounds like relevance deprivation syndrome, Senator Kemp.

**Senator KEMP**—that you have given to Mr Rudd's comments. I hope it will not affect your future prospects, but I would have to say it is very lack lustre and everyone is reading from the script here. I do not know why everyone is so precious. After all—

**CHAIR**—Have you got a question, Senator Kemp?

**Senator KEMP**—I am making a brief comment just to try to set some context, but it does seem to me to be a very odd thing. Anyway, the press will notice that the Prime Minister has been given less than fulsome support from Senator Conroy, and I regret to say from Mr Mark Scott, but anyway let me move on.

**Senator Conroy**—That is a very unfair reflection on Mr Scott.

**Senator KEMP**—Senator, I am trying to move on. We could not stand you reading out that statement again.

**Senator Conroy**—That is why I keep it handy.

**Senator KEMP**—You have exhausted us, Senator. It seems to me there is a question of mine on notice outstanding. I wonder whether the answer to that has been delivered. It has only been outstanding I think for about 10 months or so.

**Mr Scott**—I am unaware of that. I understand that we have in fact provided those answers, so I am not quite sure where we are in the process, but we can check that through.

**Senator KEMP**—When did you provide those?

**Mr Scott**—Some months ago.

**Senator Conroy**—My apologies, Senator Kemp. We will look into that and get you an answer.

**Senator KEMP**—You could check that. I do not want to be too pushy on this, Mr Scott.

**Mr Scott**—I think they were submitted to the former minister's office in July.

**Senator Conroy**—In July!

**Senator KEMP**—I still have not got them. Could you kindly give them to the current minister's office?

**Senator Conroy**—It might be a question for Australia Post next time.

**Senator KEMP**—Let us see if the current minister is more helpful than the former minister.

**Senator Conroy**—We will look into this and get back to you shortly.

**Senator KEMP**—Could you do that for me, Senator Conroy?

**Senator Conroy**—Certainly.



**Senator KEMP**—You would chalk up some brownie points if that was the case. Let me now deal with the issue of the government's policy on future board appointments. For the sake of this committee, and to make sure that we do not go off on tangents, could you indicate, Senator Conroy, what your policy is, summarise it, indicate when it will come into effect, and whether there are any vacancies on the board? Perhaps Mr Scott can provide us with a schedule of when there will be future vacancies.

**Senator Conroy**—I do get a sense of disappointment in your tone there. Senator Kemp, I am sorry, the Prime Minister has made it clear that no current, or future, or ex-politician will be able to serve on that board. Now I know that is going to disappoint you.

**Senator KEMP**—So no Bracks or no Beattie or no Bannon?

**Senator Conroy**—No Kemp.

**Senator KEMP**—No Bannon? Oh dear, oh dear!

**Senator Conroy**—Neither Kemp brother is going to get to serve on the ABC board under our policy—

**Senator KEMP**—Or, indeed, no Conroy either.

**Senator Conroy**—and I can sense your disappointment, Senator Kemp. You do not have to hide it. But our policy in relation to board appointments was clear. It was well publicised before the last election. We intend to introduce—to borrow from the UK phrase—the Nolan principles, whereby independent recommendations will be made by the Nolan committee equivalent. Those recommendations will be made to the minister and, if the minister chooses to reject them, then the minister has to explain to parliament. The process of appointing the Nolan committee membership is commencing. We are commencing that process. There are no vacancies at the moment, though there are some pending.

**Senator KEMP**—What are the principles involved in that?

**Senator Conroy**—The intention is to complete the process of appointing the Nolan committee—if I can keep using that phrase—to ensure that even though there may be some vacancies in the near term, we would await the proper process before we made any appointments. So the ABC board may run a little light in the short term but we are committed to getting some integrity into the processes. We are committed to ensuring that there is very much a merit-based selection process, and we will be announcing all of the criteria very shortly.

**Senator KEMP**—You rather pre-empted my question a little bit.

**Senator Conroy**—Are you suggesting that your questions are a little transparent?

**Senator KEMP**—When do you expect that you will have appointed this committee to appoint other committees?

**Senator Conroy**—We intend to advertise for people to be on this committee. In keeping with the principles of advertising for the actual board appointments, I felt it was important to go through an open and transparent process. We are just commencing that at the moment.

**Senator KEMP**—When do you hope to have this committee in place?

**Senator Conroy**—I would hope to have it in place in four to eight weeks, perhaps a little longer depending on how many people apply. We could be overwhelmed with interest.

**Senator KEMP**—It could be anything from two to three months before the committee is in place. Is that right?

**Senator Conroy**—That would be my ambition.

**Senator KEMP**—It is your ambition, but you are not prepared to give a guarantee to the committee that it will be in place. Let us assume that the wheels grind awfully slowly. Surely three months—

**Senator Conroy**—To ensure that we get appropriately qualified individuals to make judgements about the ABC and SBS, we are not going to be rushed.

**Senator KEMP**—I'll say you're not! It is a very slow process. Who chooses the members of this—what do we call it—'Conroy committee' or 'Nolan committee'?

**Senator Conroy**—All will be revealed shortly.

**Senator KEMP**—That is a very unsatisfactory answer. You have had a long time to develop a comprehensive policy on this. You have now been in government for a number of months and you still cannot tell me the criteria on which people for the Nolan-Conroy committee are going to be appointed.

**Senator Conroy**—There will be appropriate individuals with the right skills to select the important positions on the ABC and the SBS.

**Senator KEMP**—That is an incredibly vague answer.

**Senator Conroy**—I model myself on your contributions over many years.

**Senator KEMP**—Let me just test this point a little bit further.

**Senator Conroy**—Perhaps that is something I should not do—I accept your interjection Senator Parry.

**Senator KEMP**—Can I say, Senator Conroy, you have still got a lot to learn in that area. Do you rule out that the members of this committee could be former political figures and trade union people?

**Senator Conroy**—Are you so desperate still to be on one of these boards?

**Senator KEMP**—No. I am just wondering how strictly these rules are applied. Who actually appoints the Nolan-Conroy committee?

**Senator Conroy**—I think that ultimately I do.

**Senator KEMP**—Oh, gosh. So that is not a matter for cabinet or a matter that goes to the Governor-General. This committee is appointed by you.

**Senator Conroy**—In consultation with some colleagues but fundamentally—

**Senator KEMP**—Other political figures.

**Senator Conroy**—it will be my decision.

**Senator KEMP**—But you are not prepared to rule out that on this committee there will be political figures, former politicians and trade unionists?

**Senator Conroy**—We will be advertising and having a range of individuals put themselves forward. Would you like me to put your name at the top to the list, Senator Kemp?

**Senator KEMP**—That is very nice of you, Senator Conroy, but no, I will leave that job to all your mates to do. We know that it will be coming up sometime this year. Are you prepared to say that the Nolan-Conroy committee will be functioning sometime this year?

**Senator Conroy**—I have said to you that my ambition is in the next two to three months.

**Senator KEMP**—Okay. And we do not know the criteria on which members of the Nolan-Conroy committee will—

**Senator Conroy**—That will be published shortly when we go to advertise. I am not going to give you the scoop, Senator Kemp, about how we are going to proceed with that.

**Senator KEMP**—I think you have probably not quite worked it out yet. When this committee makes a recommendation to the board, does it provide a name or a series of names for a vacancy?

**Senator Conroy**—Probably a number of names, I would think.

**Senator KEMP**—So these will be in order of preference of the committee?

**Senator Conroy**—I probably—

**Senator KEMP**—Hold on, you are the man who developed this idea.

**Senator Conroy**—If I could finish my sentence, Senator Kemp, that would be very kind of you. I probably have not got the amount of experience that you have in how these processes work—

**Senator KEMP**—That is true.

**Senator Conroy**—so I will be guided by advice from my department about that. I would imagine it would put forward maybe three names, to pick a number that you have suggested.

**Senator KEMP**—You think the process may be that they will put forward three names for one vacancy. Will these be in order of preference?

**Senator Conroy**—As I said, that would be something I would take advice on. It is not something I have done before. I know you have been assiduous in your appointments to organisations that you have been involved in.

**Senator KEMP**—Assiduous? I have been absolutely assiduous in my appointments, and they were all very good appointments too.

**Senator IAN MACDONALD**—They were indeed.

**Senator KEMP**—Once you have chosen one of these particular names, will you be explaining why you did not choose the other two, publicly?

**Senator Conroy**—If there is only one position and there are three names, it is fairly obvious.

**Senator KEMP**—The government has made a choice. In the end it all comes back to the political process.

**Senator Conroy**—I am sure that the committee will recommend three suitably qualified individuals so that there is a choice to be considered. But they will all be suitably qualified and, as I have said—much to your deep-down disappointment, I can tell—unfortunately you, your brother and any other former member of federal or state parliament, or staffer, will not be considered.

**Senator KEMP**—How about former members of the Transport Workers Union, your old union?

**Senator Conroy**—I am not aware that any of them that are interested in being on the board, to be honest, Senator Kemp!

**Senator KEMP**—You wait! Senator Parry, you have some follow-up questions.

**Senator Conroy**—But anybody from the Transport Workers Union who was interested would have to be suitably qualified.

**Senator KEMP**—Well, you were suitably qualified to become the minister, so one assumes there may be—

**Senator Conroy**—There is a lot of talent in the Transport Workers Union; you are right.

**Senator PARRY**—My first question is to the managing director. How are salaries for executive officers in the ABC determined?

**Mr Scott**—The management team of the ABC?

**Senator PARRY**—Yes.

**Mr Scott**—They are determined by me, in consultation with the board. I brief the board on changes to remuneration in my direct reports.

**Senator PARRY**—Do you rely upon any external sources, such as the Rem Tribunal?

**Mr Scott**—The Rem Tribunal sets my salary.

**Senator PARRY**—Sorry, just with yours: it sets yours solely, not the board—the Rem Tribunal totally sets your salary?

**Mr Scott**—No, the Rem Tribunal provides advice and banding and then finally it is determined by the board. We do some other external validation as well. We have used consultancy groups to advise on executive salaries, of course. We compete as a public sector organisation in a private sector media environment. There is quite a high level of transparency due to reporting mechanisms of private sector companies on executive salaries in the media industry, so that gives us significant guidance.

**Senator PARRY**—With that benchmarking, do you think the executive group—and I am referring to the ones that are paid \$130,000 or more, those listed in the last year's annual report—are equivalent to similar organisations?

**Mr Scott**—I can assure you that all our executives, who are holding very significant positions, are paid significantly lower salary levels than their counterparts in private sector media organisations, as you would expect to be the case.

**Senator PARRY**—Comparing it with Australia Post this morning, I think you are underpaid. The salary range here is \$220,000 through to \$399,000, and within that band there were six executives, and I think Australia Post were \$524,000 to \$940,000, so there is a significant difference, although it is a similar government department. Do you feel as though with that benchmarking you are suggesting that your executive officers are underpaid? I am not disputing that. Would you be offended if you were asked by the minister to have a wage freeze?

**Mr Scott**—Offended?

**Senator Conroy**—That is a hypothetical question.

**Mr Scott**—It certainly is a hypothetical question, Senator. We have to manage salaries. Of course we try and operate under salary restraint. We operate under budgetary restraint. But we operate in a highly competitive environment where we do lose some of our top executives to private sector media organisations. The track record of the ABC in being an outstanding broadcaster in television and radio, being the nation's innovator in online is clear for all to see. We clearly have exceptional talent. That talent operates in a market, so we have to pay salary levels that are, as best as possible, competitive for us, but in the ABC we all recognise that there is more money available in private sector media organisations.

**Senator PARRY**—So any form of wage freeze would then further reduce your ability to retain the key executives?

**Mr Scott**—I do not want to comment on wage freezes and policy on wage freezes. I am just talking to you about the environment that we need to operate in. I would say that we are an unusual public sector organisation in this regard, in that we are competing directly against private sector media organisations for talent. We are competing directly against private sector media organisations for audiences and the like, and not just traditional media operators but some of the newest players in the field as well, like Google. So we have an unusual environment in which we are trying to attract and keep our most senior talent.

**Senator PARRY**—So you would be suggesting then, contrary to any freeze, that there could be argument for wage increase?

**Mr Scott**—I am not making any comments like that at all. I am just talking about the environment that we are operating in now, but I am making no comment at all on broader policy and on broader policy that applies to other organisations beyond the ABC.

**Senator PARRY**—Thank you, Mr Scott. Minister, hearing that answer, do you feel as though we should look at a wage increase for executives within the ABC?

**Senator Conroy**—Would you like me to read the Prime Minister's—

**Senator PARRY**—No. I am asking you: would you like to see wage increase, especially when you look at competing factors in the private sector?

**Senator IAN MACDONALD**—It is a very good question.

**Senator PARRY**—And we are looking at the private sector.

**Senator Conroy**—The matters of the ABC, whether it be the ABC staff or the ABC executives, are matters for the ABC. They have a budget, and it is a matter for them how they manage their budget.

**Senator IAN MACDONALD**—Well, go your hardest.

**Senator Conroy**—As I have said, the Prime Minister indicated that we were putting forward a modest proposal.

**Senator PARRY**—We know what he indicated, Minister. So you do not have a position with this agency either as to whether you would like to see an increase or a freeze?

**Senator Conroy**—The matter of remuneration for both the staff and the management of the ABC is a matter for the board. It has its budget.

**Senator PARRY**—Will you be giving them advice?

**Senator Conroy**—You seem to have forgotten again.

**Senator PARRY**—No, we have not forgotten.

**Senator Conroy**—No, markets ultimately determine these things—

**Senator PARRY**—That is how you are avoiding difficult questions, Minister.

**Senator Conroy**—but, in the difficult challenges we face ahead this year on the economy and inflation, I would hope that those in the most privileged positions in the corporate sector also reflect carefully on the need for CEO wage restraint in the year ahead. Now I know that that talented group of individuals on the ABC board will have listened to the Prime Minister, and they will take that into account when they are determining Mr Scott's future remuneration. But there was more than I have mentioned so far from Mr Rudd's comments. I thought I might draw them to your attention as well, because Mr Rudd makes the point that we are not calling on working families to engage in some sort of freeze on their wage claims or wage outcomes. Working families are already under financial pressure. I do not know how much clearer Mr Rudd or I could have been on that.

**Senator PARRY**—We want to know what your actions will be, Minister, going into the future. Your actions going into the future are very important.

**Senator KEMP**—I am shocked that Mr Rudd is receiving so little support both from the government agencies and from the minister, actually. I have made that point. I do not want to labour the point.

**Senator Conroy**—I am being drawn into a very tawdry undermining of Dr Nelson here at senate estimates, and I am a little embarrassed that you want to play out your Liberal Party leadership tensions here at senate estimates. It is very disappointing, Senator Kemp. I thought you were a better character than that.

**Senator KEMP**—Can someone just shut him up, Madam Chair? Minister, can I ask you this question. The efficiency dividend of two per cent which I understand the government has announced—does that apply to the ABC?

**Senator Conroy**—No.

**Senator KEMP**—Does that apply to SBS?

**Senator Conroy**—I would not imagine so. I will check that when SBS get here.

**Senator KEMP**—You should have checked it before you agreed.

**Senator Conroy**—We will check that with SBS. They operate like ABC on a triennial funding, so I would not imagine you can retrospectively do something like that. That will be something to be considered for the next triennium round of funding. I would imagine the same applies. But I am advised that the answer is no, probably for the same reason.

**Senator KEMP**—What other agencies in your portfolio, including the department of course, are exempt?

**Senator Conroy**—Are exempt?

**Senator KEMP**—Yes.

**Senator Conroy**—We have ACMA and the department, and both have the efficiency dividend applied, we believe. That is our advice.

**Senator KEMP**—So you have increased the efficiency dividend but you have generally applied it to those agencies to which it applied under the previous policy. Is that right?

**Senator Conroy**—I am not familiar with the previous policy, so I would not want to be drawn in, but I am advised that the answer to that is yes.

**Senator KEMP**—I would like to ask some questions on the so-called Brissenden affair. Before I do that does anyone want to—

**Senator PARRY**—Can I just direct one more question to you, Minister: will you do a comparison of the salaries paid to Australia Post compared to ABC. It appears ABC has competitors in the commercial market and Australia Post does not, yet Australia Post salaries seem very high compared to ABC. Whether ABC are too low or Australia Post is too high, would you do a comparative analysis with the private sector.

**Senator Conroy**—Perhaps you might want to narrow the scope of your comparison. Obviously it is something that I am going to have to take on notice, but perhaps you would like to narrow the focus a little bit. They are both very large organisations with many employees.

**Senator PARRY**—Just to executive remuneration in particular. The ABC has as a \$130,000 threshold from last year's annual report. That is a good starting measure.

**Senator Conroy**—I am surprised to find you here at this estimates, Senator Parry. I have been at many estimates now and I have never seen you advocate an increase in salary for the ABC before. I am sure that has heartened the ABC after 11½ years.

**Senator PARRY**—My mind has been focused on this because the Prime Minister is very keen about this and we are very keen to pursue efficiencies.

**Senator Conroy**—I would not want you to verbal the Prime Minister. If you like I can go through the Prime Minister's exact comments again just so that there is no misunderstanding.

**Senator PARRY**—There is no misunderstanding there, Minister.

**Senator Conroy**—It does sound to me like you have misunderstood your leader's position as well as mine. I am happy to read it again.

**Senator PARRY**—We completely understand it. We are just trying to get you to look at your agencies and your departments to make sure these efficiencies are really going to be widespread and more efficient than just parliamentary salaries. We think it should be across the sector.

**Senator Conroy**—Again, I am afraid you seem to be misunderstanding both the Prime Minister's and your own leader's position on this. Perhaps I may need to refresh your—

**Senator PARRY**—No, we are expanding this Minister.

**Senator Conroy**—In a modest exercise in wage restraint the government has decided to propose to the parliament a regulation which will have the effect of not increasing MPs' salaries until the middle of next year—

**Senator PARRY**—In other words, the minister is not confident enough to really provide a qualitative answer.

**Senator Conroy**—I can go on.

**Senator IAN MACDONALD**—This is just wasting our time.

**Senator COLBECK**—Can I just ask one question to the minister in respect of executive salaries—

**Senator Conroy**—Sorry, if I could just interrupt, I think we have some updated information for you, Senator Kemp.

**Ms Scott**—On the questions on notice, there were 257 questions taken on notice at the budget estimates hearing between 21 and 24 May. We have answered all questions bar four. There are no outstanding questions relating to the ABC. One relates to ACMA and three relate to the department; 180 were provided some time back and I can indicate exactly when—for example, 74 were provided by 31 July 2007, 15 on 8 August and one on 15 August. I can give you dates for each of those if you wish.

**Senator IAN MACDONALD**—I just got two this morning.

**Ms Scott**—There were 73 provided on Saturday, so I appreciate that the committee probably has not had time to—

**Senator KEMP**—That was terrific, a full days notice!

**Senator Conroy**—You know what they say about Rudd: 24/7, guys.

**Senator KEMP**—I do not think we can complain about that. We had Sunday to look at them!

**Ms Scott**—Answers had been submitted to the previous minister so there were simply delays created by the change in government process. The answers were submitted in July, August, September and then more recently as well.

**Senator KEMP**—Let me just get it clear from Ms Scott that the question on notice that I was concerned about has now been filed. Is that right?

**Ms Scott**—We found no record of an outstanding answer to you, Senator, in relation to the ABC. All the ABC answers have been submitted.



**Senator KEMP**—It is question 141, I think. The schedule I have here from the committee says it has not been answered.

**Ms Scott**—Perhaps we can check with the secretariat.

**Senator Conroy**—We will happily follow that up if there is any misunderstanding.

**Senator KEMP**—The committee will fix them.

**Senator COLBECK**—Senator Conroy, will you be making any submissions to the Rem Tribunal with respect to the salaries over which you have influence?

**Senator Conroy**—Senator Colbeck, I am not sure your colleagues are going to welcome your intervention at this point?

**Senator COLBECK**—I am just asking the question. You can say yes or no; we do not need to have a long conversation.

**Senator Conroy**—Let me take you to the Prime Minister's comments, which your colleagues are now very familiar with. Unfortunately, you have just joined us.

**Senator COLBECK**—I have been listening to you all morning, and it is a question that I have with respect to that. Are you going to be making a submission to the Rem Tribunal?

**Senator Conroy**—This is the Prime Minister's statement.

**Senator COLBECK**—That is not the answer to the question. That has nothing to do with the Prime Minister's statement. You have influence over executive salaries. I am asking you, in your capacity as minister, whether you are you going to be making submissions to the Rem Tribunal with respect to those with which you have influence.

**Senator Conroy**—The Prime Minister committed the government, and I understood—although it is disappointing to see such undermining of Dr Nelson so early—that you were supporting this position, but it is perhaps becoming clear to those watching that you are not actually supporting Dr Nelson's position.

**Senator COLBECK**—This has nothing to do with anyone's position, I am asking you where you are going with the submission.

**Senator Conroy**—Let me take you to the Prime Minister comments. He said:

But I am asked further whether there are any other measures which the government would embrace and measures which would be supported by members of parliament here on the overall question of how we approach the inflation challenge this year, including wage restraint. In a modest exercise in wage restraint the government has decided to propose to the parliament a regulation which will have the effect of not increasing MPs' salaries through until the middle of next year

**Senator COLBECK**—I have heard it several times, Minister, and all I am asking is whether you are going to make a submission to the Rem Tribunal.

**Senator Conroy**—Furthermore, the government proposes that when this measure comes to a close in mid-2009—

**CHAIR**—Let him finish his answer.

**Senator IAN MACDONALD**—Can we take a point of order so the minister stops mumbling while we are taking the point of order.

**CHAIR**—Technically there are no points of order in Senate committees, as we have been advised.

**Senator IAN MACDONALD**—It is just chaos.

**CHAIR**—Can you answer the question please?

**Senator KEMP**—Perhaps we should look at the rules then.

**CHAIR**—Minister, have you finished your answer?

**Senator Conroy**—No, I have not finished the quote. I am having to stop reading the quote.

**Senator COLBECK**—I think you have given a fair indication that you are not even prepared to answer the question, Minister, because all I asked was whether you are going to make a submission?

**Senator PARRY**—It is a question of competence.

**Senator Conroy**—I have indicated the government's position in its entirety.

**Senator KEMP**—Are you going to make the submission or not?

**Senator Conroy**—I have indicated the government's position. I will happily finish reading all of the Prime Minister's quote.

**Senator BIRMINGHAM**—Minister, just as you ruled out making a directive to Australia Post that could indeed quote the Prime Minister's fabulous words, which we have heard many times before, you are equally ruling out making a submission to the Remuneration Tribunal or an approach to the ABC board, again quoting those Prime Ministerial words.

**Senator Conroy**—I think the Prime Minister has been quite clear about what the current position is.

**Senator BIRMINGHAM**—I am looking for you to be quite clear about what you will or will not do.

**Senator Conroy**—The Prime Minister has made it clear what the government's position is and I support the government's position.

**Senator BIRMINGHAM**—But will you convey the government's position as minister to your agencies?

**Senator Conroy**—As I said, I am confident that they have noted the Prime Minister's statements publicly. I am confident—

**Senator BIRMINGHAM**—But the answer is no, isn't it?

**Senator Conroy**—I am confident that the board of the ABC have noted the Prime Minister's comments and will bear that in mind when they are considering these matters.

**Senator BIRMINGHAM**—Perhaps they could invite you to the board meeting.

**Senator Conroy**—In terms of the Remuneration Tribunal, we have indicated that we were writing to the Remuneration Tribunal—

**Senator KEMP**—You are not prepared to make a submission to the Rem Tribunal, and you are not prepared to have a quiet word in Mr Scott's ear. I would have to say this is a pathetic support for the Rudd policy. This is astonishing to me. The question before you—

**CHAIR**—Senator Kemp, have you got a question?

**Senator KEMP**—Hold on, Madam Chair, the question is—

**Senator Conroy**—Are you asking a question or are you commentary?

**Senator KEMP**—will Senator Conroy make a submission to the Rem Tribunal, and he can answer that yes, no, maybe or I will think about it. And he cannot even say that. It is ridiculous.

**Senator Conroy**—The Prime Minister has indicated the basis on which we are approaching the Rem Tribunal.

**Senator PARRY**—Are you a minister without really any office? Do you have to listen to everything from the Prime Minister?

**Senator Conroy**—I know that clearly from your performance this morning that you are not familiar with supporting your leader's position, but I am supporting the Prime Minister's position 100 per cent. If you would like me to reiterate the Prime Minister's position, I am only too happy to.

**Senator BIRMINGHAM**—You do not appear to be doing anything about the Prime Minister's position.

**Senator Conroy**—I am only too happy to—

**Senator KEMP**—Just have a quiet word to Mark Scott. He is just beside you. Just say: 'Mark, here is the brief that I have got from Mr Rudd. Is it okay with you?'

**CHAIR**—Senators, we have five minutes before we break for lunch. Are there any questions of the ABC please?

**Senator Conroy**—Would you like me to repeat the Prime Minister's position?

**Ms Scott**—Chairman, I have checked on answer 141 from Senator Kemp. The question was submitted on 7 October 2007. I have a copy here if that assists.

**Senator KEMP**—Can I have a copy of that?

**Senator Conroy**—You have more influence with the previous minister than you realised.

**Senator COLBECK**—Can I just ask a question in respect of broadcast coverage areas. I have had cause to have discussion with the ABC over the last couple of years in respect of the switching off of the 711 broadcast frequency in northern Tasmania, which has been replaced with 91.7, Northern Tasmania FM. This has had a very positive impact on the reception in Launceston and down through the central midlands of Tasmania; however, on the north-west coast of Tasmania it has been much more problematic. It is my understanding that the network of local frequencies that are available along the north-west coast—100.5 in Devonport and a range of others through the north-west coast—were set up as in-fills for the 711 frequency but are now being used as the primary source of transmission, given that the 711 frequency has been switched off. Can you give me any indication of your plans for upgrades? I have had

conversations with the organisation in the past, and the coalition made a \$400,000 commitment at the last election to increase the frequency strength in Devonport, but there are remaining concerns along the north-west coast with respect to the adequacy of the coverage. In fact, my experience over the last couple of months is that it remains very variable, based on the weather. Can you give an update on that?

**Mr Scott**—I would like to come back to you in more detail if I can. You are quite right: there has been a problem with the switch-over from AM to FM, and there is a requirement on people to have the right kind of equipment. The FM signal is more affected by terrain and the weather. We are moving the local radio service to new antennae to coincide with the introduction of NewsRadio in the Devonport area. That will increase the power of the transmission, which we are hopeful will improve reception.

**Senator COLBECK**—So you are actually moving from about 100 watts to a megawatt or a kilowatt?

**Mr Scott**—The plan we have to roll out local radio in the area will allow us to change the antennae we are moving to, and that will be a power increase. As to the precise detail of that power increase, I will need to come back to you.

**Senator COLBECK**—What about regions further along the coast? That is one localised area. I have seen some coverage maps which you have been very good in providing to us, and I appreciate that. I know there has been some work done in Burnie, particularly in respect of interference from other stations, but there continue to be some issues further along the coast. I would certainly be interested in encouraging you to do what you can to improve that service.

**Mr Scott**—We will take further advice from Broadcast Australia, which deals with this transmission for us. It is also a question of frequency availability. We will pull together a comprehensive brief for you that will give you the latest information on the issue and we will send it to your office.

**Senator COLBECK**—I appreciate that.

**CHAIR**—I am conscious that we will break for lunch in about one minute. Do any senators have questions of the ABC before then? We will definitely be continuing after lunch.

**Proceedings suspended from 12.58 pm to 2.03 pm**

**CHAIR**—I welcome back the Australian Broadcasting Corporation.

**Senator BERNARDI**—I just have a couple of questions based on statements earlier to the minister. I would like to go back to the equivalent of the Nolan committee—

**Senator KEMP**—The Nolan Conroy committee.

**Senator BERNARDI**—I will call it the Nolan Conroy committee—that you foreshadowed as being responsible for the appointment of the nominations for people to various boards. How many people will comprise the Nolan Conroy committee? I will just call it the Conroy committee.

**Senator Conroy**—That matter has not been finalised yet. Any suggestions?

**Senator BERNARDI**—I am asking the questions here, thanks, Minister. I will leave you to determine that. You do not need to copy any more of our policies, I guess! So you do not know how many people will be on it?

**Senator Conroy**—That is under consideration.

**Senator BERNARDI**—Do you know how you will be choosing the people to be on that committee?

**Senator Conroy**—As I said, we will be advertising and seeing who applies. Ultimately I will be making the decision.

**Senator BERNARDI**—You will be making the decision on the competition?

**Senator Conroy**—Yes.

**Senator BERNARDI**—Will you also be making the decision as to how much those people will be paid and their remuneration?

**Senator Conroy**—Let me just call up the quote, because I will need to get there early.

**Senator BERNARDI**—No, I am familiar with that. It actually has nothing to do with it.

**Senator Conroy**—I can see I will need it. I am disappointed in you, Corey, I have to say, that you should involve yourself in this tawdry undermining of your leader.

**Senator BERNARDI**—What I find extraordinary is that you continually have to refer to your computer to have an opinion on anything. Could you please just tell us how much they will be paid for this committee?

**Senator Conroy**—I just want to make sure I get the Prime Minister's quote exactly so that you cannot misquote me.

**Senator BERNARDI**—It has nothing to do with the Prime Minister's quotes, Minister. It is quite extraordinary. So you are unable to tell us the level of remuneration for a committee that you will be appointing, when you decide that you have an opinion?

**Senator Conroy**—We will take advice from the Remuneration Tribunal, as we would do with any committee.

**Senator BERNARDI**—So you will not be overruling the Remuneration Tribunal; you will be accepting their advice?

**Senator Conroy**—We will be taking their advice.

**Senator BERNARDI**—You will be accepting their advice?

**Senator Conroy**—We will be taking their advice.

**Senator BERNARDI**—Don't you think that represents a completely inconsistent position given that the Remuneration Tribunal's advice has been wilfully ignored by—

**Senator Conroy**—I thought Dr Nelson was agreeing.

**Senator BERNARDI**—This is not about Dr Nelson. I am just asking about your position.

**Senator Conroy**—I thought you supported this?

**Senator BERNARDI**—No, I am asking about your position as to whether you are prepared to overrule the Remuneration Tribunal—

**Senator Conroy**—I am confused. Are you supporting Dr Nelson's position on the wage freeze for politicians or not?

**Senator BERNARDI**—No, it is about consistency, Minister. You are being completely inconsistent. The only thing that you are being consistent about is reading from that computer the same statement all over and over again.

**Senator Conroy**—Reading the Prime Minister's comments from the House of Representatives—

**Senator BERNARDI**—You are not answering the questions. You are going to take the Remuneration Tribunal's advice—

**Senator Conroy**—You are attempting to suggest that these are inconsistent positions.

**Senator BERNARDI**—They are inconsistent when you ignore the—

**Senator Conroy**—I am saying to you that the Prime Minister has made it clear, and I will just refer to his comments, just because you have not been with us.

**Senator BERNARDI**—This is ridiculous.

**Senator KEMP**—Madam Chair, I think if this behaviour continues from the minister, we will have to sit very late tonight. He is just wasting time.

**Senator Conroy**—I am planning on being here until 11 o'clock.

**Senator KEMP**—He is just absolutely wasting time.

**Senator Conroy**—When are you going to be here until?

**Senator KEMP**—We have plenty of time. We shall sit on Friday.

**Senator BERNARDI**—Minister, you do not see there is any inconsistency in having the Prime Minister overrule the Remuneration Tribunal at one level, yet you are prepared to accept the Remuneration Tribunal's recommendations at another level—there is no inconsistency in that position?

**Senator Conroy**—Let me just clarify, just because I know you have not been here.

**Senator BERNARDI**—No, it is a yes or no answer.

**Senator Conroy**—The Prime Minister indicated:

In a modest exercise in wage restraint, the Government has decided to propose to the Parliament a regulation which will have the effect of not increasing MPs salaries—

**Senator KEMP**—Madam Chair, this is a blatant attempt at time wasting in this committee.

**CHAIR**—Senator Kemp, the minister is speaking.

**Senator KEMP**—He is wasting time.

**CHAIR**—Senator Kemp!

**Senator KEMP**—No, hold on; he is wasting time, and unless you can bring this minister to order—

**CHAIR**—Senator Kemp!

**Senator KEMP**—there will be trouble on this committee.

**Senator Conroy**—Oh, dear!

**Senator KEMP**—Yes, big trouble. You have been appointed the chair of this committee—

**CHAIR**—Senator Kemp, you have had your say.

**Senator KEMP**—and you should exercise your authority.

**Senator BERNARDI**—And ask the minister to answer the question.

**CHAIR**—Senator Bernardi, have you finished your questioning? There are other senators here who wish to ask questions.

**Senator BERNARDI**—I am actually waiting for the answer. This is about an open and transparent government that allegedly—

**CHAIR**—The minister has answered your question. Do you have another question?

**Senator BERNARDI**—No, he has not. He has not answered my question. He has not said whether there is any inconsistency in the positions. It is a very simple question.

**Senator Conroy**—I have stated both positions. The first is that, in a modest exercise in wage restraint, the government has decided to propose to parliament a regulation which you have indicated through your leader that you are voting for, and I have said I will take the advice of the Remuneration Tribunal on this particular panel.

**Senator BERNARDI**—Once again I come back to it. The question is: do you accept that there is an inconsistency between overruling the Remuneration Tribunal's authority in setting the salaries for politicians and yet accepting its recommendation for other positions?

**Senator Conroy**—I do not know how much more I can be clear, Senator Bernardi.

**Senator BERNARDI**—Yes or no would suffice, Minister.

**Senator Conroy**—I get to answer the questions the way I choose, not the way you demand.

**Senator BERNARDI**—But, if you answered the questions, it would be helpful.

**Senator Conroy**—The Prime Minister, with the support—

**Senator KEMP**—Madam Chair, we have worked out that Senator Conroy can read a brief. We have all worked this out.

**Senator Conroy**—The Prime Minister, with the support of the Leader of the Opposition, has indicated that we will vote in parliament, as has been indicated, to freeze politicians' salaries, and I know that has your wholehearted and fulsome support. On the question of—

**Senator BERNARDI**—The lack of substance in your answer will only indicate to me that you agree there is—

**Senator Conroy**—That is a terrible reflection on Dr Nelson. I really think this campaign that you are running against Dr Nelson—

**Senator BERNARDI**—a gross inconsistency between your position and that of your Leader.

**Senator Conroy**—should really desist. The poor bloke has had two days of parliament, and you are after him.

**CHAIR**—Senator Bernardi, can we move on, please? Do you have further questions along this line? Otherwise, I will give the call to Senator Allison, who has been waiting.

**Senator KEMP**—I have one on this line.

**CHAIR**—No, Senator Kemp, you have had your go. Senator Bernardi, do you have any further questions?

**Senator BERNARDI**—Not immediately, no, but I may come back to it.

**CHAIR**—Senator Allison, we will go to you.

**Senator ALLISON**—Minister, could I go back to the ABC Board. Have you met with them yet?

**Senator Conroy**—I am meeting with the chairman shortly but, no, I have not met with the board.

**Senator ALLISON**—Why is that?

**Senator KEMP**—Can't you remember meeting with the board or not?

**Senator Conroy**—I knew I had not met with the board; I was just trying to remember when it was that we had the discussion with the chairman. We have been working on a whole range of matters.

**Senator ALLISON**—Your relationship with the chairman is okay?

**Senator Conroy**—I have a good relationship. I think Mr Newman is an excellent chairman.

**Senator ALLISON**—So nobody has brought up your remarks to the effect that the board was stacked with zealots to remake the ABC in its own extreme conservative image?

**Senator Conroy**—As I said, I have not met with the board.

**Senator ALLISON**—But you have met with the chair?

**Senator Conroy**—No, we are meeting shortly with the chair. I met with the chair before the election. That is what I was just trying to clarify—exactly when it was I met with Mr Newman.

**Senator ALLISON**—Professor Alan Knight said that the Howard government packed the ABC with 'right-wing radicals linked to industry funded think tanks hostile to the ABC'. Is that still your view?

**Senator Conroy**—One of the things that the Prime Minister and I are hoping is that, with the introduction of the Nolan principles, we can take the heat out of the debate, because it will ensure that people with the appropriate skills are put forward for a seat on the ABC board. So, while certainly in the past there has been heated debate about some of the appointments, the Rudd Labor Government is seeking to move forward and to put in place a transparent process



which will ensure that these sorts of arguments are a thing of the past. What is important for the institution of the ABC is that it is supported by all Australians. It is a very, very important institution in this country, and it will become an increasingly important institution as the convergence in media, the broadband and IP TV worlds all come together so that the ABC will become a critical vehicle for Australian voices and stories to be heard. It is the ambition and vision of the Rudd Government that, as this convergence takes place, we have taken the heat out of the debate around the board of the ABC and that we can, over time, win the trust of all Australians, if there has been a question of trust in terms of the board appointments, in this new policy principle.

**Senator ALLISON**—How do you expect to change the culture of the existing board? I understand you answered a question earlier saying there is not to be a spill of the board. How will you change that culture so it is not an extreme, conservative ABC board?

**Senator Conroy**—I think you are referring to a question that is not one I answered today. I do not think I have had a question about spilling the board today. I have been asked that question previously.

**Senator ALLISON**—I understood there was a question from the table here today. Anyway, it does not matter.

**Senator Conroy**—I do not think it was about spilling the board. But I have made those comments previously. As I said, if you want to be consistent with the Nolan principles, you cannot come in and, if you like or dislike people, just sack them. We have to work our way through a new process and begin to rebuild the trust around the appointment process, if there are question marks in people's minds, so that it has not just seen to be an organisation with a board that perhaps has been portrayed as too narrow.

**Senator ALLISON**—Do you anticipate any of the current board members resigning?

**Senator Conroy**—You would have to ask them that. I have not received any indications. We have a number of vacancies where the appointment has run out and, if those individuals desire, they are welcome to apply under the new Nolan principles.

**Senator ALLISON**—So Ron Brunton would be welcome to apply? I think he criticised Labor's policies on Indonesia as deluded and described John Pilger as staking out the most demented riches of public discussion, claiming Pilger was the darling of the ABC.

**Senator KEMP**—I think that was Senator Conroy's view too. Go easy on that one!

**Senator ALLISON**—Could Ron Brunton apply?

**CHAIR**—Could Senator Allison ask her question, please?

**Senator Conroy**—I apologise for the peanut gallery, Senator Allison. Did you want to finish your question?

**Senator ALLISON**—I was just quoting from Professor Knight on board member Ron Brunton and asking whether his re-application would be favourably considered?

**Senator Conroy**—One of the important principles of the Nolan approach is that there is an open and transparent process so that anyone who would like to is entitled to apply. If Mr

Brunton chose to put his name forward, he would be considered under the same merit process by which everybody else who puts forward their name would be considered.

**Senator ALLISON**—How many vacancies are there at present?

**Senator Conroy**—There are none at present. There will be one very shortly and then Mr Brunton's vacancy will be in mid-April. There are two that come up in a relatively short space of time.

**Senator ALLISON**—There was an appointment just before or shortly after the—

**Senator Conroy**—SBS. The former minister reappointed Christopher Pearson one or two days prior to the calling of the election. I think Mr Pearson has a new five-year term.

**Ms Scott**—Up to 20 October 2011.

**Senator Conroy**—Perhaps four years.

**Ms Scott**—The date of Mr Carroll's appointment was 19 December 2007. I think that was the vacancy the minister was referring to.

**Senator Conroy**—Yes—that is the SBS board vacancy.

**Senator ALLISON**—Leaving aside the questions of process, you have a new system that you plan to implement. You have said some pretty strong things about the culture of the ABC as a result of the extreme conservative nature of the board. Do you agree that it is still the case that the ABC has been shaped, if you like, by the board in this way? I am just interested in what practical measures you will put in place given the fact there are no vacancies right now, so the board will not change overnight. How will you alter that culture?

**Senator Conroy**—There is no question—and it is on the public record—that I have disagreed with a number of decisions made by the ABC board. The *Jonestown* affair was one, just thinking back to where I strongly disagreed with the decision made by the board. There are two vacancies coming up in the near future. We will be going through a proper and transparent process to restore some integrity to the appointment processes.

**Senator ALLISON**—I am sorry to interrupt, Minister. I have already acknowledged your new process and I am not saying that that is in question. I am asking you: with the changeover of two, three or maybe even four—I do not know how many are due to be changed over shortly—how will you address what you identified as a problem in the culture of the ABC?

**Senator Conroy**—One of the things that will assist that is that the chairman, Mr Newman, who is a relatively new chairman, has the interests of the ABC and the charter at heart. I am confident that Mr Newman will ensure that the board works to fulfil the charter of the ABC. I have a high regard for Mr Newman, and perhaps some of the aberrations that have occurred previously while he was not on the board or was not the chair of the board would not have occurred if he had been there.

**Senator ALLISON**—Will the chairman of the board have the capacity to stop board members like Keith Windschuttle from speaking out or Ron Brunton from saying the sorts of things he has said in the past, when he castigated liberal Catholics and dismissed Green illusions that the environment was deteriorating? Will a gag rule be applied to people like him and others?

**Senator Conroy**—One of the things that you will find as a hallmark of this government is its repudiation of the former government's tying of funding and tying appointments to gag orders. As you saw frequently under the previous government, if you received any money of any description, you also had to sign a disclaimer that said that you were not allowed to publicly comment on these issues. I cannot envisage that I would be seeking to enforce a gag on any member of the ABC board for comments outside of their ABC board duties or in relation to their ABC board duties. When they are appointed to the board they all understand the roles and responsibilities of a board. Boards usually act in a collegiate manner. I am confident that Mr Newman has the experience and expertise to wield the board in a fashion that will not bring it into the sort of disrepute that it perhaps came to over some of its decisions previously.

**Senator ALLISON**—You will meet with the board in its entirety and discuss these matters?

**Senator Conroy**—That is more a matter of an invitation to me—something I have not actually received yet.

**Senator KEMP**—After all the names you called them.

**Senator Conroy**—But I am looking forward to my scheduled meeting with Mr Newman shortly.

**Senator ALLISON**—That is all I have on the board, but I have some questions on funding. Can I go to that now, Chair?

**CHAIR**—Yes.

**Senator KEMP**—While we are on the board, I have some questions to do with the board, so maybe we should stick with the board. Minister, there will be one person appointed to the board who will not be appointed under the Nolan principles—is that right?

