



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ENVIRONMENT,  
COMMUNICATIONS AND THE ARTS

ESTIMATES

**(Supplementary Budget Estimates)**

MONDAY, 20 OCTOBER 2008

CANBERRA

BY AUTHORITY OF THE SENATE



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

**Monday, 20 October 2008**

**Members:** Senator McEwen (*Chair*), Senator Birmingham (*Deputy Chair*), and Senators Boswell, Ludlam, Lundy, Parry, Pratt and Wortley

**Participating members:** Senators Abetz, Adams, Arbib, Barnett, Bernardi, Bilyk, Mark Bishop, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Ellison, Farrell, Feeney, Fielding, Fieravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Macdonald, Marshall, Mason, McGauran, McLucas, Milne, Minchin, Moore, Nash, O'Brien, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Stephens, Sterle, Troeth, Trood and Xenophon

**Senators in attendance:** Senators Abetz, Bernardi, Birmingham, Bushby, Eggleston, Fisher, Ludlam, Lundy, Macdonald, McEwen, Minchin, Nash, Parry, Pratt and Ronaldson

**Committee met at 9.01 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, Deputy Secretary, National Broadband Network Taskforce

Mr Andy Townend, Deputy Secretary, Digital Switchover Taskforce

Mr Abul Rizvi, Deputy Secretary, Broadcasting, Regional Strategy, Digital Economy and Corporate

**Corporate and Business**

Mr Richard Oliver, First Assistant Secretary, Corporate and Business Division

**Legal**

Mr Don Markus, General Counsel, Legal Group

**Finance and Budgets**

Mr Simon Ash, Acting Chief Financial Officer

Ms Phillippa Mitton, Acting Assistant Secretary Budgets

Mr Robert Davey, Assistant Secretary Finance

**Broadband**

Mr Simon Bryant, Acting First Assistant Secretary, Broadband Division

Ms Sylvia Spaseski, Assistant Secretary, Broadband Development Branch

Mr Rohan Buettel, Assistant Secretary, Networks Competition Branch

Mr Simon Cobcroft, Acting Assistant Secretary Broadband Infrastructure Branch

**National Broadband Network**

Mr Richard Windeyer, Acting First Assistant Secretary, National Broadband Network

Mr Philip Mason, Assistant Secretary, Regulatory and Technical Branch

Mr Mark Heazlett, Assistant Secretary, Commercial Branch

Ms Nikki Vajrabukka, Acting Assistant Secretary, Corporate and Coordination

**Telecommunications, Network Regulation and Australia Post**

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

Ms Sabeena Oberoi, Assistant Secretary, Communication Security Branch

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

Ms Sue McIntosh, Acting Assistant Secretary, Consumer Protection and Australia Post Branch

Mr Richard Desmond, Acting Assistant Secretary, International Branch

**Regional Strategy, Digital Economy and Research**

Ms Liz Forman, Acting First Assistant Secretary, Indigenous Telecommunications

Ms Mia Garlick, Assistant Secretary, Digital Economy

Mr Ben Utting, Acting Assistant Secretary, Regional Telecommunications

Dr Judith Winternitz, Assistant Secretary, Research, Statistics and Technology Branch

**Broadcasting and Content**

Dr Simon Pelling, First Assistant Secretary, Broadcasting and Content Division

Mr Simon Cordina, Assistant Secretary, Content Regulation Branch

Mr Lachlann Paterson, Assistant Secretary, Content Programs Branch

Ms Ann Campton, Assistant Secretary, Broadcasting Industries Branch

Mr Gordon Neil, Assistant Secretary, National Broadcasting 2020 Review

**Digital Switchover Taskforce**

Mr Robert McMahon, Assistant Secretary, Digital Switchover Policy and Regulation Branch

Mr Paul Vincent, Assistant Secretary, Project Management and Technical Planning

Ms Barbara Grundy, Assistant Secretary, Digital Switchover Taskforce Communications

**Australian Communications and Media Authority**

Mr Chris Chapman, Chairman

Mr Chris Cheah, Member and Acting Deputy Chair

Ms Linda Caruso, Acting General Manager, Convergence and Coordination Division

Ms Nerida O'Loughlin, General Manager, Industry Outputs Division

Mr Marcus Bezzi, General Manager, Legal Services Division

Ms Dianne Carlos, General Manager, Corporate Services Division

Mr Giles Tanner, General Manager, Inputs to Industry Division

Mr Grant Symons, Executive Manager, Convergence and Coordination Division

Ms Andree Wright, Executive Manager, Industry Outputs Division

Mr Paul White, Executive Manager, Industry Outputs Division

Ms Kath Silleri, Acting Executive Manager, Industry Outputs Division

Ms Jonquil Ritter, Executive Manager, Inputs to Industry Division

Mr Erik Lensson, Chief Engineer, Inputs to Industry Division

Mr Andrew Kerans, Executive Manager, Inputs to Industry Division

Mr Stuart Wise, Acting Executive Manager, Corporate Services Division

Mr Vince Humphries, Section Manager, Industry Outputs Division

**Australian Broadcasting Corporation**

Mr Mark Scott, Managing Director

Mr David Pendleton, Chief Operating Officer

Mr Murray Green, Director, 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

**CHAIR (Senator McEwen)**—Good morning, everybody. I declare open this meeting of the Senate Standing Committee on the Environment, Communications and the Arts. These are supplementary estimates, and the agencies heard during these estimates are only those which have been nominated by various senators. The Senate has referred to the committee the particulars of proposed expenditure for 2008-09 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, 4 December 2008 as the date for return of answers to questions taken on notice. Senators are reminded that written questions on notice to those agencies or divisions nominated to appear at this round of supplementary estimates should be provided by close of business this Friday.

The committee's proceedings will begin with its examination of the Broadband, Communications and the Digital Economy portfolio, commencing with the department's output 1.1. 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 witness on account of evidence given to 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 the 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 a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has also resolved 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 and Broadcasting to record proceedings. Mobile phones should be switched off.

I welcome Senator the Hon. Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, and portfolio officers. Minister, did you wish to make an opening statement?

**Senator Conroy**—I did, thank you. Before we proceed to questions on the national broadband network, I would like to make a statement about the process. As you are all well aware, the process is a live one. It is not appropriate that I or my department provide commentary on the process. Discussion of the objectives or criteria, or speculation on possible outcomes from the process prior to the receipt and consideration of proposals in a forum such as this could be misconstrued by proponents and could undermine the integrity of the process. This is particularly pertinent given proponents are working on proposals which are due in less than 40 days. Accordingly, I do not propose to make any comments or answer any questions about the process in these estimates hearings. A deadline for lodgement of proposals has been set and robust arrangements put in place so that proponents can access network information to support the preparation of robust and innovative proposals.

I will not be commenting, nor will my department officials be commenting, about the number of prequalified proponents or speculating on the nature or number of proposals that may come forward. It is of critical importance in a process like this that integrity and confidentiality are maintained to ensure that commercial and policy objectives of the Commonwealth are not compromised and to ensure that proponents can be confident that the process being conducted is a fair and robust one.

The RFP provides a formal framework for interaction between the Commonwealth and NBN proponents which includes a process for clarifications to be sought and for bilateral meetings between the Commonwealth and proponents to be held. It is very important that proponents be provided with consistent and equitable information within the context of the framework established by the RFP. The request for proposals clearly sets out, under criterion one, the government's objectives for the national broadband network and establishes the other criteria by which proposals will be evaluated. It is available for all interested parties to read.

This approach is consistent with that taken by Senator Minchin in relation to the T3 sale. Senator Minchin's position in government, when referring to T3, was that the estimates process should not be used to do 'anything to disrupt or damage' the commercial process underway. Senator Minchin noted the risk of inadvertent comment in the estimates process affecting the commercial process and outcome. I draw your attention to the *Hansard* on Thursday, 2 November 2006, E42, and Wednesday, 1 November 2006, E78. If members of the



committee would like copies of these, I am sure we can provide them. I note that at the time Senator Minchin was of the view that the committee needed to be mindful of the process underway and that, in the T3 context, questions would be answered once the float had been completed. The government will be fully accountable for its decisions and the conduct of the NBN process once it is complete.

In addition to the scrutiny of this committee, the Auditor-General has indicated that the national broadband network process could be included as a potential audit topic for the Australian National Audit Office's planned 2008-09 audit work program. Furthermore, any legislation required to facilitate the network will be subject to parliamentary scrutiny.

**CHAIR**—Thank you, Minister. I now call on departmental officers and invite questions. Senator Birmingham.

**Senator BIRMINGHAM**—Good morning, Minister. Ms Scott, nice to see you all again. Can I turn firstly to the chair's invitation for us to pose questions on annual reports and ask where the department's annual report is at, please.

**Ms Scott**—I will invite my colleague Mr Rizvi to the table in case there are follow-up questions, but we have until the end of sittings to table the report. The report is in preparation and we expect that we will be able to have the report tabled before the end of sittings. Tabling is imminent.

**Senator BIRMINGHAM**—Was any consideration given to tabling it in advance of these supplementary estimates as a courtesy to senators to assist with questioning of the department?

**Ms Scott**—A large number of reports have to go to printing and ultimately be tabled. We are very mindful of the time lines, but the process for the annual report really starts in May-June. We try very hard to have the report tabled by the time of the deadline, but the deadline is the end of sittings, not the unknown timetable of when we will be in estimates.

**Senator MINCHIN**—Sorry, what is the deadline?

**Ms Scott**—The deadline is tabling by the end of the sitting period.

**Senator MINCHIN**—Do you mean 4 December?

**Ms Scott**—No, 31 October.

**Senator MINCHIN**—October.

**Ms Scott**—And we are confident we will achieve that.

**Senator MINCHIN**—Minister, I think that this is a major problem. As you would well know, one of the main purposes of this supplementary estimates week is in order for us to be able to examine the annual reports of departments. I accept that the department has until the end of October, but we have a major problem. Either that government needs to reschedule this Senate estimates period to ensure that it does not occur prior to the tabling of reports or you need to change the timeline for reports. That is a major purpose of this estimates hearings.

**Senator Conroy**—My recollection is that these estimates are sometimes held a bit later and sometimes a bit earlier.

**Senator MINCHIN**—They are normally held in early November.

**Senator Conroy**—Yes. I think that is consistent. The parliamentary sitting timetable, as you know, is set by people other than you and me, Senator Minchin. But I am happy to take up with the people who are setting the timetable and ask them to take into account that deadline and whether or not the flexibility is there to hold the estimates later or consult with colleagues about whether or not the deadline should be brought forward. It is a reasonable point. Unfortunately, this year estimates are a little earlier. I do not think that anyone did it with the purpose of frustrating the examination of annual reports, given that most of the annual reports cover a fair bit of the previous government's tenure as well. I do not think that anyone sat down and said, 'How can we frustrate this?' But it is fair and reasonable point, and I am happy to take it up on both sides, in terms of the timing of estimates and the timing of the release of reports.

**Senator MINCHIN**—I would hate to think that you and Senator Evans had so little influence in the government that you could not ensure that estimates occur at a time that enables these committees to examine annual reports. I take your reassurance—

**Senator Conroy**—We have as much influence as you do under Mr Turnbull.

**Senator MINCHIN**—I appreciate that. It is common in all governments, unfortunately, that senators have less influence on the House of Representatives than they might like. I share that concern with you. But I urge you to make sure that next year's sittings do accommodate this.

**Senator Conroy**—As I said, I think that it is a very fair and reasonable point, Senator Minchin and Senator Birmingham. I am happy to take it up so that people understand that when timetables get moved to suit other agendas—and I do not necessarily mean political agendas, just other agendas—that they take into account those deadlines. That is a very fair and reasonable point. The ability to scrutinise the annual reports is important. I spent many years going through them, so I understand the point that you are making. It is very fair and reasonable.

**Senator BIRMINGHAM**—It was a disappointing weekend, not being able to read the annual reports, Minister.

**Senator Conroy**—Misleading Senate estimates this early, Senator Birmingham is not the thing that you should be doing!

**Senator BIRMINGHAM**—However, given that certain documents, like the one about the ABC-SBS board appointments process, managed to make it out last week—remarkably, just in time for estimates—

**Senator Conroy**—I am looking forward to your interest in it.

**Senator BIRMINGHAM**—I would have expected that annual reports might have been able to make it in a similar timeframe. But I take your point. I will turn to razor gang mark 2, which looks at future budget cuts. What discussions have the department had with the razor gang to date?

**Ms Scott**—The budget process has well and truly started. Effectively, it is year long now, as we are going through a process of reviewing a number of areas. All of that is part of

cabinet's deliberations. There have been ongoing discussions with the Department of Finance and Deregulation. I do not think that I can go into the specifics, but if I said that there was considerable scrutiny of programs going on, that might give you an idea that the process has started. We anticipate that it will be ongoing right up until the budget is delivered in May.

**Senator BIRMINGHAM**—Have any programs or cuts or savings been fixed on at this stage?

**Ms Scott**—I do not think that there is anything that is in the public domain.

**Senator BIRMINGHAM**—There may not be anything that is currently in the public domain, but that is partly why we are, Ms Scott. We are not here purely to address matters that are in the public domain.

**Senator Conroy**—You are here to address decisions taken by government, not the ongoing budgetary process. You are entitled to ask questions about budgetary decisions afterwards, but in terms of speculating about what might be in the budget—

**Senator BIRMINGHAM**—And my question was about any cuts or savings that had been locked in. I would take that to be a decision taken by government.

**Senator Conroy**—The budget is a live document, as many in this room would be able to advise you, and decisions are taken right up to the last minute. It really it is not locked in until it goes to the printer—and Senator Minchin would be more than familiar with that.

**Senator BIRMINGHAM**—Certainly. The live document also relates to changes that are made by governments during the course of a financial year sometimes. Have any decisions for any cuts or savings been made that take effect during the current financial year in addition to those that may have been canvassed at the time of the previous budget estimates?

**Ms Scott**—Not that I am aware of, Senator. I will ask the acting CFO to consider your question in the next couple minutes, but I am not aware of any additional decisions or announcements made. We are subject to the decisions made in the May budget. I think that is all; I will just check. Senator, I have had that confirmed, that I am correct on that matter.

**Senator BIRMINGHAM**—Thank you. Does the department hold any special accounts?

**Mr Ash**—If you refer to page 42 of the portfolio budget statement 2008-09, table 3.1.3, there are a series of special accounts identified there, which are the Communications Fund Special Account, the Federation Fund, International Aid Special Account and Other Trust Moneys.

**Senator BIRMINGHAM**—To what purpose does the agency use the interest or the earnings from these accounts?

**Mr Ash**—The Communications Fund Special Account would earn interest to just accrue to that particular special account. The other three are components of the Consolidated Revenue Fund, and interest is earned on the Consolidated Revenue Fund.

**Senator BIRMINGHAM**—Does that mean the interest—

**Mr Ash**—They hold a cash balance.

**Senator BIRMINGHAM**—That interest earned on the Consolidated Revenue Fund is—

**Mr Ash**—Does not accrue.

**Senator BIRMINGHAM**—Does not accrue to the department.

**Mr Ash**—Not to those three.

**Senator BIRMINGHAM**—Not to those funds.

**Mr Ash**—Not to those three.

**Senator BIRMINGHAM**—So it is held by the Treasury, effectively.

**Mr Ash**—Yes.

**Senator MINCHIN**—Just on the Communications Fund, the \$190 million is an estimate, is it, of the interest that the fund will earn in 2008-09?

**Mr Ash**—That was an estimate, yes.

**Senator BIRMINGHAM**—Is there a revised estimate as yet to that fund's earnings?

**Mr Ash**—The government at the moment is in the process of updating the estimates and they will appear in the additional estimates statement.

**Senator BIRMINGHAM**—What is the spread of investments of the Communications Fund?

**Ms Scott**—I will get someone on the Communications Fund to come to table.

**Mr Rizvi**—The investments of the Communications Fund are managed on behalf of the department by the Australian Office of Financial Management. The investment strategy that the AOFM applies in respect of those funds is to meet the benchmarks set by government in respect of the earnings of that fund but at the same time to ensure the fund is managed prudently and does not involve taking any undue risk.

**Senator BIRMINGHAM**—Are you aware of how and where that fund is invested at present?

**Mr Rizvi**—Yes. I will just get information on that.

**Senator Conroy**—Have you read the Auditor-General's report on this issue, Senator Birmingham?

**Senator BIRMINGHAM**—Yes, but I do not have it in front of me at present.

**Senator Conroy**—And you still want to ask questions?

**Senator MINCHIN**—Which is his right, Senator Conroy.

**Senator Conroy**—I can understand that you wouldn't.

**Mr Rizvi**—We do not have the precise details of where the funds are invested at the moment. They are invested in a range of low-risk instruments, but we do not have the list of instruments with us at the moment.

**Ms Scott**—To assist you, I think we could provide the list by lunchtime. We just do not have that precise piece of paper with us. I will endeavour to get that material to you as soon as possible.

**Senator BIRMINGHAM**—Thank you, Ms Scott. That is much appreciated. How many programs were underspent by the department in the 2007-08 financial year?

**Mr Ash**—I will take you through page 37 of the portfolio budget statement and we will run down that list. The ABC and SBS Digital Interference Scheme spent only \$3,000, compared to an estimate of \$8,000. The Australian Broadband Guarantee program spent \$84,850,000 in expenses. The Community Broadcasting Foundation spent \$7,941,000. Connect Australia, expenses were \$51,315,000, which is about \$3.3 million below expectation. E-Security spent \$1,097,000. ICT Centre of Excellence spent \$26,849,000, which was on the estimate. International Organisations Contributions spent \$5,197,000, slightly higher than anticipated. The National Transmission Network Residual Funding Pool spent \$645,000. Protecting Australian Families Online spent \$12,327,000. The Regional Equalisation Plan spent \$300,000. The Regional Telecommunications Inquiry spent \$5,823,000. The Telecommunications Action Plan for Remote Indigenous Communities spent \$634,000. The Telecommunications Consumer Representation and Research program spent \$918,000. For the Telecommunications Services Inquiry there were no expenses. Television Black Spots Program—Alternative Technical Solutions was \$415,000. The Telstra Social Bonus 2 expense \$382,000. Those are the programs which operated in the 2007-08 financial year.

**Senator BIRMINGHAM**—What requests have been made to roll over any of those programs?

**Mr Ash**—Any program that had not sought a rollover prior to the budget will be seeking any rollovers in the additional estimates process.

**Senator BIRMINGHAM**—Sorry, could you repeat that?

**Mr Ash**—Any program that had not received a movement of funds, a rollover, in the budget process will now seek, as required, a movement of funds in the additional estimates process.

**Senator BIRMINGHAM**—So which programs had sought a rollover of funds? If you need to take some of this on notice, I understand. I want to know which programs had sought a rollover of funds and, obviously, then if you could also quantify for us the remaining programs and the extent of rollover that they will be seeking in the additional estimates. But, from the statement you are making, it sounds as if anything that was not sought will be sought.

**Mr Ash**—Correct.

**Ms Scott**—Effectively, Senator, your question is just a little ahead of where the process is up to at this stage of the budgetary cycle. So we are happy to take the question on notice, but the government has not deliberated on this matter at this stage.

**Senator Conroy**—I think it is function, again, of the timing of estimates. It is fractionally ahead of that process. It applies in the same way we were discussing earlier about the annual reports.

**Senator BIRMINGHAM**—Thank you, Minister. Just to be clear on what was said before, though: any program that is underspent that had not already sought a rollover will be seeking such a rollover?

**Ms Scott**—May be seeking.

**Senator BIRMINGHAM**—May be seeking, okay. If you could advise us on the extent of those underspends—those that had been approved, those that have not been approved and those that will be sought—that would be appreciated.

**Senator MINCHIN**—On the underspend, you said the Broadband Guarantee came in at approximately \$86 million.

**Mr Ash**—About \$86.9 million.

**Senator MINCHIN**—That is about a 20 per cent underspend.

**Ms Scott**—That is a demand driven program. I am happy to have someone explain at length to you, but it actually depends upon the requests in. It is a difficult one to estimate.

**Senator MINCHIN**—Remind me—is it capped?

**Ms Scott**—It is capped, but it is demand driven, so you will always have the challenge of picking the right cap and then seeing whether it goes up to that. We track it towards the end of year almost weekly, because you worry that either you are going to end up with a significant underspend or you are going to go close to your figures. But the end result was that there was an underspend. With the rollout of wireless broadband occurring, demand fluctuates in this program and you just have to watch the numbers—simple as that.

**Senator MINCHIN**—So there was no change in the department's attitude to that scheme or promotion of it or anything towards the end of last year—

**Ms Scott**—I don't think there is anything—

**Senator MINCHIN**—that resulted in a decline in demand in the last six months of the financial year?

**Ms Scott**—I might ask Simon Bryant to come to the table. He can answer your question in depth.

**Senator MINCHIN**—I am just surprised. I would have thought a program like that would have been in high demand and you would have trouble keeping it within its cap, so I am just a little surprised.

**Mr Bryant**—Just a bit of background may assist in understanding how the program works. As the secretary indicated, it is a demand driven program. The other key point to make is that it is very much an infill program. It is trying to target areas of market failure at a very disaggregated and specific level—down to the premises level. And the way the program operates under the guidelines is that where there are commercial developments that result in what we call metro-comparable broadband rollout to a particular area or group of premises, automatically those premises are then not eligible to receive the subsidised service. So that is variable No. 1. So to the extent that there has been commercial rollout, that is a variable that we try to monitor very closely but obviously we cannot control.

**Senator MINCHIN**—Sure.

**Mr Bryant**—The second major issue around demand in the last financial year was the period of the election campaign—

**Senator MINCHIN**—I was going to ask you about that.

**Mr Bryant**—where, quite naturally there was a decline in activity by providers in their marketing activity. And we found a decline in take-up of services, which has reverted since the election to what we would call normal levels of demand.

**Senator MINCHIN**—While we are on that, your estimate for 2008-09 has obviously been dictated by the department with which I am familiar to equate to demand, as it turns out, in 2007-08. Would that be correct?

**Mr Bryant**—To a degree. We are trying to forecast demand so we need to look at a number of variables. Obviously one is the general level of demand for broadband across the community. The second is the extent to which there may be pent up demand in those more remote regions which are clearly our major target areas. The third is the calculation about any revisions to incentive payments that we have put into the new guidelines. They all have to be brought together into a picture of how we are going forward. Then, obviously, further down the track in the out-years we have to factor in other matters, such as the national broadband network and so on.

**Senator MINCHIN**—My only point is that I am not surprised that demand did tail right off during the election campaign period which, I think, was for six or seven weeks. That is typical of many industries, but I am not sure that has been allowed for in the estimate for 2008-09. What you have done is put in an estimate for 2008-09 which is actually less than you spent in 2007-08, even with the effect on demand of the campaign period.

**Mr Bryant**—Well, as I said, the other variable you have to take into account is not just the simple thing of saying, ‘This is what happened last year; this is what is going to happen next year.’ You have to ask: what is the overall level of take-up and the number of underserved premises, which is our target group over which we have to estimate the demand? That is a dynamic number; it varies. As I said, with commercial rollout and the take-up of services under past programs, that is diminishing. And as demand levels in those more remote areas go up towards more levels in terms of the take up you will start to see a tapering off of demand as we get to a mature market in those more remote areas. It is not a simple thing of saying, ‘This is what happened last year; we can expect the same this year.’

We are doing extensive work surveying those remote communities to try and understand better where things are up to out there and what the level of demand is. For example, another commercial market—but not just metro-comparable commercial services—is Telstra’s Next G service, which is broadly taken up as a broadband service out there as well. So we are trying to understand what the level of take-up of that service is and factor that into our forecasting as well. It is a complicated exercise.

**Senator MINCHIN**—We are a quarter of the way through 2008-09; how is it tracking?

**Mr Bryant**—It is tracking at budgeted levels at the moment.

**Senator BIRMINGHAM**—Mr Bryant, was the NBN rollout considered at all for the estimates of the ABG for this financial year?

**Ms Scott**—Not for this financial year because it was known that the NBN process was going to take some time. This is a program for areas where there is a known need. It was not a determining factor.

**Senator Conroy**—It is a known unknown or an unknown known. We are not sure.

**Ms Scott**—You asked an earlier question about movement of funds. In the additional estimates hearing we will be able to give you figures about additional estimates, but we have the figures about prior year movements relating to the figures published in the budget statements. We could go through the budget statement figures. You know how I said to you that we do not have a number of the answers to the questions that you asked and that we will have to effectively take them on notice and see how the government's deliberations go? We could refer you to the history, if you were interested, of the movements of funds.

**Senator BIRMINGHAM**—That is okay, Ms Scott. Taking that on notice would be a good use of our time today.

**Ms Scott**—Okay.

**Senator BIRMINGHAM**—Thank you very much. Returning to the 'known/unknown' of the NBN, Minister, in relation to the ABG, given the government's aim for construction of the NBN to have commenced this year—and many of us, at least on this side of the table, would hope that that would commence by focusing on underserved areas—I am not sure why it would not play a role in estimates of the ABG.

**Senator Conroy**—The ABG covers around four per cent.

**Ms Scott**—Yes. Practically everywhere in Australia that is not serviced.

**Senator Conroy**—It covers roughly four per cent. The NBN will ultimately cover 98 per cent, which means there is two per cent. Over time, the time profile of ABG will reduce. The other factor that will reduce it is the rollout of other commercial networks. Mr Bryant mentioned that. The Telstra 3G product does not count as metro comparable because of the pricing. The Optus rollout is something that is being actively considered because the pricing of Optus moves more into metro comparable. So the time profile of the ABG will reduce for two reasons. The forward estimates for the ABG are locked in. They are the best estimates that we have at the moment.

**Ms Scott**—In the budget measures table—you asked about this year's figures—the government provided an additional \$270 million over four years to provide equitable access to broadband services in regional and remote communities and black spot areas. It goes on to say that the government has committed to establish a national broadband network to provide high-speed broadband services to 98 per cent of Australian homes and businesses. The Australian Broadband Guarantee will provide access to metro comparable broadband services to underserved areas while the network is being rolled out and for the remaining two per cent of Australians in rural and regional areas. Consistent with the minister's statement, the profile of the Broadband Guarantee tracks down as you go out in the years. It starts at \$89.7 million, then goes down to \$76, then \$59.9 and then \$44.9. There is a small amount for related capital in 2008-09 of \$0.3 million.



**Senator BIRMINGHAM**—That is as I would have expected—that as the NBN was built the demand for the Broadband Guarantee would shrink. Given the government's aim and target was for the construction of the NBN to be starting this year, why would you not have expected and budgeted for a decline in the Broadband Guarantee this year?

**Senator Conroy**—That would depend on the commercial negotiations that were taking place around where the rollout commenced. So, given that no decisions have been taken on that—because by definition it has not been decided—it was felt that we should ensure that no-one loses out. The whole purpose of this is to ensure that no-one loses their access to ABG before the network reaches them. So we have made very conservative assumptions because our priority is to actually roll broadband out, not reduce broadband access.

**Senator BIRMINGHAM**—But Ms Scott just went through some forward estimates figures detailing, obviously, assumptions of a declining expectation in demand for the broadband guarantees over the forward years. Senator Minchin highlighted that, in terms of the budgeted amount, you have a decline this year in the expected demand for the Broadband Guarantee. Are you telling me there was no assumption that commencement of works for the NBN would play a role in that decline?

**Senator CONROY**—I am saying we took a very conservative position to ensure no Australians lost an ABG subsidy while we were going through the process of establishing the NBN. We are quite happy to stand by that.

**Senator BIRMINGHAM**—Perhaps you took the conservative stance, Minister, because you did not expect that the NBN would actually start construction this year?

**Senator CONROY**—That would be a conspiracy theory you could choose to peddle, but we took a conservative position based on wanting to ensure that nobody loses access to broadband. The government's commitment to roll out a broadband network is in stark contrast to the fact that, before the last election, the Howard government actually defunded the ABG. There was no commitment in the forward estimates and no commitment in the election for ABG at all. I appreciate your concern for Australians and their access to broadband. It may have been more believable if the previous government had actually committed to Aborigine. It did not—you canned the program.

**Senator BIRMINGHAM**—I am becoming quite immune to those lines, Minister, as time goes on.

**Senator CONROY**—It is just a fact. It is a historical fact.

**Senator BIRMINGHAM**—You can keep rolling out the historical fact. I am trying to look at the current and the future here. I want to be clear. The department expects the demand for the broadband guarantee to decline commensurate with the rollout of the NBN—correct?

**Ms Scott**—With the continuing provision of commercial metro-comparable services.

**Senator CONROY**—There are two factors involved. You are looking at one without understanding the other. There have been major announcements by both Vodafone and Optus about rollouts of 3G networks and those also are a factor.

**Senator BIRMINGHAM**—Those also are a factor and the rollout of the NBN is also a factor?

**Senator CONROY**—I am trying to understand what your criticism of the government's approach is—that we are making sure no Australians are worse off? Senator Nash, would you agree with that?

**Senator BIRMINGHAM**—What I am trying to ascertain is whether the government seriously expected any Australian's access to broadband to be better off under the NBN this year or not. If you seriously expected that they would be in line with your promise that this calendar year construction would start then you would have expected that demand for the Broadband Guarantee this financial year would have declined and the department would have taken those estimates into account. It appears as though the estimates have declined in what you are saying in the budget papers, but you are not admitting that the NBN played any role in that decline?

**Senator CONROY**—There are two or three assumptions built into your question that are just not right. One is the assumption about government policy; the other is an assumption about how government works.

**Senator BIRMINGHAM**—The assumption about government policy was your stated policy of construction starting in 2008.

**Senator CONROY**—No, the assumption that you are making is about where the rollout starts. That is an assumption that is not possible for us to make a comment on because it is a matter of ongoing potential negotiation. That is why your question is ill framed: because it is based on an assumption that is not correct. You then make a number of assumptions about how the function of government works. I have been learning a lot about that in the last year. Senator Minchin would fully understand how the Department of Finance and Deregulation works and how it likes to keep an eye on funding programs, and if it feels there is any underspend whatsoever the Department of Finance and Deregulation comes hunting you very much. A very conservative estimate to ensure that no Australian was worse off is fundamental to the assumption. That is the overriding assumption, not some of the ones that you have made which just were not made.

**Senator BIRMINGHAM**—I apologise, Minister, if on this side of the table we are guilty of making assumptions that the NBN might target underserved areas first.

**Senator NASH**—It is funny that that is an assumption, Senator Birmingham.

**Senator BIRMINGHAM**—We would like to keep making that assumption and we hope that you will validate it at some point.

**Ms Scott**—Senator, I have an answer for your question on the investments in relation to the Communications Fund. If you wish to take those answers now we can assist you on that matter. I will ask Mr Rizvi to return to the table. Actually, the material is being photocopied. We have a detailed breakdown on the actual investments and percentages.

**Senator MINCHIN**—Was that tabled?

**Ms Scott**—Yes, it was tabled.

**Senator BIRMINGHAM**—Now that Mr Ash has made himself comfortable again, there were two other areas at the end of his underspends that I just wanted to quickly touch on,

assuming I heard the figures correctly. Firstly, on the Television Black Spots Alternative Technical Solutions Program, was I right in hearing \$415,000 as the final figure you quoted?

**Mr Ash**—Yes.

**Senator BIRMINGHAM**—That seems to be a fairly significant drop against the estimated actual.

**Dr Pelling**—That is correct. The Television Black Spots Alternative Technical Solutions Program has been in operation now for some years. The degree of expenditure has reflected the fact that we had reached the point where it was proving quite difficult to actually work with the communities to develop solutions in those areas that were still outstanding. So we undertook some activity in the last financial year. Then the government made a decision on the budget to basically provide funding to continue two of the projects under the program in this current financial year. Those will be the last two projects supported under the program. The remainder of the funding was returned to the budget.

**Senator BIRMINGHAM**—The remainder of the funding was returned to the budget?

**Dr Pelling**—Yes.

**Senator BIRMINGHAM**—That was an estimated actual of \$4.7 million and a spend of \$415,000.

**Dr Pelling**—Yes.

**Senator BIRMINGHAM**—How was the estimated actual so high at the time the budget papers were printed compared to the final spend?

**Dr Pelling**—The figures are historical, to a degree. Basically, we had funding allocated when the program initially commenced in 2002-03, and that funding has been rephased from year to year to enable the continuation of the program as negotiations have taken place in relation to the projects. Funding has been rephased from year to year, which has resulted in an accumulated amount of money. But, essentially, given the duration of time and the fact that this program really only picked up certain projects under the original analog Television Black Spots Program, which the previous government funded, there was a limited range of projects. We had got to the point where we had, in the main, effectively exhausted the capacity to implement solutions in programs. We have implemented already 10 solutions for 15 black spots. There were a couple of areas still outstanding where negotiations had continued, but those had effectively stalled—they had reached the point where we could not take them forward anymore. The minister had already made the decision to continue funding two black spot projects earlier this calendar year and, subject to those two projects being completed, the program has finished.

**Ms Scott**—Maybe it would assist you to know the background to this program. It involves the department working with local government, and sometimes local government can resolve the issues quickly with the department and at other times it seems to be on a slower time track. Because it involves local government having the capacity to deliver, sometimes we encounter delays. In fact, that is the history of this program and we sometimes get the case where once we have started the process with the council they then decide that they are not as interested in being involved with the program as they initially thought.

**Dr Pelling**—One of the aspects is that the program provides initial funding to solve the black spot but then it requires the local council to continue the process, so the local council needs to be committed to the project and be prepared to put resources into it in the long term—for example, to maintain the service that would be funded.

**Senator BIRMINGHAM**—Of the 15 black spots, when were the 10 completed?

**Dr Pelling**—That would have been over a series of periods of time depending on the projects and we would have to get further advice on that.

**Ms Scott**—I have the list of projects which I would be happy to put into the record, but my briefing does not give the times. The program was established in 2002-03 and 10 local government projects have been successfully delivered. Would you be interested in those being tabled?

**Senator BIRMINGHAM**—Thank you, Ms Scott. That would be helpful. Which are the two that the department is continuing with?

**Dr Pelling**—Two programs are being proposed by the Yarra Ranges Shire Council in Kalorama North and Kalorama South.

**Senator BIRMINGHAM**—I heard the shire of the Yarra Ranges but I did not quite catch what you said after that.

**Dr Pelling**—The location is called Kalorama—Kalorama North and Kalorama South.

**Senator BIRMINGHAM**—The two spots you are talking about are those two spots within the shire of the Yarra Ranges?

**Dr Pelling**—Yes.

**Senator BIRMINGHAM**—Thank you. What are the three programs that you are not able to complete? You said there were 10 solutions for 15 black spot areas and the department was continuing with two. That leaves me with a gap of—

**Dr Pelling**—The OTS has funded 10 solutions. Those 10 solutions fixed 15 black spots.

**Senator BIRMINGHAM**—The 10 solutions fixed 15 black spots?

**Dr Pelling**—Sorry, you misunderstood. Those statistics are not saying that there are 10 solutions and five remaining black spots. What we are saying is that there are 10 solutions which fixed 15 black spots.

**Senator BIRMINGHAM**—Where are the areas where you have decided that it is impossible to find a solution at this stage?

**Dr Pelling**—There were eight remaining black spots as at 30 June 2008. There was a black spot in the Lower Hawkesbury which had been proposed by the Moonee-Chairo Progress Association. There were six areas in the Gold Coast, Bonogin, Mudgeeraba, Oxenford, Tallebudgera and Worongary, and there were the two shire of the Yarra Ranges projects, so eight outstanding projects as at 30 June 2008.

**Senator BIRMINGHAM**—There were eight outstanding projects and the department is proceeding with two of them.

**Dr Pelling**—With two of those, yes.

**Senator BIRMINGHAM**—What reason is there for not proceeding with the other six?

**Dr Pelling**—With the Gold Coast, my recollection is that there was a requirement to do further signal testing in that area, but in addition I believe in those areas there was no longer the same level of interest from the local organisations in actually fixing the black spots. I would have to get you details of each precise one. For the Shire of Yarra Ranges, the two Kalorama projects were the only two which were in a sufficiently advanced stage to really warrant them being kept on the books. The remainder had reached the point where there was either no residual interest that we could detect from the people in pursuing those solutions or technical issues that were not going to allow us to proceed with any of the projects.

The difference with those two Shire of Yarra Ranges projects was that they had reached a certain point and the minister had already taken in principle decisions to support those projects. The negotiations were at a point where we were going to be in a position to proceed subject to ongoing negotiations with the shire, which are continuing. Essentially, it is important to understand that these projects started life as analog black spot projects a number of years ago now. In some cases, people have moved on from those situations. We have simply got to the point where there has been, for example, no contact with the local council for some considerable time. The level of interest from those organisations has fallen. Essentially, we have to draw the line somewhere. There are two projects in which there was still interest that we could gauge and the government took a decision to proceed on those.

**Senator BIRMINGHAM**—Has the department advised the councils or other proponents of those projects?

**Dr Pelling**—Yes.

**Senator BIRMINGHAM**—When was that advice provided?

**Dr Pelling**—I would have to get precise details of that.

**Ms Scott**—Senator, we will try to give you a precise answer but my expectation is that it was shortly after the budget process. It will probably be May or June. We will try to get that answer to you also by lunchtime.

**Senator BIRMINGHAM**—Thank you. I want to go to the other underspending on Telstra social bonus 2.

**Mr Rizvi**—The Telstra social bonus project involved a number of projects across a range of states. All of the projects in all of the states were completely delivered other than the one in the Northern Territory. In the Northern Territory the proponent involved scaled down the project that was being undertaken and it was for that reason that we were not able to complete the project in the NT.

**Senator BIRMINGHAM**—Am I correct in having heard the answer from Mr Ash before that the actual expenditure outcome for the last financial year was \$382,000 as against an estimated actual of \$4.79 million?

**Mr Rizvi**—The \$4.79 million related essentially to the NT component of that program. It was the last phase of that program.

**Senator BIRMINGHAM**—What exactly is the NT program?

**Mr Rizvi**—I would need to get some detail.

**Ms Scott**—In the meantime, maybe I could table the 10 solutions to the 15 black spots.

**Senator BIRMINGHAM**—Thank you.

**Ms Forman**—With respect to the Building Additional Rural Networks funding that Mr Rizvi has been talking about, the project for the Northern Territory was an outback digital network where initially the proponents had quite a large-scale project in mind. That funding was allocated for that project but, as they began to implement it, they found that from their perspective they wanted to actually reduce the scope of the project, so they returned that funding.

**Senator BIRMINGHAM**—So the proponents were Indigenous communities or the NT government?

**Ms Forman**—To my recollection it was through the NT government, but I would need to check and get back to you on that.

**Senator BIRMINGHAM**—Were they looking to extend a range of communications networks or services or were there particular services expected to be extended across the NT under this program?

**Ms Forman**—I would rather not commit myself. If I could come back to you on that one, I can go and find out now what the project was.

**Senator BIRMINGHAM**—Could you provide us with some details on what these services were planned to be under the program. How large was the program in its entirety for the Northern Territory?

**Ms Forman**—I think from memory that it was about double that amount. Each of the states and territories was allocated a certain amount, and I think the NT amount was about \$10 million, so that was about half the funding.

**Senator BIRMINGHAM**—What will come of the returned funds? Are they still earmarked for projects in the Northern Territory somehow or, if the NT government or the other proponents, whoever they may have been, have decided that they cannot proceed with this project and returned the funds, is that it?

**Mr Rizvi**—That will be a matter of the further processes that Ms Scott has been referring to.

**Senator BIRMINGHAM**—Both the Telstra social bonus and the black spots program sound as though they have come to the end of their life cycles. There is about \$8 million to \$9 million in underspend from the last financial year for those programs. Is it the department's intention to seek a rollover of those funds? Given that those programs have come to an end, will their funds be returned?

**Ms Scott**—I do not think there is anything more I can add to my earlier answer to you: that government will be deliberating on additional estimates in coming weeks and months. Effectively your questions are ahead of that. In relation to black spots, I think Dr Pelling indicated that there had been decisions taken in the May budget. The funding for that program

is effectively stopped. We are continuing with a few remaining projects, but that funding program is not going to be continuing into the out years.

**Senator BIRMINGHAM**—I notice the relevant officer has just left, but did the Northern Territory seek assistance at all with the implementation of its program?

**Mr Rizvi**—I think it might be best if we obtain the further information that the officer is going to get now and come back to you on that.

**Senator BIRMINGHAM**—All other states and territories eligible for such social bonus payments, though, have received their full entitlement and utilised it in the projects that were identified?

**Mr Rizvi**—The projects in all of the other states were completed.

**Senator BIRMINGHAM**—Okay. We will await further information on details.

**Senator MINCHIN**—It was approximately \$10 million, was it, for the Northern Territory?

**Mr Rizvi**—For the Northern Territory I think that was the figure.

**Senator MINCHIN**—Effectively none of which has been spent?

**Mr Rizvi**—No, there was only \$4 million or \$4½ million left in 2007-08 that was not spent.

**Senator MINCHIN**—Okay. You did spend the other \$5 million-odd.

**Senator BIRMINGHAM**—Ms Scott, what communications programs has the department undertaken and what programs is the department undertaking or planning to undertake?

**Senator Conroy**—You have just done the ABC board.

**Ms Scott**—That is right. The minister reminds me that we had advertisements in the press this weekend relating to the review of the ABC, and they will be subject to a small amount of communications activity. Also, with regard to the government's process relating to SBS and ABC appointments, I do not think there are any communications programs there, but I will ask my colleague to clarify for you. Looking forward, obviously the switchover agenda will involve some communications work. Already we are doing extensive industry liaison. But I do not think at this stage we have got any ads on TV or radio or anything like that. We do some outreach work relating to the broadband guarantee and actually have people on the ground visiting local communities to explain to people the availability of the subsidy for the broadband guarantee. But it is that comprehensive answer you are after, I take it, Senator—you would like to know individual items of expenditure?

**Senator BIRMINGHAM**—Ultimately. That would be appreciated.

**Ms Scott**—All right. Well, why don't I come back to you in 10 minutes and see if my colleagues can look up their facts and figures. In the meantime, if you are interested, I could table the transaction report on the Communications Fund showing where the actual investments have occurred. Would that be of interest to you at this stage?

**Senator BIRMINGHAM**—Sure. Thank you. There are no planned communications programs or activities around the NBN?

**Ms Scott**—My recollection is that we did encourage people to make submissions to the process in relation to the changes in regulations that they maybe consider necessary, and we did get responses from interested parties and members of the public. But that was a very low key activity; I do not think there were vast items of expenditure—again, my colleagues can look at their tables and see if they can inform me about that. So there was that activity in the past, but these days, increasingly, we are reliant on online activity and websites to inform people of developments. Obviously, the minister’s press releases act as a sort of catalyst for people to then go onto the website.

**Senator BIRMINGHAM**—We all look forward to the minister’s press releases, certainly!

**Senator Conroy**—I know you’re hanging out for them!

**Senator BIRMINGHAM**—Ms Scott, just to be clear, though, on the NBN—I acknowledge what you have said, and certainly to date they all relate largely to the consultations that the government would normally undertake—there are no planned communications initiatives or programs relating to the NBN?

**Ms Scott**—There is nothing scheduled at the moment.

**Senator BIRMINGHAM**—Okay, ‘nothing scheduled at the moment’.

**Ms Scott**—That is very good Public Service answer, Senator—years of training to enable us to say that to you!

**Senator Conroy**—There is no thought been given to it at the moment, but we appreciate your support for one!

**Senator BIRMINGHAM**—That certainly was not what I was saying, Minister, and I am sure you are well aware of that!

**Senator Conroy**—I will mention that in cabinet when we are discussing it; I will say, ‘Senator Birmingham was on board’!

**Senator BIRMINGHAM**—Thank you, Minister. Your humour is always noted—your good humour.

**Senator FISHER**—Perhaps the government might show us their plans, Senator Birmingham, and then we would have a basis upon which to decide whether we reckoned it was a good thing or something different?

**Senator Conroy**—I do not mind if you ask each other questions, but you are probably wasting the public servants’ time.

**Senator BIRMINGHAM**—Indeed! Minister, perhaps we might turn to some of the other NBN matters. I want to review some of the info that Ms Scott has tabled. How far behind schedule is the NBN?

**Senator Conroy**—As you know, we had an ambition to try and sign a contract by the middle of the year. To ensure that the process was done fairly and comprehensively, we wanted to ensure that all the information that was necessary for substantive bids was available. As you know, with your help, the help of the opposition, we passed some legislation back in February to allow us to access critical network information, with a whole range of privacy protections in place so that it could not be misused.



The expert panel then engaged in a lengthy discussion with all potential bidders about what the necessary information was. Not all of the information that was required was readily available. There are a whole range of technical and historical reasons for that. To ensure that we were able to maximise the outcome for the Australian public, following discussions with the telco carriers about the available information, we set a deadline of 26 November for bids.

**Senator BIRMINGHAM**—The original government's policy and plans were for construction of the NBN to start this year. Is it still the government's expectation that construction will commence this year?

**Senator Conroy**—The bids close on 26 November. It could be that we have a stunning bid which sells itself and that we could move to contractual settlements quickly. That is one possibility. At this stage, our anticipation or our ambition is that we will resolve a contract early in the new year, in the first few months, based on advice from the expert panel. That is certainly be our ambition.

**Senator MINCHIN**—We understand from the ACCC that they have eight weeks in which to provide their views on the bids from a regulatory point of view. Presumably the panel cannot come to you before the end of January with a recommendation because they are required to take account of the ACCC assessment of the bids. So you cannot even begin, from a government point of view, to assess the recommendation until the end of January, even if the ACCC can abide by its time line. Then presumably, if they take their eight weeks, the panel might take another month to assess that advice from the ACCC. So we are looking at least until February before the government would—

**Senator Conroy**—Did you say eight weeks for the ACCC?

**Senator MINCHIN**—That is what I recall from the evidence we received.

**Senator Conroy**—I think it is six weeks, Senator Minchin.

**Senator MINCHIN**—That would take you into mid-January. Then that advice goes to the panel, as I understand it. The panel assesses that advice and then comes to you with a recommendation. So it does not affect my proposition that it will be the end of January at the earliest that the government would receive a recommendation. Would that be right?

**Senator Conroy**—The process being undertaken by the expert panel and the ACCC assessment are parallel processes; they are not on top of each other. So the expert panel does not wait until it receives the ACCC advice to look at all the other aspects of the bid. This is a process which is moving forward together. Some time in January we would be receiving that advice but they are not built on top of each other. It is like adding together eight years and five years and saying that they it is a 13-year time line which, unfortunately, is not right either. That is what happens when you rush to comment publicly on things that are misreported.

**Senator MINCHIN**—But it is true that the panel must take account of the ACCC's assessment of the regulatory implications of all the bids. Sure, I accept that it will be doing its other assessment parallel with the ACCC. At the point it has completed its work and then after six weeks—and I will be interested to see the ACCC do all that over Christmas and new year—it receives the assessment, the panel must then consider the ACCC analysis, which will take some time to absorb and factor into its final recommendation to the government.

**Senator Conroy**—The process is that we will be keeping each other informed as they go along. Obviously the bids are not in, so it is hard to speculate about how difficult that process will be until we see the bids. I am sure you understand.

*Senator Ian Macdonald interjecting—*

**Senator Conroy**—If I can just finish Senator Minchin's question, Senator Macdonald, I will be happy to come to yours.

**Senator IAN MACDONALD**—I thought you had.

**Senator Conroy**—I appreciate that. It is an ongoing role, an ongoing liaison, but I am not sure that takes away from the suggestion you are making, which is that that information will come to government some time mid- to late January. I am not trying to dispute that; I am just—

**Senator MINCHIN**—So you are accepting that that is correct.

**Senator Conroy**—I am just trying to give you a framework for how the actual discussions will take place, but I am not fundamentally disagreeing with the point you are making.

**Senator MINCHIN**—Presumably you will then take a submission to cabinet in relation to the recommendation from the panel.

**Senator Conroy**—Yes. The normal processes would apply. But this is and has always been one of the government's major election commitments. My colleagues in cabinet are very conscious of it. You have heard the Prime Minister recently say we want to bring forward infrastructure, so we have responded decisively to the global financial crisis and we will be very keen to finalise the broadband network outcome. The pace of government, as you would understand, Senator Minchin, is very lively, and we are prepared and ready to work as long as we need to to get a speedy outcome.

**Senator MINCHIN**—But you are dealing with the decision to spend up to \$4.7 billion, so presumably you will take whatever time is necessary to ensure you get this right.

**Senator Conroy**—We are very conscious to ensure that we meet our election commitments. We are very conscious to ensure that the proper processes have been followed. That is one of the reasons why we have been subject to some criticism from your side of the chamber—because we have wanted to ensure that those proper processes and all the information that is necessary to get it right has been in place. I am sure you remember what probity officers were like, Senator Minchin, when you were running various projects.

**Senator MINCHIN**—We have a number of questions. We appreciate your cooperation so far, Senator Conroy, but can we just stick to the time line issue. I am just trying to work this thing through from a time line point of view.

**Senator Conroy**—You are asking me to speculate on issues that it is just not possible to speculate on. We will take the necessary time, but, as we showed with the global financial crisis, we can move decisively.

**Senator MINCHIN**—You can save us the political rhetoric, Senator Conroy.

**Senator Conroy**—And I am sure we will make the broadband decision taking into account all of the information speedily and decisively.

**Senator MINCHIN**—That will be an in-principle decision, won't it, at the cabinet level. That will then be a decision to enable you to enter into contract negotiations with the preferred tenderer, presumably.

**Senator Conroy**—What we will not do is what your government did, Senator Minchin, which is—

**Senator MINCHIN**—Just talk about the process here, Senator Conroy.

**Senator Conroy**—I just want to make sure we are clear, because you are operating from a premise that is based on the way your government did business, which was to announce an agreement and then try and negotiate an outcome. That fatally flawed process led to a completely substandard outcome which ultimately fell over during the course of this year, because the actual process whereby you sign an in-principle agreement and then go and—

**Senator IAN MACDONALD**—We did not ask you a question about that, Minister, and we are not interested in your view on history.

**Senator Conroy**—negotiate the details actually left a sub optimal outcome.

**Senator IAN MACDONALD**—Madam Chair, could you please—

**CHAIR**—The minister is speaking. Senator Macdonald, we will get you in a minute.

**Senator IAN MACDONALD**—It is not a debate, Madam Chair. We have a lot of questions to ask and we do not need the minister to go off running a political debate. It is wasted on us.

**CHAIR**—Minister, complete your answer and then we will move on.

**Senator Conroy**—Thank you. I was actually answering the question very specifically.

**Senator IAN MACDONALD**—You were not.

**Senator Conroy**—The basis of the question was flawed. We will not be undertaking a process in the same manner in which the previous government did. You are actually asking me to speculate on matters that have not arisen yet, and I am not sure that there is anything helpful—

**Senator MINCHIN**—Not really; I am trying to understand your process in a genuine fashion. You can spend your time politically, if you wish to, reflecting on the past. I just want to know what you will do and how long it is going to take and how the public's \$4.7 billion is going to be allocated. It seems a matter of common sense that the cabinet will give you in principle agreement to commence contract negotiations with the preferred tenderer. Would that be right? Are you suggesting you will not announce at that point who the preferred tenderer is? Is that what you are saying to us?

**Senator Conroy**—We will make an announcement when we have finalised—

**Senator MINCHIN**—The contract?

**Senator Conroy**—a contract, unlike the process you undertook. So it is a fundamentally different process, which is why my answer is exactly very relevant to your question—as, unlike Senator Macdonald, I think you do understand. We are not intending to announce a winner and then try to negotiate an outcome.

**Senator MINCHIN**—Can I just ask about that because all the evidence in the public arena and, indeed, your own criteria on the request for proposals suggest that legislative and/or regulatory change will be essential to the completion of the process to allow the NBN to commence a rollout. With that reasonable premise in place, surely no-one is going to sign a contract—neither the government nor the preferred tenderer—until that legislative and regulatory change, of whatever sort, is actually completed. Is that not a reasonable proposition?

**Senator Conroy**—I am prepared to stand up in parliament and debate the necessity of any legislation that goes to the heart of an NBN outcome every day for as long as it is needed. The previous government had 18 failed broadband plans. If those opposite choose to frustrate delivering faster broadband—

**Senator MINCHIN**—Senator Conroy, that was not the point of my question. I am genuinely trying to find out what the process is here and how long it might take and what steps you have to go through. It is a genuine inquiry as to the preconditions to the successful negotiation and signing of a contract. I am simply putting to you—

**Senator Conroy**—I am trying to understand your question. If you are suggesting that there will be no final signing of a contract until after legislation has passed through parliament, if that is what you are trying to suggest and extrapolating that that would therefore mean it is going to be at least another 12 months before a contract is signed and a bill starts from when the decision is taking, that is just a flawed series of assumptions.

**Senator MINCHIN**—We will be cooperative in the parliament.

**Senator Conroy**—If you could just bear with me for a second.

**Senator NASH**—How is that flawed? Is quite sensible.

**Senator Conroy**—You are asking us to speculate on a whole range of outcomes, Senator Minchin.

**Senator IAN MACDONALD**—No.

**Senator Conroy**—You are. I am not sure speculating on some of those is helpful to our process. Some of the assumptions you made I would not agree with, but I really think you are trying to lead me very eloquently into a whole raft of speculations which I think are unhelpful to the process and impede the process.

**Senator MINCHIN**—I would never do that, Senator Conroy. as you well know. Your documents themselves refer in evaluation criteria No. 141.3 to ‘the nature, scope and impact of any legislative and/or regulatory changes that are necessary to facilitate the proposal’. So your own documents themselves, to quote you, speculate that legislative and regulatory change is likely to be required to facilitate the proposal. And that is certainly, as you well know, in the public arena.

I am simply putting to you the common sense proposition, in terms of trying to identify the timeline for this whole process, that neither party—you or the preferred tenderer—could possibly be in a position to sign a contract until such time as the outcome of the proposed changes to the legislative and regulatory environment are completed.

**Senator Conroy**—That is a premise which I fundamentally do not agree with, Senator Minchin.

**Senator MINCHIN**—Are you saying that someone would sign a contract prior to the parliament's passage of the legislative and regulatory arrangements necessary, as your own documents say, to facilitate the proposal?

**Senator Conroy**—I want to make sure I fully understand your question. Are you suggesting you could not sign a contract until after the legislation had been passed by parliament? Is that your fundamental proposition?

**Senator MINCHIN**—Yes, it is. I cannot conceive of either the government or any successful tenderer signing a contract requiring them by law to roll out an NBN to 98 per cent of the population at a minimum speed of 12 megabits per second at a certain price and with \$4.7 billion of your money without knowing for certain the legislative and regulatory environment. How could they possibly do so? Neither the government nor the proponent could do that.

**Senator Conroy**—That is an assertion that you want to make.

**Senator MINCHIN**—It is common sense, Senator Conroy. You said you fundamentally disagreed with me. I am asking you: do you disagree with that commonsense, commercial proposition?

**Senator Conroy**—You are suggesting that you could not sign a contract and start a build until after the regulatory legislation had passed the parliament. That is what you are contending. The Commonwealth in the past has signed contracts that are contingent on legislation being passed.

**Senator FISHER**—What happens if that contingency falls over?

**Senator Conroy**—I am happy to stand there in parliament if you are saying that after 11½ years you are going to deny the Australian people—

**Senator MINCHIN**—No.

**Senator FISHER**—We are not going to presuppose any outcome.

**Senator Conroy**—If you are going to deny the Australian public faster and cheaper broadband, which is what you did for 11½ years, then I am happy to debate you in parliament, and happy to argue with you about it every single day between now and the next election and every day after the next election.

**Senator IAN MACDONALD**—Bring it on.

**Senator MINCHIN**—Senator Conroy, that is a diversion. We will, as the opposition, consider your legislative proposals constructively.

**Senator Conroy**—If that is what you are indicating at this stage—you are entitled to.

**Senator MINCHIN**—We are not indicating that as you well know. We will constructively assess your legislative proposal.

**Senator Conroy**—We will see you on the street corners of Australia debating it.

**Senator MINCHIN**—What we are putting to you is that there is no way on earth that a final contract can be signed to allow the rollout of the NBN until the proponent and the government know the outcome of the legislative proposals that you wish to put in place or that are required to be put in place—to quote you—to facilitate the proposals.

**Senator Conroy**—So the OPEL contract did not start any build whatsoever or do any work whatsoever until after the condition precedent was met?

**Senator MINCHIN**—Forget all of that. I am asking about your proposals.

**Senator Conroy**—You signed a contract.

**Senator MINCHIN**—This is about your proposal to spend \$4.7 billion—

**Senator Conroy**—You are making a number of assertions. I am simply pointing to examples where you did exactly the same.

**Senator MINCHIN**—There is no point in referring to propositions that did not involve regulatory change. Either you have to assert that no regulatory or legislative change is required or is likely to be required to facilitate your proposal or you are suggesting that the government and the proponent are prepared to sign a binding contract prior to the passage of the legislative and regulatory changes required to give effect to it.

**Senator Conroy**—You continue to make a number of assertions, Senator Minchin. They are not assertions that I am signing up to.

**Senator FISHER**—They are entirely consistent.

**Senator MINCHIN**—So you are leaving open to this committee and to the people of Australia the possibility that a binding contract can be signed to expend \$4.7 billion of government money and who knows how much private sector money—\$5 billion to \$10 billion—without knowing the legislative and regulatory environment. That is ridiculous. No-one is going to believe that, Senator Conroy.

**Senator Conroy**—You continue to build in a number of assumptions to your assertions which I fundamentally do not agree with, Senator Minchin. So you can keep saying it is unbelievable and it is incredible but, let me be clear: the only reason there would be any uncertainty about the regulatory framework once we have reached an agreement is if your party decided to block it in the chamber.

**Senator BIRMINGHAM**—Minister, does that mean that—

**Senator Conroy**—Can I finish? I am happy to go through this debate, discussion or whatever you want it to disguise it as but, let us be clear: we will reach an agreement and we will put forward—depending on the outcome of that—any regulatory changes. The only reason that Australians then will not get access to faster and cheaper broadband is if your party continues to do what it did for 11½ years, which is to deny access to Australians by frustrating, on the floor of the chamber, the government's legislative framework.

**Senator BIRMINGHAM**—So Minister, does that mean you intend to negotiate a contract with the successful bidder and put a package of regulatory framework changes on the table in the Australian Senate on a take-it-or-leave-it basis because of that contract you have negotiated?

**Senator Conroy**—We are not going to be negotiating with your good selves about this issue once we have reached an agreement with the successful bidder. You can either deny the Australian people faster and cheaper broadband as you have been doing for 11½ years—

**Senator IAN MACDONALD**—We would have had it by now if you had let the original one go through, Minister.

**Senator Conroy**—You can continue to deny it by giving indications that you might block it on the floor or you could actually get behind what this country needs, which is a faster and cheaper national broadband network. That will ultimately be your choice. So if, politically, you are indicating that you are going to frustrate that process then have the courage to stand up and say it.

**Senator IAN MACDONALD**—How could we do it, we have got no idea what it is?

**Senator BIRMINGHAM**—You are expecting us to sign a blank cheque on the type of regulation that you might lay down.

**Senator Conroy**—Have the courage to stand up and say it.

**Senator MINCHIN**—You know we have no capacity to block anything in the Senate, so that is a complete furphy.

**Senator Conroy**—I also used the word ‘frustrate’.

**Senator MINCHIN**—Our job is to ensure the efficacy and responsible expenditure of \$4.7 billion of government money, that is all.

**Senator Conroy**—You are asking me to speculate on an outcome and you are asking me to speculate on a regulatory outcome prior to the beginning of negotiations and asking me to speculate on how much legislation is going to be necessary. It is fundamentally not a worthwhile use of the Senate’s time.

**Senator MINCHIN**—Can you at least give us the confirmation that a binding contract could not be signed either by the government or the successful proponent unless and until any requisite legislative or regulatory change had been put in place. That would seem to be a simple thing to agree to.

**Senator Conroy**—We are just not in a position to speculate on a range of hypothetical scenarios based on what you do or do not believe the regulatory environment should be.

**Senator MINCHIN**—That was not what I asked you.

**Senator Conroy**—It is exactly what you were asking. You are asking me to try and give you an assurance about something that has not yet happened.

**Senator MINCHIN**—I am simply asking you to confirm the common-sense proposition that neither the government nor the tenderer could sign a binding contract unless and until any requisite legislative or regulatory changes had been put in place.

**Senator Conroy**—It is an assertion you are making based on a number of assumptions which may or may not be correct.

**Senator MINCHIN**—I am amazed you cannot even answer that.

**Senator Conroy**—Which may or may not be correct.

**Senator MINCHIN**—Answering that in the affirmative would not harm your cause. I am amazed you are so precious that you cannot answer that.

**Senator Conroy**—We have got a consistent position that we are not going to speculate on the media commentary by interested parties that revolve around the negotiations on the potential to harm the Commonwealth's position in those negotiations and, once again, you are attempting to draw me into that. I have a consistent position. You may say, 'Look, this is a very simple technical point,' but I do not intend to divert from the position I outlined at the beginning of estimates, which is that we are not going to speculate on a whole range of these issues.

**Senator IAN MACDONALD**—We understand from the broadband inquiry that the ACCC will be looking at the regulatory arrangements and advising the panel and the government. Is that correct?

**Mr Lyons**—The ACCC is providing an assessment of proposals. Regulatory issues will be part of that assessment, but you would expect the ACCC to provide an assessment of proposals on issues relevant to its regulatory expertise—consumer issues, pricing issues and regulatory issues.

**Ms Scott**—The right page of the RFP is page 36, where 10.4, role of the ACCC, says 'The ACCC will provide the panel with ongoing advice on proposals including advice on issues such as wholesale access services and prices, access arrangements, proposed legislative or regulatory changes and the likely impact of proposals on pricing, competition and the long-term interests of end users in the communications sector.'

**Senator IAN MACDONALD**—Thank you for that. I am curious in the timing. The minister said that the processes would be going concurrently. Will the ACCC come to a final piece of advice or conclusion to the panel or to the government, or to both?

**Ms Scott**—We are expecting the ACCC to provide written advice to the panel at the end of the six weeks of them examining the proposals.

**Senator IAN MACDONALD**—So that will then leave the panel how many weeks to consider their issues, taking into account the final advice of the ACCC?

**Senator CONROY**—We had a discussion about that earlier, Senator Macdonald.

**Senator IAN MACDONALD**—Exactly.

**Senator Conroy**—I am not sure whether you were in the room.

**Senator IAN MACDONALD**—I was in the room. I could not follow you then, Minister. That is why I am seeking clarification and we are almost there. One more answer will confirm what I want to know.

**Ms Scott**—It is the expectation that the panel will commence its work on the receipt of the proposals on 26 November and that it will conclude its work at the end of eight weeks.

**Senator IAN MACDONALD**—The ACCC has six weeks.

**Ms Scott**—Correct.



**Senator IAN MACDONALD**—So the panel—if my arithmetic is correct—will have two weeks to consider it after they have the regulatory advice from the ACCC.

**Ms Scott**—They will have two weeks to consider the written report, but there will be ongoing consultations and I think that is what the minister was indicating in his previous answer.

**Senator IAN MACDONALD**—Thank you. You have clarified what I need to know.

**Senator Conroy**—So it is not adding eight and six getting 14. Someone recently added eight and five and got 13.

**Senator IAN MACDONALD**—Two weeks is what I wanted to know, thank you.

**Senator FISHER**—Minister, in response to Senator Birmingham, you said that you may get a ‘stunning tender’. What would be a stunning tender?

**Senator Conroy**—I am sure many people would like me to speculate on what a stunning tender would be. The RFP document stands as a live commercial process and I will not be speculating on the preferred outcome of the government.

**Senator FISHER**—You have also put to us today that the government will not pick a winner, then negotiate afterwards. You have put to us today that the government will pick a tenderer, essentially, that complies with your terms and conditions. So what are your terms and conditions?

**Senator CONROY**—I think Mr Mason is called for at this stage. Perhaps you missed the last estimates. Perhaps you have not met Mr Mason before. I delight in introducing him to you.

**Senator FISHER**—Thank you. That will suffice. Let us go back to the time line.

**Senator Conroy**—That is a winner; I don’t think we can outdo that! They have run for cover.

**Senator MINCHIN**—We are trying to deal with this in a logical order. In relation to the time line, the department has in its PBS as a target for 08-09: ‘Rollout of the national broadband network has commenced’. Does the department remain committed to that as a target?

**Ms Scott**—Senator, could you assist by referring to the page that you are quoting.

**Senator MINCHIN**—Page 38 of the PBS.

**Ms Scott**—We are committed to a timely process and to achieving the government’s objectives and are working tirelessly to achieve that. We are full steam ahead on the process and we will see how we will go, depending upon the quality of the proponents’ proposals.

**Senator MINCHIN**—Does the department remain of the view that it is possible to roll out a national broadband network fibre to the node to 98 per cent of Australia within five years?

**Ms Scott**—The RFP sets out the objectives of the government. It is very clear in those objectives the time frame that the government envisages. I am happy to have the direct quote read into the record, if that would assist the committee.

**Senator MINCHIN**—Sure.

**Mr Mason**—The most relevant part of the RFP in relation to the rollout time frame is in the statement of objectives for the NBN. I refer the committee to clause 1.3.1 and point 7:

The Commonwealth's objectives for the NBN project are to establish a national broadband network that:

... ..

7. is rolled out and made operational progressively over five years from the date of execution of a contract between the Commonwealth and successful Proponent;

**Senator MINCHIN**—In the speech, which Senator Conroy says was misunderstood, by Telstra CFO, John Stanhope, where he talked about at least five years for urban and eight years for rural, he made the point that what is proposed would be the world's largest fibre-to-the-node network by area, with coverage to around nine million households and SMEs and that it would need more than 100,000 kilometres of new fibre and over 90 kilometres of cable to be laid per day at the peak of the build, with tens of thousands of nodes to be built in order to achieve those objectives. Is that a fair description of what this does involve?

**Senator Conroy**—Can I just jump in there. I would want to advise those opposite to be careful about buying into inevitable media speculation associated with a significant process like the NBN because it is easy to get caught out, as Senator Minchin recently did when he decided to leap onto an alleged statement. It was a fairly major blunder to grab a press report that the NBN will take 13 years to build. CommsDay published a letter from John Stanhope on Friday the 17th stating, 'To include a headline that inferred the build could take up to 13 years was a misrepresentation of my comments.' I do not think it gets any clearer than that, Senator Minchin. It went on to say, 'While it will be an enormous and complex task, meeting the government's time frame of five years for the NBN build will be possible.' One of the 18 objectives for the NBN is that the NBN is rolled out and made operational progressively over five years. I will not speculate on what proponents put forward in their proposals, and I can only encourage you not to fall for the same trap.

**Senator MINCHIN**—All I am asking is for either you or the department to confirm that building this network involves the sorts of facts and figures which Mr Stanhope has laid out. Is it true or isn't it true: the largest FTTN by area in the world; more than 100,000 kilometres of fibre; 90 kilometres a day; tens of thousands of nodes? Is that correct or isn't it?

**Senator Conroy**—I think there are many tens of thousands of nodes. I do not disagree with that at all. Obviously, I cannot have any contact with the proponents during the course of the process but I have had many briefings from engineers. Just so you understand in an absolute technical sense the complexities, the time-consuming aspect is not laying fibre; that is a relatively simple process, as I am sure you understand. The time-consuming process is actually splicing, at a street level, the network in. The specifics of the proposal are different for each proponent potentially, or they could all be the same. That is the beauty of a competitive process designed to elicit the best outcome for the Australian public, to get the fastest and cheapest broadband possible. You are asking us to speculate on one potential bidder's proposal, which I think goes very much against probity advice and common sense. We have deliberately designed a process that maintains maximum flexibility for the Commonwealth. The individual architecture from one potential bidder, which you are asking us to comment on, is interesting information but it is not information that we should be

speculating on because it could potentially impinge on the Commonwealth's negotiating position. I would caution you about asking us to speculate on claims made by individual potential bidders.

**Senator MINCHIN**—I am just trying to get some confirmation of the reasonableness of the five-year time frame given what the CFO of Telstra has said about what is involved and given what your own objectives state—and there is no flexibility in this—'uses fibre-to-the-node or fibre-to-the-premises network architecture'. It is not suggesting there is any other way of doing it. I simply seek from you that you remain committed to this all happening within five years.

**Senator Conroy**—The RFP stands as it is printed and as it has been circulated, and people are bidding against that. I can only repeat to you that *CommsDay* published a letter from John Stanhope, the person whose speech you are quoting, on Friday. Unfortunately, you had already leapt into print, leapt into a press release and leapt into questions in parliament demonstrating your complete—to actually suggest that it could take 13 years to build a national broadband network was just comical. Even Mr Stanhope had to come out—and it is not in his interests to come out, but even he was affronted by the suggestion that someone could add eight and five together and suggest it was going to take 13 years.

**Senator MINCHIN**—Frankly, I think it is comical that you are going to do it in five years, but I am pleased that you still believe it is possible.

**Senator Conroy**—Mr Stanhope goes on to state on both the Telstra website and in *CommsDay* that while it will be an enormous and complex task, meeting the government's time frame of five years for the NBN build will be possible. I am not going to put my own words into it; Mr Stanhope says that. The fact that you went out there and added eight and five and got 13 and decided to ask a question in parliament and put out a press release is your problem, not Mr Stanhope's. He actually denies—

**Senator MINCHIN**—You know perfectly well that Telstra's original proposal involved five years just for the metropolitan areas of Australia and that it is impossible to build it in five years, but I am pleased that you remain committed to what is an impossible objective.