**Senator Conroy**—We have committed publicly to the reintroduction of the staff-elected position, and that will be an electoral process. It will not be under the Nolan principle rules, but we have publicly stated that we would reintroduce that. We look forward to your support when we move to reintroduce that in the Senate.

**Senator KEMP**—I would not count on it. So it is possible—

**Senator Conroy**—I know that you used to be at the IPA, and organisations like the IPA and *Quadrant* think they are entitled to two or three positions on the board, but surely, regarding the merits of an ABC board position for the staff-elected role, even you in your heart can find your way to support that, Senator Kemp.

**Senator KEMP**—I do not. Let me not be diverted by your comments. Isn't there a rule under the famous Nolan-Conroy principles that political staffers cannot be appointed to the board?

**Senator Conroy**—The Prime Minister indicated on the *7.30 Report* that—

**Senator KEMP**—Do not read it to us.

**Senator Conroy**—I have this one seared in my mind: former politicians and staff will not be able to be a part of the process.

**Senator KEMP**—You know what my next question will be. Say the staff elect Kerry O'Brien?

**Senator Conroy**—The staff-elected position will be a matter for existing staff.

**Senator KEMP**—I see—it does not apply then. Former political staffers do not apply there—is that right?

**Senator Conroy**—I think that would be a consistent interpretation.

**Senator KEMP**—It would appear that that would be an inconsistent interpretation, actually. Under that staff position, that is more than possible? If, for example, former Premier Bannon became a broadcaster, he would be—

**Senator Conroy**—Journalists have moved in and out of your office over many years. We tend to not regard them as necessarily partisan simply because they have worked in a minister's office—in terms of journalists—so I am not sure about the rule you are attempting to apply.

**Senator WEBBER**—Senator Kemp, it is just as likely that Eoin Cameron, the previous Liberal member for Stirling, who currently works for ABC Perth, could be elected as the staff representative?

**Senator Conroy**—True.

**Senator KEMP**—Wonderful. I am excited by that, I can assure you.

**Senator Conroy**—Perhaps if you went to work for the ABC, Senator Kemp, you could maybe get elected.

**Senator WEBBER**—They might even elect you—

**Senator KEMP**—I do not think I would count the votes, though, Senator Webber. I do not think I would put any money on his being elected there.

**Senator Conroy**—I do not know—you have shown yourself to be adept at numbers over the years, Senator Kemp. Perhaps if Michael Kroger ran it for you?

**Senator KEMP**—I have a couple of other things. In respect of this staff-elected director, what will the protocols be that will be in place to make sure that he or she abides under the same protocols as a Nolan/Conroy appointee to the board?

**Senator Conroy**—They will be the same protocols.

**Senator KEMP**—For example, if a staff-elected director leaks to the staff a particular issue which has been dealt with by the board, you would expect the chairman, if he discovered that, to seek the resignation of that director—is that right?

**Senator Conroy**—I am confident that all board members would be very, very conscious of their responsibilities with an organisation as important to many Australians as the ABC is.

**Senator KEMP**—You are aware, of course, as you are a great student of history, that there was an issue with a former staff-elected appointee to the board.

**Senator Conroy**—I am aware that there was an allegation. I am not aware if there was any substantive finding.

**Senator KEMP**—We have quite rightly heard some fairly fulsome praise about the chairman of the ABC, Mr Newman. Of course, he resigned, as you know, over a particular issue involving staff-appointed—

**Senator CONROY**—I think you are perhaps putting some words in Mr Newman's—

**Senator KEMP**—In that case, tell me what the history was.

**Senator Conroy**—I remember reading Mr Newman's resignation, but I do not remember his making the assertions that you are currently putting to me.

**Senator KEMP**—No, I am not making the assertions; I am just saying that there was a problem, and Mr Newman felt that it was not appropriate that there should be a staff-elected position on the board.

**Senator Conroy**—I do not have handy Mr Newman's resignation statement, but I think perhaps you are imputing some things that are not necessarily accurate. I am not saying you are wrong; I am just saying that my recollection is not as you are describing.

**Senator BIRMINGHAM**—Perhaps if I can help refresh Senator Conroy's memory, given the desire to read from the computer.

**Senator Conroy**—You are not reading from a computer, are you, Senator Birmingham? Will you table that computer?

**Senator BIRMINGHAM**—I like to learn from the best, Minister. I like to learn from the best indeed. I believe in his resignation letter to the then Minister, Mr Newman said:

You may be aware of the recent gross breach of boardroom confidentiality on the issue of independent monitoring of ABC broadcasts. This, and the inability to secure the agreement of the staff elected director to the board's governance protocols, leaves open the potential for further leaking of boardroom deliberations and papers should they be judged to be of concern.

I gather this highlights what concerns Mr Newman—

**Senator Conroy**—Unless you want to expand and cast an aspersion, there is no aspersion cast there against any individual. There is a suggestion of a leak.

**Senator BIRMINGHAM**—No, there is a concern about the position, a position that you are proposing to reinstate, that the board chairman has grave concerns over. Have you discussed those concerns with the chairman? You have not met with him yet, I gather?

**Senator Conroy**—I have not met with him since the election, but I have discussed those concerns with him.

**Senator BIRMINGHAM**—Does he still maintain those concerns?

**Senator Conroy**—You would have to ask Mr Newman that.

**Senator BIRMINGHAM**—Has he expressed them to you?

**Senator KEMP**—He discussed them with you.

**Senator Conroy**—I am afraid that I do not reveal the contents of private conversations, but if you would like to ask the chairman, you are welcome to.

**Senator KEMP**—That is a bit of a surprise.

**Senator Conroy**—Let us be clear: this is an election commitment that was voted on as part of the election last year, and we intend to deliver on our election commitments.

**Senator BIRMINGHAM**—Are you concerned that your election commitment that you intend to deliver on may jeopardise the continued position of Mr Newman, whom you have described as an excellent chairman and someone of whom you have high regard?

**Senator Conroy**—I cannot speak for Mr Newman, but I have not had any indication at any stage that any member of the board is considering resignation over any matter.

**Senator BIRMINGHAM**—Mr Newman once previously resigned from the board over this issue.

**Senator Conroy**—You are putting a hypothetical scenario to me on which I am not in a position to comment.

**Senator KEMP**—Why don't we read the words again?

**Senator Conroy**—I am very familiar with the words and the way that you have attempted to link them is not the construction.

**Senator Kemp**—Don't attempt to verbal people.

**Senator Conroy**—The way you are constructing them is not how I interpret them.

**Senator BERNARDI**—Minister, if there were a situation in which a board-elected representative were found to be in breach of board confidentiality, would you expect them to not only resign from the board but resign from their employment with the ABC?

**Senator Conroy**—I am confident that all board members will be mindful of the commitment that they have made and the trust they have been given, and I do not foresee that this will arise. On the second issue—

**Senator BERNARDI**—In the event that it did arise?

**Senator Conroy**—If any board member were found to be acting improperly, I would anticipate there would be potential disciplinary actions within the board processes. But, let me be clear about this, because this is a matter that goes well beyond the ABC board: there are many directors on many boards who refuse to agree to certain what could possibly be described as gagging principles, and I can cite you a range of directors on a range of boards, both commercial and public, who have not been prepared to agree to some of the things that are being put forward. It has nothing to do with the concept of leaking; they just fundamentally do not believe the role of a board member is to sit there and not participate and go along with everything that is discussed. I can quote to you both commercial and public boards where that is the case.

**Senator BERNARDI**—That may be the case within the board environment, but certainly the board reaches a position and reflects that to the wider public. Going by your principles, you would be happy to come out and cause public dissent to your cabinet positions?

**Senator Conroy**—No, with respect to cabinet, we sign an agreement, as you well know, about cabinet solidarity. What you are seeking to do is actually enforce that on corporate boards as well as public boards around Australia.

**Senator BERNARDI**—Corporate boards operate according to very strict—

**Senator Conroy**—Could I put to you—

**Senator BERNARDI**—I know you have sat on a number of them within the union movement, but I am just interested in whether—

**Senator Conroy**—Oh, no.

**Senator BERNARDI**—You have never sat on a board; is that what you are telling us?

**Senator Conroy**—No; I said not in the union movement.

**Senator BERNARDI**—What boards have you sat on, Senator Conroy?

**Senator Conroy**—I am the President of Volleyball Victoria.

**Senator BERNARDI**—That is terrific. Do you issue dissent with regard to your position with—

**Senator KEMP**—You are in concert with former Senator Schacht.

**Senator Conroy**—That is a matter of the federal board, not the Victorian board. I have also been on the federal board.

**Senator BERNARDI**—It comes back to the question—

**Senator Conroy**—I am sure you would agree with that.

**Senator BERNARDI**—I am not discussing dissent within the board environment; that is normal. You discuss it and the board reaches a view. But where you have someone wilfully breaching board confidentiality and they can be then summarily dismissed or asked to resign from the board, do you believe that, if that were a staff member of the ABC, they should be dismissed or asked to resign from their position with the ABC?

**Senator Conroy**—I do not accept that any one position on the board is more likely than another to be guilty of what you are describing. You are actually asking me to comment on a hypothetical which I do not believe will arise as an issue.

**Senator BERNARDI**—It just goes to knowing your governance procedures and what sorts of standards you will be expecting from your board appointees or under the Conroy system.

**Senator Conroy**—I am sure that the chairman will make clear to all board members their responsibilities. If there is a breach of the rules of the board, I am sure there are processes to be taken up within the processes of the board.

**Senator BERNARDI**—I go back to process. In the unlikely event, as you have said, that you decide to cut short the term of a particular board member or board members, is there a standard procedure in relation to the payout of the remainder of their appointment term or a severance payment? How does that process work?

**Senator Conroy**—**Senator Conroy**—Let us be clear; you are asking me again to comment on a hypothetical which—

**Senator BERNARDI**—It goes to process, Minister.

**Senator Conroy**—in the past has not been something that ministers or the majority of parliamentarians comment on, so I do not intend to. For your comfort, there are currently

penalties in the ABC Act for breaches of confidentiality. They are there now; they apply to all board members, and they will continue to apply to all board members. Because there has been a suggestion about an imputation by some members opposite that a particular individual was responsible for the leaking of material, I indicate that the said individual said at the time of Mr Newman's decision to resign that it was regretted but refused to take the blame for his actions. He stated:

I stand by my recent letter raising concerns about political pressure and interference with the ABC, and on legal advice, I was unable to agree to the code of conduct as it would have been inconsistent with my legal obligations as an independent director to act in good faith and in the best interests of the corporation.

If you want to talk about governance, attempts to gag board members, as has happened in corporate Australia as well, often flounder on this concept of an independent director. Attempts to gag someone with whom you do not agree have met this legal issue of them saying, 'I am actually an elected independent director.'

**Senator BERNARDI**—Minister, you are talking the good talk but you are not answering the actual questions.

**Senator KEMP**—He is good at that.

**Senator BERNARDI**—Yes.

**Senator Conroy**—As I said, I am trying to model myself on Senator Kemp but as he said, I still have a long way to go.

**Senator BERNARDI**—You do have a long way to go, but with experience—I do not know that anyone is attempting to malign it. We are just trying to establish the process and the accountability—

**Senator Conroy**—There are existing processes. There are existing penalties under the law.

**Senator BERNARDI**—What are those penalties?

**Senator Conroy**—I am sure we can get you the exact penalties—Mr Scott?

**Mr Scott**—I am not aware of them, Senator.

**Senator Conroy**—We will get them and have them read out to you thoroughly.

**Senator BERNARDI**—Thank you. Do you accept that there may be or perhaps could be or should be additional consequences for a staff-elected board member who was—

**Senator Conroy**—I do not think there should be additional consequences for any board member. There should be a consistent set of consequences for all board members.

**Senator BERNARDI**—You would not support the fact that, if a staff-elected board member breached confidentiality, they should lose their position, their employment outside of the board?

**Senator Conroy**—No. I am saying that there should be consistent penalties for all board members, and as soon as we have a copy of the act we will be able to go through those with you. They may include dismissal.



**Senator KEMP**—Minister, is there any chance of the same issue to which you referred—the code of conduct issue and the ability of the staff-elected representative to sign or not to sign that—likely to arise again?

**Senator Conroy**—I am certainly not accepting that it arose on behalf of the staff-elected director previously. My position is consistent: all board members should be bound by the same rules and penalties.

**Senator KEMP**—But did not the transcript that you read to us just then indicate that the staff-elected board member was unable to sign the code of conduct because it conflicted with what she saw as her responsibilities?

**Senator Conroy**—No, the legal advice she had received was about her legal obligations.

**Senator KEMP**—That is the question: is this likely to occur again?

**Senator Conroy**—That depends on the code of conduct. You are asking a hypothetical. Presumably—

**Senator KEMP**—It is not really, because we are presuming there is a current code of conduct and it led to a higher degree of tension in relation to the board and ultimately to the resignation of Mr Newman. I am not trying to score a political point here, Senator. I am just asking you if it is likely that the same problem could arise again.

**Senator Conroy**—You are asking a hypothetical question.

**Senator KEMP**—There is still a code of conduct, presumably, and there is legal advice that indicates that the ABC staff-elected person cannot sign it.

**Senator Conroy**—I would think the ABC Board would not want people to sign something that has potentially breached the legal obligations of an independent director to act in good faith and in the best interests of the corporation.

**Senator BERNARDI**—Are you waiting for bad news in relation to that?

**Senator KEMP**—No, I think it is actually quite important.

**Senator BERNARDI**—You have to be a bit proactive about this.

**Senator KEMP**—I just make the point—

**CHAIR**—Which of you is asking the questions?

**Senator BERNARDI**—All three of us.

**Senator KEMP**—I think it is actually quite important. We had a situation which led to a great deal of conflict and led the resignation of a board member who has now been appointed as chairman of the Board—a very distinguished chairman who clearly has strong bipartisan support. I am really trying to get some guidance from the minister on—

**Senator Conroy**—But not all board members felt as strongly. I can think of one prominent board member who is perhaps known to you and to me who did not resign over it.

**Senator KEMP**—No, I understand that, but what I am saying is that you have a chairman who has expressed a very strong view in relation to a problem that a board member had in

signing a code of conduct. Firstly, is that code of conduct still in place? Secondly, is the legal advice the same?

**Senator Conroy**—I have just had drawn to my attention a quick summary of the code. Directors are required to observe the ABC Board protocol, first adopted in September 2004, which sets out their responsibilities and rights. They are required to provide a declaration of interests upon their appointment. This is updated regularly. At each meeting directors are asked if they wish to declare a material personal interest in any items on the agenda. Induction processes are in place for new board members and online training is available through provision of the directors' manual and public sector governance strategy modules from CCH Australia Ltd. Other professional development for directors is provided on a case-by-case basis. In addition, the board is subject to further obligations and individual directors are required to meet objectives, standards of care and good faith as set out in the Commonwealth Authorities and Companies Act 1997.

**Senator KEMP**—So what is the answer to the question?

**Senator Conroy**—You are asking me to answer a hypothetical question.

**Senator KEMP**—No, I am just asking you: is the code of conduct that was in place at the time that Mr Newman resigned still in place? Is the legal advice that the staff-elected representative acted upon still the relevant legal advice that is available to staff?

**Senator Conroy**—Because we are going back some time in history, to 2000, I will probably need to take that on notice. I have been doing my best to answer, but now you are asking me some factual questions about some past history which I was not—

**Senator KEMP**—It is an important question, is it not?

**Senator Conroy**—It is.

**Senator KEMP**—I am wondering if you have really thought it through.

**Senator Conroy**—That is why I want to get you an accurate answer. I was not in charge of the ABC at the time, as you would be well aware, and I am very conscious of wanting to give you the correct answer, so I am happy to take that on notice.

**Senator KEMP**—Fantastic. We shall leave it there. Can I also get your assurance on this: I was very worried about the comment that Mr Ron Brunton had made on John Pilger. I do not want to misquote my colleague Senator Allison. Would you be very upset about Ron Brunton's views on John Pilger?

**Senator Conroy**—I am not going to join in a slanging match between two pseudo academics.

**Senator KEMP**—That is very nice—you already have. I think by that very comment you have joined in the slanging match. I do take it that you have not been a great fan of John Pilger in the past?

**Senator Conroy**—I am not sure what that has to do with the additional Senate estimates in which we are currently engaged. Perhaps we can chat about it in the coffee line at Aussies, as we often do.

**Senator KEMP**—I saw you reeling at that question from Senator Allison. You were shocked to hear of Ron Brunton's comments on John Pilger, but I just really wanted to see if you wanted to respond, just for the record. I have a couple of questions on bias in the ABC.

**CHAIR**—Do you have any more questions on the board?

**Senator BIRMINGHAM**—Yes, thank you, Chair. Senator Conroy, just to conclude on the staff director, can we have your assurance that if the protocols that the board currently have in place do not conflict with any other responsibilities of a director, you would expect the staff-appointed director, should the parliament approve such a thing, to adhere to and agree to such protocols?

**Senator Conroy**—Providing the staff-elected director's legal advice is that their code of conduct is consistent with their legal obligations, I cannot imagine there would be an issue.

**Senator BIRMINGHAM**—Surely the board should have some legal advice ensuring that the protocols are appropriate for all directors, and that should be the basis on which an expectation is applied to a staff-elected director, not a staff-elected director coming in with their own legal advice.

**Senator Conroy**—I am not a lawyer; I am not sure if you are.

**Senator BIRMINGHAM**—No, I am not either.

**Senator Conroy**—Thankfully, but as you know, sometimes different lawyers can come up with different advice.

**Senator BIRMINGHAM**—They can indeed.

**Senator Conroy**—I would not want to gainsay that legal advice could be found to the contrary.

**Senator BIRMINGHAM**—I am sure legal advice can nearly always be found to the contrary, which is my concern that a staff-elected director could shop around for legal advice to the contrary, even though the board may have very strong grounds that its protocols are effective and legal for all directors to be bound by.

**Senator Conroy**—That is a bit of a conspiracy theory that you are developing, and you are welcome to it.

**Senator BIRMINGHAM**—It is far from a conspiracy theory. I am asking you if all directors will be treated equally. Will they all be treated equally and expected to adhere to protocols?

**Senator Conroy**—They will be treated equally, depending on the legal advice they receive. I am not in a position to comment about legal advice that does not exist at this point in time.

**Senator BIRMINGHAM**—As long as they can table some legal advice that brings it into doubt, they can get away with being on the board without adhering to those protocols?

**Senator Conroy**—The question of any board member being able to openly flout the protocols, the code of conduct, will be a matter for the board to deal with first and foremost.

**Senator BIRMINGHAM**—You are the one who makes the appointments, Minister, notwithstanding the Nolan committee.

**Senator Conroy**—No, not under the new system.

**Senator BIRMINGHAM**—Thank you, Minister. That brings me to the next line of questions.

**Senator Conroy**—Would you like to appoint the committee? We can get that IPA quota up, if you like, Senator Kemp. A bit of a faction fight between the IPA and *Quadrant* here, is there?

**Senator KEMP**—We should be able to judge this better when we see all your—

**Senator Conroy**—I think Senator Birmingham was trying to ask more questions.

**Senator BIRMINGHAM**—Yes, I am still asking questions on the board. The minister has segued nicely to the Nolan-Conroy committee, so just returning to that for a moment: Minister, we are clear that you will make the appointments to that committee, but you are not sure how many there will be or how much they will be paid?

**Senator Conroy**—No—we are taking advice on those matters at the moment.

**Senator BIRMINGHAM**—But you will be responsible for those appointments?

**Senator Conroy**—We will not be rushing this. We want to make sure that we get it dead right.

**Senator BIRMINGHAM**—Does that mean you will be making the appointments?

**Senator Conroy**—I think I have already said that a couple of times to your colleagues.

**Senator BIRMINGHAM**—Yes, that is the clarification I was looking for. Thank you. On that committee there will be no MPs, former MPs, political staffers or former political staffers?

**Senator Conroy**—You are not putting up an application? I offered to put Senator Kemp at the top; I can put you at the top.

**Senator BIRMINGHAM**—I am hopefully gainfully employed for the next few years. I have all sympathy for my colleague Senator Kemp.

**Senator Conroy**—I know. It is pretty shameless, touting like he is.

**Senator BIRMINGHAM**—The answer to the question, though?

**Senator Conroy**—I am not aware of anyone who has indicated they have an interest in any of the fields you have described. I have an open mind, but I have not made a final decision. I do not anticipate it—can I say that?

**Senator BIRMINGHAM**—You do not anticipate it, but you are not ruling out that there could be former political staffers or former MPs on the appointments committee?

**Senator KEMP**—To appoint the neutral appointee?

**Senator Conroy**—Yes, I understand the point, and it is an important point. As you can see, I am giving you some serious consideration. I would say that we will take that under consideration. I appreciate the point you are making. We will consider that at this stage.

**Senator BIRMINGHAM**—What about senior public servants?

**Senator KEMP**—No-one from politics, no-one from business, no-one from the public service—

**Senator Conroy**—I will come back to your question in a second.

**Senator BIRMINGHAM**—I have a bloke in West Adelaide in mind who I think fits the bill—just narrowing the criteria for us.

**Senator Conroy**—Just a clarifying point that is important: when I say I will be selecting, I will be making recommendations to the Governor-General. That is probably the better way to describe the process.

**Senator BIRMINGHAM**—For the Nolan-Conroy committee. It will be—

**Senator KEMP**—That will be of enormous comfort, I am sure.

**Senator Conroy**—You appointed the Governor-General; it has to give you comfort. He is a wise man.

**Senator KEMP**—That probably means that it will go to cabinet as well.

**Senator Conroy**—I am sorry, Senator Birmingham, I missed your follow-up question.

**Senator BIRMINGHAM**—Regarding senior public servants, will they be eligible to sit on the appointments committee?

**Senator Conroy**—If you note the recent changes we have made to the public sector appointments you will see that some senior public servants are involved in appointments of those processes, like the Public Service Commissioner and the secretary of the relevant department. We have put in place a range of selection processes that do involve some public servants, but, as I said, at this stage we have not made any final decisions. I would not want to pre-empt my final decision.

**Senator BIRMINGHAM**—Anybody can add names to the application list?

**Senator Conroy**—Absolutely. We will be advertising and asking who would like to be on the Nolan panel, if we can borrow that phrase.

**Senator BIRMINGHAM**—Yes, indeed. Once the panel is established, anybody can make an application to that panel to be an ABC director?

**Senator Conroy**—Yes.

**Senator BIRMINGHAM**—You will be able to nominate names as well?

**Senator Conroy**—There will be a public process, so I would not anticipate that I will be adding names, but you raise an important point and I will take that on board in consideration of the process.

**Senator KEMP**—You could probably have a quiet word to a mate who could then put in his form, I guess?

**Senator Conroy**—With respect to our mutual friend, you might want to put his name forward, but I would be too shy.

**Senator KEMP**—I think I know to whom you are referring.

**Senator BIRMINGHAM**—Reserving the right as to whether or not you can add names yourself or whether other government ministers can, obviously it is an important principle not just for you but also applied across the ministry.

**Senator Conroy**—Sure.

**Senator BIRMINGHAM**—When it comes to the short-listing—and as I understand it, from what you have said before, the panel will then short-list names—you will make a selection from that short list—

**Senator Conroy**—Yes.

**Senator BIRMINGHAM**—to cabinet, and recommendations?

**Senator Conroy**—But if I choose to reject all of those, then I think part of that process is that I have to notify parliament about why I have chosen to do that. I am not suggesting that I would have to take one of those, but I would have to go through a separate transparent process about why I was unhappy or did not believe they were suitable and someone else was.

**Senator BIRMINGHAM**—Is there an expectation of how large this short list would be?

**Senator Conroy**—As I said, three is probably a reasonable number to put forward, but if you have an alternate suggestion, you are welcome to make a contribution.

**Senator BIRMINGHAM**—Are you aware of concerns and criticism in the UK that have emanated recently over the appointment of the most recent BBC chairman, Sir Michael Lyons, using the Nolan process?

**Senator Conroy**—I am sure that there is always lots of commentary about appointments under any process.

**Senator BIRMINGHAM**—I will quote again from the screen, if I may, Minister. The House of Lords Communications Committee is quoted as saying, in criticising the process:

Ministers appointed the selection panel, Ministers were allowed to change the shortlist of candidates and ultimately Ministers were able to choose between the four candidates who passed the interview process. What is clear is that this process gives Ministers considerable opportunity to influence the selection.

Noting that you have not given clear answers to some of the issues that are still obviously under consideration, I would urge you to bear those concerns in mind—that, if this is to be a truly independent process, the independence of the selection panel is absolutely crucial to it.

**Senator Conroy**—I accept the point you are making. As I said, I do not want to pre-empt our final decision on a number of these issues, but I will take on board the commentary and your observations from the UK.

**Senator KEMP**—What do the Nolan principles say in relation to having a member of a board who does not go through the Nolan principles? Do the Nolan principles make any comment about a staff-elected representative to a board?

**Senator Conroy**—We think there is silence on that issue. We are just checking, but we think there are no BBC staff appointments.

**Senator KEMP**—I make the point, given the fact that you are making a very strong commitment to the Nolan principles—I do not want to score an obvious political point—one would have thought that you would have been aware of that.

**Senator Conroy**—I was not aware of it. I just wanted to double check that there was silence.

**Senator KEMP**—If there is silence it is because it is assumed that all board members would undergo the same selection process, I guess.

**Senator Conroy**—The people of Australia voted for our political party which advanced the principle of a staff-elected appointment and we intend to implement our election promise.

**Senator KEMP**—If I have had all those people coming up to me in the street saying, ‘I’m so glad the Nolan-Conroy principles are going to now be applied,’ Senator—

**Senator Conroy**—Now it is beginning to dawn on you why you are on the opposition benches.

**Senator KEMP**—Not for long. Now I have some other questions outside the issue of the board.

**CHAIR**—We have a few more about the board. Senator Parry may ask his question first.

**Senator PARRY**—Minister, you indicated that you have the right to reject all the nominees under the Nolan principle nomination and you have to have a transparent process to explain why. To whom do you explain—the public?

**Senator Conroy**—The parliament.

**Senator PARRY**—As a ministerial statement to parliament?

**Senator Conroy**—Yes.

**Senator PARRY**—What would then happen if you rejected all? Does the process commence again or do you have a right to directly appoint then?

**Senator Conroy**—We are still considering that matter. I do not want to pre-empt the final decision on that.

**Senator PARRY**—So, there is a possibility that the whole Nolan committee could be bypassed? If you reject all and make a ministerial statement, in theory you might be able to appoint directly?

**Senator Conroy**—We are making the point that, if we reject them and then choose somebody else, that is when we have to make a ministerial statement to parliament.

**Senator PARRY**—So you can do that?

**Senator Conroy**—That is a possibility.

**Senator PARRY**—So this could be a token Nolan committee?

**Senator Conroy**—I am confident that it will put forward names that are of sufficient calibre and that it will not be necessary.

**Senator PARRY**—It will be interesting to watch, then, if all are rejected and you directly appoint?

**Senator Conroy**—The good news is that you will get to know about it because it will be open and transparent.

**Senator PARRY**—That is very good.

**Senator Conroy**—Unlike the board processes that existed previously, which were: Janette, get the Christmas card list; let us just go down to who has not been appointed yet.

**Senator KEMP**—Who, I might say, appointed a chairman whom you think is quite outstanding?

**Senator Conroy**—Yes. The government on the odd occasions—

**Senator KEMP**—Yes, I will just record that, Senator.

**Senator Conroy**—On the odd occasions, there have been some excellent appointments.

**Senator BIRMINGHAM**—Speaking of chairmen, Minister, will the appointment of the chairman be subject to the Nolan-Conroy principles committee as well?

**Senator Conroy**—As I think the Prime Minister has also indicated, with respect to the chairman, he will be seeking to get bipartisan agreement from the parliament and consult the Leader of the Opposition.

**Senator BIRMINGHAM**—Which is most welcome.

**Senator Conroy**—Which is Dr Nelson.

**Senator BIRMINGHAM**—Yes, I am aware it is Dr Nelson.

**Senator Conroy**—You just seemed to be struggling there for a second.

**Senator BIRMINGHAM**—No; I am just confirming. So you will not be putting it through the Nolan committee first prior to the Prime Minister taking his recommendation?

**Senator Conroy**—I think the intention of the policy position is to try to find an individual who has bipartisan political support. As I said, what is important about what we are trying to do is restore the public's confidence in the board of the ABC to take away this debate that has been going on for many, many years. The ABC is too important an institution to be constantly subjected to the sorts of attacks that have gone on over the last 20 or 30 years. I have said this consistently and my predecessor, Lindsay Tanner, also said that it is perhaps the case that we may have made a few appointments that were associated with us.

**Senator BIRMINGHAM**—No!

**Senator PARRY**—A lot of appointments.

**Senator Conroy**—It is possible that we do not come to this debate with clean hands, and the opposition of the day have rightfully criticised that. We are attempting to take us into a new era whereby we get bipartisan consensus around the chair and have a process of selection that has some rigour and some independence. That will enable us to then move on in the debate around the ABC, particularly its board.

**Senator BIRMINGHAM**—The appointment of chairman almost sounds like a model proposed for the appointment of a president a few years ago.



**Senator LUNDY**—I was interested in Senator Bernardi's questions. He would have a great deal of knowledge about being a political appointee to a board, given he was a member of the Australian Sports Commission board, so I am sorry he left because he could have actually enlightened us about the nature of political appointments for remuneration and entitlements otherwise.

**Senator KEMP**—I doubt whether he would have recovered from that attack.

**Senator LUNDY**—I thought it was pertinent to mention, given he has had direct personal experience in being a political appointee.

**Senator Conroy**—Sorry, who are we talking about? Senator Bernardi.

**Senator KEMP**—Who has not around the table? I mean, get real, Senator.

**Senator Conroy**—Did you appoint him?

**Senator LUNDY**—No, it was not Senator Kemp's appointment; otherwise I would have drawn that to your attention.

**Senator KEMP**—I would have appointed him if his name had come forward, but I will have to check the record on that.

**CHAIR**—Have we had enough questions about the board? I am conscious of the time.

**Senator KEMP**—It is just that there was an unfortunate attack by Senator Lundy on my colleague.

**CHAIR**—Are there any further questions before I go to Senator Allison?

**Senator KEMP**—Yes, I have some questions, not on the board but in relation to issues of ABC and *Media Watch*.

**CHAIR**—We are not doing that just yet. Senator Allison indicated some time ago that she had questions about funding, which I thought was what we were all about here.

**Senator KEMP**—Welcome to Senate estimates committees, Chairman.

**Senator ALLISON**—Some time ago—in fact, well before the last election—you indicated that you thought the ABC was starved of adequate funding. Are you able to advise the committee as to what we can expect by way of adequate funding for the ABC?

**Senator Conroy**—I did get some questions along this line earlier in the day, Senator Allison, and I said that I would love to be able to give a scoop about the budgetary processes of the government, but I am not in a position to comment at this stage, as all of these matters are tied up in the budgetary process.

**Senator ALLISON**—But Labor will be honouring its promise?

**Senator PARRY**—He cannot remember the promise.

**Senator Conroy**—When you say a promise, could you quote our election commitment that you are putting forward?

**Senator ALLISON**—Yes, that Labor will provide adequate funding on a triennial basis to the ABC and SBS and provide support for public broadcasting free from political and commercial interference.

**Senator Conroy**—We will meet that commitment. I think that is in our platform rather than in our election policies.

**Senator BIRMINGHAM**—I think you should be able to agree to that.

**Senator Conroy**—As I said, I am sure we will meet that. That was out of our platform, I suspect, rather than an election commitment.

**Senator ALLISON**—I think your election commitments have disappeared off your website, Senator, so it is a bit hard to check them.

**Senator KEMP**—Surprise, surprise! Why would that be, Senator Conroy?

**Senator Conroy**—No, I think you will find that that is not correct.

**Senator ALLISON**—I will check that in a moment, but I certainly had trouble a little earlier today.

**Senator Conroy**—It would have to be up there first before it could disappear.

**Senator ALLISON**—Sorry?

**Senator Conroy**—It would have to be put up before it could be taken down.

**Senator BIRMINGHAM**—Your commitments were never put on the website?

**Senator ALLISON**—They were.

**Senator Conroy**—No, our election platform has always been available. In terms of what we committed to during the election, they are clearly stated. What is in the ALP national platform was not election commitments. We went into the election with a very specific set of election commitments.

**Senator ALLISON**—Are they on the website still?

**Senator Conroy**—I would have to double-check; I have not instructed that anything be taken down, but I do not think you will find that there is a specific ABC election commitment, which is my point. It has to be up there before it can be taken down.

**Senator PARRY**—What is your website address, Senator? I do not go there very often. What is the web address?

**Senator ALLISON**—Just Google Labor.

**Senator ALLISON**—Was indexation part of your platform—that funding for the ABC and SBS would be indexed?

**Senator Conroy**—I do not believe that that was either in our platform or in an election commitment.

**Senator ALLISON**—It was in your platform.

**Senator Conroy**—It was not listed as an election commitment.

**Senator ALLISON**—You heavily criticised as being too low at, I think, \$2 million, the funding for content of the two new digital channels?

**Senator Conroy**—The government's priorities in the forthcoming budget are election commitments.

**Senator ALLISON**—Yes, but you are not able to tell me what those election commitments are, so the next best thing is to ask you—

**Senator Conroy**—No, I am very conscious of what our election commitments are. You are asking me about things that were not election commitments.

**Senator ALLISON**—We do not know, because you cannot remember, and I cannot find it on your website, so we are in a fairly difficult position.

**Senator Conroy**—No; you are asking me a range of questions on policy initiatives that were not part of our election commitments.

**Senator ALLISON**—Were not?

**Senator Conroy**—Were not.

**Senator ALLISON**—I might ask why that would be the case.

**Senator KEMP**—I may be able to help here, Senator. I have a press release from Senator Conroy, dated May 2006—not so long ago—which states that the review found that the ABC needs an extra \$125 million above inflation over the next three years just to sustain the current range of services. Is that still your view?

**Senator Conroy**—With respect to budget considerations, as I said, I would love to give you a scoop, Senator.

**Senator KEMP**—I am just quoting from a Conroy press release. These are not figures invented by me.

**Senator Conroy**—The election commitments we made public are public, and I will not go into what is under consideration or not in the budgetary processes. You never would, when I asked you, when I found it intriguing that you—

**Senator KEMP**—But I just wonder whether this is still your view? Is that still your view?

**Senator Conroy**—I will not comment on the budgetary deliberations. You never did. I am sure that, while you are trying to get a scoop from me, you will fail.

**Senator KEMP**—I know there has been a habit in this committee of re-reading quotes, so let me re-read a quote from Senator Conroy's press release dated 10 May:

According to media reports, the KMPG funding adequacy review found that the ABC needs an extra \$125 million above inflation over the next three years just to sustain the current range of services.

My question to you is: is that still your view, forgetting budget processes?

**Senator Conroy**—The KPMG report, as it was part of government considerations for a budget in cabinet, is not available to the incoming government.

**Senator ALLISON**—So you have not seen that report?

**Senator Conroy**—No.

**Senator KEMP**—I might say that that did not stop you from making a lot of comments about it. You are a man of great capacity. You said:

It is a disgrace that Senator Coonan—

this is your quote, not mine—

continues to try and hide the extent of ABC under funding ...

**Senator Conroy**—That press release was in relation to a leaked couple of pages from a draft KPMG report. In terms of the KPMG report, it is not available to the incoming government as it constituted advice to the previous government.

**Senator ALLISON**—How do you know that that leaked page was a draft and not something that is in the final report?

**Senator Conroy**—Because it got leaked to me and it had ‘draft’ stamped on the top of it.

**Senator KEMP**—So you have actually seen the report?

**Senator Conroy**—No. It came in the mail and it had ‘draft’ stamped on the top of it.

**Senator ALLISON**—Will you be commissioning a further report on the adequacy of the ABC’s funding in light of the fact that you do not have access to the one that was done?

**Senator Conroy**—We are in continuous discussion with the ABC about its funding needs. The triennial funding is up at the end of this financial year, and we will be having considerations for the next financial year. We will be having lengthy discussions with the ABC about its needs. The ABC has seen the report and is well aware of its recommendations.

**Senator ALLISON**—But you are in the dark. You are the ones making the decision and you are in the dark; is that right?

**Senator Conroy**—Welcome to an episode of *Yes Minister*.

**Senator ALLISON**—Why would you not commission a further study, one that is a couple of years down the track for one thing, to determine in an independent sense what the ABC requires?

**Senator Conroy**—The ABC is well aware of the findings of the KPMG report, and it will be putting forward its recommendations for the next round of triennial funding over the course of this year—to be put forward into the budget after this coming budget. As always, I will be having discussions with the ABC. The ABC is fully aware of what the report contains.

**Senator ALLISON**—How do you check the veracity of the ABC’s claim for additional funding?

**Senator Conroy**—I will compare it with the ‘draft’ leak—that is tongue-in-cheek. We will be engaged in extensive discussions with the ABC about its needs over the next 12 months.

**Senator ALLISON**—At the time you criticised the government’s funding arrangements for the ABC saying that the government had a \$14 billion surplus—I think this was March 2006. You intimated that that should allow governments to increase funding to the ABC; is that still your view? What is the update on the surplus?

**Senator Conroy**—You would have to come to the Treasury estimates and ask Treasury.

**Senator ALLISON**—But it is more than \$14 billion; yes?

**Senator Conroy**—You would have to come to the Treasury estimates and ask Treasury. I am not in a position to comment on that, mainly because I do not know at this point. It is not my portfolio.

**Senator KEMP**—That is not actually the substantive point that Senator Allison is making, is it? The substantive point was that you were saying that you cannot have a \$14 billion surplus and talk about not giving more money to the ABC, that was the substantive point?

**Senator Conroy**—As I have already indicated, I would love to give you a scoop—as good friends as we are, and even though you are a Carlton fan—but I am just not in a position to do so.

**CHAIR**—Senator Allison, are you finished with your line of questions?

**Senator ALLISON**—I think I have been stonewalled, Chair, so I probably am.

**Senator Conroy**—There was one point, if I could just clarify it with Senator Allison; I have just checked it. I think you said that our commitment to the ABC and SBS funding in our platform was for indexation. I am just looking at the relevant section. Would you be able to supply us with that?

**Senator ALLISON**—The relevant section?

**Senator Conroy**—Yes. I am just looking at the relevant section.

**Senator ALLISON**—I will have to take it on notice, Minister.

**Senator Conroy**—Thank you, because I just cannot find it.

**Senator KEMP**—You want Senator Allison to supply you with the relevant section from the ALP platform?

**Senator Conroy**—No, I just read the relevant section, and I am offering Senator Allison the opportunity to perhaps point me to it. Maybe I am reading the wrong part. I am offering her the opportunity to—

**Senator KEMP**—She only has a draft copy, Senator.

**Senator Conroy**—Did you send it to her in the mail?

**Senator KEMP**—Yes, I sent it to her in the mail.

**CHAIR**—Is that all from you, Senator Allison?

**Senator ALLISON**—Yes, thank you, Chair.

**Senator KEMP**—I have a couple of questions about the perennial issue of bias, which of course has been raised from time to time by Senator Conroy and others at this committee. I am referring to an article in the *Weekend Australian* of 15 and 16 December 2007 entitled ‘*Media Watch* silent on complaint.’ I think you will be aware of the issues. It says:

More than two months after The *Australian*’s political editor Dennis Shanahan formally complained to the ABC about a stinging—and, in Shanahan’s view, unjustified—attack by *Media Watch* on one of his articles, the national broadcaster has yet to formulate a response.

Shanahan said this terrible thing, and I hope he is washing his mouth out. *Media Watch* criticised Shanahan’s article of 31 August entitled, ‘Surge working, says US general’, which reported the view of the top US commander, General David Petraeus. The article says:

Program host Monica Attard criticised Shanahan for not taking a more critical stance towards Petraeus and the troop surge. She similarly criticised *The Sydney Morning Herald*’s Miranda Devine.

I suppose the truth is that we all know now about the surge and who was right and who was wrong on that issue. Can I ask Mr Scott: have you replied to that complaint?

**Mr Scott**—Yes, I understand that that complaint has been resolved. Our Audience and Consumer Affairs Division found that there had been two factual errors in the completion of that story to do with dates. Around the time of the reporting by Mr Shanahan and Ms Devine, there were reports released by the BBC and others that put into debate or conflict the relative effect of the surge up until that time. My recollection of the finding of Audience and Consumer Affairs is that *Media Watch* did not have the chronology of the release of those reports absolutely correct. We have corrected the public record on that; we have written to Mr Shanahan on that. I understand that Mr Shanahan has written back to the Audience and Consumer Affairs Division and thanked them for the comprehensiveness of their answer, even though it did take a considerable period of time to resolve.

**Senator KEMP**—How much time did it take in the end?

**Mr Scott**—I think it took more than the 60 days, which is a breach that was recognised in the response.

**Senator KEMP**—This was 31 August, and this was December, so it sounds like considerably more than 60 days.

**Mr Scott**—Yes, it did take longer and that was acknowledged in the response that went back from Audience and Consumer Affairs.

**Senator KEMP**—Has the ABC broadcast that correction?

**Mr Scott**—I believe we have corrected the website, but I will have to find out on notice.

**Senator KEMP**—I am sure that is of enormous comfort.

**Mr Scott**—*Media Watch* returns tonight, Senator.

**Senator KEMP**—Will *Media Watch* cover it tonight?

**Mr Scott**—I am not sure, but I understand it is just after *4 Corners*, so I expect the audience will be very high.

**Senator KEMP**—I am happy to speak to you later about that comment. We will be watching the release of emails today. That will hold our attention.

**Senator Conroy**—We will hold the dinner break at 8.30 tonight just for you, Senator Kemp.

**Senator KEMP**—Anyway, I am sure I will take that. But you cannot tell me whether the correction will be appearing on air?

**Mr Scott**—I am not aware of what is in the *Media Watch* script tonight. But when there are factual errors we correct the record that is available on the website and the transcript, so that when people go back and review it that record is set straight.