**Senator Conroy**—I suggest that you have a chat with some engineers rather than speculating on media commentary. Feel free to have a chat with an engineer.

**CHAIR**—We are now going to take a break for morning tea.

**Proceedings suspended from 10.49 am to 11.06 am**

**CHAIR**—The committee will resume. Senator Birmingham.

**Senator BIRMINGHAM**—Just continuing on the matter of timing for a moment so that we are quite clear. Part 1.2.3 of the RFP outlines the planned schedule, as it stood at the release of the RFP in April. That had 25 July as the closing date for proposals, August-September as the period for assessments, September for identification of the preferred bidder by the panel, September-October as the period for government negotiations with that bidder and October for the decision. Now, with the changed format, perhaps you could take through the equivalent time line.

**Ms Scott**—This is the time line that is in the RFP. It says it is indicative and ‘subject to change at the Commonwealth’s discretion’. I do not think there is anything I need to add to that, over and above what the minister put out when the time frame changed regarding 25 July. I do not think there is anything further on the public record regarding the time frame. I know we have taken some questions in the Senate select committee, but there is no new, formal revision to that timetable on the public record.

**Senator BIRMINGHAM**—Is it reasonable to expect that, with the closing date for proposals being four months later than in that original time line, all other aspects subsequent to that closing time would also be four months later?

**Ms Scott**—I think I will refer to the minister’s opening statement: the department is not going to enter into speculation about the timing.

**Senator BIRMINGHAM**—With all respect, Ms Scott, this is a fairly fundamental aspect of it. The department was happy to enter into speculation about timing when it put out the RFP. The government has exercised its right to alter that timing, and that alteration relates specifically to the closing date for proposals. Surely it is not unreasonable and it is not likely to jeopardise or influence in any way the bidding of the proponents to state that, if the closing date for the proposals is four months later, the other aspects of it—the assessment, the identification, the negotiations and the decision components—will all be four months later as well.

**Senator Conroy**—I think the point Ms Scott is making is that the government indicated that we will be making the announcement that there will be a 12-week period after all the information is received. The 26 November deadline is fast approaching. We have indicated that we expect to receive the information sometime in January. We will then be making some decisions. I do not think there is anything inconsistent in what Ms Scott is saying or in what I have said. But you are asking us to speculate on a number of issues that it is not possible to until after the deadline of 26 November passes.

**Senator BIRMINGHAM**—I am not really doing that, Minister, in that you were happy to speculate on these issues in the initial RFP. I am not sure I understand why you are unhappy to speculate on them—

**Senator Conroy**—I think we said it was an indicative timetable. If you read the RFP, I think it is quite clear that it is indicative.

**Senator BIRMINGHAM**—The very fact that the RFP described it as indicative obviously means—

**Senator Conroy**—We said that from day one.

**Senator BIRMINGHAM**—it was speculative as well. You have changed one aspect of the indicative timetable. All I am looking for is clarification that the other subsequent aspects will change in a consistent manner to that one aspect. You have virtually said that they will by saying that you expect to receive feedback by January and that then you will make some decisions. I assume that will be in about February, which is about four months after the indicative timeline outlined in the RFP.

**Senator Conroy**—I am not sure that I agree with your maths there. You can speculate yourself, but we have indicated what the process we are going through is. Our ambition is for it to be completed in the early part of the new year. You want to get us to pick a date when, as we have indicated all along, it is indicative.

**Senator BIRMINGHAM**—When the RFP was released, the indicative date for a decision from government was October. Is the indicative date for a decision from government now February, some four months later—or whatever your maths may be—which seems to be in line with the former delay for the proposals?

**Senator Conroy**—We are happy to consider giving an update after we have received tenders. We are happy to consider looking at that.

**Senator BIRMINGHAM**—'Happy to consider looking at that'—thank you for your very helpful and gracious consideration to look at something as fundamental as when you might make a decision! I fail to understand why you were happy to speculate on when the government might make a decision when you released the RFP but, after a change of the terms of that RFP, you are not happy to speculate on when it might make a decision.

**Senator Conroy**—I am not sure that is a question; I think that is a statement.

**Senator BIRMINGHAM**—Can you explain why when specifically the government might make a decision goes to a matter of probity?

**Senator Conroy**—What I said is that I am happy to consider an update after the tenders are received. I did not say that was a probity issue. I do not think I said that. I am happy to be corrected, but I do not think I said that.

**Senator BIRMINGHAM**—I am sorry; I am taking that as your usual reason for—

**Senator Conroy**—I appreciate you were trying to put words in my mouth, but I am not sure that that is what I said.

**Senator BIRMINGHAM**—It is one way to try to get an answer!

**Senator Conroy**—It is usually fairly full!

**Senator BIRMINGHAM**—What is the estimated cost for each month of delay on the construction of the NBN to the economic benefits that you like to talk about?

**Senator Conroy**—I am happy to take that on notice. I am not sure that we have ever claimed a monthly cost. There has been lots of speculation about the benefits of a national broadband network, and I consider there to be significant benefits, but I do not know whether anyone has ever broken it down on a month-by-month basis. If there is information, I am happy to hear it.

Proponents might claim that there are costs, but again I can only give you the same advice I have given Senator Minchin: you end up looking like a complete goose when you add eight and five together and claim 13, particularly when it is based on a misrepresentation of what was actually said. So I can only suggest to you, to avoid the same embarrassment Senator Minchin is experiencing, that you do not just take for granted what some potential bidder says is an absolute, cast-iron position.

**Senator BIRMINGHAM**—Minister, not wishing to take it for granted but wishing to at least give you the opportunity to respond when Mr Trujillo says:

...our economists just completed an economic impact on the benefits of a broadband build. We have estimated that the benefits are about \$2.4 billion, \$2.5 billion of GDP benefit per year. So, the simple math for me is divide by 12, you get about \$200 million of lost GDP benefit for every month of delay.

Has the government undertaken any assessment of the GDP benefits of NBN?

**Senator Conroy**—What is 11½ years times \$200 million? Goodness gracious, that is a big figure! Eleven and a half years times \$200 million—

**Senator BIRMINGHAM**—Minister—

**Senator Conroy**—Perhaps one of my officers could calculate that for me—

**Senator BIRMINGHAM**—Minister, has the government undertaken—

**Senator Conroy**—Mr Trujillo gets it; he understands the benefits of faster, cheaper broadband to the Australian economy. The fact that for 11½ years the previous government did not get it and for the last eight to 12 months this opposition has continued not to get it is a great disappointment to the Australian public.

**Senator BIRMINGHAM**—Perhaps you could actually help us to ‘get it’ by answering some of the questions, Minister. Have you undertaken any economic analysis of the benefits to the economy of the NBN?

**Senator Conroy**—I think there have been various studies and claims that are being kicked around. I think your, previous government in fact suggested there would be a \$30 billion benefit to a national broadband network—which you then spent considerable months trying to discredit. So I can point you to a range of—and I am happy to get you the references—economic studies done by a range of organisations, from state governments, independent organisations of government through to Telstra, which you were quoting there, that have all talked about the benefits. You do not need to convince Labor that a national broadband network is good for this country: it is good for the economy; it is good for productivity. What we are doing is getting on with the job, as opposed to sitting there pretending Australia’s broadband situation is fine, which is where you have been at for the best part of 12 years.

**Senator BIRMINGHAM**—So, Minister, and I am trying to—

**Senator Conroy**—Not Senator Nash, to be fair; she has always got it. I am not in any way casting aspersions on Senator Nash. She has always got it. She and Barnaby have always got it.

**Senator BIRMINGHAM**—That is very generous of you, and, Minister, I have noted your admiration for Senator Nash many times, and certainly it is an admiration many of us share—

**Senator Conroy**—Well, she gets it. I admire her policy perceptiveness.

**Senator BIRMINGHAM**—Minister, given you acknowledge the great economic benefits of the NBN, do you acknowledge that, obviously, for each month of delay, there is a cost that comes with that?

**Senator Conroy**—The speculation about the cost comes from a potential bidder, and I again invite you to not risk the embarrassment that Senator Minchin has had to go through by

deciding to sign up to the urgings of one of the potential bidders to try and influence the timing and outcome, Senator Birmingham. So I can only urge caution on you; it is entirely in your hands how you respond.

**Senator BIRMINGHAM**—Minister, you were happy to quote figures, in answer before, of other studies you believed existed as to the economic benefit of the NBN. If you believe that those studies undertaken by previous governments or the current government are accurate then obviously there is a continued cost to what is currently a four-month delay.

**Senator Conroy**—Do I believe that Australia is slipping further behind each day because of 11½ years of policy indolence by the Howard government which we are now trying to rectify? Absolutely. It is an indictment of the former government that it had 18 failed broadband plans—

**Senator MINCHIN**—Just answer the question, Senator. This is ridiculous, Chair; he is not answering the questions. This is not a debating society; answer the questions!

**Senator Conroy**—that did not—

**CHAIR**—Order!

**Senator Conroy**—address the fundamental needs of this country.

**Senator MINCHIN**—This is a perversion of process, Chair.

**Senator BIRMINGHAM**—Minister, quite clearly the failed timeline that you have sought to implement, that has been stalled at every process along the way and that is at least four months behind schedule at present—and we will see how far behind schedule it ends up being—is equally costing the Australian economy. The process, as has been acknowledged by many bidders, is stalling investment.

**Senator Conroy**—It is breathtaking to listen to you try and give us a lecture about the need for a faster broadband network. You are still not signed up to a national broadband network.

**Senator BIRMINGHAM**—Let us go to that for a second. What consultation can stakeholders, the community or, indeed, the opposition expect as to the regulatory framework between now and the government introducing legislation into this place?

**Mr Lyons**—As you may be aware, Senator, at the same time as consulting on the RFP the government has sought submissions from public interest groups and industry groups on what regulatory changes they would like to see or what regulatory changes they see as being relevant to the national broadband network. Those submissions will be taken into account by the panel in its report to government and will be, more broadly, a resource for government in making decisions on the regulatory framework going forward.

**Senator BIRMINGHAM**—Thank you, Mr Lyons. We were well aware that the government has issued an open slather invitation of submissions on the regulatory framework. Once the government, the ACCC or whoever is involved comes up with proposals for the regulatory framework to be applied to the NBN, what opportunities for consultation with those stakeholders who chose to make submissions, other stakeholders or the opposition will there be prior to legislation being introduced?

**Senator Conroy**—As I said, we will be putting forward changes if necessary, and we believe that ultimately there will be some change to the regulatory structure because, after 11½ years of the Howard government's regulatory structure, clearly it has failed. Do you want to talk about stalling investment? We do not have a national broadband network. It is priceless. It is very entertaining to talk about stalling investment.

**Senator BIRMINGHAM**—Minister, we had that lecture from you a couple of years ago. Perhaps you can now answer the question on consultation.

**Senator Conroy**—The regulatory framework in this country has stopped a national broadband network being delivered. What we are doing is breaking the logjam your previous government created. We will go through the process of the NBN, we will then put forward a package of legislation and if your opposition choose to block it, slow it or frustrate it then it will be on your head.

**Senator BIRMINGHAM**—Was that a longwinded way of saying there will be no further consultation?

**Senator Conroy**—All those people in Adelaide who send me emails—very slowly; they would like to send them to me more often and faster—and who are crying out for broadband will be aware that Senator Birmingham, in the Senate, is the reason that they are still on the goat track.

**Senator BIRMINGHAM**—Minister, rather than giving rants, lectures and gratuitous advice, could you please tell us: will there be any further opportunity for consultation by any of those stakeholders who made submissions—ignoring the opposition; you want us to sign a blank cheque and say we will pass legislation, sight unseen, invoking regulatory arrangements, sight unseen—to respond to what the ACCC or the government may recommend or decide upon?

**Mr Lyons**—To point out some relevant parts of the RFP that may be of interest, paragraph 1.5.41 of the RFP does say that the Commonwealth will publish regulatory changes proposed by the successful proponent which have been agreed to by the Commonwealth.

**Senator BIRMINGHAM**—When will those be published?

**Mr Lyons**—That will be a decision for government.

**Senator BIRMINGHAM**—So they could be published after the legislation has been introduced.

**Senator Conroy**—That will be a matter for consideration.

**Senator BIRMINGHAM**—That does not exactly answer the question on consultation; in fact, it does not come anywhere close to answering the question on consultation.

**Senator Conroy**—You are again trying to put words into both the officials' mouths and my own, Senator Birmingham. That is something we will give consideration to, and when we have made a decision we will let you know.

**Senator NASH**—Obviously, the bit that you just quoted it from the RFP is only surrounding the regulatory environment that the proponents would like to see. There is the much broader question of the submissions that have come from industry more broadly. Our



understanding is that that will go towards any particular changes in the regulatory environment, so will stakeholders or the broader industry have any opportunity to comment on that more broadly when a decision has been reached by government on any particular changes to the regulatory environment?

**Senator Conroy**—We invited the debate. We have had 82 submissions on the regulatory framework.

**Senator NASH**—I understand that, Minister. I am just going back to Senator Birmingham's question. Will there be any opportunity for stakeholders in the broader industry to comment on the regulatory decisions that are taken by government? Mr Lyons has just referred to the fact that the proponents' indication of what they would like to see in the changes to regulatory environment would be considered, but you have not talked more broadly.

**Senator Conroy**—No, we have. There are 82 submissions. There are not 82 proponents. We deliberately, quite specifically, set out to get a broad stakeholder view on what people believe the regulatory environment should be and we have seen a robust and healthy debate in this country around it. It is dominated in the media by comments from potential proponents. It is not dominated in terms of the submissions that have been put to our process.

**Senator NASH**—Thanks for that, Minister. Just to be absolutely clear from what you said, that means that there is no requirement before any changes take place for there to be any consultation?

**Senator Conroy**—Perhaps you missed what I said to Senator Birmingham earlier.

**Senator NASH**—No, just a second—

**Senator Conroy**—When we make a decision on that matter we will advise but at this stage we have not made a final decision on that issue.

**Senator NASH**—But 'advise' is very different from allowing some consultation.

**Senator Conroy**—No, we will advise what the decision is.

**Senator NASH**—Yes, you will advise what the decision is but it does not answer Senator Birmingham's question.

**Senator BIRMINGHAM**—So you will make a decision on whether or not you will consult, and you will advise people on whether or not you have made that decision to consult?

**Senator Conroy**—We are currently consulting. We have set up a regulatory review and we have been prepared to take it on—unlike the previous government, which said there would be no regulatory changes for a minimum of two years. That was the investment deadlock in this country and why we do not have a national broadband network. It is a direct result of the previous government putting in a prospectus that there would be no regulatory changes. We are not bound by that but your government created the investment deadlock. Your government created the fact that we have no national broadband network because you decided to write in a prospectus there would be no regulatory changes.

**Senator MINCHIN**—Can I clarify that? Are you saying that one of the reasons why there is no national broadband network is the current state of the regulation?

**Senator Conroy**—I think that almost every proponent in the country has put that forward.

**Senator MINCHIN**—I am just asking.

**Senator Conroy**—I appreciate you have not followed for a little while.

**Senator MINCHIN**—No, I just wanted to hear on the record that that is your position.

**Senator Conroy**—I did not say that that is our position. I said that is the position advocated by almost the entire sector. The reason there has not been investment in a national broadband network is the regulatory hurdles. That is argued by almost the entire sector.

**Senator MINCHIN**—Yes, but is that your position?

**Senator Conroy**—We have said that we will make the regulatory changes necessary to deliver a national broadband network.

**Senator MINCHIN**—So that is your position, and therefore regulatory change and legislative change are necessary to enable a rollout of a national broadband network?

**Senator Conroy**—The level and scope of the regulatory changes that could potentially be necessary will be subject to the ongoing process.

**Senator MINCHIN**—Thanks. I am happy with your answer. Thank you.

**Senator Conroy**—I am not quite sure—

**CHAIR**—Are there any further questions in this area before we move on?

**Senator Conroy**—I have never suggested that there would not be.

**Senator LUNDY**—I have a couple of questions.

**CHAIR**—Have you finished this line of questioning, Senator Minchin?

**Senator MINCHIN**—Senator Conroy, could I come quickly back to Senator Birmingham's questions on the economic impacts. You referred to proponents putting up their own facts and figures—and I accept what you say about that—but that does lead me to believe that the government would itself presumably be doing its own cost-benefit analysis of the investment of \$4.7 billion in a national broadband network. I would like you to confirm that that is the case and that such a study would be made public.

**Senator Conroy**—I missed the first part of your question, Senator Minchin.

**Senator MINCHIN**—I noted in response to Senator Birmingham that you qualified the veracity or reliability of statements made by proponents as to the economic impacts of fully rolled out national broadband network, and I take that at face value. It does lead one to presume, as I am sure would be the case, that the government itself either has conducted, is in the process of conducting or will conduct a cost-benefit analysis of the investment of \$4.7 billion of taxpayers' money in a national broadband network, that you would have your own assessment of the cost-benefit analysis of that and the more reliable—as you might put it—economic impacts of that investment, given that you, understandably, put some qualification on claims made by proponents. I went on to say, presuming that study either has been, is being or will be done, that you will make that study available to the public.

**Senator Conroy**—This is an election commitment, and we will deliver our election commitment. It is no more simple nor complicated than that. It was one of the key planks and, according to Mr Mark Textor in a leaked piece of Liberal Party polling—and I read it on the front page of the *Daily Telegraph*—broadband was an issue out there in the broader community, and this was our election commitment to meet that.

**Senator MINCHIN**—I understand it was a commitment.

**Senator Conroy**—We are proceeding down the path of meeting it. It is a competitive process.

**Senator MINCHIN**—Are you suggesting you are not doing your own cost-benefit analysis of the investment?

**Senator Conroy**—We are going to deliver on our election commitment. If you want to go and have a look at some transcripts of me speaking on very similar issues in the infrastructure portfolio, I invite you to. There are many hours that many of your colleagues have asked me about. Senator Parry may even be familiar with what I am talking about. We intend to deliver on election commitments. No ifs, no buts: it will be delivered.

**Senator MINCHIN**—Without a cost-benefit analysis being done and made available to the public?

**Senator Conroy**—It is an election commitment. We are going to deliver.

**Senator MINCHIN**—So you are going to do it without a proper cost-benefit analysis of—

**Senator Conroy**—It is an election commitment.

**Senator MINCHIN**—Thank you. That is amazing. I am amazed that you are proposing to spend \$4.7 billion of taxpayers' money—

**Senator Conroy**—You are six months behind Senator Parry, he has had this very conversation with me about many other matters that were election commitments. We will deliver fully on all—each and every one—of our election commitments, and we are systematically delivering them—

**Senator MINCHIN**—That is wonderful, Senator Conroy. I am just fascinated that you propose to do it without any cost-benefit analysis of how you spend \$4.7 billion. Thank you.

**Senator Conroy**—I can only invite you to see *Hansard*. Senator Parry, you might want to fill him in on previous discussions on that.

**CHAIR**—I think you have asked that question, Senator Minchin.

**Senator MINCHIN**—We will come to the money, but this is just in relation to Senator Birmingham's line of questioning because, as I understand it, the funds will come out of the Building Australia Fund, and everything that comes out of—

**Senator Conroy**—We are not going to go back there!

**Senator MINCHIN**—No, I just want to confirm that this expenditure from the Building Australia Fund will not be subject to the criteria—

**Senator Conroy**—No. I do not know how many times Mr Billson and his advisers bowled this question up, as did Senator Birmingham up, Senator Parry and Senator Nash. We could

not be clearer. It is written in the budget documents and I read them out at the last estimates. This will not be subject to Building Australia Fund processes. This is a separate election commitment. Hopefully I have saved you a lot of questions, but—

**Senator MINCHIN**—For the time being.

**Senator Conroy**—Mr Billson was fixated on this matter. He put out press releases on this matter. We could not be more clear or straightforward on this.

**Senator LUNDY**—I would like to ask some questions about the facts of the current availability of ADSL. I have noted that there have been a couple of articles by Alan Kohler which talk about 85 per cent reach of ADSL. My memory of the way in which exchange based ADSL operates is that, despite there being exchanges which are enabled for ADSL to reach some 85 per cent of the population, the actual facts of the matter are vastly different with respect to how those exchanges are actually kitted out for ADSL. Does the department agree with the statistic of ADSL2+ covering 85 per cent of the urban population, and what evidence exists to support that claim by Alan Kohler?

**Ms Scott**—I will get Mr Mason and Mr Bryant to add to this. We have done some analysis in the past on this because it has been in the media for some time.

**Mr Mason**—We do find that statistic somewhat surprising. The way we rationalise the quote that perhaps 85 per cent of premises or the population are covered—and he actually uses those two metrics at the same time, although they mean different things—is that arguably 85 per cent of the population or households are within exchange service areas that are serviced by exchanges with ADSL2+. However, that fails to recognise that there are significant technical limitations on the reach of that technology from exchanges. Basically, the performance of ADSL2+ degrades over distance. That means that the full potential of the technology is not achievable for residents in those exchange service areas, particularly further out.

We have done some analysis of the ADSL coverage using the known exchanges that are ADSL2+ enabled plus known facts about degradation over distance and known facts about extra blockers within those exchange service areas.

**Senator LUNDY**—Do you mean pair gain systems?

**Mr Mason**—Yes, for example. According to our analysis, we believe that ADSL2+ could deliver speeds of 12 megabits per second or more to around 33 per cent of premises within those exchange service areas.

**Senator LUNDY**—Thirty-three per cent?

**Mr Mason**—Around 33 per cent.

**Senator LUNDY**—So why does the media still use the number of 85 per cent? Aren't they aware of these facts?

**Mr Mason**—I believe they are because I recall that, after Mr Kohler published that first article, he did a further interview with representatives from Telstra. I think Ms Kate McKenzie participated in that interview. My recollection of that interview is that—and I note what the minister has said about possible proponents in the process putting views forward—she

pointed out that she disagreed with the kind of coverage statistics that Mr Kohler had been advocating. Telstra indicated there that only around 20 per cent of customers could get access to 20 megabits per second and only 50 per cent of metropolitan customers could get access to these speeds. That is one source. I think in the subsequent article by Mr Kohler he talked about very broad coverage of broadband as opposed to going into the specifics of speeds.

**Senator LUNDY**—I am still concerned, even with the Telstra analysis of their coverage, because they imply that, where an exchange is capable of physically having ADSL ports in it, every customer at least theoretically within the technical constraints of ADSL2+ could get it, for example, within the four kilometres, providing the attenuation is okay on the bundles of copper and that there is no pair gain system. My understanding is that, even in that scenario, there are only a limited number of ports in those exchanges anyway, so, were all of the customers theoretically technically capable of getting it, it would still require significant investment and installation of additional ports. Can you comment on that?

**Mr Mason**—You are correct in that there are capacity constraints in relation to the DSLAM equipment that they put into exchanges. It is a question of whether or not enough customers take up the service and use up all those available ports. The way it works, I believe, is that the DSLAMs are put in according to the estimated demand in an area. To the extent that those DSLAMs are built up, further assessments are made in relation to demand and whether or not it is economically viable to go in and put in those additional DSLAMs.

**Senator LUNDY**—This is the issue, isn't it? I can tell you that there are residents in places like Wanneroo and running off the Stirling exchanges in WA and South Australia that are being told that no services are available. As far as I can ascertain, it is either because of a pair gain system that Telstra is refusing to transpose or that there are some capacity constraints relating to the installation of DSLAMs. So I want to know if you can get the figure that takes into account not just the physical constraints between the exchange and the customer but also what physical constraints or commercial constraints are being imposed on decisions by Telstra not to install further DSLAMs to allow more ADSL to be rolled out.

**Mr Mason**—We will take that on notice.

**Senator LUNDY**—Thank you. I would also like you to do some investigation into what the constraints are with the number of DSLAMs or ADSL services available through remote integrated multiplexes or RIMs. I am aware that you can get a limited number of ports into a RIM depending on the type of RIM it is but that is resulting in significant waiting lists for customers because there is a finite number. Customers are often told by Telstra or a competitor reselling ADSL that they have to go on a waiting list and that another customer will have to choose to opt out of that service before someone else can get onto it. Can you get some information about what those constraints are?

**Mr Mason**—Yes, we will take that on notice.

**Senator LUNDY**—Thank you. Can I place on the record that having quizzed Telstra about this for a number of years previously—

**Senator Conroy**—Ten.

**Senator LUNDY**—thank you Minister, about 10 years, they continually denied this issue of the statistical coverage of ADSL continuing to claim—I believe they were quite adamant about it on the record—that ADSL could in fact reach 85 per cent of their customers. That was never true. It is not true now and it is never likely to be true because of the capacity constraints of that particular technology.

I would also like to ask about wireless technologies including HSPA or Next G. They are often put forward in this debate as an alternative to fibre to the node or fibre to the premises. There are claims of speeds of around 14.4 megs or higher. How does this connection speed relate to customer experience and what sort of feedback are you getting from customers on a wireless network able to achieve connection speeds of 14 megabits or more?

**Mr Bryant**—I am happy to respond to that question.

**Senator LUNDY**—Again to put it in context, a constituent on the Stirling exchange in South Australia emailed me recently. They were on a pair gain system. It is a small pair gain system so their neighbours are getting ADSL—and we know the Stirling exchange has ADSL2+. Telstra is refusing to transpose their copper so that they can get an ADSL service and has offered them their wireless data service as the alternative. Can you answer the question about the claimed speeds of that?

**Mr Bryant**—I think it is probably quite important to stress firstly that there are wireless networks and wireless networks. Some wireless networks have a built-in provision primarily for data traffic. Others have multiple purposes. I think the service you talked about in that instance is Telstra's Next G service, the 3G service. We have seen the rapid development of investment in 3G services across Australia, including through Optus and now Vodafone. It is development that is most welcome, obviously, in the quality of services being provided across the country. But it is important to understand the difference in a general sense between fixed services and wireless services. Wireless services including 3G services are a shared resource at the local distribution level. There is a limited amount of spectrum that has to be shared between users, so it is difficult to—

**Senator LUNDY**—So the more users that come on to those networks in a given physical area, the more depleted their bandwidth speeds are going to be?

**Mr Bryant**—That is correct. The speeds you talked about are optimal theoretical peak speeds. That has to be shared, as you say, between users and, clearly, as well in the case of 3G networks it has to be shared between the voice channels as well. The way 3G networks are provisioned, as I understand it, my advice from my technical team is that the voice component has a dedicated channel. Clearly, they are provisioned primarily to provide a mobile voice service and the data element is on a best endeavour's basis. Of course, it varies as well depending on what time of the day the service is being sought. So at peak usage times it can because of that shared nature of the resource degrade quite severely in terms of the speed and throughput of the service.

It is a relevant issue for us at the moment because we are looking at the Optus 3G network, as people have been informed, to establish whether or not it is a metro-comparable service according to the Australian Broadband Guarantee guidelines. So we are examining those parameters at the moment.

**Senator LUNDY**—What sorts of speeds can people on the Next G data service get during a peak time and also at a non-peak time?

**Mr Bryant**—There is quite a deal of public information on the Whirlpool site, for example, where—

**Senator LUNDY**—Yes, I like that website. It is very good.

**Mr Bryant**—Yes, good information. One of the threads that happens there is user testing of 3G networks, and I think you are seeing speeds generally of around 700 kilobits per second.

**Senator LUNDY**—Not even a meg?

**Mr Bryant**—I want to be accurate in this and there are a variety of test results, obviously. You do get some results higher than that, but I think it is a fair comment to say that it is around about that kind of level. The issue, though, and the issue that we are looking at from the Australian Broadband Guarantee perspective, is what happens at peak times, because we have had both submissions and commentary in the media that people are experiencing some severe degradation at peak times, so we need to examine that. I would not want to make a comment as to how accurate that is. We are still testing this.

**Senator LUNDY**—Can you take it on notice to get some more accurate commentary on what the sorts of speeds are? Even if your reference point is Whirlpool, I think that would be useful for the committee.

**Mr Bryant**—We would certainly be happy to do that.

**Senator LUNDY**—In terms of fibre-to-the-node or fibre-to-the-premises networks, can you provide some information about what is going on internationally and what the major developments are with respect to those types of fibre based networks elsewhere in the world?

**Mr Mason**—I can provide some introductory comments on that. Fibre to the node is being looked at in a number of countries as a means of improving broadband delivery. For example, in the United States AT&T is undertaking a fibre to the cabinet, which is similar to a fibre-to-the-node rollout to facilitate faster speeds there. In New Zealand, Telecom New Zealand is also looking at the use of fibre to the node. The Netherlands is another area where fibre to the node is being looked at as a technological solution for improving broadband. It is similar in Italy and also in the United Kingdom, although there is a debate there as to when you would use fibre to the node and when you would use fibre to the premises. So it really depends very much on the country's telecommunications history and the kind of architecture that has been used in the past.

**Mr Bryant**—I think the general point about that is that there is a movement towards what we might call fibre rich networks, pushing fibre out closer to the customer. That goes to the issue that was raised previously about ADSL2+. Obviously with a dedicated channel on a fixed line network the closer you get the fibre to the customer the better in terms of getting that guarantee of high-speed broadband to the customer.

**Senator LUNDY**—Where the replacement of exchange based ADSL technology is occurring and fibre is being rolled out to the cabinet, the node or even to the premises, is there

any evidence of irreparable damage to competition in those places? What observations have you got about how competition is being preserved where those rollouts are occurring?

**Mr Mason**—I think the best way to answer that is to say that those rollouts are largely in their early stages in most jurisdictions, but I think it is fair to say that two factors have been foremost in the minds of policymakers. No. 1 has been providing a framework which actually provides the incentives for these rollouts to take place, and then the other one is obviously the policymakers being very mindful of the potential for fibre-to-the-node rollouts to impact on competition and therefore ensuring measures or arrangements are in place to continue to facilitate competition. I guess both of those aspects are reflected in the RFP that the government has issued. Its focus is on facilitating the investment while promoting competition.

**Senator LUNDY**—So what sorts of things are they doing?

**Mr Bryant**—They are ensuring that there is access to suitable bit stream services that provide a high degree of differentiation for access seekers. In New Zealand they are looking at the possibility of providing competitive access to cabinets in suburbs. They are looking at issues of facilitating parallel competition—for example, access to ducts. Also, they have been looking at arrangements to promote equivalence. For example, as you may know in the United Kingdom there has been implementation of what they call functional separation. Similarly, New Zealand has been looking at that option, as have other jurisdictions.

**Senator LUNDY**—Is there anything else you want to throw in the mix?

**Mr Bryant**—They are the main things that come to mind.

**Senator LUNDY**—Thanks for that. Can I go back to the issue of the reach of ADSL. It is, I suppose, reflecting on the physical state of the network. Many years ago one of the exercises of the former government was this. I think the second telecommunications services review recommended the removal by Telstra of pair gain systems. Can you tell me whatever happened to that recommendation, given it was at least in theory adopted by the then government? What information can you give the committee about the current state of play with the pervasive place still of pair gain systems in the physical network, given the constraining effect on broadband services?

**Mr Bryant**—As a person who was involved in the review you are talking about, I think the recommendation was around a subset of the overall pair gain systems and related particularly to very old systems where there were allegedly problems in delivering voice services. As I understand it, the then government's response to that report was that Telstra would in fact phase those out. But I am happy to take it on notice to get that information to you.

**Senator LUNDY**—I would like the question taken on notice. My recollection is that, despite the telecommunications services review recommending that, the government's response was weak and it said, 'Only fix the pair gains where they break, relevant to the USO'—namely, where they could not get voice services. So there was no policy direction formally whatsoever by the previous government to rid the existing physical network of broadband blockers.

**Mr Bryant**—It was some time ago, so I agree with you that it is best to take it on notice.



**Senator LUNDY**—I still have some questions about the broadband guarantee, but I am happy to come back to those.

**Senator NASH**—Can I take you to the evaluation criteria, one of which is to roll out the broadband to 98 per cent of homes and businesses. Can you tell the committee how the figure of 98 per cent was arrived at?

**Mr Lyons**—The 98 per cent figure is an election commitment. The department provided advice to the government on implementing the election commitment and the structure and approach to the request for proposals. The request for proposals reflects the government's decisions on the best way to implement its election commitment.

**Senator NASH**—My question is probably best directed to the minister, then. Minister, how did the government arrive at 98 per cent as being a suitable figure for the evaluation criteria for the rollout of the fast broadband?

**Senator Conroy**—Is it too high?

**Senator NASH**—No. Given the technical nature of this—

**Senator Conroy**—I just wanted to double check. I would not have thought that a representative of—

**Senator NASH**—No. Given the technical nature of rolling this out across the country—

**Senator MINCHIN**—She'd like 100!

**Senator NASH**—I would like 100, absolutely. Thank you, Senator Minchin. Given the very technical nature of this, obviously to include it in the criteria the government would have had some assessment done on what was actually achievable. Otherwise one would assume it would not be in the criteria. What we are trying to understand is how that figure of 98 per cent was arrived at. If it was an election commitment—

**Ms Scott**—Senator, the evaluation criteria are under 1.4 and the Commonwealth objectives are under 1.3, and I think the reference to 98 per cent is under 1.3. They are interrelated, but I just think the distinction—

**Senator NASH**—I do not think this is something the department can actually help the committee with, given that the department has indicated that it was an election commitment.

**Ms Scott**—That is right. I was just trying to be clear that one is an evaluation criterion and the other is an objective. I just thought I would clarify that.

**Senator NASH**—That is fine. So, under the evaluation criteria, how did the government arrive at 98 per cent as being an appropriate figure—

**Ms Scott**—For the objective.

**Senator NASH**—for the rollout of the broadband to cover?

**Senator Conroy**—We talked at considerable length with the sector prior to the release of a number of policy papers. We consulted such august bodies as the National Party think tank, the Page Research Centre—try not to laugh, Senator Macdonald; I know that usually creates a laugh in your corner. After much consultation with the sector, we believed it was an

achievable objective, and so our election commitment was based around reaching 98 per cent of Australian homes and businesses.

**Senator NASH**—So the sector had given you an undertaking that technically it was feasible to roll this out to 98 per cent? Given that there is nearly \$5 billion on the table here to do this, I think it is very important to understand how the government arrived at this figure. So the sector indicated to you that there would be absolutely no problems getting 12 megs out to 98 per cent?

**Senator Conroy**—The original plan, you may remember, was for a six-meg proposal to 98 per cent of Australians. So, in terms of network architecture, it is a question of how much it will cost to reach the various levels. After extensive consultation with the sector, we believed that 98 per cent was achievable and so we decided to set that as our benchmark. You can ask me this a lot of different ways this morning, Senator Nash, but it is our stated policy and election commitment to reach 98 per cent.