**Senator KEMP**—But the letter did not come from Monica Attard or Tim Palmer, did it?

**Mr Scott**—If someone makes a complaint, we have an Audience and Consumer Affairs Division that investigates the complaint and then a response is made to the person who makes the complaint.

**Senator KEMP**—I understand that. I am delighted that you say Mr Shanahan is happy about that.

**Mr Scott**—I have been informed that he has written to us thanking us for the process.

**Senator KEMP**—I bet he would be happier if the ABC actually broadcast it.

**Mr Scott**—I am not sure that he was happy about the original episode.

**Senator KEMP**—He was very unhappy. You do not have to not sure; I can assure you that he was very unhappy. But he did say this provocative comment that the surge was working.

**Mr Scott**—The story, as I recall, was to do with the conflicting reports at the time as to whether the surge was working.

**Senator KEMP**—With respect to the Brissenden report, can you take me through what has happened since that story broke? I have to say the ABC has written what can only be described as a very intense paper on this issue that I have off your website.

**Mr Scott**—Yes, indeed; it is an important issue.

**Senator KEMP**—I thought that you could tell us what you did in relation to that issue. Will you give us a very neat summary of the report that the ABC commissioned and tell us precisely what were your conclusions?

**Mr Scott**—Clearly when that report went to air and subsequently there was significant public debate around the decisions that had been made in the program to reveal what had been viewed as off-the-record conversations. As we investigated it, we decided that our editorial policies had largely been silent about the conflict that can emerge in issues like this between two responsibilities that journalists have. One is to protect confidential sources and the other is the overriding role of journalists to tell the truth and reveal the truth. Journalists often have to deal with attention in dealing with those two aims—both high-minded but that at times can come into conflict. We commissioned a report from our director of editorial policies, Mr Chadwick, to review not that broadcast per se but the extent to which our policies addressed the issues of off-the-record and background conversations and balancing the commitment to confidentiality against the public interest in disclosure of information. Also, a subsequent issue emerged in those programs about the appropriate practice where an ABC staff member becomes a participant in a story rather than purely an observer.

Mr Chadwick has written a report on this. We consulted widely around the report. We went to major international news organisations in this consultation, including the *New York Times* and public broadcasters around the world, and got their input into our paper. A paper is being circulated for internal discussion and debate, and I expect that, in the coming months, arising from that we will make amendments to our editorial policies to guide the decision making of journalists in situations like this in the future.

**Senator KEMP**—Let's cut to the chase. In light of what has happened, and in light of this report, what should Mr Brissenden have done or not done?

**Mr Scott**—This was investigated by Audience and Consumer Affairs at the time, and their finding was that, given the relative silence in our editorial policies around dealing with issues of this kind of complexity and the absence of further guidance to journalists in those

circumstances, we could understand how the decision was made to make that broadcast. I am sure Senator, that you, as a close student of these matters, would know that there was wide debate around this matter, even amongst the press gallery. Some journalists were highly critical of Mr Brissenden; others were supportive. I thought it was important to chart a way forward to be able to provide strong advice to our journalists if they encounter these factual issues again. Even though we had a complaint, Audience and Consumer Affairs did not find against Mr Brissenden or the *7.30 Report* team in these circumstances, but we are going to come up with more detailed guidance in our editorial policies. When they are finalised, I will be pleased to send you a copy.

**Senator KEMP**—This is taking a bit of time. You have had a major internal review; you have had a paper that has been done.

**Mr Scott**—I would put it to you—

**Senator KEMP**—All I am saying to you is that we have had a significant issue—and I quite agree with you that there has been a variety of views on what the responsibilities are, and I do think it is complex—

**Mr Scott**—I concede that you have recognised that it is a very detailed, comprehensive policy paper and it was a challenge to put it together.

**Senator KEMP**—It sure is.

**Mr Scott**—It certainly was not produced overnight. It happened after extensive consultation. I have seen some evidence of the response that has come back from major international news organisations on this. When we have this policy finalised, I can assure you that, on this complex matter, the ABC will have the most detailed and comprehensive editorial policy to provide advice to journalists in this matter.

**Senator KEMP**—I bet they will. But the question I want answered is: how should Mr Brissenden and the *7.30 Report* have acted in those circumstances? You are telling me, ‘At this point of time, Senator Kemp, I can’t give you any guidance.’ Is that right?

**Mr Scott**—No. What I can say to you is that, when the Audience and Consumer Affairs Division investigated it and reviewed it under the editorial policies that existed at the time, it came to the view that Mr Brissenden made a judgment based on the consideration of the ethics and the realities of the situation. What I have said to you is that that has generated some debate, with some people being critical of Mr Brissenden and others being supportive of Mr Brissenden, given the fact base. Given that ambiguity, given the contradictions that have existed in response to it, we thought it was important to clarify the policy and that is what we are doing now. Faced with similar circumstances again, our journalists will have greater clarity in dealing with the decision making process.

**Senator KEMP**—We try to leave the polmie speak to Senator Conroy, if we can, but what you are saying to me is that you still do not have a clear policy on this issue.

**Mr Scott**—No, I am saying that we are well down the road to resolving the policy. We have a draft paper which we are consulting our senior journalists on, and I expect that shortly our recommendations on the change of that policy will go to the board and then be incorporated in our editorial policies. The editorial policies are confirmed by the board.



**Senator KEMP**—But at this period of time, you are not in a position to indicate to me whether you felt that the conduct of Mr Brissenden and the conduct of the *7.30 Report* was appropriate.

**Mr Scott**—What I am accepting is that the Audience and Consumer Affairs Division, which undertakes these reviews for me, did not find against Mr Brissenden and the *7.30 Report*. However, because of the importance of the matter, we are reviewing the policies. That policy review will shortly be completed and then will be reflected in the editorial policies.

**Senator KEMP**—I think the shorter answer to me would have been, ‘Yes, that’s right, Senator.’

**Mr Scott**—I thought you deserved a richer answer than that!

**Senator KEMP**—Yes, well it certainly was.

**Senator Conroy**—For the record, I call it ‘Kemp-speak’!

**Senator KEMP**—At the risk that you might go through the same thing again, Mr Scott, let me alter my questions just slightly. Is the ABC stylebook available? Can you table that?

**Mr Scott**—Yes, it is. Are you talking about here, today? It is available online. We can make it available to you.

**Senator Conroy**—He does not have a computer, unfortunately. You may have to post it to him!

**Senator KEMP**—I will borrow yours, Senator. It would leave you sort of armless if I borrowed that.

**Mr Scott**—Our news division has a detailed style guide, as you know.

**Senator KEMP**—The famous memo in the ABC said that the ABC was not to refer to Australian troops as ‘our troops’. Is that part of the stylebook?

**Mr Scott**—I think it is part of the style guide, but, as you would be aware as a close student of the ABC, at any time of the day you can have up to 65 live microphones broadcasting live broadcasts under the banner of the ABC. So I would expect that, even though it is part of the style guide, on occasion you might be able to find an example where that was not followed. But the general style guide, the advice to journalists and broadcasters, does exist.

**Senator KEMP**—You may have missed the point I was making, or you may have known the point I was making and tried to avoid it! The issue was not whether or not we can refer to the Australian Forces as ‘our forces’ or ‘our Army’ according to the ABC style guide. I think a lot of the public would be worried about why our ABC cannot refer to ‘our Army’. You are the managing director and you might be able to tell anyone in the public who is interested in why they cannot do that.

**Mr Scott**—What, the origins of that policy decision?

**Senator KEMP**—Yes.

**Mr Green**—One of the issues is that a lot of this material goes internationally, so one is broadcasting to an audience that has different perspectives on what the dispute is about or the issues are. That was part of the consideration in constructing such a policy.

**Senator KEMP**—What was the other part?

**Mr Green**—A sense of delivering the facts as they are occurring.

**Senator KEMP**—But most Australians would know what ‘our Army’ is. I do not think that causes any concern?

**Mr Scott**—Going to Mr Green’s first point, Mr Green also runs our international division. The Australian network broadcasts ABC news and current Affairs to 44 different countries in the region.

**Senator KEMP**—Yes, I understand that point. That was part of the consideration. Mr Scott, you passed the ball to Mr Green—

**Mr Scott**—And he took the ball forward very well.

**Senator KEMP**—and I think you should leave the ball at this point with Mr Green. You said in part it was because of international broadcasting. I do not want to put words in your mouth—perhaps you could explain what the other part of the reason was.

**Mr Green**—There is no sense of wanting to distance ourselves from Australia’s defence commitments, but in terms of coverage I think the feeling of the news division is that reporting facts as they happen rather than attaching allegiances to particular facts is a more accurate way of portraying our news coverage.

**Senator KEMP**—I think most Australians and, I would suspect, 95 per cent of ABC listeners would understand ‘our army’ and would not be offended that the ABC was attaching some allegiance to our Army.

**Mr Scott**—In the last 18 months that I have been in the role, and from the correspondence we have had, it has hardly emerged in my consultations as a pressing issue. I think what most people want us to do is to be seen to be delivering a fair, balanced and impartial news service and be objective, and that is our top priority.

**Senator KEMP**—Absolutely, and that is why I think these sorts of memos and this sort of style guide is ridiculous. It just suggests that the ABC is covered in political correctness. What do you do if some poor journalist, such as Mr Brissenden, by mistake, refers to ‘our army’? What do you do? Do you summon him to the Audience and Consumer Affairs Division to tick him off? It is ridiculous.

**Mr Scott**—I would say to you that every major media outlet in the country has a style guide. Part of the reason for a style guide is to ensure that there is, in a sense, discipline when it comes to reporting and for there to be a standardisation in how news is advanced.

**Senator KEMP**—I am not the slightest bit worried that there is a style guide. As a former journalist at the Melbourne *Herald*, I understand fully the importance of a style guide. What I am concerned about is the ridiculous political correctness which is embodied in a memo that goes out to staff and says, ‘Don’t you dare refer to “our army”.’ What would the ABC have said if the chief of the general staff sent out a memo to Australian soldiers and said, don’t you

refer to 'our ABC'? It is ridiculous. I know you think it is ridiculous, and it is this sort of political correctness that I think has an unfortunate effect. I just hope that, in the years to come, we can purge ourselves of this type of language.

**Mr Scott**—I note your concern.

**Senator KEMP**—As to the use of the word 'terrorist', are we still on the same issue there? If some person walks into a crowded market place with a bomb strapped to his body and blows himself or herself up, is it the case that the ABC cannot refer to that person as 'a terrorist' but can refer to that person as 'a martyr'?

**Mr Scott**—There has been no change to the policy on this in the last 18 months that I am aware of.

**Senator KEMP**—Just explain to the Australian public why, if someone who walks into a marketplace, blows himself or herself up, kills 90 to 150 people, and maims hundreds of others, the ABC is prevented from referring to that person as 'a terrorist'?

**Mr Scott**—I think you will find—and I can pull out the memo and the style guide reference for you—that we talk about trying to avoid labelling. We do refer to terrorist organisations. Terrorist organisations are referred to by the ABC and labelled in that way, but if you want the full details, I can obtain them. I do not have the memo with me. It has hardly been an issue that has emerged in the last few years, but I can get it.

**Senator KEMP**—All I am saying is that this again is the ABC and the people who make these decisions being absurdly PC in my view. Does the style guide reflect on the use of the word 'martyr'?

**Mr Scott**—I am not aware off the top of my head.

**Senator KEMP**—We cannot refer to the person who blows himself up as 'a terrorist', according to the style guide, but he can be referred to, using the terms of Hamas, as 'a martyr'? To be quite frank, it is ridiculous. You know that it is absurd. Who are the people who make these decisions in the ABC? Who are these word experts? Is it a board decision?

**Mr Scott**—All I can tell you is that these policies are not new and have not been changed in recent times.

**Senator KEMP**—No, they are not new.

**Mr Scott**—A style guide is developed by the News and Current Affairs Division, and the editorial policies are signed up by the editorial committee of the board and signed off by the board.

**Senator KEMP**—Just so that the public knows who is making these absurd decisions, can we have the names of those people?

**Mr Scott**—The board members are on the public record; the editorial committee of the board has been chaired by Mr John Gallagher QC.

**Senator KEMP**—I understood from Senator Conroy that these were a bunch of right-wing zealots. Is that right? It is the board that is responsible for these ridiculous decisions; I am glad you told me that. We got to the bottom of that.

**Mr Scott**—But the style guide is developed in the News and Current Affairs Division. It is not part of the editorial policies and it is not signed off by the board.

**Senator KEMP**—Sorry, it is not signed off by the board?

**Mr Scott**—No, the editorial policies are. I am happy to send you a copy of the latest style guide. But on these issues, I believe there has been no change.

**Senator KEMP**—Can you do me a favour? Could you bring along to the next estimates the individual who is responsible for this, and could he explain to us, the Senate, why we cannot refer to the Australian Army as ‘our army’, and could he explain to us why we cannot refer to somebody who blows up himself and hundreds of other people as ‘a terrorist’, but we can refer to him as ‘a martyr’; could you do that? I would welcome the chance to have him along here before a Senate committee.

**Senator WEBBER**—I take it that you presume all terrorists are maimed, Senator Kemp?

**Senator KEMP**—Just ask your questions.

**Mr Green**—I think you are misrepresenting this. With respect, you are making some assumptions about a document with which you are not familiar.

**Senator KEMP**—That is right.

**Senator Conroy**—That has never stopped him in the past.

**Mr Green**—I would not want it to be on the public record that the position as you have outlined it is the position that is the requirement of our staff.

**Senator KEMP**—If it is not—and as we have all the big brains of the ABC, we have Senator Conroy—why do you not correct what I have said?

**Mr Green**—There is absolutely no difficulty in labelling somebody ‘a terrorist’ if it is clearly demonstrated that the person is. We are very quick to identify and describe acts of terrorism, but where it is not clear who is responsible for a particular act, then our news people quite rightly, because of their commitment to accuracy, will not leap in calling ‘a terrorist’ somebody who might be suspected as a terrorist without it being proven.

**Senator KEMP**—Mr Green, I have dealt with you over the years, and I have enormous respect for your work and the contribution you have made to the ABC, but I would ask you to go back and have a look at the *Hansard* and reflect on the comment you have just made. For most Australians, it does not make sense. Of course we know a fellow who walks into a crowded marketplace and blows himself up is a terrorist. No one doubts that. Does the ABC think he may be a freedom fighter?

**Mr Green**—No. With respect, Senator, I think you are stereotyping the position as you perceive it, and the position as you have described it is not the case.

**Senator KEMP**—Okay.

**Mr Green**—There are plenty of examples of us clearly describing acts of terrorism for what they are—horrendous, and things that need to be completely denounced.

**Senator KEMP**—But you will not describe the individual as ‘a terrorist’?

**Mr Green**—If it is clear who it is, we will.

**Senator KEMP**—At last. I do not know why that was not said at the start. I would like to have a look at this stylebook. I would like a chance to go through it and see whether there are any other outstanding examples of absolutely absurd political correctness, and if there are, I will indicate to you that I wish to pursue this at the next Senate estimates. I would like the person who is responsible for it, the person who makes these decisions, just to come along and explain to the Senate how he reaches these conclusions, and hopefully he can explain—

**CHAIR**—Thank you, Senator Kemp; I think you have made that point several times. We will take it on board. I am conscious—

**Senator Conroy**—I think the point that Senator Kemp is not getting is that an act of terrorism can be conducted by someone other than a terrorist.

**CHAIR**—Do you have any further questions?

**Senator KEMP**—Not on this issue, but I am sure I have other questions.

**Senator BIRMINGHAM**—I turn to the issues of the Toowong radio station complex. Could the officials please advise how many cases of cancer in current or former staff who worked at that complex have now been confirmed?

**Mr Scott**—In our dealing with this difficult issue, I suppose the ABC has always been reluctant to go public with a definitive number. Of course, we have been at the Toowong site since the 1950s. We have investigated this intensively since a number of cases came to light, but at no time have we said we believe we have the definitive number or the final number. Let me tell you the numbers as we understand them. Fourteen cases were referred to Professor Bruce Armstrong and his committee and the scientific study that they undertook. For the basis of his report, where he was attempting to identify a particular invasive form of breast cancer within a time parameter for his measurement, 10 of those 14 cases were identified as relevant to his particular study. There is one other case of somebody who would not have come under Professor Armstrong's study who had worked at Toowong well before that time, somebody who had requested privacy and anonymity. There is one other case like that. Subsequent to the release of the Armstrong report, there have been two further cases. All the cases that we are aware of have been referred to Professor Armstrong.

**Senator BIRMINGHAM**—His report obviously found that there was a real increase, a substantial increase, in the incidence of breast cancer, although he was unable to draw conclusions—I am broadly paraphrasing—as to the reasons for that.

**Mr Scott**—He could not find a cause in the building, in the facilities or in the technology. There was no strong hypothesis as to the cause of the cluster.

**Senator BIRMINGHAM**—Broadly speaking, it appears that ABC management have handled this well. I want to make sure that my questions are not perceived as a criticism of management, because it has obviously been a very difficult issue for everybody. How would you respond to reports of Mr Ian Eckersley, who has expressed concern that the ABC is being secretive about this issue? I understand that he is the husband of one of the former staff members.

**Mr Scott**—Yes, that is true. Ian has worked with us and, sadly, his wife, Angie, is one of the two women who have subsequently been diagnosed. That is a great sadness for him and

his family and for the people who have worked with both of them at the ABC. I absolutely, emphatically refute any suggestion that the ABC has not been open and transparent in our dealing with this. By our establishing of the Armstrong inquiry, by our setting up of the mechanisms around that inquiry that had Professor Armstrong report simultaneously to the ABC management and to the staff at Toowong, and with the reference panel representing women who had been diagnosed, we have been open and transparent throughout. There was a report in a magazine some weeks ago that suggested there was yet another person who had been diagnosed. We are not aware of who that person is. We have been as open and transparent as we can be with all our staff in Brisbane around this matter throughout.

**Senator BIRMINGHAM**—What support is in place for both the staff directly affected and, I imagine, of course, the very many staff indirectly affected or concerned about their future health and wellbeing?

**Mr Scott**—A number of things are in place. First of all, we have arrangements for a regimen of testing for women who have worked at Toowong that the ABC is funding. We have supported the women in their claims with Comcare. Eleven of the women concerned have lodged workers compensation claims with Comcare; 10 of those claims have been accepted and one is yet to be determined. I can say that privately I have been in touch with each of the women who have been diagnosed and the ABC has been providing additional support to them. My undertaking with them is that that support is of a nature that we are not revealing publicly. I believe that we are operating at every possible avenue to provide support for the women and the other women who currently work or have worked at Toowong.

**Senator BIRMINGHAM**—Where is the ABC radio complex currently based, now that you have moved out of the facility?

**Mr Scott**—Currently it is based across the road from where the ABC site was, in the main Toowong business district, in Lissner Street.

**Senator BIRMINGHAM**—Is that an interim facility?

**Mr Scott**—We have announced a new facility that the ABC will be moving to in Newstead. We will build a purpose-built, fully owned broadcast facility there. In turn, all the ABC staff members working in Brisbane will move to that Newstead site. Currently, we are scattered at locations around Brisbane, and that is not ideal. It is certainly not the way that we want to run the ABC, with close integration between television and news, radio and online. We want to bring everyone together. Of course, when we bring everyone together, we will be bringing the radio division in with us. I must say, they were terrific when we first had to move them. This was an emergency; this was an evacuation of the Toowong site. It was an outstanding performance by our staff on the ground that we could continue broadcasting through the time that we were basically moving television and radio stations. Our radio staff there did an outstanding job to stay on air using facilities which at first brush were not satisfactory. I believe they are satisfactory now. We have invested significantly to make that a good work environment, and I believe it is working well.

**Senator BIRMINGHAM**—I am sure all members of the committee would echo and appreciate the praise of your staff and the management for their work on this one. Is the new integrated facility fully funded?

**Mr Scott**—We received an undertaking from the previous government that we would be able to use the proceeds of sale from our Brisbane properties to invest in the new building.

**Senator BIRMINGHAM**—The sale of those properties is forecast or estimated to meet the costs of the new facility?

**Mr Scott**—Yes.

**Mr Pendleton**—I think the sale of the property will substantially contribute towards the cost, but I think we would also need to be looking at our forward capital budgets to fund the residual part. It is quite an expensive investment that we will be making in Brisbane.

**Senator BIRMINGHAM**—What is the time line for expected commencement and completion of the build program?

**Mr Pendleton**—We expect to be in the new premises mid-2010, and we would be expecting—with all things going to plan—to commence our construction mid to late this year—probably October.

**Senator BIRMINGHAM**—Minister, are you and the new government happy to honour the commitment given by the former government that the ABC will be able to use the sale proceeds from—

**Senator Conroy**—We have not made any decision contrary to the decision taken by the previous government.

**Senator BIRMINGHAM**—You have not made any decision to the contrary?

**Senator Conroy**—Yes.

**Senator BIRMINGHAM**—Do you expect to be considering the issue at all?

**Senator Conroy**—No.

**Senator BIRMINGHAM**—You do not expect to be considering the issue? We would expect from that that the decision stands and it is not likely to cross your desk or Minister Tanner's desk for any sort of review in the budget process?

**Senator Conroy**—I obviously cannot comment on ongoing budgetary discussions, but I do not believe that there are any plans to change that decision.

**Senator BIRMINGHAM**—You obviously support the move to the new facility?

**Senator Conroy**—Absolutely. I think Mr Scott inherited a very difficult situation and the ABC has responded, as he said, very well in terms of the move as well as in dealing with the actual issue, and the ABC deserves to be congratulated.

**Senator BIRMINGHAM**—Thank you. That is all on that matter, chair.

**CHAIR**—I am conscious that we have four minutes and then we will go to the afternoon tea break. Does any senator have a few questions to fill in that bit?

**Senator EGGLESTON**—One of the issues about this is the question of whether it is a bizarre statistical coincidence or whether there is some factor applicable in that studio or in ABC broadcasting or broadcasting in general. Has there been any suggestion of an increased

incidence of tumours of the breast or any other tumours in any other ABC facility in Australia?

**Mr Scott**—I have a couple of things to say in response. Further work is being done by scientists particularly around the cases of the women who have been diagnosed in Brisbane to see if other common linkages can be found. We have indicated a broader survey of ABC staff around the country which will be led for us by the New South Wales Cancer Council. The other thing I would say on this is that the kinds of facilities and the kinds of technology and equipment that are being used in ABC Brisbane sites are no different from those being used in broadcast facilities around the world. The facilities and equipment that we are using there are by no means unusual or distinctive. The other thing is that there has clearly been heightened awareness of the issue of breast cancer at the ABC since the women were diagnosed at Toowong. Nothing has come to light at all anecdotally to this point about any heightened incidence of breast cancer at any of the other ABC sites or facilities around the country. Of course, if there were, we would have immediately investigated that, but that has not occurred in the last year or so. It remains to us a fundamental mystery that we do not understand. The experts do not understand it, but all efforts are still under way to try to get greater insight into why these instances of breast cancer have occurred.

**Senator EGGLESTON**—I suppose that implicit in what you are saying is that nowhere else in the world has a similar modal—

**Mr Scott**—My advice at the beginning of setting up the Armstrong review was that a breast cancer cluster of this kind had never been identified before. I must say, I think it was the expectation of the scientists when we started that breast cancer has a high level of incidence in the community, sadly, and that a perception was that this might have just been one of those things. When they did the investigation and ran the data they found that it was still way outside the realm of the levels of incidence of breast cancer that could be expected. In part, that was because of the age of the women who had developed breast cancer at the site. So it remains a mystery to us. And, no, there are no other incidences around the world like this that we can point to.

**Senator EGGLESTON**—I suppose the last little question is: are the women all getting the same kind of breast cancer?

**Mr Scott**—They were all identified, I understand, by Professor Armstrong as invasive breast cancers, but a more detailed analysis which goes fundamentally to an analysis of the tumour is the work that is now underway.

**Senator ALLISON**—There was a case, as I understand it, some years ago, where testicular cancer was seen to be due to radiation from outside broadcast vans. Can you confirm that?

**Mr Scott**—I would have to take that detail on notice.

**Senator ALLISON**—I understand there was some shielding that was done—

**Mr Scott**—I would have to take that on notice.

**Proceedings suspended from 3.45 pm to 4.00 pm**



**Senator KEMP**—On the *Drivetime* morning radio program, ABC Radio's Jon Faine, whom I listen to very regularly, asked the *Herald Sun*'s editor, Bruce Guthrie, if he were going through a cleansing process to purge the *Herald Sun* of conservative journalists. I have not got the exact quotes here, but it was in the sense that the *Herald Sun* was out of step with current trends in the electorate. I was just wondering whether the same principles would apply to the ABC and whether the ABC will have to purge all conservative journalists. I do not think it would be on the same level as Stalin's purge of the Red Army before the war.

**Mr Scott**—To really analyse the question, you have to understand Jon Faine's interview style, which is often as a provocative devil's advocate: ask the provocative question and generate a stimulating response. I understand he got that from Mr Guthrie and then I understand the conversation was taken, lifted and republished in the *Australian*. I do not think it is fair to say this just because the question was put. As you know, at the end of last year there was debate about this to do with the *Australian*. Simply to put the question to an editor of the top-selling paper in Melbourne does not mean it is the Thane view.

**Senator KEMP**—I think the *Hansard* would show that I was not attacking Jon Faine.

**Mr Scott**—No.

**Senator KEMP**—What I was asking was whether the Jon Faine principle would be applied to the ABC, and about the extent of any purge of conservative journalists from the ABC, which you could probably finish in a very short time.

**Mr Scott**—I understand the undertone of your question. I was pointing out that simply because Mr Faine put the proposition does not mean it was an argument that Mr Faine was personally subscribing to. I think that is a misreading of his interview technique.

**Senator KEMP**—I take the point. We can assume that Mr Mark Scott, the CEO of the ABC, does not think there should be a purge of conservative journalists from the *Herald Sun*?

**Mr Scott**—I have no view on the opinion pages of the *Herald Sun* or any other newspaper. As far as the ABC, no matter who is in government, our commitment to fair, balanced and impartial journalism remains.

**Senator KEMP**—Fair and balanced like Bill O'Reilly?

**Mr Scott**—I am not going to go into Fox News. You are not going to lure me into the patch of Fox News.

**Senator KEMP**—You made a very important speech 1½ to two years ago at the Sydney Institute in which you reflected on the directions that you wanted to see the ABC take. I think you wanted to ensure that more voices were heard at the ABC.

**Mr Scott**—Yes.

**Senator KEMP**—In light of that speech, which got a lot of favourable press and some critical press, I must say, would you like to tell us just what you have achieved so far during your stewardship to give effect to those goals?

**Mr Scott**—Yes, absolutely. That speech was given at the time of the launch of our new editorial policies, and at that time we made very clear to ABC staff and to the community that watches and listens to the ABC our commitment to the highest editorial standards in Australia.

Since that point we have appointed Paul Chadwick as Director of Editorial Policies to help lead the education of our staff around those editorial policies, to provide advice to me, but also to undertake and lead reviews of our editorial standards, so that we are not just setting these standards but achieving them. Mr Chadwick has set up processes around those reviews and those reviews are being undertaken at this very moment.

Our commitment to plurality, to be the town square, to let a full range of voices be heard, has permeated more deeply into the ABC culture. We would all be aware that the ABC does not have a point of view, but we have a responsibility to let all voices be heard. An example last year was our broadcasting of the controversial documentary on global warming. There were some who said we should not show that documentary. We showed it in prime time. We also had vigorous questioning of the filmmaker and full and robust debate around the substance of that. That is an example of our commitment to ensuring that principal relevant viewpoints on contentious public matters are heard. I think the culture of the ABC has permeated more deeply. Mr Chadwick is doing outstanding work and we are on track.

**Senator KEMP**—What are the other examples that you could draw to our attention of a greater diversity of voices that should be heard on the ABC?

**Mr Scott**—Last year in prime time we ran the program *Difference of Opinion*, which was all based around having panellists that reflected a plurality of viewpoints engaging around contentious public issues. This year we have another program that will be hosted by Tony Jones called *Q and A*. It will be live on air, unedited. Again, there will be debate on a range of public issues. Paul Chadwick is doing these reviews to ensure that we are upholding our standards of impartiality and accuracy in how we are dealing with corrections. We have a range of processes in place. Another one that we are quite pleased with is the launch of our *Unleashed* site online, which is almost the creation of an opinion page under the banner of the ABC. An array of contributors and viewpoints are represented on that website, and it has been an outstanding addition in the last 12 months.

**Senator KEMP**—Whether correctly or incorrectly, a number of your broadcasters, to put it as politely as possible, are seen to be on the centre Right. Do you think there is a problem in that area?

**Mr Scott**—You have to judge them on their output. You have to judge them on their broadcasting. If in fact it comes to light that our broadcasters are not putting out a range of viewpoints, that our broadcasters' individual views are coming to the fore and not the range of views, that is something we need to address.

**Senator KEMP**—The obvious case—and I confess that I listen to this program a bit, and so I do know a bit about it—is Phillip Adams. No-one would ever accuse Phillip Adams of not putting out a range of viewpoints that cover all parts of the political spectrum.

**Mr Scott**—Under our editorial policies we need to have a range of viewpoints not necessarily in the individual program but across the platform. It is not that you cannot have a program that can be designated as opinion.

**Senator KEMP**—I understand that.

**Mr Scott**—The question is: are there other programs that give rise to a range of viewpoints?

**Senator KEMP**—What is the answer to that?

**Mr Scott**—Yes, there are.

**Senator KEMP**—What is the answer to the case of Phillip Adams?

**Mr Scott**—Michael Duffy runs a program on Radio National as well.

**Senator KEMP**—I think Michael Duffy voted Green.

**Mr Scott**—We need to look at the range of our programs. If you listen to Fran Kelly on Radio National breakfast, as I understand a million people do through the week, you will find a range of voices around contentious public issues. If you listen to Radio National you are picking up a range of views. We are not judging this with a stopwatch; we are judging it in terms of whether our intelligent, engaged and informed audiences are hearing a range of voices projecting a range of views, and I think they are.

**Senator KEMP**—I take your assurance and I understand the direction you are coming from. I think there is still a way to go, but let me turn to one part of the ABC that I am very fond of, which is NewsRadio. There is a huge dilemma in NewsRadio. If you become fond of NewsRadio, you relentlessly get the same items every half hour on the hour. I do not know how you can solve that. I suppose the answer is you cannot, because that is not the nature. That is very interesting. I confess I could hear less of the Dutch program.

**Mr Scott**—There is something for all of our audience.

**Senator KEMP**—Having said that, it is a worthwhile innovation.

**Mr Scott**—The issue on the program is a challenge for that program, just as it is challenge for CNN, Sky News and others. Part of the proposition is that, if you tune in very quickly, you will be up to date with all that is happening.

**Senator KEMP**—I must congratulate you on the sporting coverage on that channel, too, which I think is exceptionally good. I do not want you to think that I am entirely negative.

**Mr Scott**—Thank you for pointing that out.

**Senator EGGLESTON**—I enjoy listening to Netherlands Radio, as I do Deutsche Welle.

**Mr Scott**—Thank you; I will let the NewsRadio people know.

**Senator EGGLESTON**—And Public Radio in the United States. I congratulate you on opening stations for NewsRadio in the Pilbara, Port Hedland and Karratha; the people up there are intelligent, perceptive and need to be kept up to date with what is happening in the world.

**Senator WEBBER**—They do not have anything against Netherlands Radio, unlike Senator Kemp.

**Senator BIRMINGHAM**—We thank Senator Eggleston for that plug. I am still young enough to enjoy even Triple J occasionally, depending on who is belting us up at the time. Speaking of youth programming but going a little further down the age bracket, has the ABC

undertaken any work as to the potential for the development of a dedicated children's channel on digital television?

**Mr Scott**—Yes, we have done some planning on that.

**Senator BIRMINGHAM**—What costings would you expect or what budget outlay would you expect it to require?

**Mr Scott**—As you know, the ABC developed a proposition for the establishment of a digital free-to-air children's channel and we did so in association with the Australian Children's Television Foundation. Our estimates of costing of that service are somewhere around \$22 million to \$23 million per annum. If this is an issue of priority for the government, if this gets funded at some stage, we will be in a position to deliver that service.

**Senator BIRMINGHAM**—Obviously, it is not possible for it to proceed under the current triennial funding agreement?

**Mr Scott**—No, and it was not envisaged in the triennial funding agreement. We have not been funded for it. Partly what we would need to do is develop the content to be able to put out children's programming. The plan is for children's programming between 6 am and 9 pm and then education programming through the night that schools could download. That is clearly an extensive demand of programming content. It is a 50 per cent increase on what we are currently broadcasting and clearly we cannot do that with our existing resources.

**Senator BIRMINGHAM**—That sounds like an excellent proposal, to which the former government agreed in terms of our election commitments. Have you looked at any modelling as to what impact it would have on the uptake of digital television in Australia?

**Mr Scott**—Clearly, we think it would be a positive for the uptake of digital television. I believe there are currently eight children's channels on subscription television, but you need to pay a minimum of \$40 per month or thereabouts to get just one of those channels. The biggest single promotion at this point around digital television is the new promotional campaign the ABC has run promoting its ABC2 channel. We are really amplifying the focus and awareness of that channel to the million-plus people who are watching ABC1 every night, and we think in the short term, prior to any implementation of, say, ABC3, the aggressive promotion that we are doing on ABC1 of our offerings on the new ABC2 digital channel is a very important promotion of digital television in this country. It is probably the best promotion of digital television in Australia since the technology was first switched on.

**Senator BIRMINGHAM**—I suspect you are probably right. What are the early signs in terms of increasing interest in ABC—

**Mr Scott**—On the weekend I read anecdotal reports of strong demand for digital set-top boxes in stores, and I think that in part that is to do with the ABC promotion and the range of programs we are putting on ABC2 and also the rollout of HD offerings by the commercial networks as well this year.

**Senator BIRMINGHAM**—The ABC itself would obviously be eager to see ABC3 as a dedicated children's channel. You have worked the program up and believe it is of merit. Would it be your priority in future budget submissions?

**Mr Scott**—Our comments about that are on the record. We believe the proposal has considerable merit.

**Senator BIRMINGHAM**—Minister, is this a matter for a budget consideration response? We are discussing the potential for ABC3, a dedicated children's television channel. Has the government given consideration to proposals for such a channel?

**Senator Conroy**—The government is aware of the ABC's promotion of ABC3. The priority for the Rudd government is its stated election commitments, and those will get priority in the budgetary process. Again, I am sure you would like a scoop on what is in and not in the budget but, unfortunately, you will have to wait until budget night to find out what the final budgetary position is.

**Senator BIRMINGHAM**—As we ascertained with Senator Allison before, the only stated election commitment relating to the ABC appears to be the Nolan-Conroy committee. But you are obviously not ruling out the potential for a children's television channel to be funded in this year's budget?

**Senator Conroy**—No, I am indicating that I am not going to give you a scoop one way or the other. The ABC has advocated it as part of the budgetary process, and I am not in a position to give you that scoop. You will just have to hang on until budget night.

**Senator BIRMINGHAM**—I entirely understand that you will not give me a scoop. In light of an excellent policy taken by the Liberal Party to the previous election, I would strongly encourage you to look favourably upon the ABC's budget bid in this instance.

**Senator Conroy**—I will take that on board and pass it on to the finance minister and the Treasurer.

**Senator BIRMINGHAM**—Thank you.

**Senator WORTLEY**—In respect of state, territory and federal elections the ABC has, since 1998, engaged an internal audience research company to independently monitor the share of voice for each party.

**Mr Scott**—Yes.

**Senator WORTLEY**—What were the results of the coverage of the 2007 election?

**Mr Scott**—We will shortly be reporting on our election coverage. Paul Chadwick is the head of our election committee and is completing a report that will be available shortly. We did engage an external company to monitor and report on share of voice on ABC radio and television and online sites. It is important in looking at the headline data on it to realise that this is a measure but it is not the only measure when it comes to our election broadcasting. As we look to our performance for fairness, balance and impartiality there is a range of things that we are looking towards. The share of voice metric does not capture the content of what was said, the tone or context of what was said, the effectiveness of speaker concerned and it also does not capture times when someone was unavailable, even though we attempted to contact them.

Finally, the data collected across all platforms showed that the coalition had the greatest share of voice, with 45.4 per cent; Labor's share was 38 per cent; the Greens recorded 7.1 per

cent; the Independents, 4.4; the Democrats, 2.8; and Families First, 1.3. Our program producers during the campaign took detailed notes in the construction of their programs, and they indicate that the difference in share of voice between the coalition and Labor was largely due to the greater availability of coalition members when they were requested to come on programs. Implicit in that is the unavailability of some Labor candidates to come on programs. This is to do with the state of the campaign, campaigning techniques and the like. Staff were requested to keep notes of their efforts to offer election campaign participants opportunities for coverage.

**Senator WORTLEY**—When will the full details be made available?

**Mr Scott**—I expect that report in the next week or so, and it will be on our website.

**Senator ALLISON**—How many instances were there of ALP candidates refusing—

**Mr Scott**—I am sorry, I do not have that detail to hand. We are collecting data and having an external review. We are also collecting data internally just to inform that. Our election committee is meeting and reviewing every week of the campaign.

**Senator ALLISON**—But the difference was sufficient for you to draw attention to it?

**Mr Scott**—We looked into that. We looked at why that gap was there. I would suggest there were numerous occasions where a Labor party candidate was unavailable or unwilling for whatever reason to come on the program, and that happens from time to time.

**Senator WORTLEY**—With regard to Indigenous employment levels, the ABC has a target of a minimum of two per cent of Indigenous employment. I understand that at 30 June 2007 it had achieved only 1.1 per cent.

**Mr Scott**—Yes.

**Senator WORTLEY**—Can you tell us how the ABC intends to address this issue?

**Mr Scott**—We are unhappy with our current performance. It has been an issue that has been raised with the board. It is an issue that is being pursued by our new director of people and learning, Kate Dundas. We are currently working on developing a reconciliation action plan. It is an issue that was raised in a conference with Aboriginal and Indigenous staff members at the end of last year, and we are looking to develop a more comprehensive Indigenous employment plan this year. I think part of our difficulty has been to do with our retention—we have taken some people on, we have educated them well in broadcasting and there has then been a demand for their skills in the broader community—but none of us are happy with the current data. We think it is a real and achievable target, and we are looking to put mechanisms in place to improve our performance.

**Senator WORTLEY**—Do you have a time frame for that?

**Mr Scott**—I would hope that in the first half of the year we would come up with some more concrete proposals to increase not only the number of Indigenous staff members that we can recruit but also our ability to retain them within the ABC.

**Senator WORTLEY**—Thank you.

**CHAIR**—If there are no further questions for the ABC, thank you to the officers for appearing today. We will see you in a few months time.

[4.22 pm]

### Special Broadcasting Service Corporation

**Senator BIRMINGHAM**—How much public funding will SBS TV and radio—SBS as an entity—receive in this financial year?

**Mr Brown**—It is \$180 million a year, approximately. Is that the correct figure?

**Mr Torpy**—One hundred and eighty-nine million would be the amount.

**Senator BIRMINGHAM**—Over the current triennium to 2009, how does total funding compare with that which ended in the previous triennium?

**Mr Torpy**—I do not think we have those figures with us. It would be a slight increase basically flowing from funding for the indexation that we get from the WCI6 and also from digital funding for digital transmission. They are the main areas of increase.

**Senator BIRMINGHAM**—Perhaps you could take that on notice too and, if you could, give us those exact figures?

**Mr Torpy**—We will give you the exact figures, yes.

**Senator BIRMINGHAM**—What income has SBS TV then generated from advertising revenue over the last two financial years?

**Mr Brown**—Including this one?

**Senator BIRMINGHAM**—The previous two full financial years and then your estimates for this one, please.

**Mr Brown**—In 2005-06, TV gross revenue was \$33.1 million. In 2006-07, the last financial year, it was \$38.6 million and this year it is budgeted to be \$46 million.

**Senator BIRMINGHAM**—When you say ‘gross’, do you mean it as the gross advertising revenue?

**Mr Brown**—Yes. It means that it is the amount that the advertisers pay but the commission that is payable to our outsourced seller of advertising has not been deducted. It is not revenue in hand but it is the revenue that is paid by the advertisers.

**Senator BIRMINGHAM**—It is the revenue paid by the advertisers?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—Do you have a budget estimate then of how much SBS receives?

**Mr Brown**—I think you can roughly say that we receive about 80 per cent of it.

**Senator BIRMINGHAM**—Obviously it is a strong growth area in terms of the percentages there. Do you have the percentage increases you are receiving on growth in television advertising?

**Mr Brown**—In 2005-06 the increase over the previous year was 13.3 per cent. The following year the increase was 16.6 per cent and the budget for this year, if delivered, will produce an increase of 19.2 per cent.

**Senator BIRMINGHAM**—Obviously that is a growth rate far stronger than the public funding provided to the corporation?

**Mr Brown**—That is correct. Apart from the special funds paid for digital infrastructure and transmission costs and the roll-out of the necessary transmitters for that, additional funding for SBS has broadly been based upon cost-of-living style increase. There have been one or two one-offs. I think there was one about two or three years ago for sports rights, which was about \$3 million. And I think about two trienniums ago SBS was released from its obligation to pay the efficiency dividend. Those have been the only other increases outside of inflationary indexation.

**Senator BIRMINGHAM**—And that increased advertising revenue has been invested back into programming?

**Mr Brown**—Yes. The increases have. In respect of the base that we talked about three or four years ago, I could not say exactly where that was spent—although I think as a general rule of thumb SBS has traditionally regarded the advertising funds as being for the purpose of content.

**Senator BIRMINGHAM**—What impact would removal of some or all of that revenue have on programming?

**Mr Brown**—The cancellation of programs.

**Senator BIRMINGHAM**—That would, presumably, be particularly targeted to Australian content programs or in-house productions, as I assume they are the more expensive programs for you.

**Mr Brown**—Just to be clear, we do not have much in-house production now, apart from news and current affairs and sport. We made a policy decision about two years ago to commission all of our programs so that the independent production sector is a recipient of a large amount of that money. And, yes, there is a direct relation to the amount of revenue received there and the amount of Australian programming we can make.

**Senator BIRMINGHAM**—It is true to say that you have increased Australian content programming in recent years?

**Mr Brown**—Yes, that is true. It has been a deliberate strategy of SBS for the last three or four years, increasing it both in terms of volume and also in terms of quality and production values. I think in the last year we probably saw the clearest evidence of that with three high-profile and high-quality drama series and a number of documentaries and documentary series which are either on air now or in production.

**Senator BIRMINGHAM**—You have indicated that the growth in advertising has supported development of additional programming. Is it fair to draw the dots to say it has supported the growth of additional programming and particularly additional Australian produced programming?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—How much of the growth in advertising would you attribute to in-program advertising?



**Mr Brown**—That is really difficult. There is a circularity in this argument because the purpose of raising revenue through putting in program breaks was to create Australian content that would engage more audiences and, clearly, the bigger our audiences the higher the price we can charge for our commercials. For the year that I quoted you, 2006-07, the revenue increased by \$5.5 million to \$33.1 million. I should say that these numbers exclude major sports events such as the World Cup and the Ashes and things like that because they tend to have a one-off impact. But it is fair to say that, the year when we made \$5.5 million extra, a substantial slice of that would be due to the fact that we began introducing intra-program breaks. But it is hard to strip out what exactly is due to that particular action, what is due to the fact that SBS television's audiences have grown 20 per cent in the last five years or what is due to the advertising market in recent times being pretty buoyant.

**Senator BIRMINGHAM**—What are the specific guidelines SBS has in relation to application of advertising in its programs?

**Mr Brown**—In programs or generally?

**Senator BIRMINGHAM**—In general, for starters.

**Mr Brown**—The first matter is the restriction of the duration of advertising allowed on SBS as required by the SBS Act and that limits SBS to five minutes in any hour. That is a significant differentiator between us and other commercial broadcasters. We have a set of guidelines which specifically address where ads can be placed in programs as to the frequency and location of those ads. Those are applied on a case-by-case basis but they do provide a set of clear guidelines. They are enclosed in the corporate plan that has just been released as required, again, by the SBS Act which invited the board specifically to draw up guidelines covering that.

**Senator BIRMINGHAM**—We have the five minutes per hour maximum which is set down in the act?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—And then other guidelines as approved by the board?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—Do all of them go to the board for approval?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—Do they also receive ministerial approval or just board approval?

**Mr Brown**—They do not require ministerial approval. It is an obligation of the board.

**Senator BIRMINGHAM**—And so it is within the board's powers? The guidelines are published?

**Mr Brown**—Yes, they are published in the corporate plan and online and in the codes of practice for SBS.

**Senator BIRMINGHAM**—Has SBS received any criticism about advertising, and intra-program advertising in particular?

**Mr Brown**—I think all broadcasters receive complaints about advertising. I think if you go back to 1991 when this first began, I am sure there have been complaints about advertising since then. Specifically with regard to the introduction of intra-program breaks there was a reasonably high, but not excessively so, level of complaints at the time that we first introduced them. That has diminished considerably and we probably receive on average about five or six complaints a week.

**Senator BIRMINGHAM**—In that timeline have ratings been affected?

**Mr Brown**—In that timeline ratings have grown.

**Senator KEMP**—Answer ‘Yes’.

**Senator BIRMINGHAM**—Affected positively?

**Mr Brown**—Under the charter of SBS the obligation is to reach out to all Australians. We do not expect to do that at any given moment, but clearly if there is a broader audience that we can engage both in terms of ratings and reach then that is delivering against our charter. We identified three years ago that a key requirement in order to deliver the charter was Australian programs. The charter requires us to reflect Australia’s multicultural society. We have made a policy of strategic decision that that required us to make Australian programs, not to be so reliant on imported programs. We have seen a high level of audience engagement as a result of that strategy.

**Senator BIRMINGHAM**—Would you attribute the increased ratings to the increase in Australian program content which can be attributed to increased revenue which has been derived from advertising, a key part of that being intra-programming advertising?

**Senator Conroy**—Even you are having trouble stretching that far.

**Senator BIRMINGHAM**—No trouble at all.

**Mr Brown**—It is not quite as perfectly formed as you describe but there was a relationship. We have taken a number of steps over the last four or five years. We have reduced operational costs; we have reduced overhead costs, all with the intention of pumping it into content funding. I cannot solely relate it back to the intra-program breaks, particularly as that has only been fully in operation now for just one year and the audience growth has been over a five-year period.

**Senator BIRMINGHAM**—But there does appear to be some relationship. Have you had legal advice in regards to intra-programming advertising?

**Mr Brown**—We have had legal advice.

**Senator BIRMINGHAM**—And the legal advice you have indicates that it is within the act?

**Mr Brown**—I think the evidence that I have previously supplied to this committee is that there is a difficulty with us addressing our legal advice. In order to retain legal privilege we are not entitled to share it with a third party that is unrelated to this organisation. But I can say that the board received that legal advice and the management received that legal advice and the outcome is currently on air and the parties are all happy with that.

**Senator BIRMINGHAM**—Has that legal advice been provided to the minister as well?

**Mr Brown**—The minister has received a report on the legal advice.

**Senator BIRMINGHAM**—Minister, has the report you have received on the legal advice satisfied you in relation to the powers of SBS to have intra-program advertising?

**Senator Conroy**—I am currently considering the advice that I received. I only received it relatively recently. I am considering it.

**Senator BIRMINGHAM**—It has not yet satisfied you?

**Senator Conroy**—I am considering it.

**Senator BIRMINGHAM**—You have expressed previously strong views that intra-program advertising may not comply with the SBS charter. Do you still hold those views?

**Senator Conroy**—I am considering the advice I have received from the SBS board.

**Senator BIRMINGHAM**—Do you recognise that the additional revenue generated by intra-program advertising has been critical to SBS's success in their charter of reaching out to more Australians?

**Senator Conroy**—I acknowledge that they have used the funding to produce some very high quality Australian drama and I could recommend it to you. Whether or not the—how is it you described it—elegance of the circle is quite as elegant as that would be a matter of some conjecture publicly.

**Senator BIRMINGHAM**—Obviously their capacity to produce such programming is reliant upon funding and this advertising revenue has become a very important part of their funding, hasn't it?

**Senator Conroy**—I think Mr Brown has indicated that they would not have produced it without the funding.

**Senator BIRMINGHAM**—That they would have produced it?

**Senator Conroy**—They would not have.

**Senator BIRMINGHAM**—They would not have, indeed. Going forward, if you consider the report will you give an assurance that if you find you are not convinced of the legality of the intra-program advertising you would make good that funding were it to be taken away from SBS?

**Senator Conroy**—I know that you are very interested in the budget, as are most Australians, that we will be producing later this year, but I am not in a position to comment on matters that may or may not be before the budget for consideration. But I would again stress that any of the Rudd government's priorities are its stated election commitments and that they will be receiving priority within the budget framework.

**Senator BIRMINGHAM**—Minister, you have a stated concern about intra-program advertising? Where does that fit in the list of priorities?

**Senator Conroy**—The priorities are as we have defined by our election platform.

**Senator BIRMINGHAM**—Are you willing to give up on that concern you have about intra-program advertising?

**Senator Conroy**—I am not commenting on matters that may or may not be before the budget.

**Senator BIRMINGHAM**—That is very effective stonewalling—

**Senator KEMP**—I am not sure it is, actually. I have gone through Senator Conroy's previous press statements and I have relied on them. I have thought that these are sincere views expressed by Senator Conroy and I am a little bit shocked that he seems to be hard-put to defend the ideas that he promoted as recently as three or four months ago. It is a bit of a shock to me, actually.

**CHAIR**—Do you have a question?

**Senator KEMP**—I just made an observation.

**Senator Conroy**—I notice Senator Bernardi is back in the room. I think you have raised some issues on which we now have some further information. I just thought I might—

**Senator BERNARDI**—Which ones were they?

**Senator Conroy**—We were talking about what were the disciplinary powers for the ABC board through the act. So, section 18 of the ABC Act provides that non-executive directors can be removed from office by the Governor-General for misbehaviour if proven; physical or mental incapacity or absence without leave from three board meetings. Misbehaviour would probably cover the situation where a director has breached his or her duties to the corporation.

**Senator BERNARDI**—Going back to that question, if the penalties then apply to their role as a board director it would not extend further to their involvement within the ABC or SBS or any other capacity?

**Senator Conroy**—The Commonwealth Authorities and Companies Act lists a number of directors' duties which apply to the directors of the national broadcasters. Corporate misbehaviour would appear to include—this is the advice I have—misuse of information obtained by the director because they are a director, contrary to sections 25 and/or 26 of the CAC Act. This governs misuse, whether for the benefit of the director personally or another person, or which causes detriment to the corporation; misuse of position, section 24 of the CAC Act, whether for the benefit of the director personally or another person or which causes detriment to the corporation; acting in bad faith, section 23, that is, where the director acts other than in the best interests of the company; and conflicts of interest, sections 27F, 27G and 27H of the CAC Act.

**Senator BERNARDI**—Is it a condition of their appointment that they not breach the act then? One would presume that is the case.

**Senator Conroy**—Yes. When they accept the appointment, they agree to be bound by the act.

**Senator BERNARDI**—And regular corporate governance procedures as well, I would assume? You said before that there was no gag order and you were going to be removing gag orders, and yet the act certainly prohibits them from doing a number of different things.

**Senator Conroy**—I think perhaps you misunderstood me. I was asked to comment on matters outside—

**Senator BERNARDI**—Penalties, amongst many questions. We asked you many questions.

**Senator Conroy**—The gag order was not specifically about directors' duties. It was about commentary on ABC matters.

**Senator BERNARDI**—Regretfully, I have to meet someone in my office who has some complaints about the Rudd government already, so I cannot stay here for much longer.

**Senator Conroy**—The good news is that estimates come around a few times a year.

**Senator BERNARDI**—I look forward to meeting with you more often in this capacity.

**Senator BIRMINGHAM**—When do you expect to consider the advice provided by SBS to you?

**Senator Conroy**—I am considering it.

**Senator BIRMINGHAM**—When do you expect to conclude your considerations?

**Senator Conroy**—Shortly.

**Senator BIRMINGHAM**—Will that be in time for it to be considered in the budget process?

**Senator Conroy**—I am not in a position to comment on what is included in the budgetary process.

**Senator BIRMINGHAM**—I am not asking you whether or not SBS will receive additional funding in the budget process or not. I am asking whether on this matter of intra-program advertising you will make your decision in time, should you be wiping out some of SBS's funding, for them to be able to have that replaced in the budgetary process should the government deem to do so. The government may choose to take the funding away without replacing it. I understand that is entirely the government's prerogative, but will you do it in time for this budgetary process?

**Senator Conroy**—The budgetary process is already under way. Even though it is a shorter period than normal because of the election process, it is a matter that I have under consideration at the moment. As to budgetary matters, as I said, I am not in a position to comment on what is in or what is not in.

**Senator BIRMINGHAM**—We are still some weeks away from the budget papers having to go to print, and I am sure that the Treasurer and Finance Minister will be considering many matters over the weeks between now and then. Will you give us a guarantee that on this issue, where you have had a very strong opinion that obviously is contrary to the opinion of the SBS board, you will resolve that issue one way or the other in time for SBS to seek additional funds if they need to in this budget process?

**Senator Conroy**—That would be a matter between the SBS and myself and the budgetary process, which I am not in a position to comment on.

**Senator BIRMINGHAM**—No, it is only a matter of the budgetary timing. As I said, I am not interested as to whether you think you—

**Senator Conroy**—The budgetary process is under way at the moment.

**Senator BIRMINGHAM**—Certainly it is, but the budget, I am sure, is far from finalised, as I said.

**Senator Conroy**—No, that would also be—

**Senator BIRMINGHAM**—We have both you and SBS at the table here, and I would thought it was easy for you to commit that you will review the advice of SBS, seek additional advice if you have to, but at least determine this issue in time for this budget process, rather than allowing it to drag out possibly for another year of uncertainty for SBS, who obviously have programming commitments and otherwise that they need to commit to.

**Senator Conroy**—I have ongoing discussions with the SBS about their budgetary requirements, but I am not in a position to outline what they are, as you would understand. The previous government never revealed its discussions about the budgets of its agencies between itself and the agencies.

**Senator BIRMINGHAM**—It is tied into the budgetary timing, but this is about the operations of an agency. You have on the record severe concerns about a key funding activity undertaken by this agency. I would have thought that it would be a high priority now that you are the minister for you to resolve the matter between you and the agency, else you continue to run for six months, 12 months or longer in conflict with each other.

**Senator Conroy**—The budget is not that far away. While I am not in a position to comment on what is in the budget, I repeat what I said earlier, which is that the priorities of the Rudd Labor government were detailed at length before the election and those are the matters that will receive priority in the budget.

**Senator BIRMINGHAM**—I am not looking for the scoop now. I looked for the scoop earlier today and you did not give it to me.

**Senator Conroy**—I think you are just trying to find a cleverer way of getting the scoop.

**Senator BIRMINGHAM**—I am now looking for an indication of when you will get to resolving this issue.

**Senator Conroy**—I said ‘soon’.

**Senator BIRMINGHAM**—And ‘soon’ we can hope to be in time for it to be resolved prior to the budget being issued?

**Senator Conroy**—It is a discussion I will have with the SBS board.

**Senator BIRMINGHAM**—You do recognise the urgency for resolving this? You are at conflict with the board in your public statements.

**Senator Conroy**—I recognise the point you make, which I have explained; we are in the budgetary process at the moment. I have indicated that I am considering the matter and I hope to resolve it soon. The priorities of the Rudd Labor government in its first budget will be those identified in the lead-up to the election.

**Senator BIRMINGHAM**—We can hope that when you are back at this table for the budget estimates we can ask you about your decision one way or the other?

**Senator Conroy**—It will be clear, I am sure.

**Senator BIRMINGHAM**—That is excellent. Thank you.

**Senator KEMP**—I think we would all get some comfort if you could enlighten us on this. As I said earlier, we have read your numerous press statements before the election with great interest and noticed your views on a variety of issues, including the issue raised by my colleague Senator Birmingham. For the record, can I ask you: do you still support the views that you put in the press statement regarding advertising on SBS?

**Senator Conroy**—That is why I wrote to the board and asked them for clarification and seeking their legal advice. I am now considering the matter.

**Senator KEMP**—So, you may change your views?

**Senator Conroy**—I am considering—

**Senator KEMP**—You are fairly ferocious critic. The trouble is, as you know, you have gone on record. That is the problem here. We have had a number of examples at Senate estimates today where you seem to have gone soft on positions which you so vigorously supported before the election. We hope we do not have to chalk this one down as well.

**Senator Conroy**—Thank you for your advice.

**Senator ALLISON**—I put some questions on notice, very detailed questions, on the matter of advertising on the SBS and breaks in television programs. Are the answers to those questions on your desk or can you provide them today?

**Ms Scott**—There has been an update. There were four questions on notice that earlier today I said had not been tabled. They are now being tabled. This is answers to questions 226, 243, 248 and 251. That means that all questions on notice have now been tabled with the committee.

**CHAIR**—Does that answer your question, Senator Allison?

**Senator ALLISON**—No. It would be useful to either have them—

**Mr Meagher**—I think you are referring to a separate set of detailed questions that you provided to us outside of the estimates process recently?

**Senator ALLISON**—They were questions on notice. They had nothing to do with estimates.

**Mr Meagher**—They are not the estimates questions from last May; the set you are talking about are ones that you provided earlier this year?

**Senator ALLISON**—Yes, the ones lodged on 17 December.

**Mr Meagher**—That is right. Sorry, it was late last year. I apologise. We are in the process of putting together a detailed response and we will have that available shortly. It will not be finalised today.

**Senator ALLISON**—It might be best to work through them. One of them was the number and the programs themselves that had been provided by places such as the UK BBC programs where there is no break programmed, unlike commercial production or commercial station programs. I will not ask you for the precise details of which they were, but how many would

be in this category, that is they were programs that were produced without television breaks, as it were, and those breaks were then inserted by SBS.

**Mr Brown**—I do not have those numbers but they are being prepared. As Mr Meagher suggested—

**Senator ALLISON**—Is it 400, 600, or somewhere between the two?

**Mr Brown**—I could not tell you. That requires us, and we are working through it, to differentiate between every source of every program to determine whether or not it was sourced from a broadcaster that was a commercial broadcaster or one that was a non-commercial broadcaster.

**Senator ALLISON**—No, the question was: which and how many programs have been received without having commercial breaks identified? As I understand it, if they come from commercial sources, commercial operations, they already have the break identified.

**Mr Brown**—Yes.

**Senator ALLISON**—In other words, here is where you put your break.

**Mr Brown**—I understand that. That does require us though to specifically go through all our titles and check where each one of them came from. That is a substantial piece of work.

**Senator ALLISON**—You do not keep records?

**Mr Brown**—We are very close to completing it.

**Mr Meagher**—The other thing that might be worth noting is that even a broadcaster like the BBC will produce an international version often in its programs with those breaks identified in them, because they sell many of them to broadcasters who insert commercials.

**Senator ALLISON**—You do not have a register or something that readily identifies those that do not have natural breaks and those that do. There is a difference, is there not, in the SBS code of practice in making provision for a person to dispute the SBS interpretation of a natural break. As I understand it, the SBS guidelines for the placement of breaks in television programs, section 8 of the code states:

SBS is only required to respond to a formal complaint if made under the code but not the guidelines.

Can you advise the committee why there is this difference? I also ask: does it not effectively mean that a complaint cannot be made?

**Mr Brown**—I think we are talking about a formal complaint about the codes.

**Senator ALLISON**—Correct.

**Mr Brown**—The act required the board to provide guidelines, not codes, covering advertising and placement, whereas it does require the board to provide specific codes for the content, the programs. They are subject to a complaints process which says whether or not those codes have been breached. Advertising requires only guidelines and that is what has been provided. It is true that there cannot be a formal complaint, as I understand it, under those procedures. I am at a slight disadvantage here because I did see your questions when they arrived. They were discussed; they were long—

**Senator ALLISON**—Only so long as it was necessary.



**Mr Brown**—I agree. Resources were applied to bringing those to a speedy completion. I have not yet seen the draft response or had a chance to myself put an input into the draft response. I think, with respect, we do have a body of questions from you and we are very close to having a complete set of replies. If I answer them now, I am in the position of not having all the information that otherwise I would have had.

**Senator ALLISON**—Minister, have you had a chance to look into this issue? Do you, in principle, support the idea that a formal complaint ought to be able to be made about whether or not the advertising break in the program is or is not a natural break, as it were?

**Senator Conroy**—That is a good question.

**Senator KEMP**—We will take advice on that.

**Senator Conroy**—If I could take that on notice, just because it is an interesting line.

**Senator ALLISON**—It is already on notice.

**Senator Conroy**—Yes. But if I could take it on notice as opposed to the SBS. I was not aware that you had given SBS some questions. If I could take that on notice and get back to you?

**Senator ALLISON**—All right. When you do that perhaps you could look and see whether the definition of a natural break in the guidelines should be the same as that in the SBS Service Act, or Special Broadcasting Service Act.

**Mr Brown**—There is no definition in the act of a natural break. That is left to the board to define.

**Senator ALLISON**—Herein lies the problem. Is it the case that complaints concerning natural breaks cannot be made to ACMA and is this the reason why that is the case?

**Mr Brown**—I will have to take that on notice again. We probably will have sought some opinion on that for you. I am not aware of any complaints having gone to ACMA. In fact, I am sure they have not.

**Senator ALLISON**—You receive five complaints a week, is that not what you told Senator Birmingham? Somebody must worry about these complaints and figure out what to do with them.

**Mr Brown**—They are not formal complaints. When people ring up to say they do not like ads on television, it is hard to have formal complaints procedures to come up with a response to that. If people ring up and say they do not like your programs, it does not make it a formal complaint that is in breach of the code; it just means it is an opinion of a viewer that is a negative opinion as sometimes they ring up and say that they like our programs.

**Senator ALLISON**—When people ring and complain about the ads on SBS, do you ask them whether it is a formal complaint or an informal one? Do you let them know what to do if they want to make a formal complaint?

**Mr Brown**—Let me take an example where people ring up about anything, complaining. Yes, there has to be a process to determine whether it is a formal complaint or an informal complaint. If it is determined that it is a formal complaint then they are directed either to put in writing their complaint by way of letter or there is an online site for them to easily access to

put it through that process. That is necessary because it is required that they actually nominate what it is that SBS has breached so that it can be properly considered. That is part of the formal complaints procedure that we put in place about three or four years ago to bring to an end the kind of informal process of producers and program makers simply responding to complainants. This put some rigour and structure around the complaints system, and it is working well.

**Senator ALLISON**—I am not sure you have answered my question about whether people are told there is a difference between a formal and an informal complaint and how to go about doing a formal complaint.

**Mr Brown**—If they sound like it is a formal complaint, a promo which ran in the wrong time slot or that program was not suitable for children, they are advised about how to make it a formal complaint. The formal complaint needs to be in writing but it can be electronically lodged, which was a change made two years ago.

**Senator ALLISON**—I have asked you for the details of those formal and informal complaints which you no doubt will get back to me on in due course. How much revenue did SBS receive from all television advertising for the 12 months to 31 December 2007?

**Mr Brown**—I do not have that number because the revenue numbers I have here are all based on financial years. We are probably doing that exercise for you, breaking out two parts of the different financial years to give you a 31 December number.

**Senator ALLISON**—I think you gave Senator Birmingham some figures on—no, you did not actually—the increase in revenue to SBS which is attributable to interrupting programs. I think you gave the overall increases as 16, 13 and 19.2 per cent estimated for the last financial year. What of all of that is said to be related to providing advertising breaks?

**Mr Brown**—I think the way we described it when we first tackled this initiative was to say that our projection was that in its first full year of implementation it would generate an additional \$10 million of revenue. We are in the first financial year and I think it is evident already that we will reach and exceed that number. How you strip back a total increase in revenue and say what part is due to growth in GDP, what part is to a change in advertising and what part is due to the lifting in audience numbers and a higher quality program is hard to break out exactly. I think it is still a reasonable number to model on and say that we are currently receiving an extra \$10 million approximately of revenue because of this initiative.

**Senator ALLISON**—You made some assumptions in establishing a \$10 million guesstimate?

**Mr Brown**—Yes.

**Senator ALLISON**—Why not just use those assumptions for the actual?

**Mr Brown**—Because we do not need assumptions because we are having actual outcomes now. What I am saying is that the forecast for our revenue outcome this year is in line with a projected increase of \$10 million from this initiative over a base of two years ago remember, because last year we introduced it partly, so we got some of the \$10 million in year one. The rest we are getting now. And there has been some more increase in performance over that \$10 million that may well just be a consequence of us having a superior program line.

**Senator ALLISON**—So the consequence to SBS of the government saying no more interruptions in programs, natural breaks or otherwise, would mean at least \$10 million a year and probably twice that. Would that be a fair estimate, given the rate of increase over that time for the next financial year?

**Mr Brown**—I am not trying to dodge it when I say it is hypothetical, but the problem is of course if you wind back this initiative to the status that existed two or three years ago it is simply not possible to determine what the market response will be to that. We have managed to sell advertising on a certain basis with a certain promise to advertisers and a certain performance that they have received from it. We do not know how willing they would be to embrace the old model, which was totally flawed. I mean, let us remind you of the evidence of two years ago. We were trying to sell advertising between programs, which meant it was in eight-minute blocks and advertisers were demanding 50 per cent discounts in order to go in there. Even then we were struggling to fill those spots. I am saying that winding us back to that desperate situation of two years ago when the prognosis was for declining revenue, is counterproductive and, if we continued with that model, I do not know what the market would make of it now.

**Senator ALLISON**—So a better solution would be to remove advertising altogether?

**Mr Brown**—That is not a matter for SBS management. That is something that was granted to SBS in 1991, an effective licence to supplement the revenue with its own commercial activities. What we have done is express a determination to make the very best of that licence for the benefit of our viewers.

**Senator ALLISON**—I have heard it said that once you get a little bit of advertising there is no going back. You become more and more dependent. It becomes more of the culture of the place. It becomes a fait accompli. Do you agree with that?

**Mr Brown**—No, I do not, because I think the Public Service ethic that pervades SBS is strong. Advertising has existed on SBS since 1991. I would remind the committee that radio has been interrupting programs with advertisements since 1991 and there is no evidence there of some sort of dropping of standards or some sort of abandonment.

**Senator ALLISON**—Are you speaking about SBS radio?

**Mr Brown**—Yes, SBS radio. There has been no abandonment of standards and no lacking of resolve to meet the charter. Of course the charter is the compass for SBS; it determines the direction and the objectives that the organisation has. The commercial activities are simply the fuel required, in part, together with government appropriations, to make that possible.

**Senator ALLISON**—Minister, I know you are not going to let us in on the budget deliberations but is Labor considering, if not compensation for SBS for not having breaks in advertising—which you yourself have so vehemently opposed—getting rid of the breaks altogether without compensation?

**Senator Conroy**—Mr Brown has detailed some of the programs that have been made with the advertising revenue.

**Senator ALLISON**—Are you in favour of advertising on the SBS?

**Mr Brown**—We would like to separate them out specifically.

**Senator Conroy**—Last time we checked the Labor government introduced advertising on the SBS, so obviously there has been a disagreement about when that advertising takes place, but we have never suggested that we would do away with advertising on the SBS. We introduced advertising on the SBS to supplement its funding.

**Senator ALLISON**—So if you do away with advertising during the breaks and SBS comes to you and says, ‘This is not tenable to our advertisers; they want to have it in the middle of the program. That is when people are watching and not at the end,’ what is your likely response to that?

**Senator Conroy**—As you have heard me say a number of times this afternoon, budgetary matters are not something that I am in a position to comment on.

**Senator BIRMINGHAM**—It sounds like the back flip will be an easy one to perform.

**CHAIR**—Have you finished, Senator Allison?

**Senator ALLISON**—No, I have not. I have some slightly more general questions which are also part of that set of questions. I have a question on the gag rule that applies to staff. Is it still the case that staff are forced to sign contracts, confidentiality agreements, which oblige them not to criticise particularly advertising on SBS?

**Mr Brown**—I am not aware of any such requirement. All staff, all employees of SBS are bound by the employee code of conduct, which does restrict the ability of individuals in the organisation to criticise the organisation, to comment on it. I would have thought that would be standard practice in most businesses. There has been no specific instruction relating to advertising.

**Senator ALLISON**—What about more generally then? Are there confidentiality agreements?

**Mr Brown**—No. There is an employment code of practice which all of us who are employed by SBS, including me, are bound by, and that in part deals with who may speak on behalf of SBS and who may make comments about SBS. Clearly that does not permit everybody in SBS to make those comments.

**Senator ALLISON**—Can a section of that clause be provided?

**Mr Brown**—Yes. I could supply you with the full code.

**Senator ALLISON**—I have some questions about the number of hours that are devoted to programs in languages other than English in evening prime time on a night-to-night basis on SBS television. You talked a little earlier about the SBS charter and I seem to recall—at least from my own viewing which is not all that frequent, I have to say—that there was once a time when SBS showed programs in other languages, and that is quite rare these days. Is that the case? Is there a trend?

**Mr Brown**—No, there is no trend and your infrequent viewing, which is to be deplored, may be giving you that sense.

**Senator ALLISON**—It is infrequent across-the-board. It has nothing to do with the SBS.

**Mr Brown**—I think if you were to look at the schedule you would be reassured on that. It has always been the case that the evening schedule does not operate on the same fifty-fifty

balance that applies across the whole schedule. That is obviously the case because we have a large slice of in-language programming in the morning. But in recent years we have brought additional overseas drama on screen. *Unit One* is currently running at the moment, a Danish drama, which you might enjoy on a Thursday night at 8.30. There is *The Eagle* and *Don Matteo* and an endless number of overseas dramas which previously had not been shown. When I arrived at SBS we were only showing *Inspector Rex*, which by the way, is still going strong.

**Senator ALLISON**—What about in prime time? Is there a difference in prime time?

**Mr Brown**—Prime time is a kind of a commercial broadcaster view. We measure 6 pm to midnight as being a night-time schedule. Commercial broadcasters may carve it up slightly differently because of the way advertisers value different time slots. It does not apply to us. But there is a difference between the schedule as a whole, which runs maybe from 5.30 am through to 2 am. The balance of English language and languages other than English is generally 50 to 50 across the whole schedule. When you get into the evening schedule the balance is more towards English language, and that has always been the case. The argument for that is clearly that that is an area where common language works effectively in delivering a multicultural message.

**Senator ALLISON**—The reason is not because that is more attractive to advertising?

**Mr Brown**—No, because if that were the case then there would have been a change in that and there has not been a change.

**Mr Meagher**—Obviously we will provide you with the most up-to-date information but an answer we provided to a question Senator Conroy asked in relation to this issue was that in the three months prior to the introduction of in-program breaks, which was 9 October 2006, languages other than English programming scheduled during prime time averaged 32 per cent. In the period subsequent to when the answer was given, which was to June 2007—so the three months prior to June 2007—the average was 34.8 per cent. So there had actually been a slight increase in that period. But as I have said, we will get you the most up-to-date material.

**Senator ALLISON**—Thank you. English lesson programs also seem to be on the decline. Is that the case?

**Mr Brown**—English tuition programs?

**Senator ALLISON**—Yes.

**Mr Brown**—They have not existed on SBS television in the time that I have been with SBS, which is five years. You would be aware that this was something that we sought previously in a funding round to be part of our multichannel proposition, and that was unsuccessful.

**Senator ALLISON**—So when did they stop?

**Mr Brown**—I would have to take that on notice but, as I have said, they have not been on air for five years so presumably it was some date prior to that.

**Senator ALLISON**—And what is the size of the budget needed to provide these lessons? You are saying they would be on another channel?

**Mr Brown**—The intention was that part of the funding request would be for SBS 2, and my recollection is that there was around \$2 million a year required to fund that level of activity. That will allow us to repeat it and make it as accessible as possible.

**Senator ALLISON**—Minister, has that request come across your desk from a couple of years ago?

**Senator Conroy**—I am sorry?

**Senator ALLISON**—Are you concerned that SBS is not able for budgetary reasons to provide English language lessons or tuition?

**Senator Conroy**—I think that the serial underfunding of SBS by the previous government is an issue which both you and I have commented on previously, and they will be matters to take up as part of budgetary rounds in coming years. The serial underfunding of SBS from the previous government has been very disappointing.

**Senator ALLISON**—Mr Brown, did you make a new submission to this budgetary process for English classes?

**Mr Brown**—We have made a submission but my understanding is that that is a confidential matter at this stage?

**Senator ALLISON**—Yes, I do not want to see it. I am just asking whether you made one to renew this request.

**Mr Brown**—We have made a submission.

**Senator Conroy**—They have made a budgetary submission.

**Mr Brown**—Yes, a budgetary submission.

**Senator ALLISON**—In which there is a request for money for English classes?

**Senator Conroy**—I do not think that they confirmed that was the case.

**Mr Brown**—No, I did not confirm that was the case.

**Senator Conroy**—I was confused that you might have misunderstood the answer so I thought I would clear that up.

**Senator ALLISON**—Are there any ads that are allowed in languages of the program that are not English or any ads that are not allowed but are run?

**Mr Brown**—There certainly are in radio. Let me take that on notice because I think there might be some in that part of our schedule which we call *World Watch* where we take news programs from other countries and broadcast them in language. From time to time there is a specific interest in being associated with those programs.

**Senator ALLISON**—Thank you.

**Senator WORTLEY**—What is the commitment of SBS to preparation time for journalists, specifically in relation to the language program?

**Mr Brown**—Is that a question specifically about radio?

**Senator WORTLEY**—Yes.

**Mr Brown**—Since our new Director of Radio, Paula Masselos, has joined us we have embarked on a new and more vigorous approach to broadcaster training, and journalist training in particular, and have set up a new quality and standards position which has recently been appointed specifically to permit our broadcasters and our new recruits to receive more comprehensive training. This is a very specific requirement of Radio because we broadcast, as you know, in 68 languages and that means we are recruiting from 68 language groups, some of which are not very large and may not have automatically the set of skills that we are seeking. It places an additional training obligation on SBS and one that we are willing and planning to more fully discharge.

**Senator WORTLEY**—Perhaps Ms Masselos can inform us as to whether the preparation for on-air time for journalists has actually been reduced?

**Ms Masselos**—The preparation time in terms of programs?

**Senator WORTLEY**—Yes.

**Ms Masselos**—No.

**Senator WORTLEY**—So the journalist preparation time has not been reduced?

**Ms Masselos**—No.

**Mr Brown**—You could say that there is an issue at SBS that has existed for a number of years about different language groups having different amounts of time to prepare for programming—what we call the ‘staffing ratio’. Staff have raised the matter that it should be reviewed given that some broadcasters receive twice as much time as other broadcasters, which is not very equitable, and it is a matter that is currently under consideration.

**Senator WORTLEY**—So SBS is aware that there are concerns by journalists regarding their preparation time?

**Mr Brown**—I can tell you that the concerns are both ways. Broadcasters have told me that they are unhappy that other broadcasters are receiving enormous amounts of time to prepare and they do not have as much. It is not a simple proposition of saying, ‘We do not have enough time.’ It is more of a situation where they are saying, ‘We are not happy that there is not a more uniform approach to this and one that is fair.’

**Senator WORTLEY**—Still on the issue of staffing, how many job vacancies in total has SBS advertised each year in the last three years?

**Mr Brown**—I would have to take that on notice.

**Senator WORTLEY**—That would be fine. There are a few questions that you may be able to answer now—

**Mr Brown**—Sure.

**Senator WORTLEY**—and the others you could take on notice and get answers back to me, thank you. How many of these positions were offered on an ongoing basis and how many on a contract basis? How many permanent employees are currently employed on AWAs?

**Mr Brown**—I can answer that.

**Senator WORTLEY**—Yes.

**Mr Brown**—Twenty-seven per cent of our current workforce are on AWAs.

**Senator WORTLEY**—How many non-ongoing or contract employees are on AWAs? Does that include contract and non-ongoing employees?

**Mr Brown**—Would it help you if I just gave you the four categories of employees and then you could see where they fit?

**Senator WORTLEY**—Sure.

**Mr Brown**—We have a certified agreement which provides for two instruments. One is an ongoing status, that permanent status that you referred to. There is also in there a specified period which we are entitled to employ under the certified agreement.

**Senator WORTLEY**—Is that for a specific term or on a task contract basis?

**Mr Brown**—It may be task related or it may be duration related, such as a certain program run or a certain event that we have no confidence is going to continue. Currently, ongoing is 51 per cent of the entire workforce; specified period is 14 per cent; AWAs is 27 per cent; and executive or common law contracts, eight per cent.

**Senator WORTLEY**—Thank you. Would you be able to provide the actual figures rather than the percentages on notice?

**Mr Brown**—The number of contracts?

**Senator WORTLEY**—Thank you.

**CHAIR**—Any further questions for SBS?

**Senator BIRMINGHAM**—Yes, thank you. Firstly, following on from Senator Wortley—and I apologise if I did not hear some of her earlier questions—are you still offering AWAs to any employees?

**Mr Brown**—No. We are not offering AWAs as a consequence of a directive in December of last year pending the new arrangements.

**Senator BIRMINGHAM**—So that directive carried through to SBS as well?

**Mr Brown**—That was our understanding.

**Senator Conroy**—It did.

**Mr Brown**—Our Workplace Authority advice, advice 09 of 3 December 2007, does not totally prevent us from using AWAs. It says we should not use AWAs except in circumstances where no other instrument exists. There may be occasions when we do not have an instrument under the certified agreement.

**Senator WORTLEY**—On that same issue, on the Arabic program on the 22, 23 and 24 January 2008, a marketing position was advertised as being on an AWA. Can you explain why that was the case?

**Mr Brown**—I am not aware of that being the case. We will look into it and I will give you an answer on notice.

**Senator WORTLEY**—Thank you.



**Senator BIRMINGHAM**—Is SBS considering using the interim agreements that are proposed in current legislation?

**Mr Brown**—Obviously we will consider whatever is appropriate. We are awaiting the detailed advice on that from the appropriate department.

**Senator BIRMINGHAM**—I am tempting fate here, but has SBS considered the comments of the Prime Minister in relation to wage restraint? I note there are—

**Senator Conroy**—Mr Brown—

**Senator WORTLEY**—You could read them out again, Minister.

**Senator BIRMINGHAM**—There are some 10 directors and senior executives earning salaries over \$145,000. Does SBS consider the government's move on wage restraint as something that should be carried through to the senior executive team and the CEO, being yourself of course Mr Brown?

**Mr Brown**—My remuneration is substantially set by the Remuneration Tribunal. The board confirms what that is but it operates usually on a specific number supplied by the tribunal. That directly relates to the level of remuneration that the executives who report to me receive. I have heard Mark Scott's response to this. I look up to the ABC who pay a bit more but a lot less than the commercial sector, and we are in a slightly worse position than the ABC in being able to reward our executives appropriately.

**Senator BIRMINGHAM**—My colleague, Senator Parry, highlighted how much less the ABC get paid than Australia Post. Now, Minister, we can take it—

**Senator Conroy**—I am ready for you to fire away.

**Senator BIRMINGHAM**—I noticed during Mr Brown's answer you were eagerly searching for it. You got me to open a number of other windows in the meantime. Minister, can I take it that, just as you refuse to provide any direction, including a copy of the Prime Minister's fine words on wage restraint to Australia Post; just as you have refused to provide such directive to the ABC board and refused to write to the Remuneration Tribunal about the remuneration of the ABC's managing director, you will likewise refuse to take any steps that would actually convey the Prime Minister's comments on wage restraint to those who set the salaries of SBS's senior executives?

**Senator Conroy**—I am equally confident, as I have been on a number of occasions in dealing with our agencies, that they are all aware of the comments of the Prime Minister but, as Mr Brown was not here and you seem to have forgotten them because of your commentary earlier, I might just read you the relevant part yet again: 'Markets ultimately determine these things. From the difficult challenges we face ahead this year on the economy and inflation I would hope that those in the most privileged positions in the corporate sector also reflect carefully on the need for CEO wage restraint in the year ahead'. That is fairly clear. In fact it is very clear and I am confident that the board have seen those comments and will take that into account when judging Mr Brown's performance.

**Senator BIRMINGHAM**—I am sure it would be even clearer if it was provided by their Minister.

**Senator Conroy**—I am very confident that they are very aware of the Prime Minister's view and the government's view, and, can I say, Doctor Nelson's view.

**Senator BIRMINGHAM**—Indeed.

**Senator Conroy**—I am disappointed to see you participating in this, Senator Birmingham.

**Senator BIRMINGHAM**—I want to be sure that the Prime Minister's view gets carried to the widest possible audience.

**Senator Conroy**—I think you have been led astray by Senator Kemp on this.

**Senator BIRMINGHAM**—It is my duty and honour to try to convey the Prime Minister's view on this point as far as possible.

**Senator Conroy**—I am sure he appreciates your assistance.

**Senator BIRMINGHAM**—Indeed.

**Senator Conroy**—I am sure Doctor Nelson appreciates your ongoing support for his stated position.

**Senator BIRMINGHAM**—Apart from English, what is the most common language on SBS television and radio?

**Mr Brown**—The major language groups are Italian, Greek, Cantonese, Mandarin, Vietnamese and Arabic. That would be broadly representative of the weighting on radio. It might not strictly accord to television because obviously television has to have regard to whether or not a significant range of programs is available. But generally most of those language groups do receive television coverage of movies in particular.

**Senator BIRMINGHAM**—Is funding broken down either in television or radio or on a language-by-language basis?

**Mr Brown**—It is not in television and it is in the process of being put in place in radio. It had not previously been the way in which radio's budgets have been managed, but it will be in the future.

**Senator BIRMINGHAM**—Are there any plans to transcribe foreign language radio transmissions into English?

**Mr Brown**—We have investigated that on a monitoring front. About two years ago we introduced a sort of spot-check monitoring system. It is very expensive and to date we have been really constrained to doing in the region of 20 or 30 programs per year as a sort of quality checking procedure. So to have a formal translation system of the type you are talking about is probably going to be cost-prohibitive. Do you want to deal with what we do on line? Do we do some translation on line?

**Ms Masselos**—Yes. A number of the programs actually have a bilingual presence and some of the programs do have a summary in English and the programs are actually available as pod-casting language, but there is often some translation on line.

**Mr Brown**—To give you an example, the cost of subtitling programs on television, which is a tiny slice of the requirement that radio would have, costs us in the region of \$5 million a year. To try to place that across radio would be prohibitive.

**Senator BIRMINGHAM**—My understanding of the issue that has been raised with me is that a lot of the radio programs are provided almost on a community radio type basis in terms of the programming content, and I guess that is obviously why you have instituted the series of spot-checks so as to see what is actually being broadcast as part of SBS Radio by people who are probably not trained as journalists. I am not sure on what basis some of them get the nod for their programming, but obviously I would assume there is a selection criteria for each one.

**Mr Brown**—They are not just recruited from the community and put on air. They are selected for a certain set of skills. Senator Wortley asked earlier about the training program for our broadcasters on radio and my answer to that was that we are specifically addressing that and we have appointed a quality and standards manager with international experience to put more resource and more focus on this issue. It is a very specific radio issue in 68 languages. Our managers are themselves qualified journalists, so we do have a control over that. We have the spot monitoring which you referred to. And of course we also have the other protection, which is the complaints procedure, so if something went to air that should not, we also have the formal complaints procedure to identify that. I have to say that we do not have many complaints about radio.

**Senator BIRMINGHAM**—Did you say that the spot monitoring took place over about 20?

**Mr Brown**—Yes. We introduced it just when I became managing director in the beginning of 2006. We introduced it in May 2006. We did 20 programs in the first year and we are doing 20 programs in this financial year.

**Senator BIRMINGHAM**—Obviously 20 programs is a drop in the ocean when there are 68 languages and the programs then are multiplied out beyond that?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—Have those spot checks identified any problems?

**Mr Brown**—Nothing significant, but maybe I should make it clear that they are also a tool for improving quality. So it is not simply trying to pick up mistakes or inappropriate behaviour. It is as much to say, 'Let's look closely at what you put to air and how it could be improved.' So it is also a training device as well. It is our intention to lift that level of monitoring when we can find the funds.