**Senator NASH**—Thanks, Minister. I appreciate—

**Senator Conroy**—If you would like to announce a position where you believe it should be less—

**Senator NASH**—No. There is no need to get prickly, Minister. I am just trying to understand how you arrived at your decision—

**Senator Conroy**—No, I am not; I would welcome your contribution.

**Senator MINCHIN**—I think we are trying to work out, Minister, why it is 98 per cent, not 99, 97, not 100.

**Senator Conroy**—Well, I can only invite you to spend your time wandering around talking to the sector.

**Senator MINCHIN**—No, we are asking you why you—

**Senator Conroy**—But I have not heard one single potential bidder suggest that they cannot reach 98 per cent, and that may be a coincidence, or maybe we did a little bit of research and the hard yards before we put out policy document.

**Senator NASH**—All right. Minister, just on the geography of it, where is the two per cent beyond the 98 per cent?

**Senator Conroy**—I think I would have to refer that to Mr Lyons, because we are quite careful and clear in the RFP. I might defer to Mr Lyons just so he can take you through the RFP document.

**Mr Lyons**—The request for proposals is not prescriptive about what areas will be covered by the 98 per cent objective. The request for proposals asks proponents, as part of the competitive process, to demonstrate what areas they will cover and how their network will cover 98 per cent of Australian homes and businesses.

**Senator NASH**—I am at a bit of a loss to understand why it is not be prescriptive, because surely if—

**Senator Conroy**—Because it depends on which proponents want to put which nodes and where they want to put them—and this is about a competitive process. It maintains as much flexibility as it can for the Commonwealth. So we have not said, ‘You must build a node here,’ or ‘You must build a node there.’ We have left it up to the bidders as part of the competitive process to suggest what the best architecture is.

**Senator NASH**—Oh, okay. So it is not actually the technology that is going to restrict the 98 per cent; it is the proponents and how they think their best business case is going to stack up.

**Senator Conroy**—No—

**Senator NASH**—Isn’t that what you are saying, though, by saying there is no prescription for the two per cent?

**Senator Conroy**—That is not what I said at all. It is based on a range of—

**Senator NASH**—Mr Lyons just said there was nothing prescriptive about the two per cent, that it could be anywhere.

**Senator Conroy**—There were a range of incorrect assumptions that you made in that question. The RFP is very clear. The objective is very clear. The government’s election commitment is very clear—to reach 98 per cent of Australians’ homes and businesses. It could not be clearer. What we have is a competitive process where different bidders are bidding with different models or possibly the same models to reach 98 per cent.

**Senator NASH**—I am just trying to get an understanding here. You have no understanding, if you like, of where that two per cent is going to be. It actually does not matter to the government. My understanding was always that it was going to be those areas that could not be served by the technology and that is why there would be a remaining two per cent because the technology requirement was not there to get to that last two per cent. What you are saying is that the tenderers have the ability to just put in for any 98 per cent.

**Mr Lyons**—Perhaps if I could just assist in one regard, Senator. Section 1.3.1 of the RFP sets out a series of objectives for the National Broadband Network and one of the evaluation criteria is the extent to which the proposal meets the Commonwealth’s objectives. So it probably would not be appropriate to think that each objective is only considered in isolation. There are also a series of other evaluation criteria which eventually get to the capacity to deliver on those outcomes and also the cost to the Commonwealth proposal and value for money. So there are a series of objectives and criteria.

**Senator Conroy**—The previous government set up a process where it had a two-tier broadband network. It had a fibre to the node proposal for five capital cities and it abandoned regional and rural Australia to a second-rate network. Do not come in here and try and argue about 98 per cent. You were not interested in reaching 98 per cent; we are. You were not interested in reaching with genuine, cheap, fast broadband—

**Senator IAN MACDONALD**—Could I be a bit more specific? Do you, Minister, or do your staff read the submissions that were made to the national broadband inquiry by the Senate? Would your staff normally have a look at those?

**Senator Conroy**—I want to clarify what you mean by staff—my personal staff or the departmental staff?

**Senator IAN MACDONALD**—My question is: do you read, but I assume you do not. Did your private staff read the submissions?

**Senator Conroy**—I get a summary.

**Senator IAN MACDONALD**—That part is not a trick question.

**Senator Conroy**—The department has read them.

**Senator IAN MACDONALD**—The trick question is coming!

**Senator Conroy**—We do not think that my office has been supplied with a summary of them at this stage.

**Senator IAN MACDONALD**—This is the submission made to the Senate inquiry.

**Senator Conroy**—I am advised that some of my staff have read individual submissions at this stage, but a summary of all the submissions has not been supplied from the department.

**Senator IAN MACDONALD**—Do you speak with your state ministers about the broadband network?

**Senator Conroy**—I know where they're going!

**Senator IAN MACDONALD**—I am not sure if Hansard got that. I didn't quite.

**Senator CONROY**—He's sneaking up on me. He's sneaking up on my Queensland colleague!

**Senator IAN MACDONALD**—Your Queensland colleague is the one I am talking about.

**Senator Conroy**—That is what I am saying. You are sneaking up on me when you said you had not asked the real question yet, I was well aware where your real question was coming from.

**Senator IAN MACDONALD**—Let me get to the real question. Have you spoken to Mr Schwarten about it?

**Senator Conroy**—Have I spoken to him about it since his department put in their submission or he made his comments?

**Senator IAN MACDONALD**—At any time.

**Senator Conroy**—We have had some discussions broadly about the National Broadband Network and what we are trying to achieve, yes.

**Senator IAN MACDONALD**—Were you aware that Mr Schwarten in his submission indicated that the government needed to disclose which communities would miss out—that is, which of the communities were in the two per cent? Do you recall him saying that or have you spoken to him about that?

**Senator Conroy**—I have not spoken to him since his department put in its submission.

**Senator IAN MACDONALD**—Were you aware that the Queensland government was saying they might use some of their money to make sure that the two per cent were not part of Queensland and that all Queenslanders were entitled to access to this network?

**Senator Conroy**—We are very keen to work with all of the states. We have had a number of discussions with them. I think we have an OCC meeting coming up in December where I am sure matters of mutual interest around this issue will be discussed. I am expecting to have a discussion with Queensland and every other state about how we can work together. At the last meeting of the OCC we agreed to work together on these issues.

**Senator IAN MACDONALD**—So you would accede to his request for you to tell him which part of Queensland will be in the two per cent so that he can see how he can help out in making sure that they are not part of the two per cent?

**Senator Conroy**—As you have just heard from my discussion with Senator Nash, on 26 November we will receive competitive bids.

**Mr Lyons**—One further point is that the request for proposal does not prevent a proponent from talking to a state government or putting forward a proposal to maximise outcomes for a particular state and it certainly does not prevent a proponent covering 100 per cent of the state or in fact 100 per cent of Australia.

**Senator IAN MACDONALD**—Absolutely. But as I understand it the goal is that only 98 per cent will get it. The Queensland government has very sensibly—and I am pleased to see them doing this—said that they might be prepared to deal with the bidder and throw in a bit of extra money. But I am just asking Senator Conroy if he is aware of this, and if he is then he must be able to tell Mr Schwarten which part of Queensland would not benefit from the federal government's proposals.

**Senator Conroy**—Unlike the Howard government—which had 18 failed broadband policies—we actually have a plan to reach 100 per cent of Australians with improved broadband. Ninety-eight per cent will receive access to the national broadband network. The remaining two per cent will get access to the Australian Broadband Guarantee, to which we committed \$270 million—unlike the previous Howard government—to keep it going for at least another four years. On top of that we have also committed up to \$400 million to respond to the recommendations of the recently released regional telecommunications independent review, otherwise known as the Glasson review. We have not abandoned the two per cent in the same way that the previous government abandoned all but five capital cities. We have \$270 million for the ABG and we have \$400 million to respond to Glasson, which has made a string of recommendations that deal with this and that we will respond to by March, so we will be having discussions with our state colleagues. But, in terms of whether I will be giving Mr Schwarten information that I am not giving to you, the answer is no. We are involved in a competitive process, and on 26 November and going on from there we will be involved in a very serious bid to build a national broadband network.

**Senator IAN MACDONALD**—Minister, you are saying that only 98 per cent of Australia will be connected to the national broadband network but you are going to look after the other two per cent in the way that the bid previously accepted by the previous government was going to do.

**Senator Conroy**—The difference between your policy and ours is that you wanted to reach five capital cities with fibre and everyone else got wireless or satellite and any other mix of technologies. We are reaching 98 per cent of Australia's homes and businesses, and we have said this consistently, if you read all of our documentation, before the election and since, and we are conducting a review at the moment as well not just for the NBN process and not just for the regulatory review but also about the best way to do with the two per cent. Couple that with the Glasson committee. So in no way have we forgotten about the two per cent. We have set down a specific figure to get an improved broadband service.

**Senator IAN MACDONALD**—You are saying that 100 per cent of Australians will be connected to broadband?

**Senator Conroy**—They will get an improved broadband service.

**Senator IAN MACDONALD**—Will they all be able to access it?

**Senator Conroy**—They are going to get an improved broadband service through the ABG.

**Senator IAN MACDONALD**—That means they are all going to be able to access it. That is good. That is good news for Queensland, too, because they may not have to spend their money if you are going to arrange for that. Thank you very much for that, Minister.

**Senator MINCHIN**—I think it's an incontrovertible fact that, whether or not you or we like it, the two per cent that do not get the NBN will be controversial. Are you proposing, Minister, to consult at all with state governments prior to finalising the contract in terms of this two per cent? I am not trying to play politics here. Whether it was you or us, this two per cent would be controversial. The Queensland government and others are concerned about this. Have you built into your process some mechanism by which you will consult with state governments prior to finalising the contract? The contract itself will dictate which two per cent are not going to receive the NBN.

**Senator Conroy**—We have had to be very conscious of the fact that one of the potential proponents is a state government. That has made it very difficult. We have not been able to actually have at the ACC a full and robust discussion about it because one of the potential proponents has been a state government. We have been, again, probity 'slash' obviously constrained. That has been a dampener on our ability to have that sort of discussion.

**Senator MINCHIN**—Fair enough.

**Senator BIRMINGHAM**—Minister, what modelling does the department have to know that a particular bid does in fact cover 98 per cent of homes and businesses?

**Ms Scott**—This goes to the testing of the proposal?

**Senator BIRMINGHAM**—Yes.

**Mr Lyons**—I will pass to Mr Mason in a moment to talk through the provisions in the RFP but broadly speaking the request for proposal asked proponents to demonstrate how they will meet this objective and provide information to enable that objective to be evaluated. We are confident that the panel have a robust and fair process for evaluation. I would not like to go any further at this stage, given that we are in the middle of a live process.

**Mr Mason**—The RFP in schedule 2, as you probably are aware, asks proponents to provide a wide range of detailed information. One of the areas in which we ask for a large amount of information is obviously coverage. There, for example, proponents are asked not only to indicate what extent their coverage will be but also the methodology by which they have come to that number themselves. All that information, including the methodology that they have employed, will be assessed and the Commonwealth will also use the information available to it to assess those claims of coverage.

**Senator BIRMINGHAM**—Does the department have its own modelling that would allow it to assess whether a particular footprint covers 98 per cent of homes and businesses?

**Mr Mason**—Yes, we do. It is modelling that has existed for many years. For example, earlier I responded to Senator Lundy about the coverage of ADSL2+. That is the kind of modelling work that we do. There are a variety of approaches that can be used.

**Senator BIRMINGHAM**—Has that modelling been shared with the bidders?

**Mr Mason**—The RFP indicates what has been asked of bidders.

**Senator BIRMINGHAM**—Do bidders have access to that modelling that the government will use to assess whether a particular footprint captures 98 per cent of homes and businesses?

**Mr Mason**—As I said, there are a number of approaches to modelling and in the interests of a very comprehensive and thorough assessment of proposals we envisage using all those various tools. So there is no single set that we could give to proponents.

**Senator BIRMINGHAM**—The government has its own tools. Is it right to take from what you are saying, Mr Mason and Mr Lyons, that whilst the government has its own tools it is incumbent upon bidders to create or utilise their own different models in their bids?

**Mr Lyons**—Senator, I said at the start that I was confident the Commonwealth would have a robust evaluation process but I also said that I would prefer not to comment in further detail about discussions that are live and are happening with proponents on particular issues.

**Senator BIRMINGHAM**—How does this approach differ from that of—

**Senator Conroy**—You do not want to ask this question.

**Senator BIRMINGHAM**—I am happy to get the answer, Minister. I am always happy to get the answer, as long as it does not involve a longwinded tirade from yourself. How does this approach differ from that of the OPEL negotiations that allegedly broke down over differences of opinion on the extent of coverage?

**Senator Conroy**—Feel free to accurately state the reason it broke down, for a start.

**Mr Lyons**—To answer that question in full, I think we need to pass first to Philip Mason to describe the coverage methodology issue in respect of the national broadband network and then perhaps to Mr Bryant to talk about the OPEL issue. But, in broad terms, the department does not take the view that the OPEL situation related to a difference in opinion or a misunderstanding about methodology but to a failure to comply with a condition precedent in a funding agreement. What we are discussing in relation to the national broadband network is an approach to evaluation, whereas the OPEL issue related to compliance with a condition precedent in a funding agreement. I will pass to Mr Mason first just to talk about what we are

talking about in terms of 98 per cent coverage of Australian homes and businesses and then perhaps to Mr Bryant to talk about the OPEL issue.

**Mr Mason**—Thanks very much, Col. The most important and notable difference between this NBN process and the OPEL process, as I understand it, and I was not intimately involved in the OPEL process, is that we are focusing on coverage of homes and businesses, which is defined in the RFP as premises that are residences, places of business and other day-to-day functions of government, hospitals, schools et cetera. So we are actually looking at coverage of premises in total, whereas the OPEL process, as I understand it, was looking at underserved premises.

**Mr Bryant**—That is correct. I cannot talk at all about the NBN process but, in term of the OPEL process, the objective, as you may recall, was to get broad coverage of underserved premises across regional, rural and remote areas through a competitive applications process. In order to provide guidance to applicants, the department issued an indicative list of underserved premises against local government areas, I believe, for applicants to respond to, along with all the other selection criteria that applied to the program. Responses to the call for applications in terms of coverage of underserved premises were assessed against that common database.

**Senator BIRMINGHAM**—Noting that there is some disagreement between the department and the OPEL proponents on what caused the breakdown of the OPEL contract, certainly on the side of the proponents some of that seems to relate to issues of coverage and different modelling on issues of coverage. Would it not be a more certain way forward under the NBN process for the government to provide its methodology to prospective bidders?

**Senator Conroy**—It is a statistical fact; 98 per cent of Australian homes and businesses is just a statistical fact.

**Senator BIRMINGHAM**—It is a statistical fact except that everybody is actually using different modelling as to how they—

**Senator Conroy**—The previous one you were alluding to was not based on the same assessment process at all.

**Senator BIRMINGHAM**—I understand that underserved premises is different from ‘all homes and businesses’ and so on. But, nonetheless, how does a bidder or the government get to define 98 per cent of homes and premises in terms of their reach from particular nodes and knowing whether or not a particular footprint of coverage reaches 98 per cent? That is what it comes down to.

**Senator Conroy**—Are you suggesting that bidders would actually put in false bids?

**Senator BIRMINGHAM**—I am suggesting that—

**Senator Conroy**—Are you suggesting that they would put in a bid that there is a 98 per cent—

**Senator BIRMINGHAM**—Minister, I am suggesting there is a risk that their modelling of what their footprint covers may differ from the government’s model. What I want to understand is why the government will not share its modelling of how it will calculate 98 per cent coverage with those bidders.



**Senator Conroy**—Are you suggesting people will put in a false bid?

**Senator BIRMINGHAM**—Not at all. What I am suggesting is that different modelling can come up with different results.

**Ms Scott**—I think your question asked us our opinion on whether the RFP should be different from what it is. The department spent a great deal of time preparing the RFP and considering the government's election commitments, obviously, in determining what should be in the RFP. I do not think we share your concern that—

**Senator BIRMINGHAM**—At least one of the bidders, in giving evidence to the select committee, indicated that they have corresponded with the government with concerns, seeking clarification about how the 98 per cent will be calculated and what modelling will be used. Has the government provided such clarification to all prospective bidders?

**Mr Lyons**—That goes to the heart of the management and running of the RFP process—bilaterals, clarifications with proponents. So I would prefer to take that question on notice rather than provide an answer that might raise a probity issue.

**Senator MINCHIN**—Let me just clarify. One of those difficult tasks you will have in assessing bids is determining that in fact the bid—in other words, the technical proposal—will indeed reach 98 per cent of Australian households, whichever 98 per cent we are talking about. The most difficult job you will have is actually coming to a view about the veracity of the bid with respect to that objective.

**Mr Lyons**—I would not like to comment on what would be the most difficult job or what would not be the most difficult job in an evaluation of this kind with the series of objectives that the government has set and the request for proposals.

**Senator Conroy**—We have set 18 objectives. Each of them will be part of a lively and robust discussion, which is why we are reluctant to be drawn into conversations about which is the most difficult. I don't think that is what you are trying to do, Senator, to be fair.

**Senator MINCHIN**—No. I do not want you to put a hierarchy on it, but we just want to be clear that that is one of the tasks that, presumably, the panel advised by the department will be required to undertake in assessing the bids.

**Mr Lyons**—Yes, and bidders have been asked to demonstrate how they will achieve 98 per cent.

**Senator MINCHIN**—You simply cannot take it on face value—that is all I am saying.

**Mr Lyons**—No, that is true.

**Senator BIRMINGHAM**—I note you will provide some clarification, Mr Lyons, of what you can, taking that notice.

**Senator Conroy**—If it is possible, according to the probity officer.

**Senator BIRMINGHAM**—Yes.

**Senator FISHER**—Mr Lyons, your department said in response, I think, to Senator Birmingham that there were a variety of models that were available in terms of determining

the 98 per cent and I think in passing indicated they are not particularly new. Are they on the public record somewhere, if they are not new?

**Mr Mason**—I will respond. I did not imply, I think—I hope—that there are a variety of models. It is more that there are different methodologies and different data sets you can use, for example.

**Senator FISHER**—All right—different methodologies, different data sets.

**Mr Mason**—In relation to the publication of the approaches that are used, the results are frequently published but I do not believe the methodologies have generally been published. But I think they are fairly well known to people who work in the field. For example, one approach—no, I probably should not speculate, actually.

**Senator Conroy**—No. I think it would be better if we took your question on notice, in addition to what Mr Mason has told you.

**Senator FISHER**—All right then. My supplementary question is: to the extent that they are on the public record, can you please indicate what they are and where you can access them?

**Mr Lyons**—Sure.

**Senator LUDLAM**—I would like to change tack a little bit, if that is okay. In evidence that the department submitted to the select committee, you referenced a group called the Australian Communications Consumer Action Network, but there was not a great deal of detail as to what that network is, the make-up of the group, its activities and so on. I want to bring us around, I suppose, to a consumer focus or a user focus. Can you just fill us in on what that group is and what it will be doing?

**Mr Besgrove**—The Australian Communications Consumer Action Network is a body which is currently being formed. It was being developed as a direct result of a consumer forum, which the minister organised and which he attended, on 1 May here in Canberra. It will be brought together over the next few months, we believe. I understand that its business name was registered only a few weeks ago. It will be a peak body for communications, consumer and disability groups. The number of groups likely to participate in the new peak body is still growing, but at last count there were over 30 different organisations that had expressed some interest in being part of the new entity.

**Senator LUDLAM**—Okay. So it is still the process of formation. When will the group convene?

**Mr Besgrove**—It is likely that the group will actually formally commence operations at the beginning of next financial year. I think the government's intention is that it would be funded under the section 593 grants. Those grants have been provided to consumer and disability groups over the last 10 years, I believe, and in the past there has been funding for up to about 10 or 12 different small groups. Part of the intention behind the formation of ACCAN, as it is becoming known, is to have a single funding arrangement with a peak body which would subsume a number of those smaller functions. What the government is, I think, attempting to achieve is a consolidation and some economies of scale and to try and, if you like, place the

representation of consumer and disability groups on a more professional footing than we have been able to see over the last couple of years.

If I might just digress, part of the background to the formation of this group was a growing dissatisfaction by all of the stakeholders that were involved. The consumer groups themselves had some dissatisfaction with their ability to pull together well-resourced and professional submissions to government and to industry. The industry itself had expressed some dissatisfaction, and, for the government's part, I think there was a concern that these groups could be placed on a more professional footing.

**Senator LUDLAM**—Thank you. Presumably there would be funding to match to enable them to perform that role; do we see anything in the forward estimates about what kind of funding that body will require?

**Mr Besgrove**—The current funding for section 593 is \$800,000 per annum, and there is one more year of that to go. Any discussion or decisions in relation to future funding are subject to the budget, and I cannot go into that.

**Senator LUDLAM**—Okay. I note you said that it is not likely that that group will convene before next year, so I take it there is no formal role for that group then in determining the way this bid process will be undertaken. Who is providing the consumer or the user input, if you will?

**Mr Besgrove**—There are a number of existing groups which are funded under section 593. We can table that information. I think there are a total of nine or 10 groups that are currently receiving this year's funding, and they are continuing to perform their existing roles, but a number of them were directly involved in the discussions which resulted in the proposal to form ACCAN. Those groups formed a working party which provided a report to the minister on 1 August; the minister is currently considering a range of recommendations which were included in that report.

**Senator LUDLAM**—I am trying to work out whether this process of the formation of ACCAN and the NBN tender process are in any way kind of informing each other, or they are separate processes. I am just wondering particularly if these groups have informed you, formally or informally, of dissatisfaction in not being able to fit into the process, effectively. It sounds as though they are going to miss the boat, really, because they are not forming until well after the tender will have been let.

**Ms Scott**—Senator, I might have a go. Mr Besgrove's answers are correct, but this will just put it in a bit more context. There has been a feeling for some time that it would be ideal if some of these groups that are very small in their nature—they often have only one or two employees and rely on voluntary research—could come together in some sort of a federation, not dissimilar to what I guess happened with ACOSS. The minister and the government have effectively facilitated this by first off holding a forum where both industry and consumer groups were represented. That was very well attended and there was lively discussion. That occurred in May this year. The government has provided some seed funding to allow facilitation of those groups to bring them together to see if they can work on a constitution and work together. It is the case that many of those groups have got very harmonious working relationships, but it is whether they can form a concrete body or a common alliance that is

really at the heart of this matter. They have effectively formed an interim board, with board members determined.

I guess what you are seeing are the early signs of an important convergence of consumer groups. In some ways the importance of the NBN has acted as a spur to that but it is also happening because I think the government is keen—as is the department—to ensure that we try and bring these groups together because they will have a more effective voice if they are actually united. There is a relationship between the two processes, but it is not as though one is dependent on the other. They can be considered exclusive events but they do interact with each other. I think the consumer groups are very conscious that this is a very important process and they would like to have a very strong voice in it.

**Senator LUDLAM**—To be clear: the Commonwealth government will be resourcing this non-government network to look after the interests or advocate for consumers. The direction of where this is going is this. It was put to the select committee that the national broadband network or broadband services in general are taking on the characteristics of an essential service, particularly in regional areas. People are banking and getting medical advice. More and more are converging and will continue to converge into the broadband network. There seems to have been very little conversation in public about the consumer end. We have spoken a lot about the competitive process and open access and so on, which has obviously important equity implications, but there has been very little discussion about the consumer end or the user end. I am just wondering what the government's strategy is. There is a non-government network forming, which you are helping to enable.

**Ms Scott**—Correct.

**Senator LUDLAM**—What do you see as the government architecture of consumer protection as far as broadband is concerned?

**Ms Scott**—The fact that the ACCC is involved in the process and it has, obviously, consumer interest—

**Senator LUDLAM**—Sorry—just to hold you up there. We put these questions to the ACCC in the hearings and they were actually very hands off as far as the consumer side of things was concerned.

**Ms Scott**—Yes, but the fact that the—

**Senator Conroy**—They have legislative requirements.

**Ms Scott**—Yes. I think we might be talking at cross-purposes. The ACCC will be involved in the process of advising the expert panel on its perspective. Senator, I think before you were in the room we answered a number of questions about the role of the ACCC. Part of the role of the ACCC in the process is to safeguard aspects of consumer outcomes. The expert panel has had the benefit of submissions from consumer groups in relation to the NBN process.

**Mr Lyons**—Several consumer organisations responded to the government's invitation for submission on regulatory issues to do with the NBN, including: the Australian Telecommunications Users Group; the Telecommunications and Disability Consumer Representation, TEDICORE; and a number which have representation on the founding board of the Australian Communications Consumer Action Network, such as the Internet Society of

Australia and the Consumers Telecommunications Network. It is probably worth detailing the relevant provisions in the request for proposal which go to the question of consumer safeguards.

**Mr Mason**—I was just going to draw the committee's attention again to the objectives. I was not proposing to read them but I just wanted to emphasise that the majority of them really do go to improving the outcomes in the broadband space for consumers. For example, we obviously have objectives in relation to coverage and speed, the quality of services, the range of services, pricing approaches and capacity. Objective 12 in particular, for example, is about the network providing benefits to consumers by providing choice to run applications, use services and connect devices at affordable prices. So the RFP is very much focused on consumer outcomes. I think one reason that is the case—apart from the obvious, which is it is what the government wants to achieve—is there was a consultation process in relation to the drafting of the RFP to which many consumer organisations submitted.

Another point of the RFP that I would draw your attention to is in the schedule which relates to the kind of information that is requested of proposals, and section 3 deals with legislative and regulatory issues. Section 3.1(c), for example, particularly indicates that proponents should specify any changes arising from proposed arrangements that affect, but are not limited to, the following areas of regulation, which include consumer safeguards quite explicitly. So there is a large focus on consumers in the preceding paragraph. Again, there is a request for information from proponents about the impact of any proposed legislative changes on consumers.

**Senator LUDLAM**—Okay. So that is how it is fed into the process thus far. What can you tell me about what sort of consideration you are taking about potential once the tender has been let and networks are under construction? What is the consumer protection architecture looking like from the government's point of view—for example, what role for an ombudsman, given the fact that this is becoming, every day, more and more of an essential service?

**Mr Lyons**—It would be a matter for government to determine the regulation framework that should apply once the national broadband network has been rolled out, including in relation to consumer issues. That is all part and parcel of this competitive process. The public submissions have been received, then there are the specific proposals in regard to regulation and then the government's final decision on what regulatory proposals are acceptable and what regulatory framework should apply to the national broadband network, including in relation to consumer issues.

**Senator LUDLAM**—Perhaps this question is to the minister. So the government does not have a formal view as yet as to what role the government is going to take in consumer protection? Are you waiting to see what the proponents propose?

**Senator Conroy**—Unfortunately, you are moving slightly into an area that will be part of a negotiation that is going to take place after 26 November. We are acutely conscious and have stated upfront for many years since we first released our policy that it has got to be open access so that people can get a competitive position. There are a number of other areas about pricing. They are critical and at the centre of the negotiations, so open access and pricing,

which are two of the most fundamental—if you talk to any of the consumer groups—consumer issues, go to the heart of the actual negotiations. I am not in a position to comment too much more than that. If you would like to expand on your question, I might be able to give you a better indication.

**Senator LUDLAM**—I think we are somewhat at cross-purposes, Senator.

**Senator Conroy**—We might be at cross-purposes but some of those absolute core issues go to the heart of the negotiations.

**Senator LUDLAM**—What I am trying to get to, I suppose, is: as it becomes more and more of an essential service, are you satisfied with the level of consumer protection that is in place at the moment? Particularly, considerations of open access are of much more interest to service providers and companies that are providing services online, which is very different to a person sitting at home trying to use the network when something is going wrong with that service provider or so on. It is at the consumer end of things, the user end. All we really have heard about is at the service provider end, with the open access and the pricing and so on. Very different questions emerge as more and more people are coming onto the network and using it for more essential services. Is the government going to wait for proponents to put forward ideas about consumer protection or are you bringing things into that debate?

**Senator Conroy**—There are an existing set of mechanisms at the moment that cover telecommunications: customer service guarantees, universal service obligations and a raft of protections like that. We have them under ongoing review all the time as to whether they are meeting the needs. The TIO, for instance, has been flooded by mobile service premium complaints, and so the TIO has been struggling to meet all of its consumer complaints. We have met and talked with the TIO; it has been part of these consumer negotiations you have just been having outlined to you. It is very supportive of the changes that we are making. We are not sitting on our hands saying, ‘No, we don’t think there’s any need for improvements at any stage.’ We do not want to jump the gun.

One of the reasons we have embarked on this process with the consumer groups is to give them a stronger voice because we do not want to see what has happened over the last 11½ years, where consumer groups have been defunded, gagged and basically neutered in every way, shape and form. We actually want to empower consumers, so we have set out to empower consumers. There is no gag. I have said to them openly that I expect to hear from them; I expect them to be saying what they think are the flaws in the system. So we are not going to hide behind gags or behind pretending we are funding them when we are really cutting back their funding.

**Senator LUDLAM**—I have put this question to the department before, but you might have a different take on it: what sort of budget should we be looking for?

**Senator Conroy**—That is just a little too early for us. We are in the early stages of the budgetary process. We are obviously in a situation where we want to give them a greater ability to be in the debate, but I think it is probably just a little too early.

**Ms Scott**—Yes.

**Senator Conroy**—But we are looking at all of those sorts of issues.

**Senator LUDLAM**—Okay. I will leave that line there. Madam Chair, I want to change the subject dramatically.

**CHAIR**—To what?

**Senator LUDLAM**—I want to talk about the cyber-safety plan that the government is working on.

**CHAIR**—Let us just see if we have further questions on this. I think Senator Fisher had some questions on the same topic.

**Senator FISHER**—I have questions on the broadband guarantee.

**Senator Conroy**—We are normally getting blocks of questions.

**Senator MINCHIN**—Are we still on NBN?

**CHAIR**—We are still on NBN.

**Senator FISHER**—The RFP talks about delivering access for 98 per cent of homes and businesses to a broadband network that uses fibre-to-the-node or fibre-to-the-premises network architecture. Does that mean that the 98 per cent of homes and businesses, however they are defined, will have access to either fibre to the node or fibre to the premises?

**Mr Lyons**—The RFP sets out a series of objectives, and proponents are going to be assessed, at least with one of the evaluation criteria, on the extent to which they meet those objectives.

**Senator FISHER**—So the 98 per cent, however it is made up, will not necessarily have access to either fibre to the node or fibre to the premises.

**Mr Lyons**—But there are a series of objectives which include getting coverage to 98 per cent of Australian homes and businesses, using fibre architecture, of a minimum of 12 megabits and capable of upgrade. So there are a series of objectives in the RFP, and all proponents are going to be assessed on the extent to which they meet all of those objectives.

**Senator FISHER**—Could a proponent meet the objectives by proposing to give access to fibre to the exchange to 98 per cent of homes and business premises, for example?

**Mr Lyons**—You are raising a hypothetical example about how proposals might be evaluated.

**Senator Conroy**—All exchanges have fibre to the exchange at the moment.

**Senator FISHER**—My question, therefore, is: what is being promised in terms of delivery to 98 per cent of the population, however defined? Is it either fibre to the node or fibre to the premises? Mr Lyons has said, 'Well, it depends.'

**Mr Lyons**—I do not know that I said it depends. I am sorry.

**Senator Conroy**—I do not think he said that at all.

**Mr Lyons**—I do not remember using those words.

**Senator FISHER**—Essentially.

**Senator Conroy**—No, I do not think you can do that. I cannot let you put words in Mr Lyons's mouth. I do not think he said that at all.

**Senator FISHER**—What will be being delivered to 98 per cent of homes and businesses in respect of access to fibre? Where will that fibre go—any further than it currently goes?

**Senator Conroy**—You are asking us to speculate. You cannot build a fibre-to-the-node network unless you are going to put more fibre in the ground than currently exists. Let us be clear about that. But you then asked us to speculate on the nature of potential bids. Some bids may incorporate some fibre to the home. Some bids may incorporate no fibre to the home. We do not know the answer to that question because the bids are not in yet. Can I say that even in February when we return, if we are still in the process of going through this we will not be able to answer that question because that would be asking us to speculate on commercial-in-confidence bids.

**Senator FISHER**—But Minister, your government has promised 98 per cent of homes and businesses access to fibre. You must have some idea of what that looks like. On what basis are you making that promise—fibre to the node, fibre to the premises?

**Senator Conroy**—This is not an accident, Senator Fisher—and I have said this to some other senators previously—but the government has deliberately maintained flexibility in the process by not prescribing specific outcomes in order to encourage proponents to put forward innovative proposals that satisfy the Commonwealth's stated evaluation criteria. We set up a process designed to create competitive tension and you would have to say, from the amount of debate backwards and forwards in the paper, that it is working.

**Senator FISHER**—Okay. So the RFP talks about using fibre-to-the-node network architecture or fibre-to-the-premises network architecture. Is network architecture any better than or any different from fibre to the exchange?

**Ms Scott**—Yes.

**Senator FISHER**—What does 'network architecture' mean?

**Mr Mason**—Network architecture generally refers to the design and technology used—the structure of the network and the technologies used in delivering services over it. In relation to whether fibre to the node would include the rollout of fibre to the exchanges, the exchanges now generally are connected by fibre.

**Senator FISHER**—I understand that. My question is: what better is going to be delivered through this process in terms of access to fibre? I am not getting an answer.

**Senator Conroy**—No, you are getting an answer but perhaps I can help. At the moment copper largely comes out of exchanges. The properties, according to the laws of physics, are that, if you want to push ADSL down a piece of copper, about the limit you can push it is four kilometres—some would argue it is a bit more, some would argue it is a bit less so do not hold me to exactly four kilometres. If you want to push ADSL2+ down a piece of copper out of an exchange, it would probably go about 1,500 metres from an exchange—again, some would argue it is a bit more, some would argue it is a bit less. If you want to push VDSL down a piece of copper, it is about 900 metres—roughly, some would argue. The improvement you get by putting more fibre in the ground and building out closer to homes is the capacity to push the higher grade of broadband down the fatter pipe—to use a really technical term. At the moment, consider a piece of copper as a thin pipe and a piece of fibre is



a fat pipe. The closer you build fibre to homes, the more you improve the capacity of the services and products that are able to be pushed down the pipe. I hope that gives you some extra explanation.

**Senator FISHER**—Is that what your promise will deliver, Minister?

**Senator Conroy**—That is exactly why we are proposing a fibre-to-the-node build.

**Senator FISHER**—So it will be fibre to the node that is delivered within five years for 98 per cent of homes and businesses?