**Senator BIRMINGHAM**—How were the programs selected?

**Mr Brown**—On a random basis by the director of radio. I believe each year it has been signed off by me as well.

**Senator BIRMINGHAM**—I am assuming there is no more than one per language if it is only 20 across 68 languages?

**Mr Brown**—I think we have done 10 languages twice.

**Senator BIRMINGHAM**—And what languages are they?

**Mr Brown**—I am not sure. In the last six months we have done Polish, Macedonian, Serbian, Croatian and Czech. We have a list of 10 other languages which are not yet finally

confirmed: Alchemy, which is not a language group but it is a youth oriented program, Aramaic, Arabic, Burmese, Greek, Hindi, Mandarin, Turkish, Vietnamese and World View is down for review as well.

**Senator BIRMINGHAM**—You have indicated complaints about radio are very few?

**Mr Brown**—Yes, they do not run at a very high level.

**Senator BIRMINGHAM**—In terms of what you would treat as formal complaints in the discussion you had with Senator Allison, do you have complaint numbers for the previous year?

**Mr Brown**—I think it will be single digits. I can take that on notice though and confirm that for you.

**Senator BIRMINGHAM**—Could you also outline what those complaints were about.

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—What is the divisional structure of SBS on a state-by-state basis?

**Mr Brown**—We do not have a divisional structure on a state-by-state basis. SBS has always been a national broadcaster in the true sense of the word located primarily in Sydney with a pretty substantial operation in Melbourne, a news bureau in Canberra and stringer presence in other centres. But it has never been established on a state-by-state basis. To scale it up to that I think would be an extraordinary expense.

**Senator BIRMINGHAM**—Are senior staffing appointments made via an appointments committee of the board or the senior management, or what is the process there?

**Mr Brown**—The most senior appointments are obviously made by me, but I invariably sit on a panel and it is not uncommon for a board member to be invited onto that panel and sometimes an external party where there is a particular expertise that we are looking for.

**CHAIR**—Are there any further questions for SBS?

**Senator WORTLEY**—Are redundancies planned at SBS Radio?

**Mr Brown**—Shall I deal with that to start with, because I am aware of the speculation that emerged out of a *Crikey* article the other day saying we were about to announce a wave of redundancies. As I previously indicated to this committee, radio is in the midst of a restructure. Restructure has occurred throughout the rest of the organisation but radio is operating—and I have made this point before—about eight to 12 months behind everybody else. That restructure has been completed at senior management level and, as previously discussed, some senior managers have left and some new ones have been appointed. Our attention is now turned to other issues which include the staffing ratio which you have talked about. Another matter that staff has raised with us is the inconsistency of single head of group management. In considering all of these issues, and we have not finalised our consideration, the possibility of redundancies obviously exists but so does the possibility of additional recruitment. If we do reach a point where we identify redundancies our certified agreement requires us to immediately inform both the staff concerned and the unions and we will carry that out without any delay.

**Senator WORTLEY**—When do you expect to know the results of what it was you referred to there?

**Mr Brown**—The two things are staffing ratios and single head of group. I think staffing ratios is a pretty long-term thing to tackle. A single head of group is probably a little more speedily resolved, and we are considering that over the next month.

**Senator WORTLEY**—In relation to staffing ratios we would not expect to hear an announcement of redundancies in the near future?

**Mr Brown**—I am not sure that staffing ratios leads to redundancies. That is the one that is going to take a lot longer to work through because, as my previous was, there are so many variables in this and so many different models that have been adopted over the years that introducing any sort of standardised or more appropriate system is going to take time. To be fair to all the staff concerned, I think there is a very significant amount of consultation required in that. Consultation has really only just begun.

**Senator WORTLEY**—Were consultants brought in for the purpose?

**Mr Brown**—On staffing ratios?

**Senator WORTLEY**—On either.

**Mr Brown**—No.

**Senator WORTLEY**—So it is just a matter of wait and see?

**Mr Brown**—Yes. The minute we have a view we will be discussing it immediately with our staff. That is not just an obligation; that is a desire on our part to be as open as we possibly can in such a complex area.

**Senator WORTLEY**—Can you provide some sort of a timeframe so that staff who are obviously aware of the rumours that are going around are in a position to—

**Mr Brown**—Yes. The single head of group issue is one that I think is one that we probably will form a view on in the next month or so. I cannot really give you a timeline on staffing ratios. I think it will be probably throughout this year a matter under consideration.

**Senator WORTLEY**—So 2008, is that the timeframe?

**Mr Brown**—We would certainly want to be at the end of this year knowing exactly what the structure and staffing ratio resolution is for radio. That is fair.

**CHAIR**—If there are no further questions for SBS, thank you to the officers for appearing today. Next we have the Australian Communications and Media Authority.

[5.40 pm]

#### **Australian Communications and Media Authority**

**CHAIR**—Thank you, everyone. We welcome the officers from the Australian Communications and Media Authority. I remind you to please identify yourselves for *Hansard* when you first answer a question. Who is leading off?

**Mr Chapman**—I notice there are several new members of the committee and a new chair. If you do not mind, I will take 30 seconds to perhaps introduce the members and indicate why

we have a number of officers from the authority. There are seven members of the authority, three full-time and the other four are part-time members. We then have a corporate structure that is broken into five divisions which essentially is: inputs to industry, the raw material that goes into the Communications and Media Authority in Australia which, to all intents and purposes, is the spectrum and the numbering plan; the outputs from industry and the monitoring thereof; a coordination division, what we call SAC, strategy analysis and coordination. We have an increasing need for very serious legal advice. Senators may be unaware that we have 41 principal acts that we respond to. In 2006-07 I think we had 97 new determinations, instruments, totalling over 500 in all. Finally we have a corporate services division that picks up property, finance, information technology and human resources.

I might just rest there but I thought I would set that up because I know there are a couple of new senators and I thought it might be helpful and, in part, because of the complexity of the organisation and the extraordinary variety of matters that we deal with, we have always taken the view, Chair, that it is best to have the full-time members of the authority and the five general managers at the table so that we try and dampen the number of questions we have to take on notice and provide as fulsome an answer we can at the table.

**CHAIR**—Thank you, Mr Chapman, that is very helpful.

**Senator JOHNSTON**—Which of these very learned people that you have presented to us is responsible for community radio licences in West Australia.

**Mr Chapman**—Mr Tanner is.

**Senator JOHNSTON**—Mr Tanner, you are aware of Sports FM having lost its radio licence and that it covers the cricket. I have a lot of very angry people in Western Australia saying how on earth can a group of people who are interested in old-time dance music and another group of people—I do not know what they are but we will come to them in a minute—get a licence when they are covering Pura Cup cricket in other states and they had their licence terminated in the first week of January. Briefly, what is the basis for getting a community broadcast licence? I do not need a lot of background. Who makes the decision and what are the criteria?

**Mr Tanner**—The criteria are set out in, from memory, section 86, of the Broadcasting Services Act. There is a list of our of five of them but what they come down to, in essence, is managerial capability and community need. They need to be able to show that there is an unmet need and I think Western Sports Media were able to do that, as were the successful applicant for the licence. I think both had a fair bit of support as a matter of fact on the evidence before us. The difference between the two really came out in the area of managerial capacity, which has several limbs to it. In essence, it is quite clear from the ensuing fuss that there were aspects of that radio service that were valued by the listenership in Perth but the group was found to be not nearly as strong as the successful applicant on the managerial capacity to provide a community broadcasting service, which is a service with certain governance characteristics.

**Senator JOHNSTON**—One of the beneficiaries of a licence is an Aboriginal group who is not going to start for 12 months, is that right?

**Mr Tanner**—Not all groups that go for licences are conducting trials and are therefore ready to go. The law gives you 12 months to start a service.

**Senator JOHNSTON**—But Sports FM has been broadcasting. It was terminated. It was ready to go. It has a proven track record. You got 16,000 letters to ACMA, didn't you, from complainants when you terminated them?

**Mr Tanner**—It is ready to go but there is not currently a frequency that it could conduct temporary community broadcasts on.

**Senator JOHNSTON**—No, but it did have a frequency and you gave it to someone else.

**Mr Tanner**—It shared a frequency with other aspirants in the area. It was in fact sharing the frequency with a successful applicant. Both of them were temporary services. They were not on full-time. They had a negotiated arrangement for sharing the airtime. When we move to permanent allocation, that is a scenario where you get one winner and that group then gets the benefit of transmitting all year round.

**Senator JOHNSTON**—We go on management expertise, style and evaluation from ACMA perspective as opposed to the number of people that participate in listening to the community broadcast?

**Mr Tanner**—Both services were popular and were able to show a lot of evidence of support. Unfortunately, two does not go into one.

**Senator JOHNSTON**—What is the solution here? I am not interested in the problem. I want to get a result for the 16,000 people that sent letters to you; I think you received 13,000 emails. Obviously covering the basketball, cricket and other non-prime-channel events out of Western Australia is vital.

**Mr Tanner**—We understand that and that is why in March we are scheduled to go over and meet with the group and discuss all its options. That is an opportunity for us to talk to them but it is also an opportunity to hear from them about the kind of service they think they are. Clearly, they have encountered some problems in this process in qualifying as a successful applicant for a community licence. If they are to do better if another opportunity comes up, then there are going to be some issues for them as well as for us. But we will be meeting them in March and we will be taking it from there.

**Senator JOHNSTON**—Let us review this because I know that you say that you are going to review it in March. We have given a licence to Peedac. What does that stand for?

**Mr Tanner**—I am not sure what it stands for. I may have it here if you give me a second. I do not think it actually stands for anything. It just seems to be the name of the company, Peedac Pty Ltd.

**Senator JOHNSTON**—It is an Aboriginal wholly Commonwealth funded community group that is not going to start broadcasting for 12 months?

**Mr Tanner**—Yes.

**Senator JOHNSTON**—Why would you not have allowed Sports FM to continue broadcasting on that band until they were ready to go and in the meantime try and solve the problem?

**Mr Tanner**—The answer to that is that we allow temporary services to occur where there is a prospect that the frequency can be made available for permanent services. The frequency on which the group, Western Sports, was trialling was a frequency that we planned for community broadcasting and we fully intended to allocate for permanent community broadcasting. It was perfectly appropriate for them to trial on it. There would be no purpose served, and there is no capacity for us to create a right, for them to trial on somebody else's frequency. That is now Peedac's frequency. If they were to go on air on that frequency that would have to be Peedac's business.

**Senator JOHNSTON**—But Peedac is not using its frequency.

**Mr Tanner**—Peedac are given under the law 12 months to get their transmitter and get themselves organised and start transmitting. That is the law, that is not ACMA.

**Ms Maddock**—It is not that we can require Peedac to make its frequency available to others once it has been allocated. It has the 12 months to start.

**Senator JOHNSTON**—So Peedac gets a frequency. It does not have to use it for 12 months, but someone who is up and running and providing an obvious service—can you confirm you have 16,000 letters to ACMA?

**Ms Maddock**—I am not aware of the number, but if Peedac and the organisation were to come to an agreement then that is quite within their remit and not of concern to us. But we cannot mandate that Peedac make it available to a third party.

**Senator JOHNSTON**—Who made the decision to terminate the licence?

**Ms Maddock**—We did not make a decision to terminate a licence. The authority made a decision to allocate a permanent licence to one of the two triallists.

**Senator JOHNSTON**—And not the other one?

**Ms Maddock**—Not the other one.

**Senator JOHNSTON**—The authority made the decision?

**Ms Maddock**—The authority.

**Senator JOHNSTON**—How long was the meeting which considered this decision? Do you have it minuted?

**Ms Maddock**—The authority meeting?

**Senator JOHNSTON**—Yes, where we terminated Sports FM, how long was the meeting? How long was it discussed?

**Ms Maddock**—I do not know.

**Senator JOHNSTON**—How do we get at what happened?

**Mr Chapman**—There was a substantial discussion. There was a staff paper presented, as there is for all authority decisions. It was, from recollection, a lengthy paper. It was a detailed paper.

**Senator JOHNSTON**—Can we have the paper?



**Mr Chapman**—Let me take advice on that, if you would not mind for one moment. I understand that that can be provided.

**Senator JOHNSTON**—I would be much obliged, Mr Bezzi. Thank you very much for your assistance.

**Mr Chapman**—We can provide that and I think you will find it is, as I said, a comprehensive paper that deals with all the applicants, their strengths and weaknesses. That is the process that was entered into and it was a substantial discussion at the authority meeting.

**Senator JOHNSTON**—What was the date of the authority's decision to award the permanent licence, to convert the temporary licence for Sports FM?

**Ms Maddock**—7 January 2008.

**Senator JOHNSTON**—When was Sports FM advised that it would be disconnected, so to speak?

**Ms Maddock**—The licences were allocated on 22 January 2008. We made our decision on 7 January 2008. I do not know the answer to your question as to when they were advised. I will let you know on notice.

**Senator JOHNSTON**—Can you see the problem here? You have people who are covering sporting events and there is an anticipation in the broader community that they will be able to listen to the only broadcast of a Western Warriors cricket match in Queensland, for instance, and suddenly they are not on the air.

**Mr Tanner**—Let me give you some of the background. There is a bit glass half full, glass half empty here.

**Senator JOHNSTON**—Half empty is what I am looking at.

**Mr Tanner**—Where there are frequencies vacant and available for community broadcasting, it is the law—it is not ACMA's policy but it is the law—that they can be used for temporary community broadcasting by services that are interested in obtaining a permanent community broadcasting licence. It is also the law that when you have more than one of them ACMA has to find a way that they can share. So once you have more than one you have a situation where one licensee is going to go off and the other one is going to take a turn. That was the scenario we saw in Western Australia. We had one frequency; we had two long-term triallists. I can assure you that both were very popular, and this is not the first time ACMA has had to make this kind of very hard call. But the terms on which this very valued service was operating was as a trial that had knowingly gone on, knowing that it may be unsuccessful, sharing a frequency. What we have now seen is one winner and we have seen one loser. Had we gone the other way I am pretty confident that there would have been another group of supporters. I cannot tell you how large that group would have been, but we obtained a lot of evidence that both groups had a fair amount of community support and interest. You need to understand, yes, you can characterise this if you wish as a decision to discontinue a valued service. From the authority's point of view it was a decision to move to a permanent community licence on a frequency on which trials had been proceeding for some time.

**Senator JOHNSTON**—How on earth can you, having said what you have just said about a fair amount of community support, in the face of that give a licence to someone who is not going to broadcast for 12 months, and has no obligation to?

**Mr Tanner**—Because the law does not require that you do trials before you go on air. It is also perfectly legal to apply for a community licence and make a case on the basis that if you obtain the licence you will subsequently get the funding and the help that you actually need. That is the situation that quite frequently Aboriginal and Torres Strait Islander radio services find themselves in where they are dependant upon a grant to find the money to commence—

**Senator JOHNSTON**—\$570,000.

**Mr Tanner**—and the grant may not come until after they are successful. That, I understand, is the situation with Peedac. The 12 months is a legal—

**Senator JOHNSTON**—They have not even been trialled, have they? They have a permanent licence and they have not even been trialled.

**Mr Tanner**—They have never done a trial, no, that is true.

**Senator JOHNSTON**—Do you not find something utterly incongruous about that? You have a Sports FM that has built up in the trial period, as you quite rightly describe, a good track record and lots of community support. They lose their licence and you give it to someone who has not even been trialled.

**Mr Tanner**—The arguments for having an Aboriginal service in Perth are a separate issue but they were very strong ones that were canvassed in the same paper.

**Senator JOHNSTON**—What are they? I am interested to hear what they are. In the face of you telling me about the law, tell me what the arguments are. I am fascinated by this.

**Mr Tanner**—Basically Perth has I think the largest population of Aboriginal and Torres Strait Islanders in Australia of any community that does not have its own community radio service. It had a radio service in WAAMA until a year or two ago but that was revoked because it had run into very serious governance problems in terms of the community service.

**Senator JOHNSTON**—So the criteria is because they do not have one you are going to give them one—not because they are worthy and have good corporate governance and meet all the criteria that you are making Sports FM meet, but because they do not have one you are giving them one?

**Mr Tanner**—No, they had to satisfy both criteria. They had to be able to show that there was an unmet community need, and the authority was satisfied of that. They had to show that they had the managerial capacity to provide a community service and the authority was satisfied of that as well.

**Senator JOHNSTON**—Can we have the documentation in support of the application from the Aboriginal group that has the licence, please?

**Mr Chapman**—As I said, we will be providing the authority paper and I can assure you that it is a comprehensive paper that picks up all the arguments for and against each of the applicants.

**Senator JOHNSTON**—Of the winners and the losers?

**Mr Chapman**—That is correct.

**Senator JOHNSTON**—Much obliged. Thank you very much, gentlemen. That is enough for me.

**Mr Bezzi**—I should point out that what Mr Chapman has said should be qualified by one matter. I am not aware of the particular paper concerned but there may well be some commercial-in-confidence material in the application or in a number of the applications that have been made. There may not be as well, but there may well be.

**Senator JOHNSTON**—I am not happy about that.

**Mr Bezzi**—We will advise if there is some issue about that. It may well be that the material would be disclosed but on the basis that we ask that the commercial-in-confidence material be kept confidential.

**Senator JOHNSTON**—In other words, you will blank bits out?

**Mr Chapman**—I think Mr Bezzi is reminding me of the need to look at the paper in the context of what if anything was provided as commercial-in-confidence.

**Senator JOHNSTON**—We are not talking about commercial entities, are we? We are talking about community broadcasting licences that do not have a commercial foundation or objective. How could you have commercial-in-confidence here?

**Mr Chapman**—We are just, I think, making a precautionary observation that no matter whether you are a commercial organisation or you are a not-for-profit organisation, there are always matters that touch on commerciality—

**Senator JOHNSTON**—Trade secrets, in other words.

**Mr Chapman**—and Mr Bezzi is rightly reminding me that we need to have a look at it to ensure that we are not breaching any commercial-in-confidence. In telegraphing that, I am not suggesting that we will go looking for opportunities to delete material. I have in good faith undertaken to you that we will seek to provide as fulsome information as we can.

**Senator JOHNSTON**—I have erred in not saying when.

**Mr Chapman**—We can do that within the week.

**Senator JOHNSTON**—Within the week would be good. Thank you very much.

**CHAIR**—As we are scheduled to go to the tea break in one and a half minutes I suggest we go now and we will be back at 7 o'clock. Thank you.

**Proceedings suspended from 5.58 pm to 7.01 pm**

**Senator IAN MACDONALD**—This morning I received an answer to a question from the last estimates about the assessment of the CDMA rollout. I think it was in relation to the ability to have mobile telephony on the major highways of Australia. It was indicated in the answer that I got today that the audit by ACMA did not go north of Brisbane, and there is a comment that the next audit will. Can someone tell me when those audits will be done or whether in fact they were done north of somewhere?

**Ms Scott**—Would it be possible for you to identify the question number?

**Senator IAN MACDONALD**—Let me go on to something else and, while I am doing that, I will find this question. As to the coverage of the CDMA, are we confident on just where it was before so as to compare it with the next generation of mobile telephony?

**Mr Chapman**—It depends on what you mean by ‘are we comfortable’. We had a report to make to the minister with respect to reasonably precise terms in the licence condition. We did that report very professionally. We engaged with Telstra very vigorously and we provided that recommendation to the minister in early January. The report essentially concluded that the Next G coverage with respect to external aerials was virtually the same, but with respect to handheld coverage there were some issues concerning sensitivities of handsets. On that basis we indicated to the minister in that report that we did not think he could be satisfied that the licence condition had been satisfied. That is how I would respond to that question.

**Senator IAN MACDONALD**—Was it part of your brief to advise the minister when the problems that had been experienced might be addressed?

**Mr Chapman**—No, it was not.

**Senator IAN MACDONALD**—As a result of your discussions with Telstra did your authority have a view as to when the problems might be addressed?

**Mr Chapman**—No, that was outside our brief. Our brief was to provide a report and in that report a recommendation to the minister, who took that report and its recommendations, supplemented by other reports. The minister made a decision and embarked on a course of action, and he may wish to speak to this. In terms of the ACMA, that was the extent of our brief.

**Senator IAN MACDONALD**—On what basis did you decide that Telstra would be able to address the problems that ACMA had identified by the date that you have given, which I think is 28 April?

**Senator Conroy**—The four issues that were identified under the licence condition were handheld coverage based on the appropriateness to handset sensitivity, inadequate advice to customers resulting in inappropriate handset purchases, telemetry, Next G wireless link and other equipment and services being available too late for full installation and testing to be completed, and insufficient information on call drop-outs, congestion and equipment availability.

**Senator IAN MACDONALD**—What information did you have that led you to think that Telstra would be able to address those issues by 28 April?

**Senator Conroy**—Perhaps you have misunderstood the decision that I made. The decision that I made was that we had not reached a conclusion that there was equivalence and therefore we would not allow the switch-off to occur on 28 January as was proposed. Telstra has indicated that it believes it can rectify the issues that we identified by 28 April, and we have to make a decision prior to 28 April about whether that is the case.

**Senator IAN MACDONALD**—You have not made the decision to switch off? You have not made a decision to allow the switch-off?

**Senator Conroy**—No, not at all. Perhaps there has been misunderstanding about the nature of the decision.

**Senator IAN MACDONALD**—There has been.

**Senator Conroy**—We have not nominated a date. Telstra has suggested that it can meet the issues that we have raised by that date. We are engaged in a process of stakeholder consultation. We are engaged in a process of discussions with Telstra. We are receiving reports and we will make a decision closer to 28 April.

**Senator IAN MACDONALD**—Will you get ACMA to have a look at it again to make sure that the—

**Senator Conroy**—When you say, ‘ACMA have a look at it again’, ACMA has looked at the coverage in terms of the footprint, if I can use that phrase. That is just a phrase I use more conveniently. While there are some small areas that are not part of what were identified, the overall equivalence of the footprint we believe was sufficient based on ACMA’s recommendations. We have asked Telstra to address a couple of particular areas that were identified by ACMA but that are not part of the licence condition and it undertook to do that. The areas where ACMA was then involved were handset sensitivity. When you say ‘look at it again’, I am not sure what there is to look at again. The handsets are the handsets. They either work or they do not, so—

**Senator IAN MACDONALD**—But wouldn’t ACMA be testing the ones that Telstra says, ‘These are the ones, and they will work’?

**Senator Conroy**—It has already done that number. The point is that it has tested the phones available and formed a view. The phone handsets will not have changed from when they were tested last year to when they were tested this year. The issue which ACMA did identify was that people had received an inappropriate phone for their needs. The issue identified by my department in the shadow shopping survey was that some of the advice being given to customers had led people to make inappropriate purchases.

**Senator IAN MACDONALD**—Will Telstra refund or replace those handsets?

**Senator Conroy**—Part of the issues that I put forward and sought from Telstra was a commitment that where somebody has a genuine case where the Next G handset they are using is not appropriate it will be replaced at no extra cost under the contract; if you were to change contracts, they might have tried to charge you. So, no extra cost incurred on contract change and just a straight replacement of the phone handset to the appropriate handset.

**Senator IAN MACDONALD**—Who is to be the judge of that?

**Senator Conroy**—The consumer will ultimately be the judge of that. If they are giving it—

**Senator IAN MACDONALD**—If they have a dispute with Telstra what will you do then?

**Senator Conroy**—They can advise us if there is a problem. My department has its own hotline. Telstra has advertised—and you may have seen this in some of its ads now—a 1800 number. My department also has a hotline and we are monitoring the cases that come through the department and following up to ensure that the customer is satisfied at the end of the process.

**Senator IAN MACDONALD**—We should urge people to ring the hotline if, getting close to 28 April, they do not have a service that they think is comparable to the CDMA?

**Senator Conroy**—As I said last week in parliament, they should be phoning the hotline as fast as they can. Telstra wants to hear about it urgently so that their problem can be rectified. I would not be advising people to wait until closer to 28 April. I would suggest that they should contact the hotline of either the department or Telstra directly as soon as they can. If they have problems now, they should be contacting either of those hotlines immediately.

**Senator BERNARDI**—What is the difference in the information that is going to be provided if they ring Telstra or they ring the department?

**Senator Conroy**—We will be collecting all the information and Telstra will be collecting all the information. We are just passing on the information to Telstra and then we are following up to ensure that the customers have contacted us also.

**Senator BERNARDI**—If they ring the government hotline it is just another step in the process?

**Senator Conroy**—Yes.

**Senator BERNARDI**—Will it take longer to—

**Senator Conroy**—The departmental referrals are not instantaneous, but they are reasonably quickly passed over. It is not a week. I will check in a moment, but I am sure that it would be a very short period. If you like, I can check that.

**Senator BERNARDI**—Surely no matter how quickly it is passed on, if they were speaking to someone at Telstra they could virtually get an immediate redress to their complaints, couldn't they, by saying, 'Yes, I have identified I do have an inappropriate handset', and then Telstra would hopefully send out a new one? Are we creating an unnecessary level of bureaucracy?

**Senator Conroy**—I am advised by the department that once we have received and got the details the referral to Telstra is immediate—that is, on the same day.

**Senator BERNARDI**—Does Telstra then have to contact the customer in order to find redress to their issues?

**Mr Rizvi**—The arrangement that we have is that the first point of contact in this regard is the Telstra 1800 number. People are encouraged to contact Telstra first to have their problem resolved. Where they feel that their problem has not been adequately addressed by Telstra, they are then encouraged to use our hotline. The hotline is a fallback to Telstra's hotline.

**Senator BERNARDI**—If they have a problem, they ring Telstra, but if it is unresolved, who advises them to call the government number?

**Mr Rizvi**—We are making our government number known. We have had it out there in the public for quite some time.

**Senator BERNARDI**—How are you doing that?

**Mr Rizvi**—I will have to get the details on that for you. Prior to the minister's decision on 17 January 2008 we had received on our hotline something in the order of 800 calls. We had referred all of those to Telstra and then we followed those through.

**Senator BERNARDI**—I would be interested in knowing how much money was spent in the marketing of this hotline in the months previous.

**Mr Rizvi**—I will have to take that on notice.

**Senator BERNARDI**—I understand and accept that. Obviously, there is a concern about increasing the level of bureaucracy where this has already been resolved, but I think you have straightened that out, which was slightly different to what I understood previously. In relation to the handsets, how do we determine whether a handset is appropriate for the Australian market before it comes in here? Is that done simply by Telstra or the importer or is it determined by ACMA? There are lots of you here; any one of you can answer it. I am happy for that.

**Senator Conroy**—It is a technical standards issue, I suspect.

**Mr Rizvi**—Yes, it is.

**Senator BERNARDI**—A problem with handsets has been identified.

**Mr Rizvi**—All mobile handsets that are issued into the Australian market must meet a set of minimum standards that are assessed by ACMA. The minimum standards that those handsets must meet relate to what is known as the Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001. This regulation aims to ensure that items such as handsets meet minimum mandatory standards prior to connection to the telecommunications network. A minimum set of standards is applied. In addition, in respect of the particular report that was produced by ACMA, ACMA also measured receiver sensitivity of the Next G handsets against a range of additional industry standards. I have a list of those additional standards, and I can go through those.

**Senator BERNARDI**—I do not think that is necessary.

**Mr Rizvi**—All of the phones that were tested met those standards.

**Senator BERNARDI**—Can ACMA be sure that the handsets are the problem and that it is not actually the power in the base stations or within the 3G network, if they have met all the current government standards?

**Mr Rizvi**—As the minister explained, there are two dimensions to this. One is the footprint of the power, as you have described it, from the base stations. They measured that and it was against that that ACMA found that the Next G network was equivalent to or better than the CDMA network. The second set of issues relates to the handsets. There is a range of handsets with different levels of sensitivity. Those handsets, naturally enough, are sold at different prices, and different customers will want different levels of sensitivity depending on their own price situation and their own circumstances in terms of where they may or may not be wishing to use the phones. The issue that arose was that some customers had, perhaps because of inadequate information, obtained handsets that did not meet their needs.

**Senator BERNARDI**—It comes back to the information, which is what Telstra has undertaken for you to fix, Minister. In your statement of around 18 January you said that Telstra was going to prepare a report for you as to how it would redress some of these deficiencies. Have you received that report?

**Senator Conroy**—I think the indication was that it would put forward a rectification plan and then come forward with a plan in mid-March.

**Senator BERNARDI**—I thought in your statement—and I will stand corrected—you said that you had made a request for a report at two weeks?

**Senator Conroy**—Within two weeks is a rectification plan: ‘Here is our plan to address these things.’ In mid-March it will be, ‘Here is what we have done to meet the rectification plan.’

**Senator BERNARDI**—You have received the rectification plan? Is that right; you have received it?

**Senator Conroy**—Yes.

**Senator IAN MACDONALD**—Is that public?

**Senator Conroy**—It is still a matter of ongoing discussion.

**Senator BERNARDI**—So, you have not accepted it?

**Senator Conroy**—It is a matter of ongoing discussion.

**Senator IAN MACDONALD**—Can you table the report?

**Senator Conroy**—It is not a report at this stage. It is a matter of ongoing discussion.

**Senator IAN MACDONALD**—You did say you had received the report.

**Senator BERNARDI**—You said you had received the report.

**Senator Conroy**—I have received a submission from Telstra and it is a matter of ongoing discussion at the moment.

**Senator NASH**—If you do not have a clear picture of the rectification plan, how will you know—

**Senator Conroy**—I have a very clear picture.

**Senator NASH**—You said you are still discussing it. Isn't there a concrete rectification plan that Telstra has put to you and, if not, why not?

**Senator Conroy**—Telstra has agreed to a number of measures at my insistence, including implementing a 1800 hotline, committing to an accreditation program, employing 50 coverage advocates, and a handset replacement program in genuine cases. That is what Telstra has agreed to.

**Senator NASH**—You just said that discussions were still ongoing around the rectification plan. That would seem to imply that the rectification plan had not been finalised.

**Senator Conroy**—Telstra has forwarded a document.

**Senator BERNARDI**—But you have not accepted it?



**Senator Conroy**—It is a matter of ongoing discussion.

**Senator BERNARDI**—It has submitted a plan that is still under discussion and that could not have started because it is still under discussion, and yet you have—

**Senator Conroy**—It has started, obviously, because there is a 1800 hotline.

**Senator BERNARDI**—I could set up a 1800 number tomorrow.

**Senator Conroy**—There is an accreditation program. There are 50 coverage advocates and there is a handset replacement program in genuine cases, so it has to—

**Senator BERNARDI**—What part of the plan is under ongoing discussion?

**Senator Conroy**—That is a matter that is confidential at the moment and it is being discussed with Telstra.

**Senator BERNARDI**—Don't you think the people on the CDMA network deserve to know when their issues will be resolved and what plans the government and Telstra have to resolve them?

**Senator NASH**—Especially given that you have a nominated switch-off date.

**Senator Conroy**—I am happy to take all your questions—one at a time.

**Senator NASH**—They just follow on.

**Senator Conroy**—Could you repeat your question?

**Senator BERNARDI**—Don't you think the people on the CDMA network deserve some assurances and some guarantees that the plan that you allege exists, even though it appears it is still under ongoing discussion, will actually solve their problems?

**Senator Conroy**—The plan, as I have said, includes implementing a 1800 hotline that people should contact urgently. They shouldn't hold off.

**Senator BERNARDI**—That's Telstra's 1800 hotline?

**Senator Conroy**—Yes.

**Senator BERNARDI**—They shouldn't ring the government one.

**Senator Conroy**—No, they can ring either one, as you have had explained to you. The department—

**Senator BERNARDI**—No, we had explained to us that the department one was the second port of call, so they should ring Telstra first. That's what we had explained. You explained something different.

**Senator Conroy**—No, if they call our number first, we refer them on to Telstra. That was what the evidence was. And you can happily go back and re-read *Hansard*, if you like.

**Senator BERNARDI**—No.

**Senator Conroy**—And then if they are unhappy with the service from Telstra they can come back to us. But that's exactly what Mr Rizvi said.

**Senator IAN MACDONALD**—What we are all getting at is the users should be able to know what Telstra has proposed is still under consideration. You threw in the phrase there that it was ‘in confidence’. Can you explain?

**Senator Conroy**—Sorry?

**Senator IAN MACDONALD**—Can you explain in what way it is—

**Senator Conroy**—It is a working document and not the final document.

**Senator BERNARDI**—But you asked for it within two weeks.

**Senator Conroy**—Yes.

**Senator BERNARDI**—And they have provided you with, what, half a plan, have they?

**Senator Conroy**—No, there has been ongoing discussion since they provided it.

**Senator BERNARDI**—Because the plan was not adequate; is that what you are saying?

**Senator Conroy**—There are ongoing discussions.

**Senator BERNARDI**—Because you were not satisfied as to, what, the integrity of its plan? Let us get to the nub of this. You issued a demand to Telstra. It has obviously failed to deliver, and you are in ongoing discussions with it. How will that help the people in country Australia?

**Senator Conroy**—There are ongoing discussions to ensure that CDMA customers get the comfort that you mentioned earlier they need and deserve, and to ensure that Telstra keeps its promise, which is that there will be equivalence of service.

**Senator BERNARDI**—Are you handling those discussions personally?

**Senator Conroy**—There is a range of individuals involved.

**Senator BERNARDI**—Have you met with Telstra personally to discuss this plan?

**Senator Conroy**—Yes.

**Senator BERNARDI**—With other people from your department?

**Senator Conroy**—I have had discussions with my department and I have had discussions with Telstra.

**Senator BERNARDI**—How many people are actively working on this project or this plan—this half plan?

**Senator Conroy**—I could not comment on how many people are working on it from the Telstra side. I actually do not know the answer to that question.

**Senator IAN MACDONALD**—Are you going to release it at some time? There is no great secret. We are all in the same boat.

**Senator Conroy**—I will happily take that on notice and get back to you on that matter. I have announced the plan.

**Senator BERNARDI**—No, there has been a rectification.

**Senator Conroy**—As I said to Senator Nash, I am very certain what the plan is.

**Senator BERNARDI**—So, you know what the plan is?

**Senator Conroy**—It is about the implementation of the plan. The rectification plan—

**Senator BERNARDI**—So, you know what the plan is; you don't know how it is going to—

**Senator Conroy**—I know exactly how it is going to work.

**Senator BERNARDI**—Why can't you tell us?

**Senator Conroy**—I just have. There will be a 1800 hotline number.

**Senator NASH**—There is a hotline; that is the plan?

**Senator Conroy**—There is an accreditation program. There are 50 coverage advocates and a handset replacement program in genuine cases—something that your previous government was not able to negotiate.

**Senator BERNARDI**—What is under discussion from this plan you have just outlined to us?

**Senator NASH**—That is a good question.

**Senator IAN MACDONALD**—You are equivocating, Minister. There is no need to. We are all in the same boat.

**Senator Conroy**—We are all in screaming agreement. There is actually no disagreement; we want to ensure that the plan is implemented.

**Senator BERNARDI**—Which part of the plan is still under discussion? That is what we want to know.

**Senator Conroy**—That is a conversation matter at the moment.

**Senator BERNARDI**—You have outlined the plan to us. You have told us that this is the plan and yet you do not want to tell us how it will be enacted. That seems quite peculiar for an open and transparent government.

**Senator Conroy**—There is a 1800 hotline.

**Senator BERNARDI**—Should I ring them, do you think, and they might be able to enlighten me?

**Senator Conroy**—There is an accreditation program. If you go into a Telstra shop, you will see it in place right now. There are coverage advocates. If you phone them you can get them to come and check on the issues that you identify. And there is a handset replacement program that is widely publicised. All of those things are happening right now.

**Senator BERNARDI**—In your opinion, do you consider they are sufficient to redress the problems people are experiencing with the CDMA network?

**Senator Conroy**—There is the ongoing issue around telemetry.

**Senator NASH**—Before you move on—

**Senator Conroy**—I have not moved on. I am actually talking about the implementation plan.

**Senator NASH**—Do keep going; we are fascinated.

**Senator Conroy**—There is an issue around telemetry and ensuring that the right equipment is available. It was not available up until relatively recently, before Christmas. There is also the Next G wireless link. We are seeking information from Telstra to be absolutely assured that all of the customers who want this equipment have access to this equipment.

**Senator BERNARDI**—Do you have confidence that the measures Telstra has implemented or commenced will be enough to redress any disadvantage to existing CDMA users in their transfer to the 3G network?

**Senator Conroy**—As I am legally responsible for making the decision, I am not in a position that I can express confidence one way or the other. I have to receive the next report from Telstra before I can make a decision. I am confined by the conditions set by the licence condition introduced by your former government. I am dealing within the parameters of the licence condition of the former government. Legally I am not in a position that I can comment on the question you just asked. I have set out the conditions that Telstra has to meet.

**Senator BERNARDI**—You cannot comment on whether you believe Telstra can achieve under the plan you have authorised and are in ongoing discussion with it on? That beggars belief.

**Senator Conroy**—What I have said consistently is Telstra has indicated it can meet the tests that we have set out. I have never said I am confident that it will meet them or that I am not confident.

**Senator BERNARDI**—So, you are not confident?

**Senator Conroy**—I have not seen—

**Senator BERNARDI**—You do not have faith in Telstra? What is it?

**Senator Conroy**—I have not said either. Legally, I have to make the judgment after I receive the next Telstra report. I will not speculate. I have not done so up until now. I am very conscious of my legal obligations. I will not comment on whether or not Telstra can or cannot, because I have a legal obligation not to prejudge the situation. It is a legal obligation that has been placed upon me by the licence condition imposed by your government. It is quite a serious legal obligation.

**Senator BERNARDI**—Is that an obligation that you disagree with?

**Senator Conroy**—No, I am simply making the point—

**Senator BERNARDI**—So, why do you keep making the point that this is a licence obligation put in place by the previous government?

**Senator Conroy**—I am making the point when you suggest that I should be able to—

**Senator BERNARDI**—You keep trying to score cheap points.

**Senator Conroy**—I keep making the point that when you laugh and suggest that I should be willing—

**Senator BERNARDI**—I am not laughing. I am concerned for rural Australia.

**Senator LUNDY**—There is a point at which you can only ask the same question so many different ways.

**Senator BERNARDI**—Thank you for that; I will take your advice when I ask for it.

**Senator NASH**—Can I ask a slightly different question on the same issue?

**Senator BERNARDI**—Please do.

**Senator NASH**—In relation to assessment, the initial CDMA audit that ACMA did was independent. The second part of the process involved auditing the new Next G network, as a measurement tool, which again was independent. The minister quite rightly said, ‘No, we’re not going to allow CDMA to be switched off as yet’. Correct me if I am wrong, but the third part of the process now seems to be the rectification plan from Telstra. Shouldn’t that also be independently assessed? Again, I might be wrong, but what seems to have come out so far is that for the third and hopefully final part in this process Telstra has brought its rectification plan to the minister and, with some discussion, will then come back and tell the minister whether it has achieved success in its rectification plan. To me there does not seem to be any independent arbiter around that rectification plan to ensure that the consumers actually get that final equivalence tick. Can you run us through that?

**Senator Conroy**—Unfortunately, you have confused and conflated a number of issues. The rectification plan is subject to a testing process. Last week Senator Bernadi, Senator Macdonald and you were asking about getting ACMA to test it again. ACMA tested the footprint and gave it a tick. ACMA tested the phones. As I said in an earlier answer, they did not get a tick, and that is the issue.

**Senator NASH**—Yes, I follow that.

**Senator Conroy**—The actual equipment does not require further testing—

**Senator NASH**—No, I completely follow that.

**Senator Conroy**—from a technical point of view. What I think you are getting at is what verification process will be involved. There will be an independent verification process. And that is a matter of ongoing discussion. There will be an independent verification process and I will not be taking Telstra’s word for it.

**Senator NASH**—Can you advise us what the independent verification process will be?

**Senator Conroy**—That is a matter of ongoing discussion.

**Senator NASH**—Do you see our situation? We now have a nominal switch-off date of 28 April.

**Senator Conroy**—No, you have a date suggested by Telstra that it believes it can comply with.

**Senator NASH**—Which is a nominal switch-off date. It is a very short time frame. It appears that, firstly, if people are going to be confident that this process will work, they should be entitled to have some level of knowledge as to the process.

**Senator Conroy**—That should be finalised with Telstra first.

**Senator NASH**—It is quite appropriate that the independent verification part of that process should be public.

**Senator Conroy**—That should be finalised with Telstra first.

**Senator NASH**—So, that is what is not finalised; that is the part that is under discussion?

**Senator Conroy**—The 1800 hotline is in existence. The accreditation program is in existence.

**Senator NASH**—It is going to take more than a hotline.

**Senator Conroy**—The 50 coverage advocates exist, and a handset replacement—

**Senator NASH**—888 888.

**Senator Conroy**—I am glad you have got it, and you should be letting all your constituents know. The handset replacement program in genuine cases exists.

**Senator NASH**—Returning briefly to the assessment and to one of the responses to questions on notice I received in the last couple of days, I had not realised that the surveys to measure the coverage equivalence between CDMA and Next G were conducted along survey routes closely mirroring ACMA's earlier benchmarking. Were the CDMA monitoring and then the Next G network monitoring not exactly the same? What is 'closely mirroring' and why was it only closely mirroring it and not exactly the same?

**Mr Tanner**—It was exactly the same.

**Senator NASH**—It was exactly the same?

**Mr Tanner**—Yes.

**Senator NASH**—So, somebody is obviously in error in one of the responses?

**Mr Tanner**—Can you give me the page number?

**Senator NASH**—Question on notice 226.

**Senator BERNARDI**—I have a question relating to the survey process and in particular the shadow shopper process. How many shadow shoppers were employed in your trial?

**Senator Conroy**—Enough to establish that the information being supplied was not comprehensive and led to some people getting inadequate phones. We will get you the exact number in a moment. The point was that the department's recommendation was that the information being supplied to some customers was not adequate.

**Senator BERNARDI**—I understand. I am not going into that at all. Was the shadow shopper program undertaken internally or externally?

**Mr Rizvi**—Some 197 shadow shoppers were involved in the project, and the exercise was undertaken by a professional firm that specialises in such exercises. They were contracted to the department to undertake that exercise.

**Senator BERNARDI**—That makes a bit of a mockery of the government's claims that they are not going to be outsourcing and hiring consultants; in its first three months that is what it has done. In respect of the 197 shadow shoppers, in which locations were they based? Was it in major metropolitan areas or in regional Australia?

**Mr Rizvi**—It was a mixture of both metropolitan and regional areas.

**Senator Conroy**—Conducted under your government, before you jump in too much further.

**Senator BERNARDI**—I was going to compliment it on what an amazing program it has been.

**Senator Conroy**—Just like the ACMA report was undertaken under your government.

**Senator BERNARDI**—That is fine.

**Senator Conroy**—But you can feel free to criticise it.

**Senator BERNARDI**—No, I am establishing—

**Senator NASH**—I did last year.

**Senator Conroy**—To be fair, you have form.

**Senator BERNARDI**—Of the 197 shadow shoppers, can you tell me how many were in metropolitan areas and how many were in regional areas?

**Mr Rizvi**—It was broadly split up two to one in favour of regional areas.

**Senator BERNARDI**—Was there any geographic focus to it?

**Mr Rizvi**—They covered all parts of Australia.

**Senator Conroy**—You are not suggesting they got it wrong, are you?

**Senator BERNARDI**—Not at all. I am just trying to get to it.

**Senator IAN MACDONALD**—ACMA did an assessment that did not go north of the Tropic of Capricorn. Did you correct that?

**Senator Conroy**—Is this an ACMA question?

**Senator IAN MACDONALD**—I am going right back to where I started, which comes back to the extent of the assessments you made.

**Mr Tanner**—Yes, the reference to the CDMA coverage survey in January 2007, that is the original south-eastern Australia one, and the answer is: correct, that survey did not go above the Tropic of Capricorn. However, in June, following estimates, the authority did a second very large test audit from Perth to Mackay that did go above there. There is more detail about—

**Senator IAN MACDONALD**—There is a lot of Australia north of Mackay, you know. I happen to live there.

**Mr Tanner**—There is more detail about the subroutes in the public version of the authority's report at page 27, if you want to see that broken down into a bit more detail.

**Senator IAN MACDONALD**—As I made the qualification, I only received this answer this morning and I have not had a chance to print it out into hard copy. I have forgotten exactly what the question was, except that it showed that ACMA was limited in the assessments it made. So, it has not gone north of Mackay? What about Townsville, Cairns and Darwin, north of Mackay, and Ayr, where I live?

**Senator WEBBER**—Don't forget my side of the world, Western Australia. We missed out too. I remember us discussing this last time.

**Senator IAN MACDONALD**—That is perhaps all past history. Was that correct in relation to this survey? What relevance does that survey have to the survey the minister is relying on for CDMA switch-off?

**Mr Rizvi**—I am advised that the shopper survey, which is different from the survey of aerial and coverage that ACMA undertook, went to a number of places north of Mackay, including Cairns, Townsville and Darwin.

**Senator IAN MACDONALD**—And Broome, I hope.

**Senator WEBBER**—Broome, Port Hedland and places like that.

**Mr Tanner**—The authority's discussion of the survey route, the choice of the survey route and its view as to why that survey route was an adequate sample are set out at pages 27 and 28 of the report.

**Senator IAN MACDONALD**—Is this a public report?

**Mr Tanner**—This is on the department's website.

**Senator IAN MACDONALD**—It would have been good to mention that in the answer to the question. Anyhow, let us move on. Did the footprint the minister said that ACMA tested go all over Australia or did it stop at the Tropic of Capricorn, on your assessment?

**Mr Chapman**—That information has been provided.

**Mr Tanner**—There is a discussion, as I said, of the route that we took and why we regarded it as a representative—

**Senator IAN MACDONALD**—I am sorry, I have not had a look at that. As I say, I was not really conscious that it was out and it was not mentioned in the answer to my question. Can you briefly summarise what it says? Does it say it went everywhere? That is all I want to know. Or did it only go to the south of Australia?

**Mr Tanner**—There is a description of the survey routes. The Perth to Mackay route was surveyed in June and then resurveyed in October once Telstra had announced it had achieved equivalent coverage in its view. There was a 7,850 kilometre route, which passed through Geraldton, Carnarvon, Dampier, Broome, Halls Creek, Katherine, Tennant Creek, Mount Isa, Longreach, Rockhampton and Mackay.

**Senator WEBBER**—That is a fair coverage.

**Senator IAN MACDONALD**—That is great for Ayr, Townsville, Ingham, Cairns, Cooktown and Torres Strait.

**Mr Tanner**—The drive survey routes were chosen because of the diversity of conditions that would be encountered throughout the surveys. The drive survey routes included city and regional areas but mainly focused on rural, regional and remote areas where Next G coverage is likely to be the only mobile network available to consumers. The drive survey did a selection of sites in all states and the Northern Territory. There is more there about it and I am happy to address—



**Senator IAN MACDONALD**—I am a bit parochial. Again, I thank my colleagues for their indulgence. As I raised the issue and mentioned some places where I drive to work, between Ayr and Townsville, I thought you might have at least been scared enough of my asking you questions at estimates that you might have gone there; obviously not.

**Senator WEBBER**—Perhaps you need to work on being scarier.

**Senator IAN MACDONALD**—I will have to thump the table a little harder. This was in relation to mobile coverage on the roads, was it not?

**Mr Tanner**—Yes.

**Senator IAN MACDONALD**—That is the question. Anyhow, perhaps that is a dead issue, although it is not for me and my constituents.

**Senator WEBBER**—No, it is not.

**Senator IAN MACDONALD**—We still want to know why our government's promise of eight years ago has not yet been met by someone—hence my reference to last year's estimates. Can I be assured that in the survey you are doing of the footprint for the CDMA you have gone Australia-wide? This is current information that the minister might have. The minister said that ACMA tested the footprint. I have written down the words, 'footprint was tested by ACMA'.

**Senator Conroy**—Unfortunately, there is a bit of confusion. I appreciate that you have consistently followed this argument and when it was raised back in June by me, initially, you jumped in very much on this issue. Unless you are suggesting that every possible kilometre of footprint around Australia was going to be tested—

**Senator IAN MACDONALD**—Having been done over, it seems, on the roads issue—

**Senator Conroy**—By your own government.

**Senator IAN MACDONALD**—By the people who were supposed to be administering our government's policy. The minister does not get out and turn on switches to make sure this happens. Having been done over on that, I want to be sure about your assessment—what you said, Minister—and that the footprint ACMA tested did not stop in Canberra, Sydney and Melbourne.

**Senator Conroy**—I think Mr Tanner has given you—

**Senator IAN MACDONALD**—I would like to be assured that it did go north of the Tropic of Capricorn.

**Senator Conroy**—I think Mr Tanner has identified reasonably—

**Senator IAN MACDONALD**—I think he is talking about the roads issue. I am now asking in relation to the switch-off of the CDMA.

**Senator Conroy**—That was how they conducted the survey of the footprint.

**Mr Chapman**—We covered 15,000 kilometres in the survey route.

**Senator IAN MACDONALD**—This is for the CDMA switch-off?

**Mr Chapman**—It was the same route for both. It was designed to get a comparison of one to the other over the same length—15,000 kilometres—with an independent team supported by ACMA engineers. There were assessments of about 230 base stations, 87 per cent of which were non-metropolitan. We were particularly focused on non-metropolitan areas. That was a robust survey. Given propagation features and given the fact that we satisfied ourselves about covering different topographies, we felt comfortable in extrapolating from that survey to the recommendations set out in our report.

**Senator IAN MACDONALD**—Assist me in my simple understanding: did all of that actually physically go somewhere north of Mackay?

**Mr Tanner**—Yes.

**Senator IAN MACDONALD**—You are reading the same report that we were talking about before in relation to roads. That is the same report you used for the assessment that ACMA has just given to the minister?

**Mr Tanner**—I am reading from the publicly released report to the minister. Large parts of it go to the minister, and it is on the department's website.

**Senator IAN MACDONALD**—In relation to?

**Mr Tanner**—It relates to ACMA's obligation under the licence condition, which is to provide a report to the minister on certain matters going to equivalence.

**Senator IAN MACDONALD**—And that is the same issue that I asked in estimates last May? Someone is deliberately trying to confuse me.

**Mr Tanner**—No, certainly not. In fact, in May you complained that you found it difficult to believe, as did a couple of other senators, that a representative sample of geographical and terrain and landscape types in the south-east of Australia could allow us to draw competent conclusions about the performance of CDMA versus Next G in places such as North Queensland. Following that Senate appearance, the authority, in consultation with the government at the time, agreed to greatly extend the survey by conducting a second sample which travelled a very long route from Perth and Mackay.

**Senator IAN MACDONALD**—But it still didn't get north of Mackay?

**Mr Tanner**—I have just said that it did. It also went to Tasmania. In fact, there are significant samples.

**Senator IAN MACDONALD**—You could have stopped this a quarter of an hour ago by just telling me where it went north of Mackay. I don't need every town.

**Senator Conroy**—If you have the site reference, you can give that to Senator Macdonald and he could perhaps peruse it while some others are asking questions.

**Senator IAN MACDONALD**—They are different issues, I am sure.

**Senator Conroy**—I am just trying to assist.

**Senator BERNARDI**—Suffice to say, Minister, you have reviewed the program that was in place to identify any issues with the CDMA network?

**Senator IAN MACDONALD**—Can I just finish this.

**Senator Conroy**—Senator Macdonald is pulling rank on you, Senator Bernadi.

**Senator IAN MACDONALD**—Can I just finish. Just tell me where they went.

**Mr Tanner**—I have given you as much detail as I have here in the report that has been released to the public.

**Senator IAN MACDONALD**—So, you cannot tell me where it went north of Mackay?

**Mr Tanner**—Not here.

**Senator IAN MACDONALD**—You just told me to look at it on the website.

**Mr Tanner**—No, I told you this report was on the department's website.

**Senator IAN MACDONALD**—That would tell me where you had been.

**Mr Tanner**—No, I did not tell you that. I said that it has given you the information I have already given you. It has some information about the route.

**Senator IAN MACDONALD**—You have told me it did go north of Mackay. You are a very honest person, but how can I be assured? Tell me where it went.

**Mr Tanner**—That is a question I will have to take on notice as I do not have the map with me and that has not been, at this stage, in detail publicly released other than the information I have already read out, which is that the route passed through Mount Isa, Longreach, Rockhampton and ended in Mackay.

**Senator IAN MACDONALD**—I do not know what your geography is like, but Mackay is south of many of us who live in northern Australia. You did not go to Darwin, it sounds like from that. I am sure the Darwin people would be a fraction offended. Perhaps you did, but you are not telling me.

**Mr Tanner**—We made it quite clear that we have passed through, as the chairman said, 230 cells. That is a large sample of cells but it is certainly not all cells and it was certainly not possible with the resources and the time available to the authority to have done more than that.

**Senator IAN MACDONALD**—Because we do not happen to live in Canberra, Sydney, Melbourne, Brisbane or Mackay, the rest of us do not count?

**Mr Tanner**—No. As I have already read on to the record, it is quite clear that the authority's sample is heavily biased towards regional and remote areas.

**Senator IAN MACDONALD**—Tell me where they went north of Mackay.

**Mr Tanner**—I have read from the report and I will have to take the detailed question on notice.

**Senator Conroy**—Mr Chapman suggested 87 per cent were non-metropolitan.

**Senator IAN MACDONALD**—That is fine. This is in relation to a different issue. Someone is trying to confuse me that it is on the same issue. But it is on a different issue. Can I be assured, Minister, that you are—

**Senator Conroy**—We are actually trying to help.

**Senator IAN MACDONALD**—Your interest in northern Australia is obviously as high as—

**Senator Conroy**—We are trying to give you as much information as we can to assist you. You do not seem to believe that. Genuinely, everybody at the table, including me, is actually trying to give you as much information—

**Senator IAN MACDONALD**—Move on. Perhaps I will follow that up some other time. Are you satisfied that the report ACMA gave you in relation to the decisions you have to make with respect to turning on or turning off the CDMA did actually take into account on-the-spot discussions with someone in, or surveys of that area of, Australia north of the Tropic of Capricorn?

**Senator Conroy**—I am satisfied that the sample that ACMA undertook was representative. I do not think you are suggesting that they should have tested every site in Australia.

**Senator IAN MACDONALD**—No.

**Senator Conroy**—I do not think you are suggesting that.

**Senator IAN MACDONALD**—I am not. But it would be nice for someone to assure me that they did something in the Torres Strait, in the Gulf of Carpentaria and perhaps in Cairns, Townsville, Darwin and Broome. But nobody seems to be able to assure me of that.

**Senator Conroy**—I was present with you and involved in the questioning. I think we all sought from ACMA that day an increase in the coverage. I think what ACMA is indicating to you is that they went out and increased the coverage. Did it go to all the places you are currently suggesting? I do not think ACMA is suggesting to you that that is the case.

**Senator IAN MACDONALD**—I am not saying they should go to every single square inch.

**Mr Tanner**—We cannot go to every single square inch.

**Senator IAN MACDONALD**—Of course not.

**Mr Tanner**—You will find that of those places you have named there will be several we actually have been to. From the memory of the officer present I have been reminded that the Western Australia to Queensland route took in Broome, Kununurra, Katherine, Tennant Creek as well as Mount Isa. Some of those sites you have named will have been taken in.

**Senator IAN MACDONALD**—Broome, yes, but not Darwin, Townsville, Richmond, Mareeba or the Torres Strait.

**Mr Tanner**—No. That is because the authority concluded that the sample it had taken was sufficiently broad and robust to support findings on the network as a whole. I am reading that from page 28 of the publicly available report. The ACMA survey covers approximately seven per cent of the cells in Telstra's CDMA network.

**Senator IAN MACDONALD**—They told me that in relation to the coverage on roads. They said yes, we have done a survey no doubt between Sydney and Melbourne or Sydney and Canberra and they said, yes, it's adequate. But I gave you instances of my own personal experience where it wasn't. You will understand why I am cautious about ACMA's work and why I am seeking reassurance from ACMA that they have in fact taken this into account. And

I do not mean individual little towns. I am talking about a geographical location north of the Tropic of Capricorn, where there are some big cities and some very small communities.

**Mr Tanner**—The surveys were massively extended between May of last year and October, when the final surveys were done of the completed 3G network, and the authority was satisfied by the thoroughness of the sample.

**Senator IAN MACDONALD**—The authority was satisfied in relation to the road coverage, but I proved that to be wrong. They were satisfied by that first survey and, as a result of my questioning, they extended it. But they still will not tell me where they extended it to except to Mackay, bless their souls.

**Mr Tanner**—I have taken your question about the detail of the map on notice and that is all I can do.

**Senator IAN MACDONALD**—Thank you.

**Senator BIRMINGHAM**—A number of locals have asked me the same question, as to where the survey work was undertaken. Are you able to provide us with a comprehensive list of where the survey work was undertaken?

**Mr Tanner**—I can certainly provide you with any information in the public report and I have taken on notice a question about the route of the Perth to Mackay part of the survey. Do you want me to widen that out?

**Senator BIRMINGHAM**—Yes. You have said there were 270—

**Mr Tanner**—Some 230 cells.

**Senator BIRMINGHAM**—Some 230 sites?

**Mr Tanner**—Cells that were passed through.

**Senator BIRMINGHAM**—Perhaps you could identify the 230 cells?

**Mr Tanner**—I will take that question on notice.

**Senator BIRMINGHAM**—And how those cells were selected or how those locations were selected.

**Mr Tanner**—There is a fair bit of detail of that in the report itself. But we will provide those for you.

**Senator IAN MACDONALD**—Can we try to get the answers before the day of the next estimates hearing.

**Mr Tanner**—We will do our best.

**Senator BIRMINGHAM**—Before 28 April.

**Senator IAN MACDONALD**—That would be a good day, too.

**Senator BERNARDI**—Minister, are you satisfied with respect to the survey process and the secret shopper process, which have identified some of the areas for concern, that the integrity of the process is sufficient for you to make an appropriate decision on Telstra in redressing these problems?

**Senator Conroy**—I have a legal responsibility to be satisfied, which is what I base my judgment on. The shadow shopper survey indicated and demonstrated that information that was being given to some customers was inadequate. That led to some people ending up with inappropriate phones. It is one of the contributing factors to the reason I would not agree to equivalence and would not allow the network to switch off on 28 January.

**Senator BERNARDI**—That is fine; you are satisfied as to the integrity of the process that went into it?

**Senator Conroy**—Yes.

**Senator BERNARDI**—That is all I wanted to get on record.

**Senator Conroy**—As much as I can ever be satisfied as to the integrity of a process conducted by your government, the answer is, yes.

**Senator BERNARDI**—You should have full faith and confidence in the process.

**Senator Conroy**—As I am sure you do. It surprises me that you asked that.

**Senator BERNARDI**—That was to acknowledge the good work of the previous government, and I am pleased you recognise that and I am happy you are prepared to put it on the record.

**Senator FIELDING**—I have some follow-up questions on the internet filtering scheme. Today I read in the *Canberra Times* that there have been delays to the government's plan to implement the ISP based filtering to protect children from internet pornography. Is that true?

**Senator Conroy**—I read that article and was somewhat bemused by a number of the statements in it. As an example, there was a suggestion that I have met with the Eros Foundation twice since the election. That would make them the winner of the group that had met me the most since the election. Could I indicate just on a purely factual basis I have not met Eros at all since the election. That should give you an indication that I am somewhat bemused by the rest of the commentary in that article. We have indicated all along—I think ACMA has indicated—that the testing will commence. The contract has been let. It will be completed by 30 June, as we originally planned. We have indicated that there will be a field test that will follow that. I was, like yourself, somewhat perplexed by that article, which contains a number of factual errors.

**Senator FIELDING**—Thank you for clarifying that. What is the time line? You gave a couple of dates before. Could you go through the time line?

**Mr Chapman**—The contract for that trial has been let. We are on track to deliver the report on that trial to the minister by the requested date of 30 June.

**Senator FIELDING**—I take it the other dates follow on from that date?

**Senator Conroy**—Yes.

**Senator FIELDING**—The *Herald Sun* reported on Sunday that the previous government's PC based internet filter software program was a failure. Does the department regard it as a failure?

**Senator Conroy**—That is an opinion.

**Senator FIELDING**—Yes, it was. It was covering the PC based—

**Senator Conroy**—That is an opinion on policy. I am not sure they are in a position that they can comment on either the previous government's policy or the incumbent government's.

**Senator FIELDING**—Has the department surveyed families to find out the level of uptake, the usage, and why the usage is at quite a low level? Do you have any details at all?

**Mr Rizvi**—We are conducting a survey on that matter at the moment to examine those sorts of issues. Once we have developed our thinking on that, we would brief the minister, who would need to make a decision on the nature of that survey.

**Senator FIELDING**—Is there a time that the survey will be finished by?

**Mr Rizvi**—We would be aiming to get a brief to the minister in the very near future on that.

**Senator KEMP**—Is that days or weeks?

**Mr Rizvi**—That would have to start probably within the next three to four weeks, subject to the minister's decision on the survey.

**Senator FIELDING**—A couple of weeks? Can you give me a time line so I know when to ask more questions?

**Mr Rizvi**—We aim to run the survey for a period of approximately six weeks after we start it up.

**Senator FIELDING**—I refer the department to a question on notice from May last year, to which I received an answer today. Does the department think that nine months to answer a question is acceptable? I will go through the question in a moment but does it think nine months—

**Ms Scott**—I did answer a number of questions on this earlier in the day. I am happy to go through the information again about when the answers were submitted. There was a delay created by the change of government. That was a substantial delay. I will go through the earlier information.

**Senator KEMP**—Mr Chairman, I am very happy for Ms Scott to tell us when the questions were submitted. But I would point out to her that she is setting a cracking precedent for future estimates committees. If she wants to do that, that is fantastic; I am very supportive of that. But I will leave it to her.

**Senator FIELDING**—Perhaps I could direct a question to the minister in parallel with that question while they are coming back with that. The question revolves around the communications powers in section 51(5). The question was about public libraries in Australia, local libraries. It was referred to as being a state issue, of which I am fully aware. But the department has used, I think at maybe even the minister's request, section 51(5) of the communications powers in regard to gaming when looking at states' online gaming industries, and the federal government stepped in and used those powers. I asked a range of questions about why the minister could not direct the use of those same powers in directing local libraries to those at state level to use filters, rather than their saying they could not do that. In other words, at the federal level we intervened on internet gaming, but we seem reluctant to

use those same powers to address internet filtering at the state library level. The advice came back that, yes—

**Senator Conroy**—I appreciate the answer given by the previous government. As you would know, our policy that we have been advocating is that these would be mandatory in libraries. We probably have a different approach from the previous government's.

**Senator FIELDING**—Will you be using those communication powers under section 51(5) of the Constitution that were used federally, not by this government but by the previous government, on gaming? Will you use that to ensure that the state libraries use the filters?

**Senator Conroy**—As you know, this is a process that we are developing at moment. We will be consulting the state and territory governments about the implementation of our policy. We will be taking advice on the best way to achieve the mandatory filtering in libraries. That is an option that will be part of that consideration. Unlike the previous government, which was opposed to this aspect of the policy, as you know well, it is certainly something we are prepared to consider.

**Senator FIELDING**—The federal government can intervene, as we have seen in the last few years, where there is a matter of urgency and when the states may not have been able to do things themselves. We have used those powers before. I do not think it is acceptable even at federal level to assume that kids can walk in off the street and go to their local library and have access to internet pornography. I think that is absurd. Most families would find that confusing. I placed a question on notice and got an answer back that, yes, they did rely on those constitutional powers under section 51(4) for gaming. I thank the government for those answers, albeit it that they were awfully late. We should be directing the states and using those powers to filter internet pornography.

**Senator Conroy**—As I have said, we are pursuing a different approach. And we will certainly consider that as part of our deliberations on the best way to achieve the outcome of our policy.

**Ms Scott**—In response to your question about the timeliness of the answers, 74 four responses were provided to the committee on or before the due date of 31 July 2007; 106 responses were provided to the committee on or before 13 September; 74 were answered on 31 July; 15 on 8 August; one on 15 August; two on 22 August; one on the 29<sup>th</sup>, and 86 on 12 September; and one on 13 September. That meant 77 were then around at the time the caretaking took effect. There were 73 submitted on 16 February. I appreciate that is very difficult for senators. And then four were submitted today. Long delays occurred. But the answers had been completed. The delays occurred in large part because of the change in government.

**Senator FIELDING**—Thank you.

**Senator KEMP**—Briefly, I do not think people have appreciated the unique feature of what has happened with questions on notice. I received a large number of answers to questions on notice today via email.

**Senator Conroy**—I am shocked that you could use your computer, but go on.



**Senator KEMP**—I have been watching you closely, particularly in question time. I think this is the first time in Senate history that Senator Conroy has asked a question and then answered a question. I just wanted to check: Senator Conroy, were you entirely happy with the answers to your question?

**Senator Conroy**—It was a tough question, as many of them were.

**Senator KEMP**—I have not had a chance to go through them, but I wanted to assure myself that you were happy with the answers. I do not think this has ever happened before in Senate estimates.

**Senator Conroy**—Thank you.

**Senator NASH**—On that issue, before I go back to the previous issue, I understand the time line. But if there indeed had been Senate estimates scheduled at the end of last year the questions would have been done in time for that, would they?

**Ms Scott**—Yes. Normally the committee would be in about November.

**Senator Conroy**—That would depend on the minister signing them at the time.

**Senator NASH**—The time for some of them was pushed out in the knowledge that the last Senate estimates was not occurring?

**Ms Scott**—No, I think I would characterise it as the answers were, unless one of my colleagues corrects me, available but pressures of the election intervened. They had to then be updated. For example, I did personally review the answers to Senator Conroy.

**Senator KEMP**—Did you change the answers?

**Ms Scott**—The answers to Senator Conroy became more fulsome.

**Senator KEMP**—Are you able to table the answers that you gave before the change of government and then after the change of government?

**Senator NASH**—I think I will leave it there.

**Senator KEMP**—I did not get an answer to that question.

**Ms Scott**—The answer would be, no, to that one.

**Senator Conroy**—I am sure that was tongue in cheek.

**Senator NASH**—Firstly, on the ACMA report—and I do appreciate the amount of work that has gone into trying to sort out this situation—I think it is important that we recognise that in the context that in rural Australia we are only going to have one network. There will not be any choice, and it is vital that the work you have done be very good. Back to handsets, where we seem to be coming to what appears to be the most important issue now in getting equivalence. In the report there was a reference to the six mobile phones that didn't work as well as the current CDMA handsets. I noticed in the report that those handsets were blacked out. It seemed quite inappropriate to me that the people of Australia, who are out there at the moment trying to swap networks and buy handsets, would not be informed. Minister, perhaps you are the best to answer this one. Why would they not be informed as to which ones those dodgy handsets were? Could you take us through why people have not been informed of those substandard phones on the Next G network?

**Senator Conroy**—All of the information supplied by Telstra to ACMA, I understand, was on a confidential basis. Following the decision, we indicated that we wished to publish the ACMA report and sought Telstra's agreement. Telstra specifically requested that that information remain confidential, as it was supplied. So we released the report with only a very limited area of material that remained confidential. But we sought to release as much of the confidential information as we could release. But there was obviously some areas where Telstra preferred it to remain confidential.

**Senator NASH**—I appreciate that. But correct me if I am wrong, the ACMA report, which in the report has listed handsets that were substandard when it came to working on the Next G network, is on the advice of Telstra's assessment of the performance of their own handsets?

**Senator Conroy**—No, the ACMA assessments.

**Senator NASH**—If you are saying that those phones cannot be listed because Telstra provided the data to ACMA, which is fair enough, is there any other avenue by which ACMA got detail about the performance of those handsets or was it only Telstra that was putting to ACMA how it thought its own handsets were performing? If that is the case, how can there have been an independent assessment of which of those handsets worked properly if it is only Telstra's view of how its own handsets are working? It would stand to reason that if there was another avenue of information coming forward to ACMA then that would be able to be published because that would not come from Telstra.

**Mr Chapman**—There may or may not be a misunderstanding here. We completed testing on handsets and formed our own opinion about the sensitivity. I know you used the word 'dodgy' in a colloquial sense.

**Senator NASH**—Colloquially, of course.

**Mr Chapman**—Our definition would be simply to say that those phones had a lower sensitivity for particular purposes.

**Senator NASH**—Did those phones match the most basic of the CDMA phones in terms of sensitivity?

**Mr Tanner**—As the report makes clear in chapter 2, basically, the six phones in question were less sensitive than the least sensitive CDMA phone for which ACMA had Telstra figures. ACMA was not able to get sensitivities for every CDMA phone that has ever been released; we just did not have that much data. We did have a fairly good range of current CDMA telephones. The least sensitive of those were used as a benchmark. A number of the Next G phones were considerably better than that but these six were worse, according to our comparison.

**Senator NASH**—So, the six did not meet the least sensitive CDMA?

**Mr Chapman**—It is not as if Telstra said, 'These are the handset testing parameters.' We took responsibility for our own assessments and did our own assessments.

**Senator NASH**—Why did Telstra need to provide the data? If you had already done your own assessments, why do we now have a report with commercial-in-confidence areas blacked out with Telstra providing the data? If you already had it, why did you need Telstra to provide data on the handsets?

**Mr Chapman**—There is a wide range of views about testing. There are a lot of matters that need to be taken into account. As a very simple example, the very way in which you hold a phone can go to an assessment of sensitivity. Telstra, I have to say, was very cooperative and I think very constructive in the way in which it went about providing information to allow us to form the report and make the recommendations in the short time that we had. In that spirit, there were a number of pieces of information that Telstra provided to us that it felt were commercial-in-confidence. We respected that request and when we wrote to the minister with the report we indicated to him those areas that Telstra had claimed as commercial-in-confidence. We felt that that was a matter that we were obliged to let the minister know about. The minister took that onboard and made an assessment because at the end of the day the minister felt it was important to release the report, but he respected the claims of commercial-in-confidence and saw fit to redact some of that material.

**Senator NASH**—I believe it is entirely inappropriate that the people of Australia do not know which ones these phones are, given the current environment of people changing over their phones. What guarantee do you have from Telstra that not one single salesperson in any of their offices or associated shops is selling any one of these six phones to somebody that has previously been on a CDMA network?

**Senator Conroy**—That is exactly why I made the decision not to proceed with the closure on 28 January.

**Senator NASH**—And an excellent decision it was. But I am talking about currently now, right now, today, after the report has come out.

**Senator Conroy**—I appreciate that. Telstra has to meet the issues that we have raised and satisfy us that it has solved these issues. One of the important commitments, as I said, that we have sought from Telstra and that it has agreed to, is that if somebody has a genuine case where their phone is not delivering the equivalent coverage to the previous phones that they had, they will get one free of charge. It is important, because ultimately we can all have a bit of fun and play a bit of politics, but ultimately—

**Senator NASH**—No, this is very serious, this is not playing politics.

**Senator Conroy**—I know you are taking it seriously, but I was just making this point: this is about people's livelihoods and lives ultimately. It is incumbent on us to make sure that everybody is alerted to the switchover. It is incumbent on us to make sure that they have the appropriate handsets so that they are not placed in any difficult circumstances. That is why I did not agree to the turn-off on the 28th. That is why I have not set a date. I have said that, if Telstra satisfies the concerns, then 28 April seems like a reasonable date. That is all I have said on this.

The NFF indicated that it believed a two-month delay was necessary. Others indicated a one-month delay. I went for a three-month delay because I considered this to be a very serious issue. If people tried to meet the original deadline there would have been many thousands of Australians rushing to change over their phone. We need some time to assess whether they have been supplied with the correct phone. That is why I went for a three-month period, not just a one-month period or even a two, though even the National Farmers Federation suggested two was appropriate.

**Senator NASH**—I understand that. But back to my actual question: you do not have a guarantee that any of those six phones are not being sold to anybody currently with a CDMA phone? It is pretty simple.

**Senator Conroy**—To be fair to Telstra, I will read some information released today by it, which is part of the rectification program. Today Telstra Shops will start displaying new brochures and posters and some shops will have audiovisual material as part of an industry-first program to ensure that customers receive the best advice, information and equipment when they purchase a Next G mobile phone; Telstra's new retail accreditation program will assist customers as they make the move. There is a lot of Telstra—

**Senator NASH**—Waffle.

**Senator Conroy**—You use that word. But the fundamentals are that Telstra has responded with an accreditation program and a 1800 number. We will be assessing, after we receive the next Telstra report, whether or not it has met the conditions. As you heard me say to Senator Bernadi, the individual makes the ultimate decision. I am not in a position where I can prejudge that by saying, yes, I am confident Telstra can or I am confident Telstra cannot. I have to assess—

**Senator NASH**—That would be silly.

**Senator Conroy**—I have to assess the information that Telstra supplies me with an open mind.

**Senator NASH**—Are you aware of Telstra using quick cells?

**Senator Conroy**—Perhaps you could explain?

**Senator NASH**—Quick cells, the mobile signal devices, the mobile towers that Telstra has been using. Nobody?

**Senator Conroy**—We are seeking some advice.

**Senator NASH**—I am happy for you to provide the appropriate person.

**Mr Kerans**—Telstra, like other carriers, does use COWs or, as you call them, portable or relocatable base stations. But it generally uses them for special events, the Henty Show, for instance, being one of them, where they set up cells. Or they use them where they have a problem with a base station down, a lightning strike or something that they cannot replace. We have no evidence that they have used COWs in any other way.

**Senator NASH**—There is one 15 kilometres out of Queanbeyan. This is most interesting. Apparently they are fully operational third generation mobile phone cells on wheels, complete with a 12.6 metre pneumatic mast and short set time of approximately one hour. They are ideal for special events and emergency relief situations. Apparently there is one of these being used at Hoskinstown exchange, which is about 15 kilometres outside of Queanbeyan. Apparently it is providing a Next G service in that area. How many of these mobile quick cells is Telstra using?

**Mr Kerans**—It is interesting that it is Hoskinstown, because there is a thing called the Molonglo observatory telescope in Hoskinstown run by the University of New South Wales and that is currently protected, forgive me if I am wrong, until the end of next year. Telstra

would be using a low power-low tower so as not to interfere with it. In that valley, if you were to go towards Hoskinstown on the Captains Flat Road, the telescope is actually off to your left. Although I could not say exactly why Telstra would be using a COW there, which is cell on wheels, as you said, it is probably likely so that they can keep the tower from interfering with the Molonglo telescope.

**Senator NASH**—Are you just assuming that?

**Mr Kerans**—I am just assuming that, yes. It would not be normal for them to put a cell on wheels in there, because they are difficult to power up.

**Senator Conroy**—I think you have raised a very good question. Certainly, I am interested in knowing the answer. I am happy to take on notice that we will contact Telstra and seek clarification on that.

**Senator NASH**—Thank you. That would be good. Given nobody is aware that Telstra is using this, which I find quite extraordinary, even if it is only one, could someone find out this information and come back in a reasonably quick time frame? Minister, I appreciate your assistance in this matter. How many of these quick cells are being used? What guarantee is there that the quick cell, being mobile, will not be removed at some point, given that the whole assessment of this Next G network should be on a permanent basis? What guarantee will there be? Was that quick cell tower part of one of the regions for the audit process? If we have had a mobile tower as part of the comparative assessment, that would seem quite extraordinary. Perhaps it has something to do with the observatory, but I find it extraordinary that Telstra has not advised at least the department, ACMA or somebody that it has been using a mobile tower as part of its new network process. Also, I was going to ask somebody who understood these things about this short set time of approximately one hour. A definition of what a 'short set time' is would be very useful.

**Senator Conroy**—I am happy to take all of those on notice and get back to you promptly.

**Senator NASH**—Thank you.

**CHAIR**—Senator Barnett, do you have any questions about COWs?

**Senator BARNETT**—Not tonight. I have a couple of questions and I have been reasonably patient so hopefully these questions are worth while for the Minister and ACMA. As you would know, Minister, in Tasmania CDMA/Next G has been diabolical or less than satisfactory, and we appreciate the extension. You said earlier in your introductory remarks that particular geographic areas needed looking at. Can you identify which areas you were referring to and were any of those in Tasmania? You can take it on notice if you wish.

**Senator Conroy**—We will take it on notice.

**Senator BARNETT**—That is not a problem. The second question relates to people receiving inappropriate phones for their needs, which you have indicated earlier, and six handsets were identified as faulty under the ACMA report.

**Senator Conroy**—I don't—

**Senator BARNETT**—I think he used a different word other than 'faulty'. That is my word. 'Dodgy' is a word—

**Senator Conroy**—They had lower sensitivity.

**Senator BARNETT**—You can use different words—dodgy, whatever—but six were identified. They have been blacked out in the report, as Senator Nash has noted. I take issue with you, Minister, and would like you to reconsider Telstra's request to keep this blacked out. I would like you to table the report without it being blacked out for the committee. I cannot understand how you could possibly consider such information to be commercial-in-confidence. It may be in the best interests of Telstra, but it is certainly not in the best interests of the nation. The thousands upon thousands of Australian consumers who have used these handsets have a right to know whether their handset was proved faulty or less sensitive. Would you please reconsider?

**Senator Conroy**—I am happy to take that on notice. It is a very good question and it is something that did exercise my mind in the lead-up to the release. We were keen to release as much information as we could and, as I said, I am happy to take that on notice.

**Senator BARNETT**—It is my view that you have been pressured by Telstra or you have felt pressured and have acceded to their request unnecessarily and, in my view, unfairly in the interests of the public.

**Senator IAN MACDONALD**—Why did you not release the name of the phones?

**Senator Conroy**—All the information that Telstra provided to ACMA was in-confidence. We published as much of the information as we could. If you look at the full report, you will see that a comprehensive amount of information has been released.

**Senator IAN MACDONALD**—How could the name of a phone that does not work be in-confidence?

**Senator Conroy**—That is your description. Mr Chapman used the words 'not as sensitive'. I do not want to verbal Mr Chapman, whether it is 'dodgy', 'faulty', 'not working'—

**Senator IAN MACDONALD**—It does not work properly for the people who bought them.

**Senator Conroy**—That is why we have insisted that there be a free replacement process as part of the rectification plan. We accept that some people have received inappropriate phones, and what we have put forward, and Telstra have agreed to, is that they be replaced at no cost.

**Senator IAN MACDONALD**—But unless you tell people what these are, perhaps there are some people who have bought them but are not quite aware—

**Senator Conroy**—Have not turned them on yet?

**Senator IAN MACDONALD**—Yes, or who are not aware that they could have got better. If you name them—

**Senator BARNETT**—That is my point: it is in the public interest that the report be released without any blacking out.

**Senator Conroy**—As I said, I will take that on notice and consider the matter.

**Senator BARNETT**—Please.

**Senator Conroy**—It is a genuine issue and it is something, as I have said, that has exercised my mind.

**Senator BARNETT**—Will you release to this committee the Telstra rectification plan, if you cannot do it now, when you have finished the work-in-progress discussions with Telstra? Secondly, will you release to this committee the Telstra report, which is coming to you in March or thereabouts with its recommendations? And, finally, will you release to this committee and advise the committee on the independent verification process that you referred to earlier during estimates? I am happy for you to take that on notice.

**Senator Conroy**—I appreciate that. I will take that on notice. These are important matters and I will give them serious consideration.

**Senator BARNETT**—As soon as is convenient would be appreciated. At first instance do you recommend the public ring the Telstra 1800 number or the department's 1800 number?

**Senator Conroy**—They should certainly contact Telstra as Telstra are the people who can replace their phones.

**Senator BARNETT**—That is what I thought your answer would be. Could you please advise your federal member for Braddon, Sid Sidebottom, who is publicly advising members of the public to call the department's 1800 number?

**Senator Conroy**—The department, as was indicated earlier—and perhaps you were not in the room at that stage—immediately pass these queries on to Telstra.

**Senator BARNETT**—Yes. I am aware of that. I am asking you to pass on to your federal member for Braddon that advice.

**Senator Conroy**—I am happy to have a conversation with Mr Sidebottom, but the outcome is that the information is passed immediately on to Telstra.

**Senator BARNETT**—In terms of the Telstra calls to the 1800 number, how many have there been?

**Senator Conroy**—We are getting advice on those matters, but I have not seen it as yet. We are getting regular reports. I do not have the latest report yet.

**Senator BARNETT**—Could you advise the committee accordingly as soon as you have received it?

**Senator Conroy**—Some of this information may be considered by Telstra to be commercial-in-confidence, but I am happy to take that on notice and give it serious consideration.

**Senator BARNETT**—In terms of the CDMA trial in Tasmania, could you advise the committee and table the terms of reference for that trial and advise the report date?

**Senator Conroy**—I am sorry, could you repeat the question?

**Senator BARNETT**—In terms of the ACMA ISP trial, with which I have some history in Tasmania, as you know, could you please advise the committee of the terms of reference, table the terms of reference for that trial and advise the committee of the report date?

**Ms O'Loughlin**—The terms of reference were contained in the ministerial direction that we received in June last year and we are happy to table that direction again for you. That also indicates that the report date is by 30 June this year, which we are on track to deliver.

**Senator BARNETT**—Is the second ISP trial on track as well?

**Ms O'Loughlin**—The second ISP trial?

**Senator BARNETT**—I understand there is a second trial.

**Ms O'Loughlin**—The minister has indicated that he is in favour of doing a live trial after our trial, and I think he mentioned earlier that that would follow on after we have completed our trial by June.

**Senator BARNETT**—Has the Internet Industry Association feasibility study of ISP filtering and a survey of like filters been received by the department and is it available to the committee?

**Ms O'Loughlin**—That is a matter for the department.

**Senator Conroy**—Can you just repeat the question? We are just gathering information for previous questions.

**Senator BARNETT**—Has the Internet Industry Association's feasibility study of ISP filtering and the survey of the like been received by the department and is it available to the committee?

**Mr Rizvi**—We have received a draft report from the IIA. The report has not yet been approved by the board of the IIA. Once it has been, we will have a final and we will then brief the minister on that particular report.

**Senator BARNETT**—Will you make it available to the committee?

**Mr Rizvi**—That would be a matter for the minister.

**Senator Conroy**—I will take that on notice. I would like to read it before I make a decision.

**Senator BARNETT**—Would you confirm your commitment to mandatory ISP filtering?

**Senator Conroy**—That is the stated policy. As you have seen, I have been out there campaigning for it. If I could just update the committee on some information that was being sought by Senator Macdonald and Senator Birmingham about the actual release of the drive-through sites. After some conversations, we are happy to release the details of the drive-through site routes and where the base station is. ACMA is happy and I am happy for that information that you were seeking earlier to be released.

**Senator BIRMINGHAM**—Are they in response to the questions on notice?

**Senator Conroy**—We should be able to get it up on a website or circulated to the committee members as soon as it is possible to actually compile it.

**Senator BIRMINGHAM**—That is fantastic.

**Senator Conroy**—We will release the cell sites and the drive.

**Senator IAN MACDONALD**—Just give me a sneak preview.



**Senator Conroy**—I do not have any more information than they—

**Senator IAN MACDONALD**—All you are telling us is that they are going to do it?

**Senator Conroy**—I am just reassuring you that it is going to happen.

**Senator BIRMINGHAM**—You are reassuring us that we are not going to get an answer that tells us it cannot be done.

**Senator IAN MACDONALD**—Thank you for your additional assurance.

**Senator BIRMINGHAM**—Minister, have you received correspondence from members of parliament or senators regarding 3G coverage in areas within their electorates?

**Senator Conroy**—I have received extensive correspondence from constituents all over Australia as well as from senators and MPs who have been raising issues and concerns.

**Senator BIRMINGHAM**—Did the extensive correspondence that you received feed into the audit process undertaken by ACMA?

**Senator Conroy**—Because of the license conditions there are quite specific issues that we had to consider—I have a copy in my hand—that are set in the licence conditions. It is a federal register of the legislative instruments. I will not bore you with the number. They are set out here. The department was very conscious of the material that was coming in. Some material did arrive right at the end of the process. While it was received, it was not considered, because the legal process requires that where we are taking into account information we receive we have to give Telstra a capacity to respond to it. As the potential deadline got closer we were receiving lots of requests and information from a whole variety of sources. Some of it came in at a point that was too late, for procedural fairness reasons, to be considered by Telstra and so some of the information I received was not able to be considered as part of the decision even though it was received. I hope I have explained that.

**Senator BIRMINGHAM**—I understand. You have given a big blue tick to the coverage but not to the handsets. Is that a fair précis of that status?