**Senator Conroy**—They are the stated objectives within the RFP. We are not in a position to comment, because we do not know what is in the bids yet. I repeat: even if we come back in February and we have not finally resolved this, I will not be able to comment on what is in the bids then. I hope you will understand that. The reason that we are proposing this particular national broadband network is the very reason of wanting to be able to reach people's homes with the capacity to receive the services that other countries are now receiving, which we are denied because the copper in the ground just cannot deliver it. It can do a lot of good things; it is not to say that you have to rip every piece of copper out, and we are not proposing that. Fibre to the node does not involve ripping all the copper out. The premise of this, by definition—

**Senator FISHER**—So that capacity could be prospective in terms of the tender bids? So a tenderer could say: 'This is our proposal as of the moment; it does not involve, within the next five years, any fibre beyond exchanges but we have capacity to build fibre from exchange to node and/or fibre to premise'? Would that be satisfactory to satisfy the government's promise?

**Senator Conroy**—You have now strayed into what are clearly serious negotiating areas about what is acceptable to the government or not. I am not in a position to speculate.

**Senator FISHER**—You earlier said that you are not going to pick a winner and then decide the terms and conditions, so I think it is a fair question to ask what your terms and conditions are, and I am hearing that they are totally negotiable.

**Senator Conroy**—Mr Mason is champing at the bit.

**Senator MINCHIN**—I would like to talk about funding. You have properly said that competitive process and competitive tension is critical in this, and I agree. But Telstra has stated absolutely categorically and without reservation that it will not bid unless the government rules out any further enforced separation in relation to the structure of Telstra. Are you prepared to rule that out, and, if not, to what extent are you worried that Telstra will not bid if you do not rule it out? It is a serious issue and it goes to your properly designated objective of ensuring competitive tension in the bidding process.

**Senator Conroy**—I have seen commentary that Terria and Optus will not bid if there is further regulatory reform in terms of this. So, on the one hand, you have one potential bidder saying, 'Rule it in,' and another saying, 'Rule it out,' and both saying, 'We won't bid unless we get what we want.' As I have said publicly, I would urge you to take a deep breath before you start pursuing these statements in the media. They are speculation, and we are not going to be drawn into commenting on individual statements. If you had been in the portfolio previously, you might have seen statements that the cost of the NBN was \$25 billion.

**Senator MINCHIN**—I have seen that.

**Senator Conroy**—The same individuals in the corporation now say it is between \$10 billion and \$15 billion. So there are lots of traps there to get drawn into, and we have steadfastly refused to comment on public speculation—

**Senator IAN MACDONALD**—Like you did as opposition spokesman?

**Senator Conroy**—and we are going to continue to be not drawn in to speculating—whether it be here, publicly or in question time—about individual statements by potential bidders.

**Senator MINCHIN**—There is a public policy issue here as to whether or not the incumbent vertically integrated operator should or should not be further separated—

**Senator Conroy**—And what is your view, Senator Minchin?

**Senator PARRY**—We ask the questions.

**Senator MINCHIN**—Regrettably, you are now the government, Senator Conroy, so my views are utterly irrelevant—what matters is your views, in fact. Surprising as it may seem to the Australian people, your views actually do matter; mine do not.

**Senator Conroy**—Mr Billson took a very courageous position. He went out there and said he supported separation. Is that still the opposition position?

**Senator MINCHIN**—You are the government, Senator Conroy; it is your position that matters and not mine, Mr Billson's or anybody else's. This is a major matter of public policy as to whether or not the government is open to the further separation of the incumbent provider or not. I appreciate your desire to hide behind the veil of the current tender process but it is a fairly major public policy issue, and one can only assume that, if you are not prepared to comment at all on it, the government is open to further separation of Telstra.

**Senator Conroy**—Again, just last month, Mr Trujillo noted in a speech:

Number one the RFP does not include separation as a requirement. So that's an interesting fact that doesn't get reported much.

That is Mr Trujillo. So you have just got to be careful about buying into each individual comment or piece of speculation from any organisation, particularly one with as many spokespeople as some organisations seem to have. I am just noting to you—

**Senator MINCHIN**—So we can take it from his correct observation that there is no such requirement, that it is not a requirement.

**Senator Conroy**—You could also take it from having read the documents, Senator Minchin. It is fairly straightforward.

**Senator MINCHIN**—Then you should be able to rule it out.

**Senator Conroy**—No, the documents stands as it stands, okay? And after having—

**Senator MINCHIN**—So you are not ruling it out?

**Senator Conroy**—No, Senator Minchin, please stop trying to put words in my mouth. Mr Trujillo has read the document—

**Senator MINCHIN**—Well, we and the public are very confused.

**Senator Conroy**—Mr Trujillo has read the document, and again I repeat the quote:

Number one the RFP does not include separation as a requirement. So that's an interesting fact that doesn't get reported much.

That is as black and white as it gets.

**Senator MINCHIN**—Yes, I have read that, but he is also reported as saying that Telstra will not bid unless and until the government rules out any further separation of Telstra. He has also said that, has he not? Would you like to confirm that?

**Senator Conroy**—I do not—

**Senator MINCHIN**—Are you telling me you do not know that he said that?

**Senator Conroy**—No, I am just questioning whether you have accurately reflected his comments, Senator Minchin.

**Senator MINCHIN**—Right.

**Senator Conroy**—I do not know that those are the exact words he used. I note you are not reading a direct quote from his speech, so I am just being cautious about being drawn into commenting on something that may or may not be 100 per cent accurate. But we stand by the RFP process. We are not going to speculate on this. We invited a regulatory debate. We set up a complementary process that was designed to promote the debate around the regulatory structure needed in this country into the future. We are not afraid of it. We are very conscious that proponents have got very vocal, active views. They are continuing to press them and they will continue to press them right up until 26 November, and I am sure they will continue to press them after 26 November. We are not going to—

**Senator MINCHIN**—You have entirely avoided the issue. But can I turn to funding, if I may. Your policy document indicated that the \$4.7 billion of public moneys that will go into this will be drawn on the following basis: \$2 billion from the Communications Fund, which the previous government established, and \$2.7 billion from the sell-down of Telstra shares in the Future Fund. Is that an accurate reflection of the Labor Party policy document?

**CHAIR**—Just while the officers are looking for the information—we are going to lunch at one o'clock, so can we finish up this line of questioning.

**Senator Conroy**—To be absolutely accurate, I am happy to break now, if you want, and come back.

**Senator MINCHIN**—To confirm that—

**Senator Conroy**—Yes. I want to make sure we get it absolutely right for you.

**Senator MINCHIN**—I am happy to quote it to you if you like.

**Senator Conroy**—No, we have got the budget papers here right now.

**Senator MINCHIN**—No, it is the policy you took to the election.

**Senator Conroy**—I am very conscious of what the policy document says.

**Senator MINCHIN**—It said:

Labor ... will use the remaining Telstra shareholding to finance the creation of a national broadband network for Australian businesses and families.

**Senator Conroy**—Yes, that is what it says.

**Senator MINCHIN**—Right; that is what it says. I am just establishing the policy you took to—

**Senator Conroy**—I am just conscious that it is one o'clock.

**Senator MINCHIN**—I am just establishing—and then we will come back to it—

**Senator Conroy**—We will come back to it after lunch.

**Senator MINCHIN**—that it was a sell-down of shares in the Future Fund that would provide the \$2.7 billion.

**Senator Conroy**—Happy to come back to it after lunch.

**Senator MINCHIN**—Okay. Thanks.

**CHAIR**—We will suspend proceedings for lunch.

#### **Proceedings suspended from 12.59 pm to 2.03 pm**

**CHAIR**—We might resume proceedings. Sorry for the short delay. Just before we do go back to the national broadband network, which is where we are at, the committee has had a private meeting and agreed to a slight change in the schedule for the proceedings today. At this stage it is the intention of the committee to continue with this portfolio area beyond the stipulated time of seven o'clock and indeed until the evening tea break at 9.30 approximately, and thereafter we will go to the arts portfolio.

**Senator Conroy**—So we are still having dinner at six?

**CHAIR**—Yes, dinner has not changed. I understand the arrangements are okay with your office, Minister.

**Senator Conroy**—There would be all sorts of problems if that was the case.

**CHAIR**—We will not deny you your dinner. That having been said, we will move on.

**Ms Scott**—Chair, I did offer to provide information on communications activities. That was in response to some early questions regarding how much money we were spending on a variety of activities. I indicated at the time we had spent a little bit of money on the ABC/SBS board appointments—the fact that there is now a process—and we have spent approximately \$92,000 on national, metropolitan and regional newspaper and radio advertising for print handicapped.

With regard to the ABC/SBS review announcement, we will be spending money in regional newspapers and foreign language newspapers and have spent some money on national and major metropolitan newspapers—\$31,439 to date, with another \$40,000 expected. The Digital Switchover Taskforce has \$6.7 million to spend on the development and launch of a labelling scheme over four years starting in 2008-09 and an e-security awareness program, which includes a National E-security Awareness Week, e-security education package for schools, an easy-to-understand alert service and enhancement to the Stay Smart Online website. Funding

has been provided of \$8.9 million over four years starting in the financial year 2007-08. I would be happy to table that in answer to the question.

**CHAIR**—Yes, please do so. Thank you.

**Ms Scott**—There was also a question about dates of correspondence with councils regarding the black spots program—I do not know if you recall that—in terms of when the department had written. The department wrote to the relevant progress association relating to the Lower Hawkesbury proposal, which involved Network 10, on 27 May and also to the Gold Coast City Council on 30 September regarding their program. In terms of the last one, we had not heard from the Gold Coast City Council for some time. Really, it was just to ensure that people knew the final outcome had not been a very active engagement in recent times. So those two dates are on the record now.

**Senator BIRMINGHAM**—Just in relation to that advice, Ms Scott, has there been any response from the Gold Coast council or the progress associations?

**Ms Scott**—I will just check. No, Senator.

**Senator BIRMINGHAM**—Thank you.

**CHAIR**—Thank you very much, Ms Scott.

**Senator Conroy**—I was about to answer a question Senator Minchin had asked. Consistent with the government's commitments, a provision for the national broadband network is to be included in the contingency reserve, pending the determination of the successful proponent. This is documented on page 99 of Budget Paper No. 2. Budget Paper No. 1 identifies where the funds will be sourced. I refer you to page 7-6 of Budget Paper No. 1, which states that government will close the Communications Fund and transfer its assets to the BAF, the Building Australia Fund. The BAF will also receive \$2.7 billion from the Telstra 3 sale process.

**Senator MINCHIN**—Thank you, Minister. I am aware of that. I am not being tricky at all, but I am just trying to establish that Labor's original proposal from opposition in its policy document was that it would use the remaining Telstra shareholding to finance the creation of a national broadband network for Australian businesses and families, and that statement is in the context of the further sell-down of Telstra shares. So I am just presuming that when you drew up this policy you were proposing to use the Communications Fund and then proceeds from the Future Fund's sale of its remaining Telstra shares. That was the policy you took to the election, as I understand it. Then we had in the budget statement that then Finance Minister Tanner announced in June that the government had received \$6.5 billion in final instalment payments for T3. He said it rather excitedly for someone who had bitterly opposed the sale of T3, I must say, but I am delighted for him that he received such a good response to the second instalment of T3.

**Senator Conroy**—You're blushing!

**Senator MINCHIN**—But what he said there was that, of that \$6.5 billion, \$3.9 billion would go to the Future Fund and the \$2.7 billion would go to the Building Australia Fund. Now he does not actually say so, but presumably that \$2.7 billion is the \$2.7 billion to come out of the BAF and go into the NBN. Would that be correct?

**Senator Conroy**—Yes.

**Senator MINCHIN**—Can you just indicate at what point the government actually made this decision to change its method of funding the NBN, because clearly there was a decision at some point not to rely on the sale of the Future Fund shareholding but indeed to grab a slice of the T3 second instalments? I just want to know when that decision was made, why it was made and who made it.

**Senator Conroy**—I am happy to give you that information, Senator Minchin. I probably just need to take it on notice to make sure I give you the exact detail. You are asking for a particular date. I just want to make sure I give you the right date, so I am happy to give you that information but take that on notice.

**Senator MINCHIN**—But you can confirm there has been—

**Senator Conroy**—No, there is no intention to try to double dip on future sales. This covers off on the \$4.7 billion.

**Senator MINCHIN**—Okay. While I am on it, presumably there is, as we touched on earlier, more in the Communications Fund than \$2 billion because the interest that has accrued in the period that it has been there must be a couple of hundred million. Are all of the proceeds transferred to the Building Australia Fund?

**Senator Conroy**—All of the proceeds are transferred across to the coms fund and from the coms fund to the BAF. We had always indicated that there was \$400 million available for the Glasson review and that \$400 million is available for the Glasson review. In terms of the funding of the \$400 million, cabinet has taken a decision to fund the \$400 million on budget.

**Senator MINCHIN**—Right, not out of the BAF?

**Senator Conroy**—Not out of BAF.

**Senator MINCHIN**—Just in relation to the establishment of the BAF, the government originally, I think earlier this year, brought in legislation to close the Communications Fund and then withdrew that. Is my recollection correct?

**Senator Conroy**—That is correct, yes.

**Senator MINCHIN**—So you, what—formally made a decision not to proceed down that path but to combine the establishment of the BAF with the closure of the Communications Fund? Is that correct?

**Senator Conroy**—Essentially, yes. I guess you could characterise it that way, yes.

**Senator MINCHIN**—The legislation to give effect to that policy is presumably with Finance, is it?

**Senator Conroy**—Yes, that is a Finance—

**Senator MINCHIN**—Can you give us any indication of—

**Senator Conroy**—I am happy to take that on notice and seek advice from Mr Tanner's office, but I do not have that information.

**Senator MINCHIN**—Clearly as a result of the government's decisions to spend half of this year's forecast surplus which, based on government policy in the budget papers, would

have otherwise gone into the BAF and the education and health funds, the BAF will be presumably considerably smaller at the end of the financial year 2008-09 than it otherwise would have been. That is a reasonable observation, is it not, Senator Conroy?

**Senator Conroy**—I have never been someone who wanted to challenge your ability to do the numbers, Senator Minchin. Others do, but I do not. You are actually asking questions that probably are more in the jurisdiction of Finance, though. I would not want to give you a misleading—

**Senator MINCHIN**—I guess I wanted—

**Senator Conroy**—Because a whole range of factors could impact on the final size of BAF and I am just not in a position to give you any commentary on it.

**Senator MINCHIN**—All right. You do not need to comment on that particularly, but I think it is a reasonable premise of mine to assert that the government will not have the funds available from 2008-09 to put into these capital funds that it otherwise would have because it has made the decision to have this \$10 billion spending proposal. All I am seeking from you is confirmation that the government's policy is nevertheless to take out of the BAF up to \$4.7 billion for the NBN, albeit that the BAF is going to be clearly considerably smaller than it was anticipated.

**Senator Conroy**—The national broadband network, as you know, was one of our major policy commitments going into the last election. Yes, the intention is to take up to \$4.7 billion out towards the national broadband network.

**Senator MINCHIN**—The only point there is that it was going to be a quarter of the \$20 billion BAF; now it will be I think a considerably higher proportion.

**Senator Conroy**—As I said, I could not comment on the actual final size of BAF. That will depend on the final size of the surplus. It will depend on a whole range of factors to do with growth, tax receipts and issues which you are far more familiar with than I am. If you are interested in pursuing that, I am sure you will have a chat with Finance officials.

**Senator MINCHIN**—Anyway, if you could take those other things on notice I would appreciate it. Thanks, Madam Chair.

**Senator NASH**—Just on the same issue of the finance, how did you arrive at the \$4.7 billion figure as being the appropriate amount to put towards the build?

**Senator Conroy**—That was based on a range of discussions across the sector. Originally we proposed a six meg build, as I think I said, and we had particular funding set aside for that. I am trying to think whether it was \$2 billion or \$2.7 billion. It was a few years ago now and I have moved on to the \$4.7 billion. But that was after consultation with the sector.

**Senator NASH**—On what basis did you decide that that would be an appropriate figure? I understand what you are saying about speaking to the sector, but I am trying to understand exactly what it is that they said to you that enabled you to arrive at this figure. Did they say that—

**Senator Conroy**—There have been a range of estimates and I have drawn on, as I have said, such expert policy analysis as the Page research centre.

**Senator NASH**—Thank you for that, Minister.

**Senator Conroy**—That looked at the cost of fibre to homes I think in regional Australia—an excellent paper. I can recommend it to you, Senator Nash.

**Senator NASH**—Thank you, Minister.

**Senator Conroy**—That is right; you were an author. But there has been a range of different estimates made by a range of different organisations and we had a look at that. We took some soundings, and no-one in the sector at that time believed that the proposition that we were putting forward was unreasonable. So we have happily gone forward and had lots of discussions.

As I have said, I have seen debates ranging as high as \$25 billion in terms of the cost. I have never been concerned about that. There has even been some very poor commentary recently in the media that suggested that when we moved from the \$5 billion plan to the \$9 billion plan that was due to a cost blow-out. Unfortunately, that is due to short-term memory problems of journalists. I am sure you have experienced it. In actual fact, what happened there was that we moved from a six-meg plan to a 12-meg plan—an entirely different plan, which is why the cost changed. So I have seen speculation all over the media for a couple of years about this. I have not taken too much notice of it. As I said, most of the people have a vested interest in the debate and we are comfortable that we can achieve what we are seeking to achieve.

**Senator NASH**—So the government is then comfortable with that \$4.7 billion as a percentage of whatever an eventual cost might be? So that is okay? You are all right with the fact that it might be X per cent? I am trying to ascertain that you have not based this figure on—

**Senator Conroy**—Again, you are asking us to speculate into the middle of the RFP process, Senator.

**Senator NASH**—No, sorry.

**Senator Conroy**—Each of the elements of those seems perfectly reasonable. But when you add the totality of the questions you are asking together, you severely prejudice the government's negotiating position. So that is the problem.

**Senator NASH**—I will rephrase the question, because that is not actually what I was after. When you made the determination it was not as a percentage of the total cost for a build, that you thought if the government put in X per cent that would be appropriate—that is, it is specifically done on the numbers of \$4.7 billion worth of build as directed by the sector, I think is about where we got to?

**Senator Conroy**—We have said from day one this is a 12-meg build, so it is an ADSL2+ build. Many have said that they had actually proposed a VDSL network. So the cost of the final network—again, because technology will be different—could potentially be more than we have talked about. We have said from day one there is no increase in the \$4.7 billion—none, zero.



**Mr Lyons**—I think it is worthwhile pointing out for the record that the RFP talks about proponents being expected to make a significant contribution. The \$4.7 billion is the maximum commitment from government.

**Senator NASH**—I would expect they are going to have to be. Thank you for that. Given that the \$4.7 billion is taxpayers' money—it is not the government's money; it is taxpayers' money—is that particularly targeted to anything or is that just an amount of money that can be accessed by a successful bidder to utilise how they see fit?

**Senator Conroy**—Despite the sometimes very cheeky press releases that you put out, Senator Nash, trying to suggest that we are spending \$4.7 billion in the city, this is about a national broadband network and it is towards the total cost of reaching 98 per cent of Australians. It is a bit similar to some of the things that you talked about, and I am just quoting from the Page report:

The government contracts a supplier to lay fibre-optic cable to a majority of consumers in non-metropolitan Australia, exempting approximately 6,000 remote users where satellite coverage is provided.

So I am going to defend you against Senator Minchin there, because he was suggesting—

**Senator NASH**—So impressed you pay so much attention to what I do, Minister.

**Senator Conroy**—This was an important piece of work. It is just disappointing that some of the people—Senator Minchin—around the table you could not convince of it. But Senator Minchin suggested that you were advocating reaching fibre to everybody, but I want to defend you here, because quite clearly it states that 6,000 remote users would be covered by satellite, Senator Minchin.

**Senator NASH**—Indeed. Can we just—

**Senator Conroy**—I am sorry; I have not finished. It continues:

The Page research centre has received an approach from a business consortium with a preliminary costing of \$7 billion to roll out the infrastructure, with a view to project completion in five years. The Page research centre notes that Telstra's assessment is \$30 billion over 20 years. Over a period of time the government will recoup the costs through leasing the infrastructure to service providers.

So even you put out a plan based on industry consultation.

**Senator NASH**—Interesting, Minister, but entirely irrelevant.

**Senator Conroy**—I would not want to comment on whether—

**Senator MINCHIN**—That was not my policy but the National Party.

**Senator Conroy**—I am defending Senator Nash within the Liberal Party here, but it is possible. You did the hard yards and went around and talked to the sector and came up with some viable estimates and you went out there with a plan. It was a plan that I am sure you wish your colleagues had adopted.

**Senator NASH**—Now if we can perhaps just go back to the question, Minister. With regard to the \$4.7 billion, that can be accessed by any of the successful bidders. Can I just take you to the fact that obviously in the RFP you refer to uneconomic services, and indeed you have asked any of the bidders to talk about that. However, I am not going to the core of

that. So would I be right in thinking that with the taxpayer's dollar going to a successful bidder—as you have just said, there is no targeting of this money; it can be used by the bidder for the whole process—that then expects that there will be cross- subsidy from the successful proponent to the underserved areas?

**Senator Conroy**—We have explicitly stated that we support the cross-subsidy. So there will be one uniform price reaching 98 per cent of Australians—not a two-tier system where you get fast broadband in the cities and a second-rate—

**Senator NASH**—Thanks, Minister. You have answered the question.

**Senator Conroy**—network with two different prices for two different models. It is a national build—

**Senator NASH**—What guarantee will there be that that cross-subsidisation will then continue into the future?

**Senator Conroy**—That is the conditions of the RFP. I am sure Mr Lyons would like to add to that any information.

**Senator NASH**—I would just specifically like to know what the guarantee is for the cross-subsidy, if that is the basis on which this is being done.

**Mr Mason**—The duration of any cross-subsidy will be a factor that is evident from the proposals put forward in terms of the investment period and the arrangements that the proponent advocates for uniform retail pricing into the future.

**Senator NASH**—Can you say that again please—in English?

**Mr Mason**—Yes, all right. The duration of any cross-subsidy will be a factor of the proposals that are put forward. The RFP overall asks for people to respond to, as we have said many times, 18 objectives, six evaluation criteria and a value-for-money assessment. The arrangements in relation to any cross- subsidy, if that is what they put forward, need to be set out in the proposals and will be assessed accordingly.

**Senator NASH**—So if you are talking about a potential duration, does that then assume that at some point there is an expectation that the cross-subsidy will cease?

**Mr Mason**—It would depend on what proponents put forward.

**Senator NASH**—But if the government is putting \$4.7 billion of taxpayers' money into a company on the expectation that the benefit for the underserved areas will come out of the cross-subsidy and then at the same time you are saying that that cross-subsidy may well have a sunset at some point in time—we do not know when—how is that good use of taxpayers' money for those underserved areas in a, if you like, future pathway, particularly since the Communications Fund is going to disappear and that money for any future proofing is going to be gone?

**Ms Patricia Scott**—Now we are getting into the area of, 'What if someone says X? Will we say Y and what will be the commercial terms?' So I would have to say, Chair, I am worried that we are getting into hypotheticals and we are in a live commercial process and—

**Senator NASH**—Okay, we will hop back out of the hypotheticals.

**Ms Patricia Scott**—I can understand why you are interested in this, but you are putting a proposition to us as to how we are going to react to that proposal and we do not want to get into that space.

**Senator NASH**—Okay, we will not go into that space, then. But just so I am absolutely clear: there is nothing in the RFP requirements for an ongoing cross-subsidy arrangement for underserved areas if their bid is successful?

**Ms Patricia Scott**—I am going to find the right clause—

**Senator Conroy**—National uniform pricing. We will come back to you.

**Ms Patricia Scott**—We will find you the right clause that will help you—

**Mr Lyons**—It is clause 1.31.6. That is, one of the objectives of the RFP is that it is a network that enables uniform retail prices on a national basis.

**Senator NASH**—Yes, I understand all of that. I am talking about a guarantee, but if you cannot comment on that—

**Senator Conroy**—And that would form part of the contract.

**Senator NASH**—Okay.

**Ms Patricia Scott**—There is an explicit section in here that requires people to stipulate the level of cross- subsidies, so I will try to find you the right reference.

**Senator BIRMINGHAM**—It is 1.54.

**Senator Conroy**—Senator Birmingham is on the ball.

**Senator NASH**—Okay. I am done on Finance. Thanks, Chair.

**Senator MINCHIN**—There is a current issue that I want to touch on. Minister, your policy document, which I referred to earlier, says that Labor will provide a public equity investment of up to \$4.7 billion for this purpose and it labelled ‘finance’ its equity investment in the network from existing government investments in communications. Presumably, it remains your policy that it is an equity investment?

**Mr Lyons**—The request for proposal notes that the government has previously stated a preference for equity and makes it clear that other forms of funding will also be considered.

**Senator MINCHIN**—So we should read equity investment as not conclusive? Was it your intention in announcing this policy to leave open the possibility that your investment may be by means other than equity and that we have all misunderstood this document?

**Senator Conroy**—When we released the RFP I think it was quite carefully worded. Col, do you want to read it again?

**Mr Lyons**—It states:

So the request for proposal does acknowledge that the government had previously stated a preference for equity, but it does also make it clear that other forms of funding would also be considered.

**Senator MINCHIN**—I accept that. I am just coming to your policy, Minister. I am not trying to trick you. You have clearly changed your policy because your policy does not talk about a preference. It just says:

- (1) It will provide a public equity investment; and
- (2) It will finance its equity investment ...

It was not about we would prefer this and we might do that. All I am seeking is confirmation that while your policy was equity you are now leaving open the possibility that your investment may be by means other than equity.

**Senator Conroy**—It was not now as in suddenly. I think if you went back over some considerable time—long before the last election—you would find that we indicated that we were prepared to consider more than just equity. If you look at our election document I think you might find we indicated we were prepared to consider other proposals. It has been called a PPP. I have described it as a potential PPP or joint equity. There have been two or three or four ways it has been described in the media. But certainly from the original documents where we indicated this would be the path we were going down, following a range of consultations over many months, we indicated that we would be willing to consider other vehicles.

**Senator MINCHIN**—Presumably the only other form could be a loan? Presumably you have always said that—

**Senator Conroy**—No, there is debt—

**Senator MINCHIN**—Debt—that is what I mean.

**Senator BIRMINGHAM**—Or there are straight out grants.

**Senator Conroy**—Absolutely, they are all the different choices. But the RFP is quite specific; we are not mandating. We are saying, ‘If you want to come forward then come forward.’

**Senator MINCHIN**—I accept that. But we were all led to believe in formulating this policy, not unreasonably, that you were doing so on the basis of wanting to ensure a return on your investment and this was not simply a straight out grant or subsidy but was a capital contribution by the Labor Party on which a return was expected. Now you can get a return either by debt or equity. Are you in a position to indicate to us that the government remains of the view that a return is expected or are you, by virtue of the words just read out to us, clearly and overtly leaving open the possibility that no return may be expected on this \$4.7 billion expenditure?

**Mr Lyons**—As I said before, there is a series of objectives in the request for proposals, and proponents will be evaluated against the extent to which they meet all of those objectives. One of those objectives, the 13th objective, in the list under 1.3.1 of the request for proposals is that the network provides the Commonwealth a return on its investment of up to \$4.7 billion.

**Ms Scott**—Maybe while Senator Minchin is looking at that reference I could refer Senator Nash to section 1.5.23 in the request for proposals, which states:

If a proponent considers that mechanisms are required to facilitate the government's objective of enabling uniform retail prices and a delivery of services to premises within the NBN footprint, it should clearly set out the nature of this mechanism. For example, if proponents are proposing cross-subsidy arrangements with access prices to enable uniform retail prices, they should clearly identify the extent of any cross-subsidisation as well as other relevant details.

Schedule 2 requires the proponents to specify that in detail. It states:

If a proponent proposes another type of mechanism to enable uniform retail prices it should set out details about the nature of its proposed mechanism and other relevant details.

Again that is in schedule 2. In summary, up to \$4.7 billion is available for the scheme to be rolled out on a national basis, with the request proposal explicitly asking for proponents to explain the amount and the form of the funding sought—that goes to Senator Minchin's question—how these funds will be deployed and indicate the mechanisms that are required to support otherwise uneconomic services in order to facilitate the government's coverage and pricing objective.

**Senator NASH**—So we can take from that then that, as we cannot comment really on the process as it is a live process—as we keep getting told—we will just have to wait as there is no requirement there for any kind of ongoing information about a cross-subsidy. We will have to wait and see what the government's determination is about that. Is that what you are telling me?

**Senator Conroy**—I am sure you would like to put out a very colourful press release—

**Senator NASH**—I am not putting out any releases.

**Senator Conroy**—this afternoon claiming that there is no ongoing protection. I look forward to your colourful press release later in the day—

**Senator NASH**—It is a very important issue.

**Senator Conroy**—But it would be a complete misrepresentation of the information you have received today.

**Senator NASH**—You are assuming that I am doing this for the media, Minister.

**Senator Conroy**—As colourful as it will be.

**Senator NASH**—I am actually doing it because it is a very important issue. If you are going to spend this much of taxpayers' money and not make sure that the underserved areas are covered in this—

**Senator Conroy**—It has to reach 98 per cent.

**Senator NASH**—It does indeed.

**Senator Conroy**—It has to reach 98 per cent of Australian homes and businesses.

**Senator NASH**—That is the objective. We will wait to see what the government determination is about the requirement for cross-subsidy if that is what you are going to do, Minister.

**Senator Conroy**—That is our stated election promise. Not ‘if’—we have said publicly repeatedly that we will sign up to cross-subsidy. That is our stated commitment. I have lost count of the number of times I have said that.

**Senator NASH**—Unfortunately, you have not said for how long.

**Senator Conroy**—You have been able to convince us. You were not able to convince your former colleagues about the necessity for cross-subsidies in the bush. You do not have to convince us.

**Senator NASH**—We will be watching keenly. I am sure Senator Minchin would like to return to his questions.

**Ms Scott**—There will be, depending on proponents’ proposals, a possibility of legislation. There will definitely be some form of contractual agreement. Some of your questions go to commercial terms and those contractual agreements. We do not actually have the proponents’ proposals.

**Senator NASH**—That is what I just said. We will have to wait and see what the government determination is, as there is no requirement at this stage.

**Senator Conroy**—Senator Nash is trying to put words into your mouth, Ms Scott.

**Senator NASH**—Not at all.

**CHAIR**—Have we finished on this issue?

**Senator BIRMINGHAM**—No. Today we have traversed a lot of the objectives of the program—be it the five-year time line, be it the 12 megabits per second objective, be it 98 per cent and so on. Can I turn to responses to questions on notice 148, 149 and others in which it states that clauses 10.8 and 10.9 of the request for proposals set out the very few minimum mandatory requirements that proponents must meet in their proposals.

A quick glance at 10.8 and 10.9 suggests that those mandatory requirements are that proposals are written in English, that the measurements are expressed in Australian legal units of measurement, that they include a signed declaration, some matters relating to state-specific bids and some matters relating to SME participation plans. That is it. Is it fair to say basically that any proposal, as long as it is in English and has Australian measurements of currency, is a valid proposal and everything else is objectives against which they will be assessed?

**Mr Lyons**—I think that is broadly correct. We would have to go back and confirm the specific mandatory or minimum requirements in the RFP, but I think what you say is broadly correct.

**Ms Scott**—It is designed to ensure the maximum amount of competition with little prescription about what the proponents proposed will actually contain. You set the objectives and then people develop their plans in the way that they consider will best achieve those objectives. You are not saying that you all have to have this particular configuration.

**Senator BIRMINGHAM**—Certainly. But just say that, when we go back to issues of equity or issues of minimum speed or anything else, essentially if it is in English and uses decimal currency they are the minimum requirements.

**Mr Lyons**—But that does not mean that a proponent will be successful.

**Senator BIRMINGHAM**—I would hope not.

**Mr Lyons**—This is a competitive process with a clear set of stated objectives.

**Senator BIRMINGHAM**—Minister, at the previous estimates when you were not quite as forthcoming as you have been today—and we thank you for that today; you might recall the probity advice again—I asked you about the probity advice and whether you would provide this committee with details of the probity advice in relation to your conduct and that of other ministers. You opted to take that on notice, as you did many questions, and your answer was, ‘I have considered the matter and there is nothing further to add,’ which was a very detailed answer, Minister! Why will you refuse to release at least the probity advice insofar as it relates to what you or your ministerial colleagues can or cannot do or say?

**Senator Conroy**—I think my answer stands.

**Senator BIRMINGHAM**—So you will give us no opportunity to know what the boundaries are in terms of—

**Senator Conroy**—We have considered the matter and we have given you all the advice we can give you on it.

**Senator BIRMINGHAM**—And that advice is zero. So you are not willing to give us any advice on what the boundaries are for either our lines of questioning or indeed your conduct and the conduct of other cabinet ministers in this regard?

**Senator Conroy**—The normal practice, as I mentioned in my opening statement, is that you will get the opportunity after the process is completed to question us on all of these matters. But we have taken advice on this and our answer that we gave we stand by.

**Senator BIRMINGHAM**—Minister, as you have acknowledged previously, in your day-to-day operations as communications minister it is unavoidable that you have contact with proponents of the NBN.

**Senator Conroy**—I went to Phil Burgess’s farewell recently. I started off by saying that I had achieved my first KPI, lasting longer than he did. That brought a great roar of laughter from the entire room, including from Phil. Obviously in my role as communications minister I have to have a whole variety of ongoing meetings with the sector, otherwise I cannot do my job. But we make it clear beforehand that we cannot discuss any aspects around the NBN. People understand that. I sat next to Mr Trujillo all evening. He understood that and at no stage did anyone raise the national broadband network. We had a thoroughly enjoyable evening. It was a good farewell for Phil, but no-one sought to raise those matters.

We met with a whole range of other members of the industry. I hope you are not going to ask who because obviously we do not spend our time detailing our diary to everybody. But I have met a whole range of people in the sector. They all understand that we cannot discuss the NBN. There are other matters that we have to discuss on an ongoing basis—mobile premium services, consumer issues and other matters around international roaming. So there is a whole variety of matters that we have to talk about with the sector on an ongoing basis, but I think by now they all understand that we cannot actually discuss the NBN.

**Senator BIRMINGHAM**—Minister, do those requirements extend not just to yourself but to other members of cabinet?

**Senator Conroy**—Yes.

**Senator BIRMINGHAM**—What discussions are you aware of that have been undertaken between Mr McGauchie and the Prime Minister?

**Senator Conroy**—I have to take that on notice just to make sure I give you the correct answer. I would have to come back to you on that. I do not know whether a meeting that was proposed took place or not. I have to come back to you on that.

**Senator BIRMINGHAM**—If you could.

**Senator Conroy**—I am happy to. I am happy to take it on notice and come back to you.

**Senator BIRMINGHAM**—Do you think you might be able to get a response on that reasonably quickly?

**Senator Conroy**—There are lots of rumours about Kevin 24/7. I can only say that they are true. We will endeavour to get back to you as fast as is possible to get the information. I do not have the information but we will try to get the information for you as fast as possible.