**Senator Conroy**—Yes. There are a couple of other issues as well but, yes.

**Senator BIRMINGHAM**—What happens to those who either came in right at the last minute or people who may now identify, consumers or others, that they think there is a problem with the coverage in their patch of the world?

**Senator Conroy**—As I said, for the legal instrument to be valid, and the decision made under it to be valid, information that came in right on the last day—24 to 48 hours—could not be considered for the purposes of the decision. Each and every one of them is being considered for action by the department to be referred on to Telstra so that we can get satisfaction for all of those constituents. As I said, we are keeping track of all of the information. While they were not considered for the purposes of the legal instrument and the decision around the legal instrument, they are being actively pursued by the department.

**Senator BIRMINGHAM**—Will there be no review of that from now until when you make your final decision on the report?

**Senator Conroy**—All of that is being fed back both to Telstra and by the department in chasing up to find out whether these constituents' issues have been resolved. That is feeding

into the process of my department keeping me advised. As I said, we are not taking Telstra's word that they have fixed everything. We are going through a process of testing.

**Senator BIRMINGHAM**—Does that process feed into the legal instrument, the final test that Telstra has to clear?

**Senator Conroy**—In the same way as the information that comes in. It is one of the reasons why I have encouraged everybody, including yourselves, not to hang back and not to wait until around 28 April. For us to be able to follow a proper legal process that is required by the use of this legal instrument we need that information in as early as we can so that it can all be included and then responded to by Telstra. As part of the legal process that is involved in using this legal instrument, Telstra is entitled to procedural fairness and to respond to anything that I consider.

It is really important that anyone who has an issue writes to me, writes to Telstra, calls the 1800 number particularly, so that these issues can be pushed through the process as fast as they can. If they come in right on 27 April, while the information will have been received, again, it cannot be considered because Telstra will not have had an opportunity to respond. I am sorry to labour it, but it is important to understand the constraints of the licence condition and the legal process that flows from using the licence condition.

**Senator BIRMINGHAM**—I understand where you are at there. Will such people, be they members of parliament or users of the phone system out there, receive responses telling them what testing has been undertaken or what action has been undertaken to address their grievance?

**Senator Conroy**—We will respond to all emails and letters. As you can understand, around January there was quite a substantial amount of information forwarded, so there is a little bit of a backlog. You may have seen earlier today that I was sitting here with many folders. While I was listening intently, many of the folders that you saw me dealing with were responses to constituent queries around CDMA, which outline the processes that we have taken.

**Senator BIRMINGHAM**—In terms of the final review that will take place that Senator Bernardi and Nash were querying before, is there a reason why ACMA, having undertaken the original review, will not be reassessing Telstra's compliance with the conditions?

**Senator Conroy**—As I mentioned earlier, possibly to Senator Macdonald, the review of the coverage was, as you described it, a blue tick. There is nothing to review.

**Senator BIRMINGHAM**—Aside from all the complaints.

**Senator Conroy**—The actual handsets have not changed. I am not sure of the point of retesting the same handsets; it would give the same results. In terms of ACMA reviewing the information it tested before, it identified phone sets that were inadequate for the purposes needed by the individual, and we are seeking to get Telstra to replace the handsets that have been inappropriately purchased by consumers at no extra cost.

**Senator BIRMINGHAM**—Didn't they determine that there was a collection of handsets that were inappropriate and there was a wide distribution of those handsets on to the market, and that that was the problem? I understand that the inappropriate handsets would still be inappropriate, but how is the assessment going to be made that that wide—

**Senator Conroy**—It is the department's shadow shopper survey that detected the inappropriate advice. That is not a reflection on ACMA. They were doing two different things. ACMA was doing a technical study of equipment and, while they were on call for any technical questions that may arise, it is now more a question of making sure that the appropriate handsets are in the hands of individuals. The 'blue tick' handsets are appropriate for some individuals. They are not necessary for every Australian. The question now is about matching the needs of Australians with the choice of handsets available. There are no technical issues. ACMA considered the technical issues, and is available for any technical issues at all that may arise. The work it did was on the infrastructure itself.

**Senator BIRMINGHAM**—The department will be deciding as to whether Telstra has adequately matched handsets to consumers?

**Senator Conroy**—As perverse as this will sound, I am relying on everybody around this table to keep me informed as part of the process, not the entire process. When you write to me, that becomes part of the process. When Senator Macdonald writes to me, that becomes part of the process. We are intent on ensuring that Telstra meets its obligations, as you are. The work that you are doing among your constituents is absolutely important to this. It is not a trivial issue, as Senator Nash indicated, and I absolutely agree. This is something that, while there is always some politics involved, is a very serious issue and it is important that we get everybody with the right handsets, which I know you are committed to and this government is committed to.

**Senator BIRMINGHAM**—Are you aware of reports that Next G modems are not readily available?

**Senator Conroy**—That is one of the factors that will determine the final switch off date. We are seeking from Telstra confirmation of all of the equipment that was not necessarily available before, say, mid- to late-December and, therefore, it was not possible for it to have been installed in everyone's homes. That is one of the key issues that we are waiting for further information on from Telstra. That is one of the four issues I mentioned earlier in relation to telemetry and wireless local loop.

**Senator BIRMINGHAM**—Can I move on to the clean feed?

**Senator IAN MACDONALD**—Minister, are you aware that the Optus modems your government has supplied to members of parliament do not work except in the capital cities?

**Senator Conroy**—They work where Optus, largely, say that they work. I have got one myself. I do not think that Optus suggest they work nationwide. I could be doing Optus a disservice there, but I do not know that the Optus modem suggests 99 per cent coverage or 98 per cent.

**Senator IAN MACDONALD**—Why did your government supply them to members of parliament, like myself, who do not frequent Sydney, Melbourne and Brisbane, where the modems do work?

**Senator Conroy**—I received my modem under your government.

**Senator WEBBER**—I got mine under your government.

**Senator Conroy**—They have been available fully—these have been available for some time. If you have only just received one—

**Senator IAN MACDONALD**—I received mine six months ago, but I am conscious that the buck stops with Kevin, and so it must be his fault.

**Senator Conroy**—From our perspective, it is a Department of the Senate issue.

**Senator IAN MACDONALD**—It might be, yes.

**Senator Conroy**—Given that they pay for them I am sure it is. It was something that was undertaken by the previous Presidents.

**Senator IAN MACDONALD**—As communications minister and because the buck stops with Kevin, it is your fault and I want you to fix it.

**Senator Conroy**—I will take that on notice.

**Senator BIRMINGHAM**—We have obviously covered the testing that is taking place already on mandatory ISP filtering. What work is being done on the scope of blacklist?

**Ms O'Loughlin**—We are currently looking, in line with the government's policy, to expand the ACMA blacklist. We are currently investigating ways in which we can do that. At the moment we are talking to our international organisations that we deal with, particularly hotlines that deal with child pornography sites, and we are discussing with them the capacity to get some of their international sites on to our blacklist as well.

**Senator BIRMINGHAM**—How wide is the brief for this blacklist?

**Ms O'Loughlin**—At this stage, that is where we are looking at, but we are also talking to the government about how wide they want the blacklist to go.

**Senator Conroy**—Should I take it that in fact you have waited until Senator Barnett left before you started asking these questions?

**Senator BIRMINGHAM**—I was very polite, allowing Senator Barnett, Senator Nash and others to all have their turns.

**Senator Conroy**—I should not engage in a conspiracy theory that you waited until after he left before you started on this particular line?

**Senator BIRMINGHAM**—No. There is no conspiracy theory. Senator Barnett and I can have robust discussions about this without needing to have you here, Senator Conroy, with your entourage. How many sites are blacklisted under the trial taking place in Tasmania?

**Ms O'Loughlin**—As part of the trial, all of the filters that are requested—I will look to Ms Wright, who will correct me if I am wrong—will need to be able to block the ACMA blacklist.

**Senator BIRMINGHAM**—Sorry?

**Ms O'Loughlin**—The current ACMA blacklist.

**Senator BIRMINGHAM**—The current ACMA blacklist?

**Ms O'Loughlin**—Yes.

**Senator BIRMINGHAM**—How many sites are identified on the current ACMA blacklist?

**Ms O'Loughlin**—Currently there are about 800 URLs rather than sites.

**Senator BIRMINGHAM**—How many URLs would you expect to be on the blacklist to meet the Labor Party's policy of prohibiting sites such as those containing child pornography and X-rated material?

**Senator Conroy**—As we have not completed our discussions I do not think Ms O'Loughlin will be in a position to answer that at this stage.

**Senator BIRMINGHAM**—As in ACMA has not completed its discussions with you, Minister?

**Senator Conroy**—Yes. She mentioned that it was based on discussions with the government, which are not completed yet.

**Senator BIRMINGHAM**—So, you have not worked out how broad this blacklist will be?

**Senator Conroy**—We are in discussions with ACMA about that and we are happy to take your question on notice and give you a response when we finalise the matter.

**Senator BIRMINGHAM**—What technologies are currently used around the world to ban, blacklist or prohibit large numbers of URLs?

**Ms Wright**—We understand that filtering, as it is done around the world, draws on a combination of techniques—white lists, blacklists, dynamic filtering. As to the idea of a list as the only approach to filtering, probably it is better to see it in combination with other techniques. We understand that commercially provided filters draw on a number of techniques, some of which are technical means, to assess material. Some involve human intervention and some involve lists. Ms O'Loughlin has mentioned our own list and the fact that we endeavour to keep that up to date, because lists change very quickly, and this is why we understand that commercial filters use a combination of means. I hope that is of assistance.

**Senator BIRMINGHAM**—What international examples can you give in terms of blacklisting numbers of URLs greater than 800?

**Ms Wright**—We can refer to BT Cleanfeed and to similar systems in Scandinavia. We understand those lists are regularly updated but they would have in the vicinity of 1,500 URLs at any one time, but over the course of a month or so all of those URLs would turn over. For example, as they either moved around or law enforcement took action. So those lists can be very dynamic; they change very rapidly.

**Senator BIRMINGHAM**—Fifteen hundred still sounds like an incredibly small number to me, given the scope of the Labor Party policy.

**Ms O'Loughlin**—I would just re-emphasise what Ms Wright said: that, while filter providers are often provided with a blacklist through a regulator or through another body who focuses its attention in most cases on child pornography sites, many commercial filter providers expand on what other things that they allow to be filtered out as part of their commercial offering to customers.

**Senator BIRMINGHAM**—Is work still being done on updating the existing ACMA blacklist and supporting the existing NetAlert program within that?

**Ms O'Loughlin**—Was there a particular aspect of that you were interested in? We have indicated that we have looked at expanding the list around child pornography and that we are discussing with the government what the extent is.

**Senator BIRMINGHAM**—There is an existing ACMA blacklist that is used for the NetAlert program; is that correct?

**Ms O'Loughlin**—That is right.

**Senator BIRMINGHAM**—Is that existing list being updated?

**Ms O'Loughlin**—It is updated on a weekly basis.

**Senator BIRMINGHAM**—Permanently updated?

**Ms O'Loughlin**—Yes.

**Senator BIRMINGHAM**—Is there still the same level of support for that?

**Ms O'Loughlin**—Yes. Also, obviously that blacklist comes from an ongoing process of where we receive complaints and find overseas hosted sites to be prohibited content and so we are constantly adding those new URLs to the blacklist.

**Senator BIRMINGHAM**—We heard earlier today that ACMA has to meet the government's two per cent efficiency dividend. Where are those savings being made?

**Ms Carlos**—As part of our ongoing program of continuous improvement we are constantly looking for smarter and better ways of undertaking our business. In line with that we will, and will certainly continue to, look for efficiency dividend. We now have an additional two per cent. We have a range of mechanisms that we employ to find those savings. They cover such things as business process improvement, increases in our more efficient use of technology. We look at areas around travel savings, a whole range of areas to find those savings.

**Senator BIRMINGHAM**—It does not sound to me as though they have been identified as yet but that you are rather looking at a raft of things. Have any programs been cut or are any programs foreshadowed to be cut?

**Ms Carlos**—Not at this stage. We are looking at all of those mechanisms for the remainder of this year in the course of developing our budget for next year. Once the government has considered the budget process we will look at what funds we have available and how we will distribute them across the organisation, as we do every year.

**Senator BIRMINGHAM**—Has the staff support for any programs been cut?

**Ms Carlos**—No.

**Senator BIRMINGHAM**—Minister, was the match between the Socceroos and Qatar listed on the free-to-air list?

**Senator Conroy**—Unfortunately your government failed to list it. Despite recommendations from as far back as 2001 by the Australian Broadcasting Authority the previous government took the view that Socceroos matches were not of any significant status. In fact, the previous minister compared them to the world swimming championships and the Tour de France, neither of which Australia compete in as a team. Swimming is a large event

but does not go through the qualification processes that the World Cup does. It is the actual finals.

**Senator BIRMINGHAM**—I am sure that you recall saying in estimates on 23 May last year that with a quick note from your own pen you can put Socceroots matches back on TV so Australians can watch them. Have you made a quick note from your own pen?

**Senator Conroy**—We will be making a quick note and putting matches for the Socceroots on the anti-siphoning list. We will not, however, be able to repair the damage that has been done to Australian soccer fans in this country by your government's continued refusal to put the Socceroots on the anti-siphoning list. Because your government failed to act on the advice from as far back as 2001, soccer fans in this country are being denied for the next six years access to those matches. As the Football Federation has advised me, there is a significant penalty if the government does list matches during the course of the existing contract. And this is a government that is not about overturning existing legal contracts. To be fair to Foxtel, as I have said on a number of occasions publicly, they have invested significant funds in revitalising soccer in this country, which was in a parlous state, and they do deserve some consideration. Without them it is unlikely we would have the high-quality A-league matches that we have been lucky enough to see over the last few months, and this is a government that is not going to overturn existing legal contracts. We will be ensuring that in the future, when this contract expires, Socceroots World Cup qualification matches will be available to the Australian public on the free-to-air list.

**Senator BIRMINGHAM**—It is not as easy as a quick note from your own pen—

**Senator Conroy**—A quick note would have stopped the matches being lost to the majority of Australian football fans if the minister had been prepared to do it any time from 2001 when the government were first advised to.

**Senator BIRMINGHAM**—Nonetheless, you were wrong when you said it back then.

**Senator Conroy**—No, I was not wrong. If the minister had taken a quick minute any time previous to the Foxtel agreement with the Football Federation, any time between 2001 and I think 2006 when the contract was signed, then Socceroots fans would not have been denied free-to-air coverage of the recent Qatar match.

**Senator BIRMINGHAM**—So you are giving a cast-iron guarantee that you will be adding Socceroots matches to the free-to-air list from the period when the old contract expires?

**Senator Conroy**—Let me be very specific about this: the Socceroots World Cup qualification matches will go onto the anti-siphoning list so that matches from the expiration of the existing contract will be available on free-to-air television.

**Senator BIRMINGHAM**—Okay, and that is a guarantee?

**Senator Conroy**—An absolute guarantee.

**CHAIR**—Have you got much more? I am just conscious that it is 9 o'clock and we still have not done the department yet and there are other senators with questions.

**Senator BIRMINGHAM**—I am conscious of that, too. I think there is a little bit on Digital Australia. We can quickly cover that after the break.

**CHAIR**—We are not going till 9.30 pm. Have you got more questions now?

**Senator BIRMINGHAM**—Yes. Could you explain how the recently established Digital Switchover Taskforce differs from Digital Australia, which was established by the previous government, and in your view does this represent much more than just a name change?

**Senator Conroy**—Ours will actually achieve its objective. It is not a construct to try to convince Australians that we had a plan with no substance. Ours will actually deliver a plan to take Australia forward into the digital age. While yours was a press release with no substance, ours is actually a policy.

**Senator BIRMINGHAM**—Is it true that the same person is actually heading the two bodies?

**Senator Conroy**—The first problem that you have is that, due to the misunderstanding that was perpetuated by the previous minister as part of what was nothing more than a PR stunt rather a policy, there is no separate body. You are actually labouring under the misapprehension that Digital Australia was a separate entity from the department, and I understand why you labour under that misapprehension. Perhaps the previous minister herself laboured under it herself. It is in actual fact—

**Senator BIRMINGHAM**—Is it not true that Digital Australia was headed by the same person who now heads the Digital Switchover Taskforce?

**Senator Conroy**—The same individual within the department is administering this issue, yes. The problem is that you considered it a moment ago in your question that it was a ‘body’, and in fact it was not; it was a press release masquerading as a policy.

**Senator BIRMINGHAM**—Thank you. Nonetheless, Mr Townend, I see has joined us at the table.

**Senator Conroy**—He is here. Welcome to the table. I think this is your first Senate estimates process so I am sure the senators will take that into account.

**Senator BIRMINGHAM**—Indeed. Does the task force in terms of its brief differ all that dramatically from the brief that Digital Australia had previously, ignoring your rhetoric, Minister, about—

**Senator Conroy**—I am not sure that that is a question of fact, so I am not sure that it actually falls into the purview of—

**Senator BIRMINGHAM**—It is within the terms of reference of the two bodies. Are their terms of reference not broadly identical?

**Ms Scott**—The Digital Australia existed to implement the former government’s digital action plan. The work of the task force is focused on the switch-off of all analogue television transmission by the end of 2013, and that is reflected in the minister’s statement of 18 December 2007. So, while both were directed at switchover in terms of the nature of the work, in terms of the end point that is different.

**Senator Conroy**—We now have a switch-off date. You had a target.



**Senator BIRMINGHAM**—In terms of your commitment to reduced duplication and red tape, doesn't it seem a little strange that one of your first actions was an unnecessary name change for a task force or organisation, whatever you may wish to call it, within the department that was to remain headed by the same individual with broadly the same terms of reference?

**Senator Conroy**—As I said, the first key difference is that we have now established a switch-off date, whereas the previous government had established a target maybe. So, in terms of the administrative savings, I think our election commitments identified that we would save—I will just confirm the actual amount for you shortly; and we will be meeting our election commitments—\$18 million.

**Senator BIRMINGHAM**—Eighteen million dollars? I am happy to take a couple of million difference—

**Senator Conroy**—We will check the press release from the Minister for Finance, Mr Tanner, to find the exact dollar figure for you. We would not want to mislead you.

**Senator BIRMINGHAM**—No doubt. I had a quote from you where you said that 'the functions can be absorbed back into the department where they were and the department does the job that it is actually paid to do'. You said it was a \$20 million duplication. So, you are now saying \$18 million and you will check the exact figure, but you actually believe that this will provide an \$18 million, or thereabouts, saving?

**Senator Conroy**—As I say, I will confirm the exact amount for you shortly but, yes, we have reprioritised. We have accepted the election commitment of before the election and we are getting on with the job of achieving digital switch-over by the end of 2013.

**Senator BIRMINGHAM**—Can you detail where those savings come from?

**Senator Conroy**—Again, I know you have very cleverly been trying to work your way into getting a big scoop but we are not in a position to reveal to you budget deliberations at this point. I know you are going to be poring over budget documents on budget night in May.

**Senator BIRMINGHAM**—I am not looking for budget deliberations here. You have changed the name of a something that is not an organisation or a body; you have kept the same head of it, but there is \$20 million or thereabouts in savings. I am just wondering where the savings come from?

**Senator Conroy**—We have reprioritised. The areas that will be identified on budget night will be clear and transparent.

**Senator BIRMINGHAM**—With regards to the switch-over—and I will look forward to the clear and transparent answers either in the budget papers on budget night or back in this room thereafter—what consideration is being given to assisting people who will require financial support with a switch-over to digital television?

**Senator Conroy**—Those are matters under consideration at the moment. I am not in a position to pre-empt a number of decisions, some of which have budgetary implications, but the final position has not yet been reached. I am not in a position to pre-empt. I am happy to take that on notice.

**Senator BIRMINGHAM**—Would the government consider providing free set top boxes to some Australians either on the basis of their financial circumstances or to help speed up the process of switch-over?

**Senator Conroy**—They are matters that are part of our ongoing deliberations and I do not want to pre-empt our announcements, so I am happy to take that on notice.

**Senator BIRMINGHAM**—There is a working group or consideration by Mr Townend's body or unit, or whatever we call it, task force—

**Senator Conroy**—It is a task force within the department. It is actually part of the department. It is not a separate body, as you perhaps thought existed under your previous government. It was just a part of the department.

**Senator BIRMINGHAM**—And that is why I am even more interested to see where the \$20 million in savings come from. But is there some work being undertaken by the task force—

**Senator Conroy**—I assure you Mr Townend is working very hard to meet the government's objective.

**Senator BIRMINGHAM**—And that includes looking at those who may not be able to afford—

**Senator Conroy**—That would be pre-empting the government's final position and I am not in a position to give you that scoop either.

**Senator BIRMINGHAM**—Can we expect this within this year's budget process given the 2009 switch-off date?

**Senator Conroy**—We will be making an announcement, but the final terms of that and the final timing of that I am not in a position to reveal at this stage.

**Senator BIRMINGHAM**—How is work proceeding on addressing some of the more technical issues such as those for multistorey apartment blocks in the Gold Coast and so on?

**Senator Conroy**—I think Mr Townend can probably address that.

**Mr Townend**—We have been working through an industry advisory group since the time I arrived last year. One of the jobs of that industry advisory group has been to give us advice on some of the issues we face, one of which is multiple unit dwellings. The precise way forward on that is also being considered as part of the budget process.

**Senator Conroy**—Could I interrupt there for a moment? We seem to have completed the questions of ACMA and moved on to the department, which is fine. I just wanted to know whether it was possible to release them or whether or not we wanted to finish with ACMA so we could release them? I am not attempting in any way to circumvent your questions. They are good questions.

**CHAIR**—Senator Nash has got questions.

**Senator BIRMINGHAM**—I can defer on Digital Taskforce and allow ACMA to be dealt with.

**CHAIR**—Thank you.

**Senator Conroy**—Just so that we can, perhaps, release them.

**Senator NASH**—I just want to return briefly to the issue of the handsets and the unnamed handsets. While we in this room we pay attention to your every word and some people in Australia hear the dulcet tones of Mr Trujillo, there is quite a high chance that there are still some people in this country who do not know that Telstra is offering to swap handsets. They may not even know that they have one of these substandard handsets, because they are less effective than the least sensitive CDMA handset. Given the difficulties of that, wouldn't you agree that the most appropriate thing to do would be to have Telstra recall those phones? If they are offering to exchange them anyway, wouldn't it be by far and away the most important thing to do, to have Telstra recall them?

**Senator Conroy**—I know we have used some colloquial terms, 'dodgy', 'faulty' and worse—

**Senator NASH**—Hansard probably could not see my inverted commas there in relation to substandard so I will just say that for the record.

**Senator Conroy**—The suggestion that these handsets are faulty is not an accurate suggestion.

**Senator NASH**—I am not suggesting that they are faulty. I am not.

**Senator Conroy**—I appreciate you are actually taking this very seriously. The handsets work where they are appropriate to work.

**Senator NASH**—Yes, exactly. I would imagine in urban areas, metropolitan areas, they probably work quite well?

**Senator Conroy**—That is correct. You acknowledge that and I appreciate the point you are making. One of the key issues of the rectification program is the advertising program by Telstra to advise people, particularly in regional areas. It is an advertising campaign that is focused in regional Australia but it is also relevant to metropolitan areas because some people who live in metro travel for a variety of reasons—

**Senator NASH**—As do businesses.

**Senator Conroy**—As many do. So it is not confined to regional Australia but it is concentrated in regional Australia. That advertising campaign indicates there is a 1800 number and that people should contact it. I take your point that not everybody may know yet. The advertising campaign is only just beginning, as in very recently, but I will be monitoring how successful that is. I would hope, as you have been doing consistently with this, you will be raising these issues and I know that you will certainly be letting me know if you do not think that the advertising campaign is wide enough or getting its message across. I am very conscious of ensuring that this advertising campaign does its job of letting people know that if they have an issue with their existing Next G—that they do not believe it is giving them equivalent coverage and service—then they should be contacting Telstra to discuss it. There are a variety of reasons that have been identified. Some of them are as simple as that they have taken their 2G chip and put it into their 3G phone.

**Senator NASH**—I understand that.

**Senator Conroy**—So, there are a variety of reasons why the coverage may not be adequate and it could be that they have the wrong handset. The advertising campaign and the 1800 number are being widely advertised across Australia and I look forward to your ongoing contributions on whether or not it is actually reaching the target audience.

**Senator NASH**—I look forward to my ongoing contribution, too. But just back to this particular issue, surely it would demonstrate the commitment of not only you as minister but also Telstra itself in those regions where people have changed from a CDMA phone to one of these phones which are less sensitive than the least sensitive CDMA handset, and it would be the simplest and most appropriate course of action, for Telstra to simply recall those phones. If they have committed to replacing them anyway, which they have, to their credit, why don't they simply recall them and change them over so that there is no issue?

**Senator Conroy**—That is a matter that I am happy to take up with Telstra.

**Senator NASH**—Thank you, I would appreciate that. I have just a couple more quick questions in terms of coverage, and I think Senator Birmingham and others have been referring to coverage. I think we are getting an indication that there is a level of agreement that the coverage itself is equivalent and that it is now a handset issue. Within that equivalent coverage, has that equivalence taken in those areas that previously had fortuitous coverage?

**Mr Tanner**—The issue of fortuitous coverage, as the authority explains in its report, is actually irrelevant. The condition requires both a minister and ACMA to look at actual coverage and to compare actual coverage of Next G with the actual coverage of CDMA as it was at 1 June 2007.

**Senator NASH**—By that you are saying that fortuitous coverage is taken in with actual coverage?

**Mr Tanner**—That is right.

**Senator NASH**—Sorry to be pedantic about this. That is excellent news because there was some indication that the fortuitous coverage areas would fall outside the assessment process.

**Senator Conroy**—Some made that argument. ACMA did not accept it.

**Senator NASH**—Excellent. That is very good news. I have just one last question for the moment. Let us hope this does not happen. I know a range of things will come into place so we will get a switch-off and there will be equivalence for every single person who has had a CDMA phone. In a hypothetical world, if the circumstance arises that you agree to the switch-off, if issues still arise post that switch-off date with handsets or coverage that have slipped through the net for whatever reason, what is your contingency plan? What do you have in place given that at that point in time there will no longer be the licence condition requirement on Telstra?

**Senator Conroy**—A number of those issues are currently being discussed but, as I have said all along, as a responsible person who has to make the judgement, I cannot prejudge. I think the point you make is a fair point. For instance, whatever the date, whether it is 28 April or a later date, what is put in place at that point is an important consideration. There are things to consider like how long the replacements of the handsets continues to go on after that. As people are obviously going to suddenly find the phone is dead, they are going to work out

pretty quickly whether or not they have to get a new handset because there is no signal. How long should that stay in place? How long should the 1800 number stay in place? I am only being cautious here because I do not want to get it wrong, but I think Telstra made a number of commitments at a recent stakeholders meeting. I am happy to get you that information. So, in terms of the sort of issues that you have raised, there is very active consideration of what should be in place after the switch-off occurs whatever the date is.

**Senator NASH**—Given that Telstra are not here to answer, I do not know if either the department or ACMA can answer my next question. At a previous estimates when Telstra did appear there was some discussion around the length of time that the CDMA network and the Next G network could operate concurrently. I am happy for you to take this on notice, but I do have the memory that there was a finite date. My question is: could somebody go back and check that there is no problem with how long the networks can run concurrently? So hypothetically you could extend the date with no restrictions from the concurrent running of the networks? I appreciate it is quite a detailed question. I am happy for you to take it on notice.

**Senator Conroy**—We do have some information on that. At the stakeholders meeting this issue did come up. I think Mr Shaw has a better recollection of the exact description than I do, so I might refer to Mr Shaw.

**Mr Shaw**—At the stakeholder meeting last week, which the minister convened, Telstra indicated that towards the end of the year there may be issues around capacity in certain parts of the network which would indicate to them they may need the spectrum that is currently used for the CDMA network in order to carry the traffic that would be on the Next G network. That would be in a limited number of isolated cells within the network.

**Senator Conroy**—I just make this point: there is no suggestion from Telstra that the switch-off of CDMA will automatically improve the reception by phones. These are not related issues. There has been some suggestion that once you switch off CDMA suddenly that will fix your—

**Senator NASH**—Yes, that is not the case.

**Senator Conroy**—That is not the case.

**Senator NASH**—Can I just get you to repeat that?

**Mr Shaw**—Telstra indicated that towards the end of this year there would be isolated cells in the Next G network where they have run into capacity problems—that is, on the Next G network the current spectrum would not be capable of handling the amount of traffic that was in that particular cell and they would need additional spectrums on the Next G network; and that would be the spectrum they would reclaim from the CDMA network when it closed.

**Senator NASH**—Technically how does that work? You are talking about specific cells. What sort of size area are we talking about here?

**Mr Shaw**—It depends on the individual cells and the coverage of that cell. Some regional areas cover a larger area than in metro areas because the networks are dimensioned in a way that the amount of traffic will be taken into account. One of the factors that is taken into account is cell size.

**Senator Conroy**—It is about projections.

**Senator NASH**—I understand that. We are just talking completely hypothetically, of course. Just within that, and only because I do not understand the technology around this, if Telstra had to, hypothetically, shut down some of the CDMA to get the spectrum it needed for the Next G network that was running, can it shut parts of the CDMA network down or does the whole thing have to go to be able to then service those cells?

**Mr Shaw**—They would only need spectrum in that area where the cell was at capacity, but we do have an engineer here who might be in a better position to answer.

**Senator NASH**—I am always happy to listen to the engineer.

**Senator Conroy**—Those are famous last words. Everyone else is going to leave and you two can stay.

**Mr Kerans**—The Next G network basically works off two five megahertz wide channels and the customers and the data are layered on them. As you increase the number of users the customers making voice calls or the number of users with those little orange dongles that basically can download up to one megabit, it loads the cell up. What happens is the cell prioritises voice so eventually the people who are using it for high rate data, be they in the bush or in the cities, will find that their data rate drops off. That is when Telstra will then want to move to the second five megahertz channel. They do in some, but in most areas they do not have any more spectrum and the CDMA channels are 1.25, so they cannot knock off one or two, they have to knock off all four of the CDMA channels. Basically they would have to shut down the CDMA network in that cell to increase the capacity of Next G.

**Senator NASH**—That being the case, purely hypothetically, if we reached the end of the year and the handset issue and the equivalence issue were not resolved, we would have a problem.

**Senator Conroy**—That is a hypothetical and I appreciate that you are asking out of genuine interest but that is, I think, why there is every incentive for everybody involved to have this resolved satisfactorily so that Australians are not left in the worst of all worlds, in both of those circumstances, with handsets that are perhaps not as sensitive and a new 3G phone that cannot deliver them the new services that are hopefully available.

**Senator NASH**—Mr Kerans just raised something else that has prompted a question in terms of the spectrum for the Next G network and the data delivery. Are there issues down the track with Telstra not having enough spectrum as the load on the new Next G network increases? At what point are they going to need extra spectrum and where are they going to get it from?

**Senator Conroy**—That is a matter really for Telstra. That is an engineer's perspective but that is a commercial issue for Telstra.

**Senator NASH**—I am just asking on behalf of the people of Australia who are switching over to this network and do not have any other carrier to provide them a service in regional Australia once we switch off.

**Mr Tanner**—There are only finite spectrum licences anybody has; they are only for 15 years. All we know at present is that if the CDMA thing is allowed to be switched off then

there is the scope for Telstra to open up extra cells everywhere where there is CDMA, which is in most of the places where there is Next G. Your question is at this stage I think a bit hypothetical but, yes, we do anticipate that in the long run there is going to be a steady increase in demand and there will need to be solutions.

**Senator NASH**—Thanks for that. I appreciate your assistance.

**Senator IAN MACDONALD**—Minister, now you are the boss you might remember we had lots of discussions about those additional channels that came out and we were going to divide one into A and B so that, as I recall, perhaps community television might get some. Can someone give me, in a very, very concise way because I have another question and I want to get rid of this before 9.30, how all that is going, or can you answer on notice?

**Senator Conroy**—The government is considering numerous technical and policy settings relating to the proposed auction of channel A and B. I could probably say there are very complex issues involved.

**Senator IAN MACDONALD**—We always knew that.

**Senator Conroy**—We are considering the policy solutions to those complex problems which, despite announcing the auctions and proceeding a fair way down the track, had not actually been resolved. Partially I think they are some of the excellent questions that you yourself raised.

**Senator IAN MACDONALD**—Flattery will get you everywhere.

**Senator Conroy**—We have not finalised our policy positions on that at this stage.

**Senator IAN MACDONALD**—You are not resiling from your and my positions which we had together at the time?

**Senator Conroy**—That is a very flattering way to describe the situation. Perhaps I could say that all of the issues that you and I have raised over the last 12 months are under active consideration.

**Senator IAN MACDONALD**—I do not like the sound of this.

**Senator KEMP**—That is a bit of ‘pollie speak’ there, I think.

**Senator IAN MACDONALD**—All right. I know the rest of the answer.

**Senator Conroy**—I would not anticipate any auctions taking place in the first half of the year.

**Senator IAN MACDONALD**—Perhaps we can follow that along at the next estimates. Finally—again it is a very, very technical thing; and I am sorry to raise this—but there is the other question that I received the answer to just this morning. Perhaps in different circumstances I would not waste the committee’s time at this stage, but it relates to the C channel. This, if I can explain in my simple language, is the channel that is used worldwide for a certain type of communication. The World Radiocommunications Conference was held about election time, I think. I am delighted to hear that the Australian delegation did do as was suggested and did not agree to an extended C channel being converted into telephony because it was being used by other things. I am just curious as to the clever words at the end of the answer to my question that the world conference, as I précis it, said that there was going to be

no change and Australia did not oppose that decision, which I think is good. But there were side agreements, which Australia has not initialled but which others might, which say that some part of the extended C band could be used for other things. What concerns me is the comment at the end that the department is looking at what might be done and is expected to make an announcement relating to domestic consultations. That is in relation to consultations. But is Australia—I would say the government, but I suspect it is a fraction beyond government policy—satisfied that there is more use in leaving the C and extended C channel in the way it is now than joining with, I think, the Japanese who want to convert it into telephony; if that question means anything?

**Mr Thomas**—You are correct in terms of the decisions that were taken at WRC and that the delegation was instructed by the previous minister to remain silent on those issues that you referred to. There was the option in the WRC decision that individual countries could make footnotes to the decisions in relation to the extended C and C band areas to allow them to opt in, if you like, to the use of those particular bands for IMT-2000 services. Those are the general wireless services such as GSM, WiMAX and those sorts of things. As you correctly said, we did not take that option at that particular point. We did not elect to put in a footnote at that particular point. However, there is the consideration of the use of those particular bands for wireless services down the track. Part of that consideration will be the work that will be undertaken by ACMA in relation to the revision and update of the Australian Radiofrequency Spectrum Plan. I will let ACMA perhaps talk about the processes involved in that, but this is a normal practice that occurs after the World Radio Conference in each case.

**Senator IAN MACDONALD**—It is time for the break and this is a fairly technical issue that few others, apart from the minister, would have any interest in, but can I just seek the minister's assurance that you are not going to doublecross me on this one as well—

**Senator Conroy**—You have such a flattering way of asking.

**Senator IAN MACDONALD**—and that you will maintain yours and my concern about—

**Senator Conroy**—I am happy for you if you would like a departmental briefing on that.

**Senator KEMP**—That did not answer the question.

**CHAIR**—Thank you. It is time for the tea break.

**Senator IAN MACDONALD**—I want your assurance that you will not backtrack on what you and I agreed was the right approach to this C and extended C channel when you were in opposition.

**Senator Conroy**—I would not want to suggest to you that you may perhaps be verballing me but I am happy to review *Hansard* to see quite how much. I appreciate you have attached yourself to my hip at this point but exactly how attached at the hip we were—

**Senator IAN MACDONALD**—I do not want you to detach from our joint hips on the views we both strongly held previously.

**Senator Conroy**—I will take that on notice.

**CHAIR**—Thank you.



**Senator IAN MACDONALD**—Minister, you might remember that it turned out that the previous minute was supported but at the time there was some robust argument about the C channel.

**Senator Conroy**—There certainly was.

**Senator IAN MACDONALD**—So do not have second thoughts on it, will you?

**Senator Conroy**—I will take that on notice, after I have reviewed the *Hansard* on exactly how attached at the hip we were.

**Proceedings suspended from 9.33 pm to 9.52 pm**

**CHAIR**—I note that this section of the agenda includes NetAlert, but we will start with general questions.

**Ms Scott**—We will just see where the questions comes from and then we will fill up the table.

**Senator LUNDY**—I am looking at an OECD broadband statistics document, which lists of all of the countries in rank order. I have a number of questions about it because, of course, the Australian listing sticks out. It says, ‘In the absence of official ABS statistics, information from DCITA has been relied upon.’ These were released on 6 November 2006. Is it true that the former Minister for Communications, Information Technology and Arts, Helen Coonan, directed the ACCC to stop collecting statistics relating to broadband in early 2007?

**Senator KEMP**—This is a Dorothy Dixier. This is just wasting everybody’s time.

**Senator LUNDY**—I am asking the department.

**Senator KEMP**—It is not up to Senator Conroy to launch into an attack on Senator Coonan.

**CHAIR**—We will see how the answer goes.

**Senator KEMP**—It is a very unseemly question. It is one that has been given to her by Senator Conroy’s staff and it is not appropriate.

**Senator LUNDY**—It is also one that has never been answered by the former government.

**Ms Scott**—I will start with the answer and my colleague Dr Judith Winternitz will then contribute more fulsomely. The Australian Competition and Consumer Commission previously published its own collection of broadband—

**Senator KEMP**—Do you have a full briefing note there?

**Ms Scott**—I have a full briefing note on broadband statistics.

**Senator KEMP**—Dear, oh, dear!

**Ms Scott**—The Australian Competition and Consumer Commission previously published its own collection of broadband—private data. This data was used by the OECD for its broadband statistics reporting for Australia. The commission ceased publications of its data in late 2006 because the Australian Bureau of Statistics’ Internet Activity Survey data was more accurate and authoritative. From early 2007 it was expected that the OECD would use the ABS data for its broadband reporting, but the ABS data at the time had two issues—a timing

misalignment between the OECD's reporting dates and the ABS data collection cycle, and that this data did not include a measure of fixed wireless broadband subscribers.

To rectify the timing difficulty during 2007 and at the OECD's explicit invitation, the department provided Australian broadband subscriber data estimates to the OECD for two reports during 2007 based on ABS data, arrived at using conservative forward projection methodology accepted by the OECD. The latter estimate also included a departmental estimate of fixed wireless subscriber numbers. The ABS recently adjusted the collection and reporting dates for the internet activity survey to align with the timing of the OECD's six-monthly online broadband statistics, which will allow the ABS data to be used by the OECD but it will still not include a measure of fixed wireless subscribers and so this remains an issue.

**Senator LUNDY**—Can you tell me what is the extrapolated data based on an ABS survey to the end of March? Is that the data that was used to extrapolate?

**Dr Winternitz**—We provided the OECD with the estimates, on their request. We did so twice. Their reporting dates are as of June and December each year. The ABS in 2007 was recording actually only as of March 2007.

**Senator LUNDY**—So, they were March?

**Dr Winternitz**—That is right. We had to forward project to meet the OECD's reporting practice.

**Senator LUNDY**—In November?

**Dr Winternitz**—We had to forward project for June, for that period to end of June.

**Ms Scott**—Just one report, which is not unusual.

**Senator LUNDY**—I understand that during this period Australia moved up four places on the OECD broadband subscribers ranking table. Can I ask whether or not the department was conservative in their approach to estimating figures?

**Ms Scott**—Yes. As I have given in my earlier answer, the forward projection was based on a conservative estimate, and understandably so. Obviously, it is better if the timing of these two series could be coinciding, but clearly because the OECD and the ABS did not have alignment of dates, we were asked to step into the breach and we did, so it was based on a conservative estimate.

**Senator LUNDY**—In terms of your definition of 'conservative', can you describe to the committee how that methodology was applied and give some evidence to your claim that it was in fact a conservative estimate?

**Dr Winternitz**—Technically, the estimate was based on ABS data to March projected forward on a conservatively expected curve, actually on a slower curve than had previously been the case forward for one quarter. The methodology was discussed at length with the OECD and they accepted that it was an appropriate methodology.

**Senator LUNDY**—What direction did the former minister for communications, Senator Coonan, give in relation to the figures supplied by the department? Was the minister briefed before the data was released? What was in the brief that she witnessed?

**Senator KEMP**—Madam Chair, this is a rather sad sort of political stunt. Someone has given Senator Lundy these questions, probably Senator Conroy's staff. It is unacceptable. No one at the table can comment on the previous minister. She is not here to defend herself. This is ridiculous. If we knew there was going to be an attack on Senator Coonan, the appropriate thing would have been to warn her that there was going to be an attack on her so that she could defend herself. I think we can bring this questioning to an end. It is just a pathetic stunt at this time of the night and I have some serious questions that I would like to ask.

**CHAIR**—Senator Lundy has the floor, Senator Kemp.

**Senator LUNDY**—What did the department recommend to the minister as far as the release of these figures?

**Senator KEMP**—It is none of your business actually, and I would be rather shocked if the department answered this question. I would like to point out to Ms Scott that, if this question is answered—perhaps on reflection I think she should—this will open up a whole host of questions for the next three years.

**Senator LUNDY**—Are you trying to intimidate the witness?

**Senator KEMP**—Not at all. You are asking what the department advised the minister. If Senator Conroy wants this to continue on this basis, in my view go for it and it is open slather, I can tell you.

**Senator LUNDY**—At the time there was widespread reporting, and I am just looking at some media reports now, of how dodgy these figures were in the context and actually brought the OECD figures into disrepute.

**Senator KEMP**—Do not backtrack. You have asked the key question. I am very interested to see what the answer is and what the reaction of the minister is. It is a very interesting position that we are now in.

**Ms Scott**—I am not going to go through what advice was or was not provided, but the methodology was arrived at by the department. It was arrived at by the department, full stop.

**Senator LUNDY**—Was the minister briefed as to the methodology prior to her releasing the information publicly? Was she fully briefed as to the methodology you applied?