**Senator BIRMINGHAM**—Do you think it might be possible by the afternoon tea-break? I would have thought it was a quick matter of the Prime Minister's office checking?

**Senator Conroy**—I would love to tell you that I have the Prime Minister at my beck and call but that would be an exaggeration at a minimum. His office is fairly busy. They are in the middle of question time. Their staff will be very tied up in that process. We will get back to you as soon as is possible. They do actually have an ongoing function of them waiting for my call.

**Senator BIRMINGHAM**—I am sure they do, but equally this estimates committee has a duration of one day in which to assess matters relating to your department. If the Prime Minister has had discussions with Mr McGauchie that might be of interest to this committee it would be nice if we could—

**Senator Conroy**—I am not saying I will not give you the information. I am just saying that I do not have it, and we will endeavour to get it for you as fast as we actually can. I just genuinely do not know the answer to your question.

**Senator BIRMINGHAM**—Thank you, Minister.

**Senator MINCHIN**—I do not have anything else on the NBN except to ask in relation to anecdotal reports of a freeze on investment in fixed-line broadband in Australia pending the outcome of the tender process for the NBN—and I do not want to buy into that in particular. It just prompts a question in my mind as to whether the department actually keeps data on investment in Australia on either fixed-line or mobile broadband but particularly fixed-line broadband. If so, are we able to be provided with that data going back for a reasonable period, and that would indicate what has occurred in the course of calendar 2008? If you do not keep such data, I would be very surprised.

**Senator Conroy**—You would be shocked at the amount of information on broadband, particularly fixed-line broadband. The department was previously instructed not to keep data on speeds and on costs. I would not be surprised at all to find that the department does not collect this information. The previous government did not want to know the information. In



fact, it directed the ACCC to stop collecting a whole range of data on broadband statistics, Senator Minchin.

**Senator MINCHIN**—I am not aware of that, Senator Conroy.

**Senator Conroy**—I have discussed it at length at this particular committee when I was on the other side of the table.

**Senator MINCHIN**—I am here to help you, Senator Conroy. There have been these dreadful allegations that investment is frozen.

**Senator Conroy**—I have had a question in my question time pack waiting for that to be asked in question time.

**Senator MINCHIN**—I do not like asking questions unless there is evidence upon which such a question can be based. My question today is simply: what is the evidence?

**Senator Conroy**—That has not stopped you so far in my experience, Senator Minchin—13 years to build a broadband network.

**Senator MINCHIN**—That is what I thought Mr Stanhope said. Is there evidence that could be used to allay these concerns that some have about the degree of investment in fixed-line broadband while this is going on?

**Senator Conroy**—If I can quote two significant figures in the sector. Cisco Australia and New Zealand's vice president, Les Williamson, said:

I haven't had anyone write to me and say because of the NBN, I'm not doing X or not doing Y ... Of course it's on the political landscape ... but [telcos are] getting on with their business. They need to. Because there's demand there.

That was what he said on 18 September. Jon Stanhope, someone you are fond of quoting—well, fond of misquoting—said:

Interestingly, the broker analysts covering the telecoms sector in Australia all agree on one thing. Telstra is not under investing with respect to network capital expenditure in Australia. Ironically, one of the bear stories at the moment argues we are investing too much!

**Senator MINCHIN**—You just told us not to pay any attention to claims of various proponents during this tender process. So thank you for that, Senator Conroy.

**Senator Conroy**—Cisco are not bidding as far as I am aware.

**Senator MINCHIN**—Is that right? I am wondering whether the department, which would be the bastion of independent assessment on this matter, does keep any data that can be made available to indicate one way or the other what the investment trend is.

**Ms Scott**—Senator, I think we are going to give you a partial yes and a partial no. I will get Mr Mason to explain what we do do. I do not think it will be sufficient to give you—it is not like an investment monitor. Remember that Access Economics used to do an investment monitor every year and be able to say that there is \$1 billion worth of projects in this particular sector and so on. It is a forward-looking thing. We do try to keep tabs on the level of service provision because we want to know what underserved premises there are. I will get him to give you some of the details, but I do not think it is going to be sufficient to satisfy your requirement.

**Mr Mason**—The department does monitor announcements in relation to the deployment of new infrastructure, for example the enablement of exchanges with DSLAMs, investment in mobile networks that are capable of delivering high-speed services, investment in wireless services. So obviously we are very interested in what kind of investment is taking place. As we discussed this morning, the department has been mapping that kind of information as well. I think another source of information that is available to the department is work done by ACMA in relation to infrastructure audits and infrastructure reports, which they do annually. I think Mr Bryant might want to say something more about the mapping of such infrastructure.

**Mr Bryant**—Primarily for the purposes, Senator, of monitoring the location of underserved premises for our Australian broadband guarantee, we do have quite a sophisticated mapping tool available to the public through our broadband service locator. That allows any residents at any premises in Australia to put in their address online and see what broadband services are available to them. So we have a very strong interest in understanding what broadband services are being deployed and where they are being deployed. I think the issue about investment is that a lot of it is commercial-in-confidence and is not necessarily available—

**Senator MINCHIN**—And not necessarily reported to you or required to be reported to you.

**Mr Bryant**—Indeed.

**Ms Scott**—And also, Senator, there has always been a little bit of speculation—I do not know whether it is true or not—that sometimes proponents or players in the markets may have capacity that they do not necessarily fully utilise at any point in time. In fact, fibre may have been rolled out but not necessarily turned on, awaiting certain commercial mass or whatever. It is very hard to elicit what is actually there and not there, which is why we were keen to try to get as much network information as possible to allow proponents to have a reasonable chance at competing in the process with the information they require to bid effectively.

**Senator MINCHIN**—Would it be your evidence to this committee that you have no reason to believe, from the information available to you, that there has been an investment freeze or dramatic slowdown as a result of the tender process?

**Ms Scott**—We only have partial information and there is nothing to suggest that the evidence that we have suggests a freeze.

**Senator MINCHIN**—Okay. Thanks.

**Senator BIRMINGHAM**—Can I just go back to Mr Bryant's answer relating to mapping and other matters. Mr Bryant, in the previous estimates on 27 May you indicated to Senator Nash, in response to some questioning about mapping of the coverage area for the broadband guarantee, that you were preparing a heat map that would be made publicly available and that it was probably a couple of weeks away. Has that been completed?

**Mr Bryant**—No. We have decided not to go down that path, Senator, for a couple of reasons. Firstly, the purpose of the heat map was really, as I think I indicated in that evidence, to provide guidance for existing and potential Australian broadband guarantee providers to

identify where they might think about investing in the program. The important thing about that was to make sure that any such guidance was accurate and not misleading to those providers and potential providers. In working through the methodology of how we might prepare a heat map, we found it difficult to come up with a model that actually gave that good guidance.

The other big factor that I think I have already referred to in my evidence today is that we have seen some rapid developments in 3G networks, which may or may not have implications for the location of underserved premises in rural and regional areas, which again may lead to some misleading information. We put those heat maps out in a mapping format. What we have done is we have contacted all providers and applicants in the program to indicate to them that if they contact the department we can give them some advice, after careful consideration of all these factors I have talked about, as to where there may be opportunities on a consistent basis.

**Senator BIRMINGHAM**—So you are saying, Mr Bryant, that the department's methodology, given both changing technologies and other limitations, was unable to actually identify, in a way that you felt comfortable releasing publicly, priority areas for underserved premises?

**Mr Bryant**—It is important to understand that we are not talking about where underserved premises are. We understand that completely. But if you think about the kind of guidance that would be useful for providers to identify potential service areas under the program, it is about both the number of underserved premises and the density of underserved premises and some certainty over time as to where those underserved premises will remain. Again, when we worked through the various ways of presenting that information we made a decision that it would be preferable to give careful verbal guidance to those providers rather than have something up on our website which may be misinterpreted. We felt that was quite important.

**Senator BIRMINGHAM**—If you are confident you know where those underserved premises are, how is it so difficult to piece together the location and density of those underserved premises?

**Mr Bryant**—It is not difficult at all. The issue is what you are trying to show. Let us take an example. If you have a very remote area that has a designated grid associated with it and there are two premises in that area and they both are underserved, how do you show that on a heat map? These are the kinds of issues we are looking at. How do you compare it with another grid that might have 20 underserved premises in it and how do you differentiate those visually on a map for the benefit or guidance of potential applicants? That was the difficulty we faced. We played around with a lot of parameters, and at the end of the day we felt that it was still potentially misleading and it would be better to provide guidance verbally to those providers.

**Senator BIRMINGHAM**—In late May you obviously thought it was possible and, indeed, it was only a couple of weeks away. Now you are saying it is impossible to—

**Mr Bryant**—No, no—

**Senator BIRMINGHAM**—put the data on a map in an effective way.

**Mr Bryant**—With respect, Senator, I did not say it was impossible. We thought it would be, but we considered it would be potentially misleading—not impossible but potentially misleading. The whole purpose of the exercise was to provide assistance and guidance for providers. We felt that if it was potentially misleading to providers to visually represent the density of underserved premises on a map then we would prefer to do it in a different way.

**Senator NASH**—When was the decision taken not to proceed?

**Mr Bryant**—I do not think there was any particular day. We were working out the option of doing it this way and at a point it became clear that it was not, in our view, helpful to continue that way.

**Senator NASH**—So how long had you been working on it prior to the last estimates when we had this discussion, at which point you indicated to the committee that it was still a couple of weeks away? How long had you been working on it up until that point in time as a possibility?

**Mr Bryant**—I would have to take that on notice, Senator. We are continually developing our mapping capacity.

**Senator NASH**—I only ask because if at the time you said it was a couple of weeks away one could assume that you had already done a considerable amount of work on it, if it was so close to being released.

**Mr Bryant**—We had hoped to do it. As I said at that time, we thought we were close to a solution. When we reviewed it, when we looked at the different parameters and when we assessed it against our overwhelming criterion, which was to make sure we gave accurate guidance to providers and potential providers, we decided there were risks.

**Senator BIRMINGHAM**—The only guidance now available to providers, if they wish to target or develop services in a particular area, is to get on the phone and ask you?

**Mr Bryant**—Yes. If they want some guidance about—but providers are on the phone to us all the time. We have ongoing discussions with providers.

**Senator BIRMINGHAM**—It is little wonder they are on the phone to you all the time. They do not have other opportunities or ways to—

**Mr Bryant**—I should point out as well, Senator, that at the end of the day it is a business decision for providers. They know their markets. They know the services they are offering. There is a requirement of them as well to assess their business opportunity in whatever area they want to operate.

**Senator BIRMINGHAM**—That is true, but there is also a service provision that we are talking about here, and the reason the government offers this program is, of course, to attempt to extend that service of broadband into those underserved regions and, commensurate with putting some dollars on the table to do that, making it as easy as possible for the provision of services by providers into those regions. That would seem to make sense as well. Are there any other alternatives under consideration by the department, having abandoned the heat map option?

**Mr Bryant**—There are other ongoing avenues of working through the issues. We talk, for example, with state governments and territory governments all of the time. They have a very close handle on where the problems are in their particular states and territories. We work cooperatively with those state and territory governments. They are in touch with service providers in their jurisdictions. It is a cooperative environment and we have a cooperative relationship with providers and applicants.

**Senator BIRMINGHAM**—What is your current estimate of the number of underserved premises?

**Mr Bryant**—I think I gave this evidence at the last committee hearing. Again, I will preface my comments by repeating what I indicated to Senator Minchin in that it is a dynamic environment. We have a 3G service currently being offered and proposed to be rolled out by Optus that ostensibly meets metro-comparable requirements. So obviously if it is indeed metro comparable, that will affect the number of underserved premises downwards. But with those kinds of provisos, I think I indicated at the last hearing that we would expect it to be in the order of half a million or less.

**Senator BIRMINGHAM**—Perhaps—and you can take this on notice—if you could give us a state-by-state breakdown of the department's estimates, that would be helpful.

**Mr Bryant**—I am happy to take that on notice, Senator.

**Senator BIRMINGHAM**—Thank you.

**Senator NASH**—Finally just on the NBN, is my understanding correct that there is no requirement in the RFP for a successful proponent to roll out from the metropolitan areas or roll in, if you like, from regional and rural first?

**Ms Scott**—Mr Lyons will take this question. There is a part of the RFP that asks the proponents their position on what the staged process will be, but I might just find the right reference for you, Senator.

**Mr Lyons**—But I think it is correct to say that the RFP is not prescriptive on the rollout approach. It is a matter for proponents to demonstrate their rollout approach. I will just wait for Mr Mason to identify the particular areas for you.

**Mr Mason**—Mr Lyons's answer is right. In summary, basically it is up to proponents to put forward what their rollout scenario is. However, the RFP in clause 1.5.5 does ask proponents to indicate the extent to which proposals are able to prioritise areas that cannot currently access minimum speeds of 12 megabits per second.

**Senator NASH**—So in the event, given the fact that there is no requirement, if a successful proponent was to roll out and not roll in, it could be several years before some of these underserved areas could see faster broadband?

**Senator Conroy**—You are not asking us to speculate on the outcome?

**Senator NASH**—I do not think that is speculation. I think blind Freddy could figure that one out.

**Senator Conroy**—No, I think that absolutely goes to the core negotiating issues and what may or may not be put forward by proponents. But I do look forward to your colourful press release.

**Senator NASH**—There may well not be one, Minister.

**Senator Conroy**—I would be shocked and disappointed.

**Ms Scott**—I think clause 1.5.5 may provide some comfort to you. It might be worthwhile reading again:

Proponents should indicate the extent to which proposals are able to prioritise areas that cannot currently access the minimum speeds of 12 megabits per second.

**Senator NASH**—Okay, but again that is the objective; it is not necessarily a requirement?

**Ms Scott**—It is under network specifications under 1.5.

**Senator NASH**—Sorry, but could you just read that again for me quickly?

**Ms Scott**—It says:

Proponents should indicate the extent to which proposals are able to prioritise areas that cannot currently access minimum speeds of 12 megabits per second.

**Senator NASH**—Okay, but it is still only asking the proponent to provide the information, not a requirement that that be—

**Senator Conroy**—Let us be clear, Senator Nash. What you continue to try to describe as ‘not specific requirements’ are specifically designed to maximise the competitive tension in the process. They are actually there to get the best possible deal for the Commonwealth and, more importantly, for the Australian public to get cheaper and faster broadband.

**Senator NASH**—Excellent. Thank you for that, Minister. I look forward to you supporting a role in that, Minister.

**Senator Conroy**—I look forward to reading that in your press release. I look forward to that being in your press release.

**Senator NASH**—Thanks, Chair.

**Senator LUNDY**—I just want to talk about the Australian Broadband Guarantee program for a little bit. How much money has the government committed to this program?

**Ms Scott**—In the forward years, \$270 million, but I will get Mr Bryant to fill you in on the details.

**Mr Bryant**—Indeed, the detailed breakdown is on page 33 of the budget papers. It sets out the administrative expenses and departmental outputs taking us out to 30 June 2012. I think there is, in addition to that amount stated on that page, a small amount, as the secretary indicated this morning, of capital for this year of about \$0.3 of a million. All up, it is \$270.7 million.

**Senator LUNDY**—Prior to the election of this government, how much money had been committed to the program over the same time frame—that is, 2008 to 2012?

**Mr Bryant**—The commitment in the current budget to that funding is the only commitment that has been made, I think.

**Senator LUNDY**—Right. So the answer to that question is that the previous government had not committed anything—

**Mr Bryant**—It was funded up until 30 June 2008.

**Senator LUNDY**—Okay. So prior to this government's election, no money had been committed past—

**Mr Bryant**—30 June 2008.

**Senator LUNDY**—Thank you. I understand that new guidelines were released for the Australian Broadband Guarantee earlier this year. When did that occur and when did that specifically commence—that part of the program?

**Mr Bryant**—The new guidelines came into effect on 4 August. The reason for that was that we wanted to minimise the down time of the program and to make sure that both providers and consumers had the opportunity to become fully aware of the new arrangements—the enhanced arrangements—under the program. As I said, there was an inevitable period of down time for upgrading of our systems, but by extending the start of the new program to 4 August that meant that there was only minimal down time—two days, as I understand it. But that does not mean of course that the program was not operational before then. Between 1 July and 4 August it continued to operate under the budget but with the existing program guidelines rolled over.

**Senator LUNDY**—Okay. So what are the specific benefits of the new program over the old program?

**Mr Bryant**—It is probably best to consider the enhancements that were made from two perspectives of the two key stakeholder groups I think—firstly providers under the program and then perhaps consumers, the ultimate beneficiaries of the program. The changes made for the benefit of providers were really intended to provide greater certainty of ongoing incentive payments and the key change there was that, given that the focus of the program now is increasingly on more remote areas—the last two per cent as it were—we believed there was a case for all providers under the program to continue to receive incentive payments for investment in infrastructure up until 30 June 2012, which was a change from the former guidelines where there was a limitation on the time that they could receive incentive payments. So that was quite an important change in terms of providing greater certainty.

The other big change was to provide greater flexibility for providers, primarily in two areas. The first was that, again as we get to a focus on more remote areas, it has become clear to us over a period of time that there are certain circumstances in very remote areas or in areas where there are high-cost circumstances—for example, the north of Australia where there are cyclone-prone residences and premises that require special CPE installations—where a high-cost payment is justified. We have found that the standard incentive payment of \$2,500 did not meet some of those extraordinary circumstances, so now under the program there is a flexible system of providing payments of up to \$6,000 for extra high-cost circumstances. In policy and program design terms, the important consideration in developing that high-cost

payment was to make sure that we standardised it as much as possible so that we were not subsidising inefficient installations but that we paid, in a standard way, as much as we possibly could where it was fully justified.

The other element of change to provide greater flexibility for providers was to introduce an upgrade payment in recognition that as the standards for metro-comparable services rose there could be circumstances where existing networks which were commercially deployed in the first instance but which were not metro-comparable may justify an upgrade payment of a lesser amount or up to 2½ thousand dollars to upgrade to a metro-comparable level of service. In that way, you would have a more efficient deployment of metro-comparable services than if you had to subsidise or support a whole new network. They were the two key changes. They have been mainly overwhelmingly welcomed by the industry. We think that has been an enhancement to the program.

The other important area is in relation to consumer benefits. I think the most far-reaching change we have made is in relation to download limits that have to be provided by providers as their threshold service. We have tripled that to three gigabytes per month minimum requirement within the same pricing structure that providers were required to meet of 2½ thousand dollars over three years. Importantly, we have also required all providers with their threshold service and their three gigabyte download limit to have either a shaping of data beyond that limit—at a minimum 64 kilobytes per second and at no charge—or to have a price cap on excess data of no more than 5c per megabyte.

That has been a welcome consumer enhancement, we believe. In our analysis and research, as the uptake of broadband grows and as the volume of data increases, that has been a major issue that consumers have advised us of. That is the so-called rate shock issue where consumers get sudden big bills for excess data usage. That is a key focus there.

The other important consumer protection has been to get a more consistent requirement for providers to have consumer benefit elements in their contracts. There has always been within the program a strong element of consumer protection, price caps, service guarantees, independent testing and minimum contract requirements. What we have done in the new program is to standardise how they are expressed in their consumer contracts so that there is greater certainty for consumers.

**Senator LUNDY**—Is that the first time that has been done with respect to standards of service delivery in these types of programs that subsidise user access to broadband services?

**Mr Bryant**—I think the residential broadband market has traditionally been best endeavours. We are trying to get a greater degree of consumer certainty and consumer protection into that environment. The other big thing we have done is improve the level of consumer information available under the program. We have the broadband service locator which not only allows consumers to investigate what subsidised service is available but gives them the whole picture of the full range of broadband services. What we have also done is make sure that when consumers register for the program they get a full information pack sent out to them so they do understand the range of choices available to them. We think that is an important benefit as well.



**Senator Conroy**—Have we finished with the NBN officers? I can let them go if there are no more questions for them.

**Senator BIRMINGHAM**—I think we have finished with them.

**Senator Conroy**—Thanks.

**Senator LUNDY**—I know there is media speculation about further changes to the ABG, particularly in relation to possible shortfalls in the NBN coverage and the two per cent. Can you clarify whether the *Financial Review* is correct in some of this reporting?

**Mr Bryant**—No, that is not correct. The changes that have been made have been made for the reasons I have described. That is the extent of it.

**Senator LUNDY**—That is all I have, Chair.

**CHAIR**—Is there anything else on this matter?

**Senator IAN MACDONALD**—I have a couple of other issues that I quickly want to move to. I will leave you all too if I get those out. Can someone explain to me again why we do not yet have NewsRadio in Townsville? We seem to have it in every other single part of Australia.

**Senator NASH**—And Young.

**Senator IAN MACDONALD**—I am sorry; Young too. Townsville is a fraction bigger than Young. We are talking about 200,000 compared to 20,000.

**Ms Scott**—We are just getting the right officer to come to the table.

**Senator IAN MACDONALD**—While we are doing that, perhaps I could ask Senator Conroy a different question. Senator, I read your very recent media release where you are talking with great gusto about the digital TV switch-off. Can you explain why country areas are going to be without analog TV two or three years before their city cousins? They will be able to have both analog and digital. I am reading from your media release issued today, Senator. You say, for example, regional Queensland, excluding remote western and northern areas, will have analog switched off in the second half of 2011. You then say Brisbane, the Sunshine Coast, Perth and Tasmania will switch off in first half of 2013.

**Senator Conroy**—We might get Mr Townsend to the table. This is a process of switching off the analog service across the whole country.

**Senator IAN MACDONALD**—It is your media release of today.

**Senator Conroy**—I am very familiar with it. This is a process of switching off the analog system—

**CHAIR**—Which topic are you going to deal with first, Senator Macdonald?

**Senator IAN MACDONALD**—That one seeing I got into that while the other officer was coming to the table.

**Ms Scott**—Senator, would you like to take the NewsRadio answer first?

**Senator IAN MACDONALD**—It was just for your convenience while they were getting to the table. I thought we could finish the other one, but let us go back to NewsRadio, bearing

in mind that you people kindly took me up and walked me around Townsville and explained the way signals are. Every time I come to Canberra or go to Sydney there seems to be 30 different signals on the FM band and yet in Townsville there does not seem to be room for NewsRadio.

**Dr Pelling**—The NewsRadio service in Townsville is part of the third tranche of NewsRadio services, as I think you are fairly well aware. The process that is now happening in relation to the rollout of the services in Townsville is that ACMA has been doing a range of work on those frequencies. I am not familiar with who took you around, but I imagine ACMA was probably involved in that.

**Senator IAN MACDONALD**—I think it was.

**Dr Pelling**—In terms of the technical details of the various options available, it may well be best if I suggest that you direct that question to ACMA when ACMA comes to the table. The advice I have is that they have proposed that a long-term community service at Bowen and a high-powered open narrow-casting service at Charters Towers be moved to new frequencies. Those two broadcasters currently use the same frequency—94.3FM. Then 94.3FM would be used by the ABC to extend NewsRadio to Townsville. The ABC is also planning to extend NewsRadio to Townsville North on 93.5FM.

I am certainly aware that the implementation of NewsRadio in Townsville and Townsville North has been delayed due to a range of these technical issues. I understand that ACMA proposes that test transmissions be conducted to ensure that any radio interference issues are resolved before NewsRadio begins broadcasting in these areas. The ABC anticipates commencing the test transmissions in late 2008.

That is the advice on the process at the moment. I would suggest if you want more technical information about ACMA's processes it is probably better directing that question to ACMA officers when they come to the table.

**Senator IAN MACDONALD**—Can you tell me what your role is?

**Dr Pelling**—The process for assessing the NewsRadio rollout is now at a planning stage. In terms of the NewsRadio activities, we have been as a department involved with the previous government in broadly developing the policy and in developing the budget for the program. The actual rollout of the services is being undertaken by the Australian Broadcasting Corporation.

**Senator IAN MACDONALD**—Tell me about the budget. Where would I find the money in the budget? You can help me by telling me where is the budget funding for Townsville.

**Dr Pelling**—I do not know if we have specific figures for Townsville. The funding for the program is put into the contingency reserve and then money is drawn down and appropriated for the contingency reserve in accordance with the actual expenditure incurred. Once the ABC, in conjunction with ACMA, have clarified the precise nature and cost of installing those services in Townsville, and indeed in all the other areas, then they would come to the department with an indication of the cost of doing this.

**Senator IAN MACDONALD**—You are telling me the money has been approved for spending; is that right?

**Dr Pelling**—The way that these and indeed some other areas of the ABC's funding is supported is that the figures are not published but they are included in the contingency reserve.

**Senator IAN MACDONALD**—It has been suggested to me that the ABC needed some extra money to run a trial, but they did not have the money to do it. Is that something you would know about?

**Dr Pelling**—I might get some further advice.

**Senator Conroy**—The ABC are coming up next.

**Ms Scott**—After ACMA. The trial is going to start later this year.

**Senator IAN MACDONALD**—It has been suggested to me that this was one place where the government could make some savings to add \$1 billion to the surplus that they had which they have now spent in one day. Is that right?

**Dr Pelling**—No, the government is still committed to the NewsRadio rollout in full.

**Ms Scott**—Senator, the reason why it is in the contingency reserve and not specified as a particular amount is that it is not clear what the amount required is. So they put some in the contingency reserve and are also in negotiation with Broadcast Australia. Have I got that right?

**Dr Pelling**—Yes. They will enter into a contractual relationship with Broadcast Australia, so the precise amounts will depend on the details of that contract which will depend on the precise technical solution that they eventually decide on.

**Ms Scott**—In terms of the actual trial transmission, we have been advised by the Australian Broadcasting Commission that it is scheduled to start later this year. We are up to October now.

**Senator IAN MACDONALD**—Yes, we are in October, and I am not sure what you would call late this year if it is not October.

**Ms Scott**—That is what I am trying to work out.

**Dr Pelling**—That is the most up-to-date advice I have.

**Ms Scott**—So maybe it is a question for Mark Scott later this afternoon. The latest advice we have is that it is still on track to occur. The funding is set aside in the contingency reserve and we have not been advised that they are encountering budgetary problems.

**Dr Pelling**—That is correct.

**Senator IAN MACDONALD**—As I have said at previous estimates—do you know when I first started questioning you about NewsRadio in Townsville? It was when we were last in opposition.

**Senator Conroy**—What a failure of 11½ years of government. What a shocking indictment of 11½ years. To be fair, you have been consistent.

**Senator IAN MACDONALD**—It is incredible to me that the technical issues, which were explained to me and I cannot understand them, cannot be addressed. If you are right that it is

going to be there by Christmas time, I will stop now and stop wasting the time of the committee.

**Dr Pelling**—That is the advice we have.

**Senator IAN MACDONALD**—Advice from whom?

**Ms Scott**—Santa—Santa in the form of the ABC. So maybe you would like to direct your questions to Santa's helpers this afternoon.

**Senator IAN MACDONALD**—So it is the ABC's fault that it is not happening.

**Dr Pelling**—The ABC, in conjunction with ACMA, have identified some options in terms of the spectrum available for service delivery in Townsville. They need to do technical testing and that requires some lead-up time because they have to negotiate with the service provider about the details of that technical testing, and our advice is that they are hoping to commence that or they are on track to commence that before the end of this year.

**Senator IAN MACDONALD**—So if it does not happen, would it be ACMA's fault, the ABC's fault, your fault, Senator Conroy's fault?

**Dr Pelling**—I am not aware that there is any expectation that that would happen.

**Senator Conroy**—I am hoping to sign it before I leave government. I will make it my second KPI after outlasting Phil Burgess—NewsRadio Townsville's lack of transmission.

**Senator IAN MACDONALD**—The people of Townsville are deprived of hearing my eloquent speeches day after day, lauding the north.

**Senator Conroy**—I do not want to suggest there has been a conspiracy for that very reason, Senator Macdonald. But just have a good look in the mirror.

**Senator IAN MACDONALD**—Getting back to the serious side—with respect, I am trying to pin someone down. Who can I pin down?

**Senator Conroy**—After 11½ years in government you are starting on us again.

**Senator IAN MACDONALD**—We did not have an opposition that was as persistent as we have now or that cared about Townsville.

**Senator Conroy**—Or a government that was successful.

**Ms Scott**—Senator, I would be confident that Chris Chapman and Mark Scott would either be listening in to our coverage now or we could certainly get a message to them to say that they should anticipate that you are going to ask a very specific question about the news service in Townsville. So how about that?

**Senator IAN MACDONALD**—That would be good. I would just hate them to say, 'You missed your opportunity with the bureaucrat before.'

**Ms Scott**—I am worried that you are going to leave the room and we are going to get the question next time. I am hoping that in their opening statements they could answer your questions.

**Senator IAN MACDONALD**—I will leave that there. Mind you, I have to say NewsRadio has gone off a bit now. It also, like everything else in the ABC now, seems to be a

mouthpiece for the current government, which is a shame because it used not to be. I take that from the secretary as an assurance that it will be there by Christmas time.

**Senator Conroy**—We are suggesting that you might want to check with Mr Chapman and Mr Scott before you hold Patricia to that particular claim. She is not famous for wearing a red suit.

**Senator IAN MACDONALD**—I take the secretary's word. If I do not happen to be here, my colleagues will follow that up with both the ABC and ACMA. Senator Conroy, you were explaining to me why it is that country people are going to lose access to analog TV two or three years before city people.

**Senator Conroy**—I confess to being a little confused by your question, Senator Macdonald, so please jump in and correct me if I am missing it. At the moment there is simulcast between analog and digital. We have an existing analog signal and we are starting to introduce the digital signal. It is the digital signal that is the new enhanced signal that allows a range of other services—

**Senator IAN MACDONALD**—I understand all of that.

**Senator Conroy**—So we have gone through an extensive consultation process—and I will ask Mr Townend in a moment to take you through it all because it has been quite an operation—with all the stakeholders.

**Senator IAN MACDONALD**—It is a simple question. Perhaps I am getting it wrong. Does it mean that from 2011 if you do not have a set-top box or a digital TV you will not get any TV in these areas once it is switched off?

**Senator Conroy**—If you do not have a TV, by definition you will not receive a TV signal.

**Senator IAN MACDONALD**—A digital TV.

**Senator Conroy**—I think the laws of physics dictate that you have probably hit the nail on the head.

**Senator IAN MACDONALD**—Is that confirmed by someone who might know the technical details, with respect to the minister?

**Mr Townend**—Yes, you are correct, Senator. The timetable actually provides for the switch-off of analog television to start in the first half of 2010, when the Mildura and Sunraysia area will be the first to convert. At that point, in order to continue to watch television everyone will have to convert their existing television by connecting a set-top box to it or they will have had to replace that television with a digital television.

**Senator IAN MACDONALD**—So the poor people of Townsville not only do not get NewsRadio but by 2011 will have to buy a digital TV or a set-top box if they want to keep watching any sort of TV. If they want to watch question time, heaven forbid!

**Senator Conroy**—You really have to get over this. This is not a conspiracy to deny the people of Townsville your dulcet tones or pretty face.

**Senator IAN MACDONALD**—Why do you hate Townsville? Is it a fact that if you live in the country and do not spend money on a set-top box or a digital television in 2011 you will not have a TV?

**Mr Townend**—The timetable that was released yesterday now gives all Australians guidance on when the analog signal is going to be switched off. So you are correct, Senator. From the dates that are set out in the timetable—

**Senator IAN MACDONALD**—It is really not a question to you; it is a question to Senator Conroy and his government about why country people have to spend this money two years—three years, in some instances—before city people will have to.

**Senator Conroy**—I think Mr Townend can take you through the extensive consultation process that we have actually gone through in terms of setting up the timetable and why we are going forward in this particular order.

**Senator IAN MACDONALD**—Why not start in the city and come out to the country second?

**Mr Townend**—Shall I try to answer for you, Senator?

**Senator Conroy**—Yes, please.

**Mr Townend**—First of all, it is worth noting that digital television has been available in this country since 2001. Almost everyone in Australia has had the ability to receive digital television.

**Senator IAN MACDONALD**—I got it two years ago, three years ago, my set-top box. My point is: why didn't you start in the city and put those people to the expense rather than picking on regional Australians?

**Mr Townend**—What we have done over a period of several months working with the broadcasters and also with the ACMA is have a look at how we can best manage the switch-over so that it is managed with the minimal amount of inconvenience for the public. There are a number of things which could potentially cause switch-over to be challenging. Those are people's awareness of switch-over at all, the number of people who may have converted to digital television in a given area, difficulties with reception in those areas and issues such as the reception of digital television in multiple dwelling units.

We have analysed those across the various areas within our switch-over timetable and concluded that—for example, Mildura and Sunraysia has take-up of over 70 per cent, which is by far and away the highest take-up of digital television anywhere in the country. If we were to include the cities earlier than some of the areas that we have done, we would immediately have to deal with the issue of multiple dwelling units. For people who live in multiple dwellings units to convert to digital television it requires those who own and manage those buildings to have converted some of the reception devices in those buildings. So it seems fair, reasonable and sensible for us to put those areas at the end of the switch-over to give the maximum amount of time to allow the multiple dwelling units to be converted and also for us to work on signal deficiencies.

**Senator IAN MACDONALD**—Have you been to Townsville recently and seen the multiple dwellings up there these days, and Cairns and Rockhampton and I am sure elsewhere in regional Australia? They are going to have to find the money two or three years earlier than privileged people living in the city.

**Mr Townend**—We will certainly be working to make sure everyone in all of those areas has the information they need to convert. In relation to multiple dwelling units, earlier this year we did actually work with the Australian Building Codes Board to produce a booklet which provides information to everyone managing those buildings as to how and what they need to do to convert to digital television.

**Senator IAN MACDONALD**—I hope the city multiple dwelling unit people are reading that and not just the country ones.

**Mr Townend**—It is available to everybody and we are doing our best to make sure everyone has that across the country.

**Senator BIRMINGHAM**—Mr Townend, can you explain what, if any, technical reasons there are as to why your switch-over needs to be staggered? Why do you need to pick somebody to go first rather than simply setting a date for the whole shebang?

**Mr Townend**—There are a number of different ways that you can actually manage a switch-over process. We have looked very carefully at the way in which switch-over has been managed elsewhere in the world. Most of those countries which have either switched over or are in the process of switching over are adopting a phased region-by-region switch-over that allows resources to be deployed in the most sensible manner and it also gives everyone time to plan and prepare. In the UK, for example, switch-over is being managed region by region during a period which goes from 2008 to 2012. In the United States of America switch-over is planned to occur on February 17 next year in a big bang. There is considerable criticism of that from just about everybody in the industry and the US Government Accountability Office, who are very concerned that actually there will be a serious number of people who will lose access to television because the Americans are trying to approach it in that way.

There are several issues that we need to resolve, including signal deficiencies and including making sure that every multiple dwelling unit in the country is able to access television. Were we to try to do that in one big bang, it would be extremely difficult and very risky. So it seems sensible to manage the process in a phased way that also allows us to assess what is working and what is not.

**Senator MINCHIN**—You were saying in a sense that, in order to get the population understanding that there is going to be a cut-off, you need to start doing it progressively so that increasingly the population is aware that people are losing their analog service, therefore they had better get out and buy their set-top box. Is that essentially what—

**Mr Townend**—That is certainly part of it, Senator, yes. One of the reasons for picking Mildura and Sunraysia to start is because take-up is so high in that area.

**Senator MINCHIN**—Is it also because the stations themselves are having to simulcast, so there is a cost to them in that?

**Mr Townend**—There is a cost, yes.

**Senator MINCHIN**—Stations in regional areas, presumably, are the ones saying, ‘This is costing us a lot of money. We’d rather’—

**Mr Townend**—The regional broadcasters are certainly concerned about the duplication of cost, yes.

**Senator IAN MACDONALD**—I think you will find that the regional TV stations are doing okay, thanks. I understand—and I am quoting the Community and Public Sector Union, so it must be correct—there has been a—

**Senator MINCHIN**—This will be the first time you have ever quoted them.

**Senator IAN MACDONALD**—The ‘F’ part of the CFMEU is a great union. I have always said that and I am publicly on record saying it. That is the forestry part.

**Senator Conroy**—It is all right, Senator Macdonald. I knew exactly who you were referring to. Mike O’Connor is a very good friend of mine.

**Senator IAN MACDONALD**—He is a very good man. The Community and Public Sector Union tell me that ACMA has cut staff in a lot of regional places in my home state of Queensland, which is a matter for the government, but of course it does mean that there are a lot less people to assess the quality of the signal, field testing, which is vital, I understand, to deliver on the promise that the end of analog television will not leave viewers worse off. It has a real problem now because six ACMA field officers have been axed up in Cairns, Townsville, Rockhampton, Coffs Harbour, Newcastle and Wodonga, which means they will be less able to deal with the necessary testing for the digital signal.

**Mr Townend**—No doubt you will also want to address that question to the ACMA later. However, we are working very closely with the ACMA and they have assured us on repeated occasions that the reorganisation that you have referred to is having no impact on their ability to carry out the signal deficiency testing program and we are quite happy with their explanations and do not believe that the matter to which you have referred is a risk to the switch-over program.

**Senator IAN MACDONALD**—That is not what the union is saying. These field officers are being taken out of the country and put into capital cities, as I understand it, as part of the efficiency dividend to save 4.6 million.

**Mr Townend**—I cannot really add anything to my answer, Senator. I think it is more of a matter for the ACMA.

**Senator IAN MACDONALD**—As I say, I do not really want to get cranky with you, Mr Townend, but it seems to be a government decision that there are—I will not demean it by saying there are less votes in the regional areas; that the regional areas do not seem to be quite as important. It just means that regional people will have to spend money in advance of others when the analog system is switched off.

**Mr Townend**—There is another way of looking at that, of course, which is that regional people will also have access to all the benefits of digital television in advance of those in the cities.

**Senator IAN MACDONALD**—We have that now, as I pointed out to you. I have had it for three years, but there are some people who will have to outlay 200 bucks for a set-top box or a new TV, which is considerably more. It is an imposition on country people well in advance of city people and in many parts of the country—Townsville is not too bad, it is doing pretty well, but in many parts of the country people are doing it tough at the moment. I would have thought that the government would have been doing it the other way around and



giving a bit of leeway to country people. That is perhaps for the minister rather than you, Mr Townend.

**Mr Townend**—One point I would like to make, if I may, is that the cost of set-top boxes is perhaps not as high as you fear. There are standard definition set-top boxes available for between \$30 and \$40 and high definition boxes are available from around \$100. You would expect that over time even those prices might fall, so the overall cost to consumers will, of course, depend on the number of televisions they want to convert, but it need not be as expensive as perhaps you fear.

**Senator IAN MACDONALD**—You are not in a position, you say, to tell me the impact the loss of these field officers will have on the assessment of whether the digital TV take-up in country areas is as good. That is not your area or can you comment on that?

**Mr Townend**—I would really just clarify the answer I gave earlier, Senator, which is that we work very, very closely with the ACMA. They have assured us on several occasions that their internal reorganisation will have no impacts on their program of signals testing, and I am quite happy with their explanations.

**Senator IAN MACDONALD**—All right. I might have to take it up with ACMA later on and perhaps, with respect to you, get it from the horse's mouth because my information is that there could be real problems for country people, but thank you for your help so far.

**CHAIR**—Further questions on digital TV. Senator Ludlam.

**Senator LUDLAM**—I just wanted to raise the issue briefly of community broadcasters in the transition through to digital—essentially, just some broadbrush details. Being a senator from WA, it is really a little bit unfortunate—greatly unfortunate—to see Channel 31 fall over in the last couple of months despite assurances that they would be supported. One of the biggest issues facing the community broadcasting sector obviously is surviving the transmission to digital. Can you just give us a bit of an overview as to how community TV stations in the metro markets in Lismore are being resourced to do that?

**Dr Pelling**—I think at this stage the answer is that that issue is being considered in the context of the digital switch-over decisions which are being made by the government at the moment. There has been a range of discussions that we and, I believe, the minister's office have had with those community broadcasters on this issue over a while. But it is still a policy matter which is before the government.

**Senator LUDLAM**—I will direct some questions to the minister on that basis in a moment. So is it not something that is under active consideration by the department in the context of the switch-over?

**Dr Pelling**—It is under active consideration in developing advice for the government on this issue. Our role is to advise the government on this issue. We have been advising the government on this issue, but the government has yet to make a decision on precisely a way forward on this.

**Senator LUDLAM**—Minister, would you be able to give us a bit of an update?

**Senator Conroy**—We have been having extensive consultations with the community broadcasting sector, both TV and radio. We are very conscious of their need to get a transition

path. For 11½ years, unfortunately, there was not a transition path outlined by the previous government. I am sure you would understand that. There are no easy solutions to this, otherwise I am sure it would have been solved. So we have been working through a variety and considering a variety of options to assist in the transition, but at this stage we have not been able to resolve some of the difficulties. But we are confident that we will find an outcome that will deliver an enhanced community broadcasting outcome.

**Senator LUDLAM**—Not to oversimplify, you say that there are not easy solutions. Wouldn't the easy solution be to provide community broadcasters with access to the transmission equipment, the multiplexes? I would have thought it is just an allocation of spectrum off the spectrum that has been set aside for non-commercial and innovative programming and so on. Is it not a fairly—

**Senator Conroy**—There have been a variety of proposals put forward by, at various stages, community broadcasters. They have advocated at various stages what is called the hot swap—that is, just turn off the analog and immediately introduce the digital signal in the same spectrum space. That was advocated over the last 12 months. That has been advocated to me by a number of community broadcasting TV—

**Senator LUDLAM**—And shut the analog transmitters off?

**Senator Conroy**—Yes, a hot swap is literally just bang, bang—switch off analog signals and start the digital signal. Despite being advocated by community TVs, that is no longer their position. They do not support that.

**Senator LUDLAM**—That is good.

**Senator Conroy**—As I have said, this was something they put to me. Then after considering it and thinking about it over six or eight months or nine months, they have then come back to me and said, 'No, we don't want to go down that path.' So this is not a simple solution.

**Senator LUDLAM**—There is a bill before us now obviously which, I think, is going to committee over the next couple of weeks around digital switch-over for television stations. Are you a bit concerned that the community broadcasters are going to be falling behind?

**Senator Conroy**—This is the region-by-region bill you are talking about?

**Senator LUDLAM**—Yes, in essence, but it is going to impact on, I think, the five community broadcasters in metro markets and the one in Lismore, which is the only regional one that is still transmitting. Are you concerned that, in the context that we are setting some hard and fast targets fairly shortly for switch-over, the community sector still does not appear to have a simple path to get digital transmission?

**Senator Conroy**—Just in terms of the switch-off—I am not sure if you have seen it or do not have handy the press release in front of you—we are moving through regions. My geography is not great, but New South Wales—I think Lismore is in New South Wales—regions are not dealt with until 1 January to 30 June 2012. So there is no impact at all on what could be described as the only regional community TV. The current bill is not specifically dealing with community television. It allows us to set some instruments for these sorts of time lines and dates that I am talking about. But there is no suggestion that we would be looking at

regional New South Wales until 2012 and there is no suggestion of doing any capital city until—just confirming this—2013. So we are a long way from facing a switch-off issue in the direct sense.

**Senator LUDLAM**—I understand that, but I would put to you that it was a key factor in the collapse of Channel 31 in Perth.

**Senator Conroy**—No, I would have to disagree with you entirely there. I am willing to go into chapter and verse on it, but that is simply not true.

**Senator LUDLAM**—It was put to us by folk working at the station that because they did not have a guaranteed path to digital transmission they did not know where the funding was coming from and that other investors were not willing to put money in—

**Senator Conroy**—No, there are two separate issues there. There is funding and then there is spectrum available. Let me be clear again: that is not correct. In fact, the white knight that was invited in by Channel 31 in Perth put out a press release some very short period after the white knight actually had a look at the books and made it quite clear that he had not been given all of the information about the true state of the books and he withdraw. This was a financial calamity of its own making.

In terms of funding, we do not fund directly any of the community stations around the country. A number of state governments do and do not in different ways. I wrote to the minister in the previous Court government indicating that I was confident that we would get an outcome ultimately for community television—

**Senator LUDLAM**—Sorry, was that the Carpenter government?

**Senator Conroy**—Sorry, the Carpenter government, not Court; thank you. I wrote to the minister. I had a number of conversations with the minister about it and was very supportive. In the same way, I have written to the South Australian minister and I think the Queensland minister indicating that the federal government believes that we will find a solution for community television in the digital world. But any suggestion whatsoever that there was a lack of path is not supported by the evidence. It is not supported by the white knight who came in, had a look at the books and then rode off into the sunset—and this is all on the public record. So I appreciate the commentary that you have been given, but there are a number of active potential—and you might want to ask ACMA about this when they come to the table—replacements for the former management.

I am confident that in a relatively short time we will end up with community TV broadcasting again in Perth. If there is no business case because of lack of certainty, then no-one would start one up, and that is not the case. So I think that some people have tried to make the point that they want to blame someone else, but I think even a person who was willing to put up a couple of hundred thousand dollars of their own money to assist it through a difficult period after having a look at the books walked away saying, 'Just a minute. It's much worse than I was told.'

**Senator LUDLAM**—Do you have a deadline or a time line whereby you or the department want to have a path for community television in place?

**Senator Conroy**—The sooner we are able to do that the better.

**Senator LUDLAM**—Is that not—

**Senator Conroy**—You should not misunderstand that we have a commitment to deliver an outcome. We are meeting regularly and extensively with the community TV sector. I look forward to meeting with whoever takes up the new licence where I will give them exactly the same reassurances that I gave the previous management. I will show them the letters I wrote to the previous government. I am happy to write to the new Western Australian government to set out the case again. We will find a solution for them.

**CHAIR**—We will now break for afternoon tea.

**Proceedings suspended from 3.47 pm to 4.04 pm**

**CHAIR**—We will recommence. Senator Birmingham has some questions.

**Senator BIRMINGHAM**—Picking up where Senator Ludlam was in relation to community broadcasting, my understanding is that the primary concern of community broadcasters is not so much when the cut-off date is but the loss of market share and audience share that they suffer the longer they are unable to dual broadcast. Are they the concerns that they have shared with you, Minister, or Mr Townend?

**Senator Conroy**—I am not going to go to the heart of private discussions that I am not authorised to release. But certainly those issues, among a number, are of concern. Unlike the previous government, we have actually committed to find a solution. As I said, we have been considering proposals they put forward. They have now changed their mind and have backed away from some of those proposals. They have had different proposals among them. There has not always been a unified approach. They are very unified at the moment. They are working closely with me and my department and we are getting technical advice from ACMA. We will deliver a satisfactory solution for them.

**Senator BIRMINGHAM**—Minister, I appreciate the second half of the answer. But in terms of the first half, I fail to understand why you will not acknowledge that obviously for any broadcaster a loss of access to a potential market—

**Senator Conroy**—I said it was one factor.

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

**Senator Conroy**—I did say that.

**Senator BIRMINGHAM**—It is a factor. I was not asking you to divulge details of discussions with particular broadcasters but the generic concern that they would all hold. You indicated that you thought the New South Wales switch-over area was the first likely to affect a regional based community broadcaster. Mr Townend, do we have any data in that area in terms of the take-up of digital?

**Mr Townend**—No, not as yet. The only data we have on take-up is that which I gave to the estimates hearing last time around, which is the ACMA study from December 2007. The average take-up of digital television across Australia is 42 per cent of households have converted one set. Mildura has a take-up rate of 70 per cent. That is primarily because the third service is available in digital only. Tasmania also has an increased level of take-up due to a third service being available. But in the particular areas you refer to, I do not have that

information to hand. ACMA may have further detailed take-up figures, but we do not have that to hand at the moment.

**Senator BIRMINGHAM**—We can pursue that with the ACMA. Just to clarify one thing, you said Tasmania has one of the higher take-up rates as well?

**Mr Townend**—That is correct.

**Senator BIRMINGHAM**—Yet I note Tasmania is towards the tail end of the schedule for transition.

**Mr Townend**—That is correct, because that area also has a number of signal deficiency kind of problems that we need to deal with—the hills and so on. We need to make sure we have a solution for signal deficiencies as well.

**Senator PARRY**—Is there a solution on the horizon?

**Mr Townend**—There are a number of solutions which are under consideration at the moment.

**Senator BIRMINGHAM**—On the hilly horizon.

**Senator Conroy**—We set the timetable. So we expect a solution by that date—

**Senator BIRMINGHAM**—By 1 January 2013.

**Senator Conroy**—otherwise we are all in trouble.

**Mr Townend**—By 2013.

**Senator MINCHIN**—You are in trouble.

**Senator Conroy**—We switched off on your timetable earlier in the year—2008. I do not think you have got any innocence here at all, Senator Minchin. I am prepared to concede your colleagues do.

**Senator BIRMINGHAM**—From recollection, previously you have left open the possibility of some assistance for lower-income households or others in the transition. Does that remain a possibility?

**Senator Conroy**—If you look around the world you can see the sort of measures that have been put in place in other jurisdictions. Mr Townend mentioned we have been following closely the US and the UK. With Mr Townend and Mr Thomas I recently visited the US and the UK and got up to speed with where they were at with their various endeavours. I think Mr Townend mentioned that the US—the US is a train wreck, to be frank—is going to encounter a number of difficulties. The UK is better prepared but has had a number of issues.

We have been looking at different solutions to ensure that we do not have a train wreck in this country. We are considering a whole range of issues around that. It is very early stages, Senator Birmingham, and I am sure you would not want me to speculate on matters that ultimately the government has to make decisions on.

**Senator BIRMINGHAM**—Mr Townend, could you enlighten us as to what assistance, if any, is provided to low-income households in the planned switch-over in the UK?

**Mr Townend**—Yes, I can. The switch-over help scheme in the UK is targeted at all of those who are aged 75 and over and those who have a significant disability and are registered as such. That service is provided to those people for a basic fee. I believe it is £40, but I would probably have to check that. If you are also on income benefits—so if you receive some form of income—that service is provided to you free of charge. The service includes the provision of a set-top box, someone to deliver it and install it and also someone to provide you with assistance so that you understand how to use that set-top box. That is provided for one television in each home.

**Senator BIRMINGHAM**—But it is provided only to those who are either over 70 or on some type of—

**Mr Townend**—It is over 75 and/or those who have a significant disability and are registered as having that disability. The research in the United Kingdom suggests that those who may have some difficulty making the conversion are those who are older, who have some form of disability or who are socially isolated. One of the particular challenges is finding a proxy group for exactly those people who are likely to be in that group. The UK scheme is designed to do that.

In addition, many of those people can receive help from family and friends. A lot of the communication in the UK is designed to help those people help themselves or help those who are caring for them help them to convert, and thus reduce the actual take-up of the scheme itself.

**Ms Scott**—I think the take-up has about 50 per cent of the eligible group. So the eligible group is quite targeted and the take-up rate has not been above 50 per cent in part because set-top boxes have become popular Christmas presents and people in Britain are starting to appreciate the need for conversion. Family and friends rally to the cause and switch over grandma's set and off they go.

**Mr Townend**—And the scheme is positioned as a safety net and it is available within a targeted window just before switch-over.

**Senator BIRMINGHAM**—There are obviously two components in that sense. There is the knowledge or awareness of how to switch over and then there is the cost of switching over. The UK scheme provides for both in that one targets a certain cohort of the population as possibly needing assistance on the awareness side and then breaks that down into another part of the population that may not be able to afford that assistance or the set-top box.

**Mr Townend**—Those who are unable to afford are a subset of the first group. The total group is those who are 75 and over or with a significant disability. That service is free if you qualify on that basis but you are also on a very low income.

**Senator BIRMINGHAM**—Just remind me Mr Townend, when did you say the first regional switch-over in the UK is due?

**Mr Townend**—It was Whitehaven in October last year.

**Senator BIRMINGHAM**—It was October.

**Senator Conroy**—A wonderful town.

**Senator BIRMINGHAM**—And they have not encountered particular problems with other lower income families or other subsets of the population?

**Mr Townend**—Not at all. In fact—

**Senator Conroy**—Having recently visited twice, to visit my family who all live there, it was quite interesting to find a level of information and education. Don't laugh; it is actually true. It is Andy's worst nightmare: he designed Whitehaven and I am from it. You would have to say overall it was pretty successful. When we were in the UK I met with and talked with disability and consumer groups who all felt the program had worked very successfully. A number of people had been engaged at a community level to help promote the program. They had brought into play an assistance program based around people helping install not just set-top boxes but also antennas. Whitehaven is right in the top north-west corner of England, next to Scotland, so signals, in an area as small as this, were actually quite diverse. The natural assumption based out of London was that you just pointed the antenna in one place, but because of the geography of Whitehaven in actual fact signals are pointed in many different directions.

We had good discussions with the retail groups and they admitted that there was partially a problem created because of expectation. Not everyone was going to receive the full 40 channels; they were going to receive only 20 channels. And that was an expectation actually created by, in the very early stages—this was coming from the retailers—some poor marketing which indicated that they would get the full 40 stations rather than the 20 stations. Don't hold me to exactly 40 and 20. And also Tesco decided to dump the cheapest possible set-top boxes that they had on the market in Whitehaven and flooded the town with 10 pound or 15 pound set-top boxes which had absolutely minimal functionality.

So where there were some issues for particularly the disabled and the elderly—a number of my family are pensioners—it was largely created by poor marketing practices by the retailers. They acknowledge that. They moved to fix that readily. Overall, it was considered by those community groups and representatives of community groups that we spoke to as having gone very well. The take-up rate of their package was much below what they actually anticipated. To be fair, because Whitehaven is such a small place—I promise you it is—they were able to really concentrate resources.

The next switch-overs are going to be in 2009: West Country, Wales and then Manchester and Liverpool—Granada—in November. That is the biggie. That is where they are going to get their first really serious test of how successful the program is. They are doing Selkirk, which is just up the road from Whitehaven, at the moment. But the biggie is Granada, because it covers two really huge population centres. So the real test is in November.

**Senator BIRMINGHAM**—Thank you, Minister, for that. How long prior to the switch-over this November, if we take those larger communities, has the assistance program been in operation?

**Mr Townend**—Are you talking about the UK scheme?

**Senator BIRMINGHAM**—Yes.

**Mr Townend**—The program was announced I believe in May of last year, so May 2007. Eligibility kicks in nine months ahead of the switch-over date in the area in which you live and I think carries on for a month or two afterwards. It is worth clarifying that the timetable in the UK was announced in September 2005. So the actual assistance scheme itself was not announced until almost two years after the switch-over had commenced. The government at that time sort of assured the UK public that the matter was under consideration.

**Senator BIRMINGHAM**—Obviously we do not have two years in Australia from the announcement of the timetable to the establishment of such a program. What type of time line is the government working to to achieve something in Australia, to achieve those ends?

**Ms Scott**—It is under deliberation now. It is the subject of consideration by the government.

**Senator BIRMINGHAM**—Does that mean—I am not expecting a firm answer, because I know I will not get one, but—

**Senator Conroy**—We are very conscious of the point you are raising. Obviously my own personal experience in Whitehaven and Andy's extensive experience in the UK demonstrates the need to look at these measures. We are considering a whole variety of options based out of the US, the UK, Germany and some of the Scandinavian countries about the measures they have used and the population segment they have targeted. All of those are under active consideration at the moment and we will keep you posted when we make an announcement.

**Senator BIRMINGHAM**—Okay. Thanks.

**Ms Scott**—Senator, would it be helpful to have Mr Townend talk a little bit about the US scheme? The minister has indicated that he considers it a train wreck, and it also has had a test market where they have closed off the analog service. I wonder whether the committee would be interested in hearing just briefly about the US scheme to get some sense of how it could be done and maybe how it should not be done.

**Senator BIRMINGHAM**—I am mindful of not taking up too much of the committee's time, but certainly a brief appraisal, Mr Townend.

**Mr Townend**—I will be very brief. The scheme is actually run by the National Telecommunications and Information Administration. Something like \$1.5 billion has been invested in a scheme to provide two vouchers worth \$40 each on a first come, first served basis. There is no means testing. As I say, it is first come, first served. What seems to be happening is that those vouchers are—the NTIA actually do not know who precisely is redeeming them. They do not know whether the people redeeming them are those in need. It is quite possible, in fact likely, that the vouchers are actually being redeemed by people for their second and third sets. They have actually miscalculated the amount of money they required. They ran out of postage stamps, would you believe—

**Senator Conroy**—Because they expired.

**Mr Townend**—They expired. They actually do not believe the scheme is funded and there are some serious questions being asked by the Government Accountability Office and others about whether that scheme was a good use of public money. It certainly appears not to be providing help to those who need it. The first trial in the US was in Wilmington just a few



weeks ago, and a very high proportion of people were calling in saying they did not know what to do, that they had not been given any advice and so on. As I mentioned earlier, the switch-over is due to complete, all in one go, on 17 February next year. Some serious questions are being asked.

**Senator Conroy**—We offered political asylum to a number of public officials in the US. They may take it up on 19 February.

**Senator BIRMINGHAM**—What did you say? The whole country?

**Senator Conroy**—The whole country is going to switch off on one day.

**Mr Townend**—On one day.

**Senator BIRMINGHAM**—Including Alaska?

**Ms Scott**—Including Alaska. In part because they have major sporting events and they want to hit between these two dates, you get a sense from officials, even second and third hand, that they are very concerned about the date.

**Senator MINCHIN**—Presumably you are considering a major communications campaign in each of these regions as you work through.

**Senator Conroy**—Ms Scott mentioned that that was something that was being considered earlier today when I think Senator Birmingham asked about a communication campaign. Ms Scott did mention that this is one that we would be doing.

**Senator MINCHIN**—That is fair enough. Without sounding as parochial as Senator Macdonald, I notice South Australia is the first state up, effectively, which means you would have to be building into your budget bid for next year—

**Senator Conroy**—Absolutely, which is why we cannot really talk about it.

**Senator MINCHIN**—Fair enough. In your PBS you talked about commissioning this evaluation of reception difficulties in multi-unit dwellings. I understand the minister issued a statement on the 14th of this month awarding a \$1 million contract for a technical survey by Australian Digital Testing.

**Mr Townend**—That is correct.

**Senator MINCHIN**—Could you tell me a bit more about that? Was that a tender process?

**Mr Townend**—That was in fact a tender. Could I just check the details here? Yes, it was. It was tendered on 10 July. Four tenders were received and the contract was signed on 5 September.

**Senator MINCHIN**—Who are Australian Digital Testing?

**Senator Conroy**—Good question. Who are they?

**Mr Townend**—It is an organisation that was created a little while ago from a number of people involved in the supply chain who have a good technical knowledge and have worked extensively within the industry for some years. They will be reviewing the installations in something like 600 properties around the country to give us an idea of some of the issues faced in those buildings and some of the solutions and some of the costs.

**Senator MINCHIN**—So they are a techo outfit?

**Mr Townend**—They are a technical outfit.

**Senator MINCHIN**—Free and independent of any broadcasters or—

**Mr Townend**—They are free and independent of broadcasters. They have had associations with the supply chain. We did run a tender process and we are satisfied that they are an appropriate organisation to be carrying out this work.

**Senator MINCHIN**—And what of the length of the contract? In what period of time do they have this million dollars to conduct this evaluation?

**Mr Townend**—I believe that contracts—bear with me, Senator. The contract goes through to 31 December 2009. That contract was signed on 5 September. This is information that we require in the relatively short term.

**Senator MINCHIN**—Do they actually go on-site? Do they visit buildings physically and—

**Mr Townend**—Yes, they will be visiting buildings. They will be looking in the roof spaces and they will be looking in the conduits, the ducting and so on and so on. They do need to get permission from the building owners and in some cases they will also need permission from those who are living in the building in order to inspect the premises.

**Senator MINCHIN**—Because, as I understand it, the problem is where there is a communal area, is that right, when you have a multi-unit dwelling with a—

**Senator Conroy**—The challenge is to get everyone to agree. It is a body corporate. You can imagine trying to get a vote with some people saying, ‘I don’t ever want digital TV’ or whatever.

**Senator MINCHIN**—Beyond that I thought there was actually a technical difficulty with reception to a multi-unit dwelling with a communal area; is that correct?

**Mr Townend**—It tends to be a combination of things. There is an antenna on the roof, there are boxes that take that signal and then there is cabling through to the individual units within the building. Quite often it is the cabling that happens to be the problem. The purpose of the test is to look at 600 different locations across Australia to get a reasonably good idea of the kinds of problems that are actually occurring. One of the things that we have done relatively recently, working with a great deal of people in the multi-unit dwelling industry and the supply chain, is to develop the digital TV antenna systems booklet, which I am quite happy to let you have a copy of. That provides some technical guidance for people in the industry, for people owning and managing these buildings, so they know what to do. The experience we had in the UK is that one of the ways to deal with this is to give that information to people as quickly as possible, so the research we are doing is to supplement that initial guidance.

**Senator Conroy**—We have also written to Kim Carr, who looks after multi-unit dwelling regulations, to try to get it made compulsory. I think that is right, isn’t it?

**Mr Townend**—Yes. We have a series of guidelines in that book which at the moment are non- mandatory, but the aim and intention will be to make them mandatory in due course. The

key thing is to make sure that people who are managing those buildings know what they need to do and know where to get help.

**Senator Conroy**—And we are going to change the code so that all new buildings to be built will be digital ready.

**Senator MINCHIN**—But there are technical solutions to existing buildings that do not result in everybody having to have their own aerial.

**Mr Townend**—No, there are technical solutions and, as I say, the thing we need to do is make people aware of that so that they actually go out—there are two solutions to this. One is telling the people who are responsible for those buildings that they have to do this. The other one is making sure the people who live there know to ask their landlord or managing agent to do the work.

**Senator MINCHIN**—The other contract I notice the minister announced was to Newspoll in relation to the Digital Tracker program. Can you confirm the terms and conditions of that, whether that was tendered?

**Mr Townend**—That was in fact a competitive tender, date tendered on 19 May 2008. We received nine tenders and the contract was awarded to and signed by Newspoll on 23 September 2008.

**Senator MINCHIN**—To the value of \$4.8 million.

**Mr Townend**—\$4.8 million, correct.

**Senator MINCHIN**—And the length of that contract?

**Mr Townend**—That contract is a three-year contract with a one-year extension.

**Senator MINCHIN**—And the 4.8 is for three years, so—

**Mr Townend**—It is over four years. We have costed it over four years.

**Senator MINCHIN**—So 1.2 million a year. Exactly what is their brief?

**Mr Townend**—Their brief is to research on six critical success measures for us, that is, awareness of digital switch-over, understanding, intentions to convert, actual conversion, attitudes to switch-over and satisfaction with the process.

**Senator MINCHIN**—And to do so on a quarterly, monthly—

**Mr Townend**—That is going to be a continuous process. I can give you some detail. The sample size will be 300 households per switch-over area. So the areas that are identified in the timetable will each be reviewed. There will be continuous surveying from January 2009 and a quarterly report will be produced on each of those measures that I have mentioned.

**Senator MINCHIN**—Will they be made public, those quarterly reports?

**Mr Townend**—That will be made public. The survey will obviously provide us with a huge amount of data. What we will need to do—and what we are doing with Newspoll at the moment—is just going through the exact methodology and also what those outputs will be, but we will certainly want to be reporting on those six critical success measures, both in terms of switch-over area but also in terms of demographic group.

**Senator MINCHIN**—The results of these surveys, presumably, will not result at all in any change to the timetable, but presumably will influence your decisions as to the level of activity, communications et cetera that you undertake in particular regions, is it, to identify whether you have a problem?

**Mr Townend**—It is designed to let us know where there is a problem and help us work out what solutions will be necessary, that is correct. It is worth noting that is something that has worked very well in the UK. Another thing the USA did not have was any kind of tracking methodology and they were criticised for that. They do not actually know what is going on.

**Senator MINCHIN**—That is fine, thanks.

**CHAIR**—Any further questions, Senator Ludlam, on this issue? No. Next, questions for the portfolio officers. Senator Nash?

**Senator NASH**—I am not quite sure who this goes to. I understand a global satellite internet service provider ceased providing services just recently. I think IPSTAR have jumped into that space?

**CHAIR**—We are back into broadband guarantee, I think.

**Senator NASH**—Sorry, this is just a very quick question. I am just seeking advice for a couple of issues that have been raised.

**Ms Scott**—Chair, can we take it then that the digital switch-over is finished? I do not want to let the officers go if it turns out we are going to go back to that.

**CHAIR**—Are there any further questions about digital switch-over from anyone? That is fine, thank you.

**Senator NASH**—It is just a related issue. I gather it is fairly straightforward that that ceased providing services and I think IPSTAR have now said that they will look to provide that service in that area in New South Wales; is that correct?

**Mr Bryant**—Yes. Briefly, the situation as I understand it, Senator, is that there is a commercial contractual dispute between LiSP and IPSTAR, and that the services provided by LiSP are no longer available because of the situation with Go Bush. The situation with the supply chain is that Go Bush has bought services off IPSTAR and on-sold them to LiSP. Go Bush is no longer purchasing services from IPSTAR and as a result LiSP customers have been switched off. That is the nature of the dispute. In relation to the Australian Broadband Guarantee, there is no relationship. Our concern is that a number of customers of LiSP have been subsidised customers under previous programs, so we have an interest in protecting their ongoing access to metro-comparable services.

**Senator NASH**—Thanks. Just as a result of that, it has been raised with me that apparently there are some issues with the direct debit accounts from that previous provider. I do not know if this is something the department is aware of, but apparently people are experiencing some difficulty in ceasing that direct debit. I know that is probably not technically your area, but I wondered if that was something that you were aware of and if you were giving any advice surrounding that?

**Mr Bryant**—I might introduce Mr Cobcroft, who has been dealing directly with that issue.

**Mr Cobcroft**—Simon Cobcroft, Acting Assistant Secretary, Broadband Infrastructure. I am not aware of that issue, but if that is an issue I am happy to follow that up.

**Senator NASH**—If you can take that on notice and perhaps come back to the committee if it is an issue and, indeed, what people should do if they are encountering that.

**Mr Cobcroft**—Yes.

**Mr Bryant**—Just to understand our position accurately, we are quite clear that we are not going to be a de facto mediator in this commercial dispute. As I said, our interest is in making sure that the customers we previously supported are protected in getting a broadband service.

**Senator NASH**—Thanks.

**CHAIR**—Senator Ludlam?

**Senator LUDLAM**—I would just like to bring us over to the government cybersafety plan, if there is someone here?

**Ms Scott**—I will just ask Mr Rizvi to come to the table, and other relevant officers.

**Senator LUDLAM**—We are okay to proceed?

**Ms Scott**—We are ready now, thank you.

**Senator LUDLAM**—I am just wondering whether we could start with a bit of a general overview. I note there is a big jump in anticipated funding for 2009-10, in the order of the factor of 10, from the funding that is expected for this year. Can you give us a bit of a sense of how the scheme is progressing and how you see it rolling out over the next 24 months or so?

**Mr Rizvi**—The government in the 2008-09 budget allocated funding of \$125.8 million over four years for its cybersafety package of measures. The measures included elements associated with education, international cooperation, law enforcement, research and also filtering. Would you like me to go into the details of the breakdown of that \$125 million?

**Senator LUDLAM**—Maybe that would be worthwhile. I am particularly interested in the law enforcement side and the net filtering proposal.

**Mr Rizvi**—In terms of law enforcement, \$49.0 million over four years was allocated to the Australian Federal Police's child protection operation's team. That would enable the team to gradually grow, and at the end of the fourth year it should have grown by something in the order of 90 AFP members. In addition, \$11.3 million over four years was allocated to the Commonwealth Director of Public Prosecutions for the increased activity resulting from the additional allocation to the Australian Federal Police; \$44.2 million over four years for both ISP level filtering and PC level filtering; \$9.9 million over four years to the Australian Communications and Media Authority to implement education and outreach activities; \$4.3 million over four years to ACMA to further develop its cybersafety websites and online helpline; \$800,000 over four years for a consultative working group on cybersafety; and \$3.9 million over four years to the development of a youth advisory group to advise on cybersafety issues from a young person's perspective.

**Senator LUDLAM**—How do you qualify 'young' in that context?

**Mr Rizvi**—Young in that context is under the age of 17 and around 11 and above.

**Senator LUDLAM**—Can you take us back to the appropriation for the filtering, which was \$40 something—

**Mr Rizvi**—The allocation was \$44.2 million over four years.

**Ms Scott**—Senator, would it assist you if we give you at the end some of that detail?

**Senator LUDLAM**—Yes, I would appreciate that. Can we go to the internet filtering or the ‘clean feed’ internet, as it is being discussed. Can you give us a sense of that component of your budget? Where are we up to? How is that scheme progressing?

**Mr Rizvi**—What we have been doing is consulting with industry on the conduct of a live pilot of ISP level filtering. That follows a laboratory trial that was conducted by the Australian Communications and Media Authority on a variety of ISP filtering products. So that was a laboratory trial. It did not actually test things in terms of an actual customer. What we want to do now is test in a live environment with some ISPs who are delivering services to customers. We have been consulting on a technical testing framework for ISP filtering.

**Senator LUDLAM**—Consulting with whom?

**Mr Rizvi**—With a range of ISPs both large and small as well as the Internet Industry Association and the Australian Mobile Telecommunications Association. We have contracted with a testing expert group known as Enex Test Laboratories, who operate out of Melbourne, who are assisting us in the design of that pilot. Only last week we had a very lengthy telephone conference with a handful of ISPs as well as the Internet Industry Association to gauge their views on the draft technical testing framework for the live pilot. Those views we have now examined closely and we will be shortly briefing the minister on the next steps with the live pilot.