**Senator KEMP**—These are not very smart questions. They are not all that flash.

**Senator Conroy**—Senator Kemp, you are wasting your time.

**Senator LUNDY**—I would like to know whether the minister knew what the methodology was before she released those figures and whether she thought it was being dodged up.

**Senator KEMP**—Senator Conroy, you do not know what Senator Lundy is walking you into here. We are all making notes.

**Senator LUNDY**—You are attempting to intimidate the witness. I suggest you be quiet.

**Senator KEMP**—I am not intimidating. I hope the witness answers it so that it is open slather. One in, all in.

**CHAIR**—Senator Lundy?

**Senator LUNDY**—I have asked a question and I am waiting for my answer.

**CHAIR**—Could you repeat your question.

**Senator LUNDY**—Can you tell me whether the minister was briefed as to the methodology prior to her releasing the figures publicly?

**Ms Scott**—The figures were released by the OECD.

**Senator LUNDY**—Yes, but I presume they were also confirmed by the minister before they were supplied to the OECD.

**Ms Scott**—No, I think that is incorrect.

**Senator LUNDY**—That is part of the question that I wanted you to answer. So, the minister was not privy to the figures prior to their being delivered to the OECD?

**Ms Scott**—The methodology was determined by the department. I have already answered that question. I am not going into what information was or was not provided to the minister. We do not go into advice provided to this government or advice provided to the previous government.

**Senator LUNDY**—Sure. But I am able to ask whether or not any information was supplied to the minister, or whether a briefing was supplied to the minister or not, as opposed to the actual content of it. And I ask you now: was a briefing given to the minister about the methodology prior to the department sending these figures to the OECD? I can ask that. I am not asking about the contents of the briefing. Did she receive a briefing or not on that subject?

**Ms Scott**—Typically we do not answer questions about advice provided to the government.

**Senator LUNDY**—You do answer questions about whether or not you provided any advice if not the nature of that advice.

**Ms Scott**—Sometimes we do not answer those questions for things like, ‘Did you provide advice on cuts to a certain area?’ or, ‘Did you provide advice on extension to a certain policy?’ I have considered your question and I am not in a position to answer it. It goes to the advice provided or not provided to a government, in this case the previous government.

**Senator LUNDY**—Can you tell me why the former minister stated to the *Australian Financial Review* that the 2007 survey broadband statistics were based on ‘exactly the same methodology as that of the OECD report one year before’? Why did the minister say that? Didn’t the minister know—

**Senator KEMP**—Let us get Senator Coonan along and we can ask her.

**Senator LUNDY**—I would like to know whether the minister knew the methodology had changed when she said that.

**Senator KEMP**—You are in government. Wakey-wakey! You happen to be in government.

**Senator LUNDY**—I would like to know whether or not, when the minister made that statement, she had been advised of the changed methodology.

**Senator KEMP**—This is a total waste of time.

**Senator LUNDY**—So far the department is refusing to answer the question of whether or not the minister was advised of the changed methodology.

**Senator KEMP**—It is not appropriate.

**Senator LUNDY**—The department can clear the minister's name right now if the department says that the minister was not advised.

**Senator KEMP**—I can tell Senator Coonan is really worried about this.

**Senator LUNDY**—The department is failing to confirm or deny one way or the other, so we are never going to know whether or not Senator Coonan deliberately lied to the Senate and/or to the media about this issue. This is the opportunity for it to be clarified. Senator Kemp, you have just intimidated the witness into not saying anything, so now forever Senator Coonan's name will be besmirched because we will not know whether she lied or not.

**Senator KEMP**—Do not take questions from Senator Conroy's office. I would advise you not to do it. It is very unwise.

**Senator LUNDY**—It is an opportunity to clear her name. You can congratulate yourself for making sure that that did not happen. Well done.

**Senator KEMP**—Senator Coonan is not the slightest bit worried about your wild attacks on her. I can assure you of that.

**Senator LUNDY**—Going back to the questions about the ACCC, I still have not received an answer about whether or not the minister directed the ACCC to stop collecting statistics. I know you mentioned this in your answer, Ms Scott, about the direction, but can you confirm that for whatever reason a direction was given to the ACCC to stop collecting those statistics?

**Ms Scott**—I am not aware of any direction, and I think the ACCC is in a different portfolio.

**Senator LUNDY**—Yes, it is. I am asking you whether you know if that direction took place.

**Ms Scott**—I am unaware of any direction to the ACCC, which is in a different portfolio.

**Senator LUNDY**—Can you advise the committee what recommendations the Australian National Audit Office made about the Australian Broadband Guarantee?

**Ms Scott**—There is no Audit Office report into the Australian Broadband Guarantee.

**Senator LUNDY**—I know that, but did you receive any advice as a department from the Audit Office about the Australian Broadband Guarantee?

**Ms Scott**—There was a report into a predecessor program. The Audit Office tabled a report in May 2007 on the operation of the former HiBIS and Broadband Connect incentive program. The department at the time of the tabling of the report, in May 2007, accepted and responded to all ANAO recommendations both in relation to further assessment of past claims and also in regard to the processes it had underway in relation to the Australian Broadband Guarantee.

**Senator LUNDY**—Last year it was reported that the department awarded funding to Telstra to run ADSL services in the York Peninsula, but that Internode also had Broadband

Guarantee Funding to provide services in the same area. Can you tell the committee what the circumstances were that led to that occurring and whether or not that constituted a breach of the guidelines? How can you award government funding to two different companies to do the same thing, given that it is supposed to be providing a minimum standard of service?

**Mr Bryant**—In the situation you refer Internode were offering ADSL2+ services at exchanges on the York Peninsula, and Telstra had sought to, and in fact had registered, ADSL exchanges in those areas, in those particular exchanges, as part of the 208 exchanges they have registered under the Australian Broadband Guarantee. When we were advised by Internode that this had occurred we approached Telstra, which indicated it had mistakenly registered those particular exchanges and has withdrawn them from registration. That is my understanding of the situation.

**Senator LUNDY**—So Telstra mistakenly registered a series of exchanges that it was acknowledged were eligible for a subsidy for the rollout of ADSL? Did it get any funding from the government?

**Mr Bryant**—I will take that question on notice. My understanding is no, but I will take it on notice.

**Senator LUNDY**—If it did and this was followed through, would it have paid that back?

**Mr Bryant**—Again, I will take the question on notice. It is a hypothetical question.

**Senator LUNDY**—As a result of this particular incident did the department embark on any investigations to see whether Telstra had nominated other exchanges for the ABG that perhaps were already supplying these services?

**Mr Bryant**—We have an extensive mapping system that enables us, as part of the registration process for service areas under the Australian Broadband Guarantee, to assess whether there are in fact commercial services being provided there. The issue with Internode was that we had not picked up as a department that those were ADSL2+ exchanges on the York Peninsula. As I said, as soon as we became clear about that, we obviously identified them as commercial areas and therefore areas that should not be registered under the ABG, and we approached Telstra, as I indicated. To answer your question generally, we are quite confident that the mapping system that we have in place identifies commercial service in areas to a comprehensive degree. Clearly, though, there will be some occasions where commercial investment has taken place that we are unaware of, and we have written to commercial providers at the start of the program to ask them to identify to us when they do invest commercially so that we can make the adjustments to our maps.

**Senator BIRMINGHAM**—Madam Chair, we have had nearly 25 minutes of this historical questioning. I think it is time to move on. It is all very nice to go on fishing expeditions into the past.

**Senator LUNDY**—I have only two more questions, if you can be patient.

**Senator BIRMINGHAM**—It is very nice to go on fishing expeditions in to past, but we accept the election result. We lost. We want to ask questions about the future. You should move on, too.

**CHAIR**—Senator Lundy has almost finished her questions.

**Senator KEMP**—This is the most obvious ploy I have ever seen.

**CHAIR**—Senator Lundy?

**Senator KEMP**—Aimless questions fed to Senator Lundy by Senator Conroy's staff attacking the former minister. It is the most ordinary stunt I have seen for a long time.

**Senator LUNDY**—I am glad the witness mentioned maps, because my next question relates to the department's preparation of electoral maps showing OPEL coverage last year which the government distributed. What maps did the department prepare relating to electorates and how many electorates were mapped?

**Mr Bryant**—I would have to take that question on notice.

**Senator LUNDY**—Were they all mapped? Surely you would know whether they were all mapped or only some?

**Mr Bryant**—I will take the question on notice.

**Senator LUNDY**—Tell me if it was all or some.

**Mr Bryant**—I can only take the question on notice. I cannot advise you.

**Senator LUNDY**—I can tell you there were some.

**Senator KEMP**—Why ask the question? You know all about it.

**Senator LUNDY**—I am not satisfied with it being taken on notice; everyone knows there were some. Can you confirm there were some maps prepared by the department on the OPEL coverage? Can you confirm that?

**Senator KEMP**—They can take it on notice.

**Senator LUNDY**—No, you cannot take that on notice. That is ridiculous. I am asking the department and I want an answer.

**Ms Scott**—We have already given an answer: we are taking it on notice.

**Senator LUNDY**—You are taking that on notice?

**CHAIR**—Next question.

**Senator LUNDY**—Were those maps or were some maps prepared in the department?

**Ms Scott**—The maps that were prepared in the department were prepared in the department. I will need to know the other subset that you are referring to.

**Senator LUNDY**—Maps showing OPEL coverage prepared in the department.

**Ms Scott**—It depends on which maps you are referring to. Could you be more specific?

**Senator LUNDY**—I am referring to maps that showed OPEL coverage, some of which may have been relating to electorates or groups thereof, or indeed geographic areas. I want to know whether the department prepared maps relating to OPEL coverage?

**Ms Scott**—It did prepare some maps on OPEL coverage.

**Senator LUNDY**—What areas did they relate to?

**Ms Scott**—We have taken that on notice.

**Senator LUNDY**—We will do it by deduction. Did they relate to electorates?

**Ms Scott**—I am sorry?

**Senator LUNDY**—Did some of those maps relate to electorates? I saw one for the seat of McEwen. When you are finished answering this question, I will ask you that specific question to assist you.

**Mr Bryant**—There were some maps prepared that indicated electorates. But I think the question you asked me before was which electorates and how many, and I would have to take that question on notice.

**Senator LUNDY**—Thank you. Now we have confirmation that you did prepare some maps relating to OPEL coverage in some electorates—correct?

**Mr Bryant**—Yes.

**Senator LUNDY**—Thank you. The seat of McEwen was one of those. Can you confirm that?

**Mr Bryant**—No. I have taken that question on notice. I cannot confirm that.

**Senator LUNDY**—Where did you get the information for those maps?

**Mr Bryant**—Could you clarify the question? Is it in terms of the mapping information or the OPEL coverage?

**Senator LUNDY**—The information about the OPEL coverage. Did you get that from OPEL?

**Mr Bryant**—Clearly, yes.

**Senator LUNDY**—You did?

**Mr Bryant**—Yes.

**Senator LUNDY**—What advice did the department provide to the minister prior to the public release of the maps?

**Ms Scott**—We do not provide in estimates answers relating to advice. I have covered that previously.

**Senator LUNDY**—I will rephrase that question. Did the department provide any advice to the minister prior to the release of these maps?

**Ms Scott**—I have indicated before when it gets to—

**Senator LUNDY**—No, I am not asking what the advice was. I am asking you whether or not you provided advice.

**Ms Scott**—We have provided advice to Senator Coonan from time to time on OPEL matters, but that would not come as a surprise to you.

**Senator LUNDY**—I will look forward to the answers to questions on notice.

**Senator BARNETT**—I turn to the important issue of Protecting Australian Families Online. As you know, the previous government made this a priority. The new government has mouthed the words, but I noticed that Minister Tanner, on 6 February—



**CHAIR**—Senator Barnett, just one minute. Is this a department question?

**Senator BARNETT**—Yes. The minister can answer this question or the department head, I do not mind. On 6 February Minister Tanner announced—

**Senator NASH**—Chair, can I just clarify that we can go back to telecommunications, because I think we are on an entirely different subject now.

**Senator BARNETT**—On advice of the secretary, I am asking a question about the funding for Australian Families Online.

**Senator NASH**—That is fine. I am just ascertaining that we are going back to telecommunications once you have finished.

**CHAIR**—Yes. This is general questions.

**Senator KEMP**—Unfortunately Senator Lundy took up so much time; I think it is an issue we have to raise.

**CHAIR**—Senator Barnett, can you ask your question so we can get an answer and then we can go back to telecommunications.

**Senator BARNETT**—I will be brief. The minister's statement of 6 February shows a revision of the measure NetAlert—Protecting Australian Families Online, and a cut of \$700,000 to the consumer information campaign. Could the minister or the department advise the nature and extent of this cut to this very important program?

**Ms Scott**—Senator, the 0.7 in 2007-08 relates to returning to the budget all unspent advertising associated with the initiatives.

**Senator BARNETT**—Is that the reason it has not been spent, because it had not been spent in the time available? Is that the reason that you have cut the funding?

**Mr Rizvi**—That was part of the amount of unexpended funds on the information campaign at the time the government decided to cease the campaign.

**Senator BARNETT**—What other funds are you referring to? Why did you choose the figure of \$0.7 million?

**Mr Rizvi**—That relates to the departmental portion of the funds that were unexpended at that point in time. There is another portion that relates to administered expense funding and that was also ceased at that time.

**Senator BARNETT**—How much was that?

**Ms Scott**—\$5.2 million in 2007-08 and \$0.5 million in 2008-09, to give \$5.7 million in total.

**Senator BARNETT**—So \$5.7 million total?

**Mr Rizvi**—That is in administered expense funding.

**Senator BARNETT**—And that is being reversed, so that will now not be expended on that program?

**Ms Scott**—That is correct, and then \$0.7 million of departmental money. If you had the \$0.7 million and the \$5.7 million together that will be the total for both departmental and administered expenses.

**Senator BARNETT**—So a total of \$5.7 million plus \$0.7 million has not been expended?

**Ms Scott**—That is correct.

**Senator BARNETT**—What is the reason for that?

**Mr Rizvi**—That was the point the campaign was up to at the point the government decided to cease it.

**Senator BARNETT**—Thank you.

**Senator Conroy**—If I could just supplement the answer, this is the scheme under which the previous government claimed it expected 2.5 million households to take up the free PC filters. It was an \$84.8 million scheme. Less than 150,000 filters were accessed or downloaded against an expectation of 2.5 million. I think there are some updated figures but, by the end, estimated usage is just under 30,000 as against the expected uptake of 2.5 million, and this was despite a \$22 million advertising campaign.

**Senator BARNETT**—The question is: why wouldn't you use that money to extend the consumer information campaign?

**Senator Conroy**—If I could just correct the answer there, it was an estimate of 1.4 million, not 2.5 million.

**Senator BARNETT**—The question in response is: why wouldn't you use the funds for their stated purpose and to extend the community information campaign?

**Senator Conroy**—The community information campaign has clearly failed to—

**Senator WEBBER**—Arouse interest.

**Senator Conroy**—That is one way to describe it, but it has clearly failed in its objective. The government is now reviewing this in the context of our cyber safety policy.

**Senator BARNETT**—At the end of the day there are less funds spent on protecting Australian families online—yes?

**Senator Conroy**—Let's be clear: spending \$22 million to achieve 30,000 filters when the claim was—and I have corrected this—1.4 million filters were anticipated would suggest that the program has been less than successful in achieving its objective. It is an objective that, as you know, I support, but there are perhaps more efficient ways to achieve the objective that we have debated over some considerable period.

**Senator BARNETT**—But you are yet to demonstrate those with funding commitments?

**Senator Conroy**—Unfortunately, your demonstrated program has failed miserably and it wasted an enormous amount of taxpayers' money on a glossy brochure and an advertising campaign. We are talking about \$84 million.

**Senator BARNETT**—We have a difference of opinion and I know my colleagues—

**Senator Conroy**—Eighty four million dollars.

**Senator BARNETT**—would like to ask some questions. So, thank you for your response.

**CHAIR**—Thank you. Are there any further questions on this particular matter?

**Senator WEBBER**—I have just got a couple on NetAlert.

**Senator KEMP**—This is outrageous.

**Senator WEBBER**—To be fair, I have been here nearly all day and said one thing, I think.

**Senator KEMP**—That is outrageous—

**CHAIR**—The more you carry on, the less time there is for your colleagues.

**Senator KEMP**—Can I make this clear: if this is the way you want to run this committee—wasting time—everyone understands, and Senator Ray said it today, the estimates are essentially for oppositions—

**Senator WEBBER**—Absolutely, they are.

**Senator KEMP**—This is just wasting time.

**Senator Conroy**—On the point of order, as I am assuming that is what that interjection was—to help you out—

**Senator KEMP**—Oh, thank you!

**Senator Conroy**—it has already been explained that is not how this committee was run previously. Just so that you understand, Senator Kemp, basically the carve-up was 50 per cent for the government and 50 per cent for the rest. That is actually how this committee was run under the previous chair.

**Senator KEMP**—That is not correct.

**Senator PARRY**—That is not correct.

**Senator Conroy**—It is exactly correct, Senator Kemp. You were not here—

**Senator PARRY**—I was here.

**Senator Conroy**—Even Senator Ronaldson is blushing. So let me be clear, Senator Kemp—

**Senator RONALDSON**—Seventy per cent for the opposition and 30 per cent for the government.

**Senator Conroy**—You have a very selective memory. Just because some government senators would like to ask some questions does not constitute an abuse. We have in no way taken up 50 per cent, 40 per cent, 30 per cent or 20 per cent of today.

**Senator KEMP**—We saw from Senator Lundy classic time-wasting activity, questions given by the minister's staff to Senator Lundy, briefing notes ready to run. It was just classic estimates time-wasting stuff. I just point out to Senator Conroy, if his behaviour continues at this committee we actually have the numbers in the Senate and we will call this committee back. But it is just outrageous. It is just a total waste of time.

**Senator WEBBER**—I have one question. Of the NetAlert filters that have been downloaded, how many have been installed? I kind of lost that with Senator Kemp carrying

on. And from that, if there is a big discrepancy—if there is a much lower number that were installed—is that because they are too hard to install and, perhaps, are a bit hard for people to use?

**Mr Rizvi**—The website provides consumers with an option of selecting from a range of filters. They are able to select one filter and try it, and if they wish to then remove that from their computer and perhaps try another one that might be more suitable they can. There are four different filters, or filter vendors, on the website, as a result of which I think we would be seeing a portion of people trying more than one filter. As a result, you would not get—

**Senator WEBBER**—I am sorry to interrupt because I know my colleagues opposite are a bit anxious about timing, but I got the impression from what the minister was saying that there did seem to be a big discrepancy between download and installation. I was wondering whether that is because the filters are actually difficult for people to use, in which case that would be another reason to stop advertising them.

**Mr Rizvi**—The distinction we make is between the number of people who have downloaded a filter or ordered a CD-ROM and the number of people at a point in time in the future who are still using a filter—that is, their computer is continuing to make contact with the filter vendor's website and is continuing then to receive the benefits of, for example, updates of the ACMA blacklist and other materials. The ongoing figure relates to the portion of people who are still using the filter some point into the future.

**Senator WEBBER**—I am finding it a bit difficult to concentrate now. I just want to quickly turn to the NetAlert call centre. How many calls have been made to the call centre and how many of those were related to installing the product?

**Ms Scott**—My notes suggest that the call centre operates between 8 am and 10 pm seven days a week on all Australian time zones and has been receiving 20 to 40 calls a day. I hope I have got that right.

**Senator WEBBER**—Twenty to 40 calls a day, seven days a week?

**Ms Scott**—Twenty to 40 calls per day.

**Senator WEBBER**—Is it currently operating within those hours seven days a week?

**Ms Scott**—It is.

**Senator WEBBER**—At 20 to 40 calls. How many of those would relate to actually installing the product?

**Mr Rizvi**—We do not have a breakdown of the number of calls that would relate to installing the product. There are two ways in which people can obtain the product. One is by directly visiting the website and downloading directly from the website—

**Senator WEBBER**—I am sorry, I am trying to speed you up so that they calm down.

**Mr Rizvi**—and the other way is to contact us via the call centre and to order a CD-ROM.

**Senator WEBBER**—How many people are working at the call centre?

**Mr Rizvi**—We would have to take that on notice. How many would actually be in the call centre right now?

**Senator WEBBER**—Yes. And it is still working seven days a week?

**Mr Rizvi**—Yes, it is still working seven days a week.

**Senator WEBBER**—Is it still working, Ms Scott?

**Ms Scott**—Yes, my notes suggest it is still operating between the hours of 8 am and 10 pm.

**Senator WEBBER**—And the cost of the call centre, please, if you could take that on notice.

**CHAIR**—I was going to Senator Ronaldson because he has been sitting here and has not asked any questions today.

**Senator PARRY**—He has given up. I will go and grab him back while Senator Kemp asks questions.

**CHAIR**—Senator Nash, quickly.

**Senator KEMP**—Chair, if you want to run the committee in this fashion, where your colleagues have taken up vast amounts of time—

**CHAIR**—I offered to give it to Senator Ronaldson and he was not in room. Senator Nash.

**Senator KEMP**—Okay, we understand what you have done, and there will be—

**CHAIR**—For goodness sake!

**Senator NASH**—Senator Kemp, we are organised—Senator Ronaldson and I have an understanding; it is all good. My question is to the minister around the fibre-to-the-node broadband proposal.

**Senator KEMP**—Show some interest. Minister!

**Senator NASH**—He always shows interest. It will be fine—I am sure he will spark up in a moment. Minister, this has obviously been discussed for some time now. This is a plan or proposal you have had for quite some time. Can you just advise the committee how you determined the cost to government of \$4.7 billion?

**Senator Conroy**—That was all we were prepared to commit.

**Senator NASH**—I understand that, but you can do better than that. Apart from the fact that that was the bucket of money that you had that you wanted to give there, what did you base the decision on to commit that amount of money? You cannot possibly just have said, 'I think I will get \$4.7 billion and put it towards broadband.' You had to have been given some advice on to what extent that—

**Senator Conroy**—It was—

**Senator NASH**—Just let me finish the question. I want to know to what extent that funding would contribute to your fibre-to-the-node proposal and on what basis?

**Senator Conroy**—It was based on advice given to the previous government when Telstra briefed the previous government on its plans to build the fibre-to-the-node network. It was information that was actually handed to the previous government. The previous government chose not to take up the proposal in that form and it is to its credit for doing it. But it is based

around estimations that Telstra came up with after costing the proposal and presenting it to the former government.

**Senator NASH**—Given that it was only Telstra's proposal and, correct me if my understanding is wrong, that you have taken a very open-minded approach to the possibilities of a consortium or a tender process for this network to be built, did you not think at any point that it might be useful or appropriate to get advice from someone other than Telstra on the cost to government and the determination of that cost, given that Telstra may potentially be part of a tender process for building this network?

**Senator Conroy**—That is a fair question. I have not experienced when Telstra have, as they did in this proposal, put their hand out for a contribution from the government when they have underquoted, it is fair to say. And after having had discussions with other providers in the sector I was comfortable that that figure represented an estimate and that the government could contribute the \$4.7 billion. But it was not based on something I plucked out of the air. It was not based on something that was created by the former government.

**Senator NASH**—What will the money be spent on?

**Senator Conroy**—The network.

**Senator NASH**—Specifically, what part of the network will that money be allocated towards? What will it be spent on?

**Senator Conroy**—The government contribution is a contribution towards the total cost of the network which originally was around \$8 billion for a 12-meg network. Both G9 and Telstra have indicated that they would build the next generation of technology networks. It was an ADSL2 network—sorry, are we interrupting you, Senator Kemp?

**Senator KEMP**—Yes, you are, actually.

**Senator Conroy**—The cost was around \$8 billion, and so Labor's was a contribution was towards the total cost. If you are suggesting that it had been individually allocated to one piece of fibre in one suburb, I would probably say that is not the case. But I am not sure if that is what you are intimating.

**Senator NASH**—No. I am certainly not asking for that amount of detail. But \$4.7 billion of Australian's taxpayers' dollars is an awful lot of money. I am just asking you as minister what range of things, what type of things, has this money been allocated to. If it is the total cost of the total plan, what type of things will that proportion of the total cost be allocated to? As minister, what is your understanding of what the money will be spent on, given that it is nearly \$5 billion?

**Senator Conroy**—It will be spent on the national fibre-to-the-node network, which is designed to reach 98 per cent of Australia's homes and businesses and guarantee a minimum—not an 'up to' but a minimum—speed of 12 meg.

**Senator NASH**—Is that the most detail you can give the committee about what the \$4.7 billion is going to be spent on?

**Senator Conroy**—The specifications are fairly simple and straightforward. You have debated them with me many times and I am sure will continue to debate them with me. The

final shape of the network—and this is where your question will probably need to be broadened or narrowed depending on your perspective—is as yet unclear because, as I was saying before Senator Kemp interrupted us, both Telstra and the G9 consortium have indicated they would probably bid the next generation of technology, which is VDSL, rather than the ADSL. The actual final configuration of the network in terms of the actual—if I can use that phrase again—footprint is potentially different. To maintain maximum flexibility we have indicated that if we want to build faster minimum speeds by using a different upgraded technology that would be welcome.

**Senator NASH**—I am really conscious of the time so, if I could just have another five minutes, could you just outline very, very quickly what the process will be to determine the most appropriate provider of this new network?

**Senator Conroy**—Unlike the previous government we are having an open—

**Senator NASH**—No, this is a sensible question; just let us know—

**Senator Conroy**—We are having an open and transparent process. An expert panel will make recommendations. First of all, it will briefly consult on the specifications necessary to build the network. Then it will receive competitive bids. It is a competitive bid process—it will receive competitive bids from interested parties. It will then make an assessment. It will be conscious of ongoing information from the ACCC in an advisory mode. It will also be conscious of potential suggested regulatory changes which will be received by them. The extra panel will be considering all of those issues when it makes a recommendation to the government about the successful, or potentially successful, competitive bid.

**Senator NASH**—If, within the competitive bid process, an entity other than Telstra were to be successful, how can you guarantee open access on the Telstra network if they are the losing bidder in that environment, because wouldn't it stand to reason that the other bidders will need that infrastructure for this to operate? What guarantee have you got that in the event Telstra was a losing bidder they would allow access to their network infrastructure?

**Senator Conroy**—I think I know where you are going but I am not sure your question gets you there. You are asking me to deal with a whole series of hypotheticals and for a moment I will indulge you in this, but I do not intend to get drawn into a string of hypothetical questions on this.

**Senator NASH**—I think it is a very straightforward question about a possibility that might occur.

**Senator Conroy**—No, it is a slight misunderstanding, genuinely. If they build fibre against Telstra's copper—in other words, next to it—then, by definition, they are not using Telstra's infrastructure where they put in place the fibre.

**Senator NASH**—I understand that.

**Senator Conroy**—If you are suggesting that there is an issue about gaining access to Telstra's exchanges to plug the fibre in, there is an access regime on exchanges, as you are more than familiar with. Where there is a potential issue that Telstra consistently raise, it is around what is described as cut-over at the node. That is an issue Telstra make representations

on, and I am sure will be part of the ongoing regulatory debate surrounding Labor's fibre-to-the-node proposal.

**Senator NASH**—I just asked because I think it must be a difficult position for you as minister to be in to guarantee certainty in the environment post awarding somebody else who is successful in the competitive bid process. But we will leave that there because I know—

**Senator Conroy**—That is a hypothetical—

**Senator NASH**—It is hypothetical, but hypothetical things are important for ministers to consider.

**Senator Conroy**—I appreciate your drawing it to my attention.

**Senator NASH**—The geographical coverage of this network you say is 98 per cent?

**Senator Conroy**—That is the stated objective for Australian homes and businesses.

**Senator NASH**—Do you have a physical map of those areas of the country which are in the 98 per cent and where the remaining two per cent is?

**Senator Conroy**—The question of the structure that Telstra based their costings on is commercial-in-confidence and Telstra have indicated that they are unwilling to reveal that.

**Senator NASH**—So they have not revealed it to you?

**Senator Conroy**—I have had lengthy discussions with Telstra about the network. Telstra are confident. They wrote to me as recently as October last year that they are confident that they could build the network.

**Senator NASH**—I understand that; what I am saying is have you seen a geographical map of the two per cent that the fibre-to-the-node network is not going to reach?

**Senator Conroy**—Telstra have always indicated that they believe this is commercial information—

**Senator NASH**—They have one bit you have not seen?

**Senator Conroy**—They are unwilling—

**Senator NASH**—To share it with you?

**Senator Conroy**—to share it.

**Senator NASH**—So how can you spend nearly \$5 billion of taxpayers' money on a network when you do not even know where it goes?

**Senator Conroy**—The configuration of the network is that it has to reach 98 per cent of the population. It is not a question of drawing a map right now. This is the objective. When people bid for it they have to bid on the basis that they will reach 98 per cent.

**Senator NASH**—Indeed.

**Senator Conroy**—The government's contribution towards that is \$4.7 billion, somewhat less than the \$7 billion in your co-authored report for the Page Foundation.

**Senator NASH**—That was a long time ago.



**Senator Conroy**—It may have been a long time ago and it was, I think, before you actually entered parliament, though I think you were a senator elect.

**Senator NASH**—It was indeed. It was one of four recommendations, if you are going to be accurate.

**Senator Conroy**—But I thought that was a very worthy document at the time.

**Senator NASH**—Indeed it was and if—

**Senator Conroy**—Indeed, you may recognise some of the ideas.

**Senator NASH**—The reason why I have raised the issue of the maps is that two per cent does not sound like very much but in terms of rural and regional Australia it is a huge land mass. I am conscious of the time, but at the same time you have just admitted you do not know which parts of rural and regional Australia the fibre-to-the-node network is not going to reach. At the same time you are about to try and appropriate the \$2 billion Communications Fund which we set up to help these rural and regional communities. So, not only do you not know—

**Senator Conroy**—It was set up to—

**Senator NASH**—Let me finish. Not only do you not know—

**Senator Conroy**—You are giving a speech, not actually asking me a question.

**Senator NASH**—No, I am asking a question. Let me finish. You are taking the very funds that were set up to help the rural and regional communities. Can I ask when you might be in receipt of a map that would indicate to you which rural and regional communities will miss out under your fibre-to-the-node network proposal?

**Senator Conroy**—Let's be clear about the Communications Fund. We have made it perfectly clear from day one that we intend to use the Communications Fund for a stated objective, providing communications, unlike—

**Senator NASH**—You were committed to the case for 11 years—

**Senator Conroy**—Unlike the 35 years—

**Senator NASH**—There are long-suffering people out there.

**Senator Conroy**—or so it would take for you to have spent the commensurate amount of money that we are prepared to spend in the next few years to deliver telecommunication services to regional Australia. The interest earned on \$2 billion, which is what you were proposing to fund, would take about 30 to 35 years, I think the calculation is. The Communications Fund was entirely designed around being a National Party pork barrel. The electorate has passed judgement. It has elected Labor to build its fibre-to-the-node network and spend the Communications Fund on the fibre-to-the-node network.

**Senator NASH**—Are you saying that the Communications Fund will only go to regional areas, which is what it was set up for? Are you guaranteeing to this committee that that Communications Fund money will only go to regional areas?

**Senator Conroy**—You should check the legislation that sets up the Communications Fund before you discover that it was actually not designed to be spent on the two per cent, it was

actually designed to be spent right across regional and rural Australia. Despite the efforts by some organisations, as well as some senators, to try to pretend that the \$2 billion and the interest earned on it was going to be spent on only the two per cent, this is a complete and utter fraud on the Australian public—

**Senator NASH**—Is that yes or no? Yes or no?

**Senator Conroy**—You should stop perpetrating the myth that you intended to spend the \$400 million, which is the interest earned on the \$2 billion. You should stop perpetrating the myth, as you and other organisations have been, that it was intended to be spent on only the two per cent. It was intended to be spent widely across Australia.

**Senator NASH**—I will not argue. I have one last question. That is not correct and you know it.

**Senator Conroy**—That is actually a fact. That is the legislation. That is actually a fact.

**Senator NASH**—Lastly, does that mean you disagree with your finance minister, who is quoted as saying:

The final decision on use of the fund will be made in the context of the government's overall fiscal strategy.

Yes or no?

**Senator Conroy**—I am not sure of the point you are making.

**Senator NASH**—The point I am making is—

**Senator Conroy**—The Communications Fund has been committed under Labor's election policy to be spent on the fibre-to-the-node network. I will just consult my colleague. I think you would have to check, but the bill to enact this measure was actually introduced into the House of Representatives last week.

**Senator LUNDY**—So, read it.

**Senator Conroy**—It has actually been introduced—

**Senator NASH**—We brought it in. Thank you, Minister. I think we are done.

**Senator Conroy**—No. We introduced it last week—

**Senator NASH**—I know you did. Originally we set up the fund for the purposes, you know, which—

**CHAIR**—Thank you. Senator Kemp?

**Senator Conroy**—This should be a tour de force.

**Senator KEMP**—There was a letter that was sent by Senator Minchin to Senator Chris Evans putting some questions on notice for all committees. A copy was sent to this committee and I just wonder did the committee receive the copy and what in fact happened?

**CHAIR**—I am advised by the secretary that the letter has been forwarded to the department and the questions asked in the letter are going to be answered by the department in questions on notice; is that right?

**Ms Scott**—I understood that Senator Evans had replied to Senator Minchin. I do not have a copy of that letter but I have a precis of what Senator Evans stated in his answer. The advice that I have received is that the cabinet division of PM&C is proposing to provide a list of all appointments that have been considered by cabinet or executive council and which have been made public before estimates hearings commence. In relation to some of the other information, it was a matter of senators raising it if they wish to on the day. I think we have answered a number of questions already on vacancies that remain to be filled. I think it is a matter of—

**Senator KEMP**—This is an intriguing way to handle this. Normally you would just have to table the answer to the question. But have you got a piece of paper there which shows all the appointments that have so far been made in this department by the government?

**Ms Scott**—We have not had any appointments made.

**Senator KEMP**—Have you got a list of vacancies which remain to be filled by Senator Conroy, cabinet or executive council appointments?

**Ms Scott**—I would refer you to our earlier answers today in relation to vacancies. I am happy to summarise those again if you would like.

**Senator KEMP**—I am quite happy to just have the table prepared if there is a table you have got there.

**Ms Scott**—I have not got a consolidated document.

**Senator KEMP**—Is there a short course? Given the amount of time that Senator Lundy took up we are a bit strapped for time.

**Ms Scott**—I simply do not have a consolidated document on that. We have gone through—

**Senator KEMP**—Do not worry. Why don't you provide me with the information in the next 24 hours or so? Someone could pull that together by tomorrow. I am not going to be unreasonable on this.

**Senator Conroy**—It is called *Hansard*.

**Senator KEMP**—Have you got a list of all the grants which have been so far approved by the minister from within the portfolio?

**Ms Scott**—No, I do not.

**Senator KEMP**—Is that because there have not been any grants, or is it because you do not have a list?

**Ms Scott**—I do not have a consolidated list. I am happy to take the question on notice.

**Senator KEMP**—When did you get this?

**Ms Scott**—We received this on 15 February and yet it was dated—

**Senator KEMP**—1 February.

**Ms Scott**—Yes, 1 February, so I am unable to explain the missing 14 days.

**Senator KEMP**—I think the implication is that it was held up in Senator Evans's office so that these questions could not be answered. So much for being transparent. I think that the

answer you have given is most useful and I shall report that to Senator Minchin. But I would like is to have—

**Senator Conroy**—Senator Birmingham knows that that is a serious threat!

**Senator KEMP**—I mean, what an absolutely pathetic effort: you write to the minister, you give them plenty of time to answer the questions and he passes it on to the department—from the first to the 15th—two weeks later! What a really pathetic effort.

**Senator Conroy**—I do not mind if you choose to address me in that fashion, but—

**Senator KEMP**—Senator, would you just shut up for a moment? I am just trying to get these questions finished.

**Senator Conroy**—You are in danger of reaching a Senator Cook moment, Senator Kemp.

**Senator KEMP**—Can I assure you that I am far off that. That record will never be attained.

**Senator Conroy**—It is late in the evening.

**Senator KEMP**—Just hold on. How about the list of requests for the department of finance to move funds within the portfolio? Is there a list there of that?

**Ms Scott**—I do not have a list in front of me. We might be able to bring someone to the table who can help you. I will just see.

**Senator KEMP**—That would be a help. Is it so hard to provide these responses? I think it is astonishing, actually.

**CHAIR**—Senator Kemp, there is an explanation for the delay.

**Senator KEMP**—What was the delay? What is it?

**CHAIR**—The date between the first and the 15th.

**Senator KEMP**—All right. What is it?

**CHAIR**—The letter came to the secretariat, as I understand it. Once the estimates were provided to the committee by the parliament, then the committee referred the questions on notice to the department.

**Senator KEMP**—So it sat within the secretariat for 10 days?

**CHAIR**—It is a process that was required to be followed.

**Senator WEBBER**—The parliament has to pass a motion referring—

**Senator Conroy**—There is no committee to refer it to.

**Senator KEMP**—Really? Fair dinkum. Is that the response: that the committee that was going to deal with these estimates got the letter, held the letter up for 10 days and then passed it to the department, because that was what the process required? Come off the grass!

**Senator WEBBER**—Take it up with Eggy, who was chair—

**Senator KEMP**—I have to tell you—

**Senator Conroy**—Senator Kemp, you are very tired and emotional.

**Senator KEMP**—We will have to take this issue up. Time is running out. The strategy has worked in that the chairman has allowed this to be held up for 10 days in the committee. They allowed Senator Lundy and Senator Webber to take up three-quarters of an hour after the tea break so we will not get these questions answered. That was the stunt that was pulled.

**Senator Conroy**—I think if you check the *Hansard* you will find that you talked more than any other senator today.

**Senator KEMP**—If you want to run the committee in this way we will act in a similar fashion. In that case, when can you provide the answers to these questions?

**Ms Scott**—We can provide some answers in relation to the movement of funds because they are published in the portfolio additional estimates. Mr McMahon can outline some of those movements to you, if you wish.

**Senator KEMP**—Fire away.

**Mr McMahon**—You will see on page 26 that there are some references to funding for OPEL. There have been a number of rephasings of administrative expenditures, including OPEL funding. There have been rephasings of about \$100 million in total going forward to 2008-09 and to forward years. In fact, it is not transparent from that page; I am reading from another table. The fact of the matter is that in the estimates there is about \$100 million.

**Senator Conroy**—They are your portfolio budget estimates—

**Senator KEMP**—Hold on, Senator. We are getting an answer to the question. This whole thing has been very poorly handled. I have to say I am sorry to hear this is what happened on the committee. It sounds to me as though the department is trying hard to deal with the issue. Follow through, Mr McMahon.

**Mr McMahon**—I realise that the numbers at page 26 are additional moneys coming through, but what I can tell you is that there have been rephasings of administrative expenditures of around \$100 million.

**Senator KEMP**—These rephasings are a result of decisions made by the government?

**Mr McMahon**—They are not necessarily decisions, but they can represent the phasing of expenditure; in other words, when it is going to occur, delays in expenses, et cetera. The total of those, largely relating to the OPEL contract, is about \$100 million for 2007-08. They are carried forward into—

**Senator KEMP**—Where do I find that in this table?

**Mr McMahon**—There is not the break-up in this table.

**Senator KEMP**—No wonder I could not find it.

**Senator Conroy**—They are your portfolio budget estimates; you designed them.

**Senator KEMP**—No, I am just trying to get a handle on when the particular decision was made to rephrase it and who made the decision.

**Mr McMahon**—The Minister for Finance and Deregulation makes the decision. I believe he made it last month.

**Senator KEMP**—On the basis that—

**Mr McMahon**—As you know, the rephasings take place because administrative expenditures lapse each year. It was in terms of the timing of contract payments, or the timing of payments more broadly.

**Senator KEMP**—In the context of that, was there any decision by the government to delay deliberately the signing of a contract?

**Senator Conroy**—What?

**Ms Scott**—Not that I am aware of. I think we have made the wrong reference. Page 27 shows variations. Many of the rephasings are listed: rephasing of Australian broadband guarantee, about the fourth line on page 27; rephasing of Connect Australia; rephasing of the national transmission network; rephasing of Protecting Australian Families Online; rephasing of the telecommunications action plan; rephasing of telecommunications representation research; rephasing of the telecommunications service inquiry. These are all the ones that are in the public domain.

**Senator KEMP**—Time is running out and, quite frankly, we are unable to do it. Do you have a complete list of the government election commitments which are going to be administered by the department?

**Ms Scott**—I can take you through some of the commitments.

**Senator Conroy**—We will take that on notice.

**Senator KEMP**—You have brought this on yourself, Senator.

**CHAIR**—Senator Kemp, I am mindful that Hansard reporters and other staff were planning to go home. And I know Senator Parry has a question.

**Senator KEMP**—You were the one that allowed Labor senators to waste an enormous amount of time. That is what you did, Chair. You allowed Labor senators to waste an enormous amount of time and now we have a problem in the committee. It was poorly handled. What is the answer? Is there a table?

**Senator Conroy**—We will take it on notice.

**Senator PARRY**—Chair, I wish to reflect on your earlier announcement about the gap with this letter, the correspondence. The committee did not cease its existence until midnight on 11 February. The committees were reconstituted the following day, through the Senate, on 12 February. So your explanation of a gap is incorrect. I would like the matter investigated. That is my understanding and I would like the matter investigated.

**CHAIR**—Certainly, Senator Parry. I will take that on notice and I will provide an answer to all members of the committee about the process that applied to that letter, in due course, if that is acceptable.

**Senator KEMP**—Not in due course; we want it done immediately. This is quite an important part of the estimates. There was a deliberate stunt to hold this thing up this evening.

**Senator LUNDY**—They were legitimate questions and I am entitled, as a government senator, Senator Kemp, as you well know—

**Senator KEMP**—You, Madam Chair, must take a high degree of responsibility for it. That is where we at. We are extremely unhappy at the way this whole thing has been handled.

**Senator LUNDY**—Have a look at the proportion of question time by government senators compared to opposition senators.

**CHAIR**—There being no further questions the committee has now concluded today's program. The committee's examination of the Environment, Water, Heritage and the Arts portfolio will commence tomorrow at 9 am. I thank all officers for their attendance today.

**Committee adjourned at 11.01 pm**