**Senator LUDLAM**—So within the constraints of not having briefed your minister yet, how much can you tell us about how you see that project rolling out in terms of timetables for the live trial and then what happens after that?

**Mr Rizvi**—At a very broad level, the purpose of the pilot is to look at two streams of potential filtering. The first stream of filtering is in terms of just filtering the ACMA black list and different methodologies for filtering the ACMA black list. What we will seek to test is the impact of that type of filtering in terms of a range of criteria. We will also test more sophisticated types of filtering that go beyond just simply testing the ACMA black list through to filtering larger black lists and also looking at other types of filtering including dynamic filtering, filtering using key words—those sorts of methodologies—to see what the impact of that type of filtering is in terms of both the ISP and the customer.

**Senator LUDLAM**—So who is determining what is on these different categories of black list?

**Mr Rizvi**—In terms of the ACMA black list, that is determined by the Australian Communications and Media Authority based on a list of requirements. Beyond that, what is actually filtered in using more sophisticated tools varies quite considerably, and most of those tools enables the individual user to determine what is to be filtered.

**Senator LUDLAM**—I believe we are seeing ACMA a little bit later in the evening, so I suppose I can ask them about their criteria. Presumably you would have people like the AFP

feeding them the criteria for the sorts of things they are trying to block. I am trying to get a sense of where ACMA is getting its—

**Senator Conroy**—There is a black list that exists at the moment. ACMA can you give you the full details. One of the things we have been encouraging—and I have spoken at international forums about—is cooperation between the various international policing authorities. This is not a problem you can solve with one jurisdiction. The internet is international. So we have been encouraging greater cooperation between law enforcement agencies across the world so that we can try, where possible, to combine black lists. That will stop us reinventing the wheel, so to speak. So different jurisdictions have a range of different black lists. They have not been coordinated at this stage. We have been trying to drive some international cooperation on that.

**Senator LUDLAM**—Presumably the two fronts, if you will—if you have drawn the black list up—are that you are attempting to create software filters that will automatically block some content from leaving the ISP in the first place and you are also attempting to coordinate law enforcement agencies to go after the source and take the stuff off line. Is that right?

**Senator Conroy**—Yes.

**Senator LUDLAM**—I am not trying to put words in your mouth.

**Senator Conroy**—No. I am just trying to think whether that totally describes it. When you say ‘block content from leaving the ISP’, this is to work with the ISPs—and that is why we have been consulting so much with them—to minimise any impact on the actual operation of the net. That is why we are going through the trials. We are going through the laboratory trial that you heard about and we are going to go down the path of a real world trial, because we have committed to consult extensively with the sector to ensure that we do not have the impact that some wild claims make.

**Senator LUDLAM**—To be clear, this is software that is not sitting at the client end. Where does it reside? Is it on every ISP in the country? Will every server in the country be required to host something? Where is it actually resident?

**Ms Scott**—It is a live trial, so the purpose is to trial a process.

**Senator Conroy**—You are jumping ahead of where we are actually at in the development of it.

**Senator LUDLAM**—I know. But, if there is any intention to establish some form of internet filtering, you are obviously trialling some kind of model, so you have some idea.

**Mr Rizvi**—I think what the trial is about is to test an objective rather than to test a particular technology. What different ISPs may come up with is different approaches to doing the filtering and achieving the objective but there will be different technological solutions to the same objective. What we are interested in is testing a range of solutions to see what the features of the different solutions are.

**Dr Pelling**—And some of those solutions will be software and some of them will be hardware.

**Senator Conroy**—That is why I did not want to be too prescriptive when you said ‘software’.

**Senator LUDLAM**—Some will actually be hardware. Can you describe what that might consist of?

**Dr Pelling**—Typically a hardware filtering device will be a computer-sized box, for example, which will have built into it an underlying software platform that will assess the internet stream going through it against, for example, an extensive black list or a series of categories of sites which are often developed by the service provider. They will filter the internet stream against those sites which are continually updated. When we say ‘hardware versus software’, the hardware platforms would be typically an integrated platform in a small box which would be plugged in and can be customised to a certain extent.

**Senator LUDLAM**—I suppose I would put to you that there is a big difference between category of site and category of content. Sites can host all sorts of things. One example that has been put to me, for example, is somebody posting an article on a controversial topic on a website and someone then leaves a comment on that website and neither the ISP nor the person who posted the original article has any control over the kinds of comments that might be added. What are the odds that the filtering software in that case is going to start knocking out content inadvertently and start returning fairly serious false positives?

**Senator Conroy**—Underblocking and overblocking are obviously issues. That is why we are engaged in conversation with the sector about it—to specifically try to minimise this sort of impact.

**Senator LUDLAM**—So what are your benchmarks or what is acceptable?

**Senator Conroy**—We are just at the very early stages. You are actually jumping ahead. I can understand that if you have been reading some of the wild and—

**Senator LUDLAM**—Some of it is not so wild, Minister.

**Senator Conroy**—enthusiastic commentary that I keep seeing both in blogs and in the media. But we are actually only in the early stages and we have committed to consult with the sector to work through these very issues. We have not set some of those benchmarks. What we are seeing is what is the impact, but we have not said, ‘Right, three per cent is acceptable and seven per cent is not acceptable.’ We actually have not done that.

**Senator LUDLAM**—Okay, so there are no benchmarks yet. Are there any countries around the world where this has been tried, where this is actually being attempted?

**Mr Rizvi**—There are a number of countries around the world where some degree of filtering is utilised.

**Senator LUDLAM**—China for example?

**Mr Rizvi**—No. Actually, China was not one that I had in mind. I had more the United Kingdom, Canada, New Zealand and the Netherlands in mind as examples of countries where some level of filtering has been introduced. Predominantly the filtering that has been introduced there is similar to that first stream of filtering that I described—that is, filtering



what is known as the equivalent of the ACMA black list, which is at the moment predominantly child pornography sites.

As the minister mentioned, he has been consulting with a number of these countries about the idea of sharing these black lists so that we can take advantage of the economies that that might deliver us. ACMA has been consulting in particular with the United States and the United Kingdom about sharing websites, and they are making good progress in that regard. That would enable a more efficient management of the equivalent of the ACMA black list for Australia. Most Western countries that have introduced filtering have been focusing on the equivalent of the ACMA black list.

**Senator Conroy**—Just to indicate the countries that have implemented along the lines that Abul is talking about include Sweden, the UK, Canada and New Zealand. This is not some one-off excursion.

**Senator LUDLAM**—I understand that.

**Senator Conroy**—They have different parameters and we have not set any parameters at this stage. We are going through that process.

**Senator LUDLAM**—Of those countries that you have named, I am not expecting that they are all identical in form, because I understand that your proposal is not opt in or opt out. It will be mandatory content blocking across all Australian ISPs.

**Senator Conroy**—We are—

**Senator LUDLAM**—Just let me finish. In terms of the countries that you have just listed for me, it is mandatory or is it an opt-in system that, for example, concerned parents could take advantage of?

**Senator Conroy**—Illegal material is illegal material. Child pornography is child pornography. I trust you are not suggesting that people should have access to child pornography.

**Senator LUDLAM**—No. That is why I was interested in asking about the law enforcement side of it as well.

**Senator Conroy**—No, we are working both angles at it. We are just trying to use technology to enforce the existing laws.

**Senator LUDLAM**—I am just wondering if I can put these questions to you without being accused of being pro child pornography. That would assist.

**Senator Conroy**—I was wondering if I could get the questions without being accused of being the Great Wall of China.

**Senator LUDLAM**—I have not—

**Senator Conroy**—Oh, okay. As long as you are allowed to have value in your questions I will have no value in my answers.

**Senator LUDLAM**—All right. Let us pursue this and see where it goes. I did put a question to you. In terms of the other countries that you have just listed for us, is the content blocking mandatory or is it an opt-in, opt-out system in those countries?

**Senator Conroy**—We are talking about mandatory blocking, where possible, of illegal material—illegal material.

**Senator LUDLAM**—I understand that. And in the other countries?

**Senator Conroy**—We are looking at the opt-out provision. It depends on which way you are looking at it. It can mean the opposite to what it sounds like, so it does get a little confusing. But in terms of the policy, what we are investigating is whether it is possible to ensure that people can opt out of an ISP filter if they wanted to look at material that is legal as opposed to not allowing an opt out for material that is illegal.

**Senator LUDLAM**—I am not sure if that was a double negative or not.

**Senator Conroy**—Yes. As I said, it gets—

**Senator LUDLAM**—And I am not sure whether this issue has been misreported or not, but the way that this issue has been reported in some sources is that the government has decided that there will be two layers—that you can opt out of the deadly illegal stuff or the category B list, or however we want to define it, but that there will not be any other choices other than those two. So I am interested to know whether that has been misreported, whether you have come to the final decision—

**Senator Conroy**—No. As I said, we are in the early stages. But we are looking at two tiers—mandatory of illegal material and an option for families to get a clean feed service if they wish.

**Senator LUDLAM**—And an option for an opt out of—

**Senator Conroy**—Yes, that is what an option means. It means if you want to opt out, then you can continue to look here. But families can get a clean feed and if people want to opt out of the clean feed then they can. That is actually our policy as opposed to what probably you have read.

**Senator LUDLAM**—Okay. That is very interesting. Will you be publishing benchmarks as opposed to just going back to the thresholds that you will be adopting for underblocking and overblocking?

**Senator Conroy**—As I said, we are at the early stages. We have not made any decisions along those lines, so we are taking it step by step. This is a complex issue. Notwithstanding some of the commentary that borders on hysterical at times that you have possibly seen, we are just slowly and methodically working our way through and gathering information through this trial.

**Senator LUDLAM**—Some of the comments that I have seen did not approach hysterical at all. I think there have been some quite well thought through concerns.

**Senator Conroy**—I am sure I have unfortunately probably seen a wider range of commentary than you have, Senator Ludlam.

**Senator LUDLAM**—You probably have. I will hand you back to the chair in a moment, but can I just go back to my earlier question. In terms of the countries that you are modelling the scheme on that you listed for us before, is internet filtering mandatory in those countries or is it opt in, opt out?

**Mr Rizvi**—The situation across the countries actually varies quite considerably, Senator. The situation in the United Kingdom, for example, is that a range of ISPs have introduced black list filtering—that is, the filtering of their equivalent of the ACMA black list. In respect of that filtering in the United Kingdom, the consumer does not have the option of opting out. They get an ISP feed which has those illegal sites filtered out. What is different there is the ISPs that are participating—and it is in fact now in the United Kingdom that the majority of the large ISPs are participating—on a voluntary basis rather than on a legislated basis.

**Senator LUDLAM**—I will take you back to the chair, but can you just tell me whether, in terms of discussing finishing up where we started, who is going to be determining what is on these black lists. Is that a question to you, Minister, to the department, to the AFP or to ACMA?

**Senator Conroy**—As I said, we are enforcing current law and ACMA determine this based on the existing law. So we are happy to have a chat with them. I think they are coming up next as you have indicated, so you can have a chat with them about how they go about determining it. But the general sort of stuff that we are talking about is child porn and they are the sorts of sites that we are targeting. We do not believe that you should be able to opt in to child porn. I am sure you do not either.

**Senator LUDLAM**—What about, for another controversial example, euthanasia related material?

**Senator Conroy**—You would have to ask them whether that falls within their definition. There are calls for, as an example, banning pro anorexia websites. Again, it falls into that sort of category. So there are calls for a whole range of material to be included in the black list, but I do not think that they fall inside the existing definitions under the law. I do not think that they are caught.

**Senator LUDLAM**—Can you then see the basis on which some people might be raising concerns that once we have such a list it can go from being a black list to a very grey list very quickly, depending on how much the government thinks should be filtered. It is almost reversing the burden of proof, which is a very different approach to sending law enforcement agencies after people who are posting—

**Senator Conroy**—I do not agree with the basis of your assertion that we have—

**Senator LUDLAM**—You have not heard the assertion.

**Senator Conroy**—You said it basically reverses the onus of proof. I do not agree.

**Mr Rizvi**—The ACMA black list has been around for quite a number of years now. It is not a new list.

**Senator LUDLAM**—I suppose what is new is having complicated automated software deciding what Australians can and cannot see on the net. The black list, as the minister is rightly pointing out, can become very grey depending on how expansive the list becomes—euthanasia material, politically related material, material about anorexia. There is a lot of distasteful stuff on the internet.

**Senator Conroy**—Existing provisions under the Broadcasting Services Act 1992 are able to deal with suicide related material that provides detailed instruction or promotion of matters of crime or violence. It is an existing law.

**Ms P. Scott**—Chair, I wonder whether this is an appropriate time to table the overview with details that we volunteered to provide earlier, where Mr Rizvi had read through a number of criteria relating to the funding that might assist the senators in their further questioning of other agencies.

**CHAIR**—Thank you.

**Senator MINCHIN**—On cybersafety, you have referred to a number of other countries that are adopting this ISP filter approach. What, if any, evidence is available from those jurisdictions with respect to the impact on internet speeds of their filtering?

**Senator Conroy**—They closed the internet in the UK a while back, if you believe the publicity.

**Senator MINCHIN**—I appreciate that is one of the allegations made. I want to go to the evidence.

**Mr Rizvi**—The discussions that we have had with the United Kingdom people who have been providing the clean feed there is that, in their view, the impact on internet speeds has been negligible—unnoticeable to the user.

**Senator MINCHIN**—That is what you would anticipate here. You have no reason to believe there would be any other—

**Senator Conroy**—That is why we are going through the testing process.

**Senator MINCHIN**—Where does the 30 per cent figure I hear come from?

**Senator Conroy**—I think there was a former minister who liked to champion it extensively. If you set out to design a filter that wants to cripple the speed of your computer, you can do it. Let us be clear: you can definitely do it if you want to. That is why we are not setting out to do that. That is why we are working with the sector to try to ensure that this is a workable policy in the real world as opposed to a theoretical debate around a table.

**Senator MINCHIN**—Fair enough.

**Senator Conroy**—Can I come back to Senator Ludlam's comment about euthanasia. I was halfway through a sentence in the Broadcasting Services Act. The sort of material I described would be refused classification currently and regarded as prohibited content now. That is what I described before. I am happy to repeat that.

**Senator LUDLAM**—Have we got time for one more question?

**CHAIR**—You can have one more question and then Senator Parry will have a turn.

**Senator LUDLAM**—Do you want to read that again?

**Senator Conroy**—I am happy to do that.

Existing provisions under the Broadcasting Services Act 1992 are able to deal with suicide related material that provides detailed instruction or promotion of matters of crime or violence, and such material would be refused classification and regarded as prohibited content currently.

You might want to ask for the interpretation of that when ACMA comes to the table. That is the existing law. If you want to argue for changes in the existing law around euthanasia—I know many have—then that is a worthy debate and we should have it.

**Senator LUDLAM**—Probably not here. That was not the point, I suppose. It is just an example of that kind of grey area. I believe with a few minutes online you could probably find that kind of material whether it has been declared illegal in Australia or not. Is it the intention of the government to have that material become unavailable?

**Senator Conroy**—We would be enforcing the existing laws. If investigated material is found to be prohibited content then ACMA may order it to be taken down if it is hosted in Australia. They are the existing laws at the moment.

**Senator PARRY**—Can I move to the universal service obligation and also the recommendations for the competition service standard in the lovely rural telecommunications review—the Framework for the Future. Who currently looks after the universal service obligation?

**Ms P. Scott**—Senator, we are going to wait until the relevant officer comes to the table, if you do not mind, then you will not have to repeat the question.

**Mr Buettel**—The universal service obligation is set out in the Telecommunications (Consumer Protection and Service Standards) Act 1999. It includes the obligation to ensure that pay phones are reasonably accessible to all people in Australia on an equitable basis wherever they live or work. The obligation rests with Telstra. In terms of monitoring compliance with the obligation and enforcement of the obligation, that rests with ACMA.

**Senator PARRY**—What is the role of the department concerning the USO—anything at all?

**Mr Buettel**—The department has a role in providing advice to the government on policy issues in relation to the USO.

**Senator PARRY**—What about the recommendations for the introduction of a competition service standard, I presume to replace the USO? Who would make comment on that?

**Ms P. Scott**—In relation to the Glasson review, the government has indicated that it will be considering its response to the review. There is a statutory requirement in terms of when that response has to be provided, so that matter is under consideration. The minister's press release last week indicated that the government will respond by the required date of March next year.

**Senator PARRY**—Minister, is the USO still functioning? Is it still doing its job?

**Senator Conroy**—The legal instrument still exists. You probably need to be a little bit more specific, Senator Parry.

**Senator PARRY**—What is your view on the USO? Do you think it is functioning and doing its job adequately?

**Senator Conroy**—There is a review underway. The purpose of that is to take public input.

**Senator PARRY**—How long has that review been underway for?

**Mr Bryant**—I think it was initiated in the middle of last year under the former government. I think the government has made it clear that the USO has been raised by a number of submissions to the regulatory review process and it is relevant to the NBN development process and has been considered in that context.

**Senator PARRY**—Where would any complaints about the USO be directed to, Minister—to you or to ACMA?

**Mr Bryant**—In terms of enforcement of the USO, that responsibility rests with ACMA.

**Senator PARRY**—Just the enforcement side. What about the actual USO itself?

**Ms P. Scott**—The policy of the USO and the breadth of the USO would be best directed to the department and the minister.

**Senator PARRY**—If I have direct examples of complaints about the USO, is that better raised with ACMA or here?

**Ms P. Scott**—It depends what the complaint goes to. If the complaint is that an existing provision of the USO is not actually being satisfied by Telstra, then I think it would be best directed towards ACMA. If it relates to the policy not being broad enough or too broad, then that complaint would be best directed to us and to the minister. It depends what it relates to.

**Senator PARRY**—It is more a direct example of enforcement but it could venture into policy.

**Ms P. Scott**—You can chance our arm and fire away.

**Senator PARRY**—I would much rather do that than to find out when we get to ACMA that I should have asked you.

**Ms P. Scott**—I understand.

**Senator PARRY**—I will just give two direct examples. One relates to the electorate of Bass and a place called Rocherlea.

**Senator Conroy**—How many votes have they got?

**Senator PARRY**—A Telstra subscriber had a temporary repair on an incoming line and there is now a temporary line in place. That temporary line has been there for 12 months. The cables are coming out of the top of a manhole, are laid across the surface of the ground for several metres and then disappear underground. The cables are quite visible and beyond the property boundary of the Telstra subscriber and they are subject to vandalism.

**Ms P. Scott**—That sounds like ACMA, Senator.

**Senator PARRY**—Okay. I will save that for ACMA. I have had a clear direction.

**Ms P. Scott**—I am going to look their way just to make sure that they do not have a different view.

**Senator PARRY**—So ACMA now have that by default on notice.

**Ms P. Scott**—That is right. Not only do they have it by default; I think I have got a nod from them. I am expecting them not to pass it back to us.

**Senator PARRY**—Now, in relation to the report, I am aware of the ministerial statement about reviewing the report and making a decision or responding to some of the recommendations. The implementation of the findings is to be funded out of the interest from the \$2 billion Communications Fund; is that correct?

**Ms P. Scott**—The government has set aside funding of up to \$400 million to meet—

**Senator PARRY**—And is that from the interest from the Communications Fund?

**Ms P. Scott**—That is correct. I just want to check the actual wording so I do not in any way mislead you, Senator. If you would like to keep going, I will try and find exactly the right reference for you.

**Senator PARRY**—I have some questions relating to the answer, so—

**Ms P. Scott**—Okay. Senator, I have had a whisper in my ear. While it is broadly aligned to the amount that is the interest, it is actually coming direct from the consolidated revenue fund.

**Senator PARRY**—Is that because the interest has gone to consolidated revenue and it is coming back through that channel?

**Ms P. Scott**—I think if you know that the money has been set aside and comes from the consolidated revenue fund, you know it is there. It is true that interest has been earned of about that quantum, but it does not come directly from that interest. The mechanism is slightly at variance to what you said, but the outcome I think is the same.

**Senator PARRY**—Well, you are not tying yourself down, which is probably, from your perspective, quite good. When the fund is spent on the broadband network, where is the future funding coming from to fund any recommendations out of this report?

**Senator Conroy**—I am not quite sure—

**Senator PARRY**—Well, you are going to have a gap. Unless the money is coming from somewhere else, there is going to be a gap. There will be no interest earned on the \$2 billion that will be spent, and my understanding is that any implementation of findings was coming from the interest on the \$2 billion.

**Senator Conroy**—Unlike the approach taken by the previous government, which was just pork-barrel, throw money around—

**Senator PARRY**—You cannot link the previous government to what is going to happen in a couple of years time, Minister.

**Senator Conroy**—We are linking it to the fact that after 18 failed broadband plans you never had a solution. But what we have proposed is the national broadband network with a public contribution of \$4.7 billion. We have proposed \$270 million for ABG, which you did not propose—you canned the program—and we proposed \$400 million to respond to the Glasson report. So in terms of Labor's plans to deal with regional and rural telecommunications issues, I think our record is standing pretty well.

**Senator BUSHBY**—Did you ask about their record?

**Senator PARRY**—No, I did not ask about their record. Thank you, Senator Bushby. It is just the minister not wanting to answer. So you have no future plans for funding any of the recommendations out of the Glasson report?

**Senator Conroy**—We have \$400 million to put towards the Glasson report.

**Senator PARRY**—Okay. What if you need more? How do you know it is going to be only \$400 million?

**Senator Conroy**—I think if you have taken the time—and perhaps you have, Senator Parry—to look at the report, it is very good and comprehensive. I have said it before but I am happy to say it again: Mr Glasson and his committee did a phenomenal job covering the country. A lot of their recommendations tie in extensively with the national broadband network and its plan. So they are hugely interlinked in terms of how we are going to be dealing with the challenges. I am confident that the work that has been done by Mr Glasson and his committee is very worthwhile and we will be giving it serious consideration.

**Senator PARRY**—So I take it from your answer, Minister, that there is no plan. Once the \$400 million is spent, there is no future plan. So from there on you will have to look at some other budgetary process.

**Senator Conroy**—I repeat: we have, unlike your previous government, which did not put any funding—

**Senator PARRY**—I am not interested in the past, Minister.

**Senator Conroy**—No, I am sure you are not interested in 18 failed broadband plans.

**Senator PARRY**—Madam Chair, as I am not getting an answer from the minister—

**Senator Conroy**—We have four years of funding for the ABG—

**Senator PARRY**—Minister, you do not have an answer that is going to satisfy my needs, so we might have to move on.

**Senator Conroy**—We have four years of funding for the Australian Broadband Guarantee into the future which was not available from your government. We have \$4.7 billion towards a national broadband network which deals with many, many of the issues in the Glasson report. And that is ongoing, in perpetuity. And we have \$400 million to address other issues raised in the Glasson report. I think that is a very reasonable package to have on the table for dealing with these issues.

**Senator PARRY**—Thank you, Minister. Can I move to some other aspects of the report. This also may be something other than the department here. It might be ACMA, in relation to the USO and pay telephones and the time that it takes for them to be repaired. Is that an ACMA issue or is it an issue for the officers here at the table?

**Mr Bryant**—I think as we indicated, Senator, the issue of enforcement of Telstra's obligations under its universal service standard marketing plan are a matter for ACMA. That would most appropriately, I think, be directed to ACMA.

**Senator PARRY**—I am particularly referring to the Glasson report when it mentions time taken to repair remote and regional pay phones as compared to urban pay phones. That is definitely ACMA?



**Mr Bryant**—Yes, it would be.

**Senator PARRY**—ACMA has another one on notice. That is it. All the rest are for ACMA. Thank you, Madam Chair.

**CHAIR**—Thank you, Senator Parry. Senator Lundy has some questions. Do you wish to do them now?

**Senator LUNDY**—My questions relate to the Backing Indigenous Ability program. What amount of funding was allocated to this program?

**Ms P. Scott**—Mr Rizvi will address your questions.

**Mr Rizvi**—Senator, in 2008-09 there is a total—that is both departmental and administered funding—for this portfolio's portion of the BIA of \$12.79 million. In 2009-10 the allocation is \$14.751 million and in 2010-11 there is \$4.882 million.

**Senator LUNDY**—Thank you for that. Just going to the videoconferencing element first, how many communities have been approved to receive a videoconferencing unit?

**Mr Rizvi**—There are eight communities approved to receive the videoconferencing equipment. The first of those communities—that is Milingimbi—has had its videoconferencing equipment installed. We have tested it, it is working and it is being monitored. We expect another four to be installed in the next few weeks. There are another three that are currently on hold pending a review of the installation of these by the new MacDonnell shire, which has been created following the shire amalgamations in the Northern Territory.

**Senator LUNDY**—How many communities were approved to receive training, what sort of training, who conducts it and all that sort of thing?

**Mr Rizvi**—Senator, 29 applicant organisations have been approved to receive training in 64 separate locations. The training is to be delivered by one of eight different service providers who have been appointed. The training is fairly broad in nature and aims to be of practical relevance to the relevant community. As you might imagine, the needs of individual communities will vary from case to case. What we are seeking to do is to tailor the ICT training to the needs of the particular communities. To date, 39 locations have received training and that has included 466 individual community members in remote Indigenous communities who have received that training. That is initial training. There is further follow-up training that we are delivering to each of those communities progressively.

**Senator LUNDY**—What sort of feedback are you getting on the training element of this program from participants?

**Mr Rizvi**—We will be doing a formal evaluation of the training early in the new year—that is, 2009—but at this stage the feedback we received from the feedback forms that we have looked at has been very positive. The communities are very appreciative of the training. The training is only being delivered in communities where there are opportunities available to use the skills gained—that is, the communities have some access to computer and internet of some degree in each of those communities.

**Senator LUNDY**—I want to go to the computer element of the Backing Indigenous Ability program now. I understand a tender was released in April 2007 for the provision of computers to remote communities; is that correct?

**Mr Rizvi**—That is correct, Senator. If it might be helpful to the committee, I might provide some background on the public access computer internet aspect of the program. Thirty-two communities were scheduled to receive computer internet facilities under round 1 of the program. The government has decided to cease the public access computer internet aspect of the program. The public access phones aspect of the program is continuing. It will now receive greater priority. Round 1 of the videoconferencing, online content and ICT training aspects is also continuing. These latter elements will be evaluated in early 2009. The communities and other stakeholders affected by the decision to cease the public access computer internet aspect are in the process of being informed of this decision.

I want to stress that the reasons for ceasing the public access computer internet aspect of the program do not relate to the value of computers to remote Indigenous communities. They relate to three factors: firstly, the difficulties of obtaining a suitable provider that can successfully manage such a complex and high-risk program; secondly, the difficulties of delivering public access computer internet to remote Indigenous communities when we as a department do not have a regional network with on-the-ground staff; and, thirdly, the cost of administering such a program relative to the value of the equipment and services provided. Delivering something like this remotely ends up being quite costly. While a formal evaluation of the predecessor program which also—

**Senator LUNDY**—That is what I was going to ask you about—the TAPRIC program, and how effectively that was assessed previously.

**Mr Rizvi**—That program was evaluated by us earlier this year. The evaluation was received in June 2008. It identified three main concerns: (1) that the cost of administering the program was close to \$1 for each dollar of equipment delivered; (2) that the costs of maintenance, monitoring and support of the program had not been adequately addressed and, as a result, a significant portion of the computers and internet connections did not last the first 18 months—they had broken down before that; and (3) because the computers were not subject to close monitoring and reporting, it was unclear the extent to which the computers were being used for positive purposes as opposed to the more negative purposes to which the connections might be put.

**Senator LUNDY**—So I am assuming that the assessment of TAPRIC informed the decision that you have just stated about the computer element being terminated?

**Mr Rizvi**—That is correct, Senator.

**Senator LUNDY**—What was the cost of the Backing Indigenous Ability computer element?

**Mr Rizvi**—The value of the round 1 computer internet element was \$2.4 million.

**Senator LUNDY**—I note that the government is considering the Glasson review and that that relates to the Indigenous telecommunications situation, in particular recommendation 1.5.2, that the government will work with state, territory and local governments to implement

identified telco solutions to deliver services of significance to remote Indigenous communities. Without pre-empting the government's response, and I know based on previous questions there will not be any of that happening, does the department agree that working with local, state and territory governments would be a better approach to delivering computers to remote Indigenous communities?

**Mr Rizvi**—Without pre-empting, as you say, that recommendation, I think it would be fair to say that trying to deliver a program of public access computer internet in remote and Indigenous communities from Canberra where we have no on-the-ground staff is pretty difficult, and where we can connect with organisations that do have on-the-ground staff, that would, I think, all other things being equal, have a greater chance of success.

**Senator LUNDY**—Just going to the telephones element of the program now, how many community phones were installed under the TAPRIC program?

**Mr Rizvi**—To date, 217 community phones have been installed in remote Indigenous communities under TAPRIC. In the last financial year 213 of those phones have been modified to make them more robust. The other thing that we have done in respect of those phones is to put in place much more robust monitoring arrangements such that each phone is now checked every month to ensure that it is working. Where phones are not working, we have a provider who quickly will respond to the fact that it is not working and address the faults associated with the phone. Where the phone has a line fault, we will contact Telstra to help assist with the line fault.

**Senator LUNDY**—So what is happening under the Backing Indigenous Ability program with respect to installing phones?

**Mr Rizvi**—In terms of phones, essentially there are three elements of the phones program. The first element, as I have mentioned, is monitoring and maintenance. There is no point installing phones if we do not keep them operational. In the harsh environment that we are installing these phones, keeping them operational is a very significant challenge. So the first is to keep all of the 217 phones that are out there operational and well maintained. The second element of the program is in respect of Indigenous communities that have a population of less than 50 and do not currently have any public phone. We are seeking to find a public access phone solution for those communities. The preferred phone solution is, if infrastructure is reasonably accessible, to install another community phone. We have recently identified and negotiated with Telstra the installation of another 20 such phones in a range of communities with populations of less than 50 in the Northern Territory. These are landline phones—fixed phones using accessible infrastructure. However, as we move into more and more remote communities, the accessibility of the infrastructure becomes more and more difficult and that makes the cost of the phones rise commensurately.

Where communities are agreeable, we are looking to provide them with an interim solution which is a public access mobile satellite phone. That is an interim solution where the phone is available to that small Indigenous community to use in emergencies until we can find them a more permanent solution. We have gone to the market to seek other providers who may be prepared to come up with innovative ways of resolving the issue of a permanent phone solution to remote Indigenous communities who really do not have accessible infrastructure.

That is a process we are going through now, and we hope to appoint a provider in that regard in the very near future.

**Senator LUNDY**—Thanks for that. I just want to go back to the computer program. Can you tell me how many of the computers installed previously are still actually working?

**Mr Rizvi**—Under the TAPRIC program, 184 computer packages were installed in 164 communities. The evaluation of that program found that between 26 and 45 per cent of those computers did not survive the first 18 months.

**Senator LUNDY**—It seems like a significant number. Minister, can you confirm that the government remains firmly committed to the overall objective of improving telecommunications for remote Indigenous communities?

**Senator Conroy**—Absolutely. We remain firmly committed to it—no questions, no ifs, no buts.

**Senator LUNDY**—Thanks. That is all I have, Chair.

**CHAIR**—Thank you, Senator Lundy. Senators on my right?

**Senator BIRMINGHAM**—Minister, have you had an opportunity to get a response to my earlier questions with regard to contact the Prime Minister may have had?

**Senator Conroy**—No, I have heard nothing back from the PM's office at this stage.

**Senator BIRMINGHAM**—Minister, given that you are unable to confirm when the Prime Minister may have last had meetings or contact with Mr McGauchie, can I ask you about comments that Mr McGauchie made that were cited in the *Australian* newspaper on 11 June 2008 in which he said that he and Mr Trujillo had spoken to Kevin Rudd on the issue, speaking of the national broadband network, over the last little while. He went on to say:

He—

that is, Mr Rudd—

has clearly shown an interest in this issue and he has been more than prepared to discuss it.

Minister, obviously that article does not cite the date of the meeting that the Prime Minister may have had, although it does draw the contrast with the refusal that you made in the previous estimates to discuss certain matters about probity issues, and it does bring to mind, of course, the reason that you cancelled your meeting with Terria proponents back in early May. Can you give an assurance to this committee that the Prime Minister has not potentially breached any probity rules in regard to his meetings and discussions with Mr McGauchie and Mr Trujillo?

**Senator Conroy**—I am happy to double-check the Prime Minister's diary arising out of your question. As I said, we are attempting to do that. I do not believe that the Prime Minister has breached probity at any stage. But I am happy to put another query in as a follow-up to your question to see if we can get an answer as soon as possible—hopefully before the end of the day. As I said, we are attempting to get the information for you to confirm whether or not that meeting took place.

**Senator BIRMINGHAM**—Obviously we will look forward to that information as soon as possible, Minister. It is important to the issues that you have raised in the past in relation to this and to clarify what may or may not have transpired at that meeting.

**Ms P. Scott**—We have a clarification.

**Mr Rizvi**—In answer to an earlier question that Senator Lundy asked, I said between 26 and 45 per cent of the computers were not working. It was actually 26 to 45 per cent of the computers were found to be working.

**Senator LUNDY**—That is even worse.

**Mr Rizvi**—That is correct, Senator.

**Senator LUNDY**—That is a very poor outcome.

**CHAIR**—There being no further questions of the portfolio officers, thank you very much for your attendance. We will move on to ACMA.

[5.30 pm]

#### **Australian Communications and Media Authority**

**Senator PARRY**—ACMA has had advance notice of my questions about the USO in relation to the example I gave, which I am very happy to repeat. Do we have the officers at the table necessary?

**Mr Chapman**—Senator, we will slip straight into that. Firstly, Chair, thank you for the opportunity to appear again. I am appearing at the table as chair and chief executive of ACMA, along with my general managers. We also have other executives here. We are a broad church within the organisation. There is a lot of diversity. So there will be other executives who will join us at the table from time to time. Senator Parry, your first question was specifically with respect to—

**Senator PARRY**—I will give an example. This goes to whether this is within the tolerance of the USO, what happens and how you enforce this. The first example is of a person in Rocherlea who had a temporary line put in in August 2007—I do not know the reasons the temporary line was put in—and is waiting for a trench to be dug. It still has not been dug as of yesterday. The cable has been exposed. It has been non-secure because of the exposure on public land and also across private land. There is a second example of a person in Beaconsfield in the electorate of Lyons. They have had exposed cabling across a gateway for some time. Is that an acceptable time limit? Again, you will probably have to verify these details which I can supply to you. Is 12 months or in excess of 12 months an acceptable time limit to have a cable exposed? When matters like these are raised, what is the process for investigation? How are we satisfied that the USO is upheld?

**Ms O'Loughlin**—ACMA's role with the USO is a monitoring and compliance role. The process for getting complaints under the USO is for, firstly, complainants to take that up directly with the USO provider—Telstra. If in the first instance they do not get satisfaction, we would recommend that they go directly to the Telecommunications Industry Ombudsman to seek some assistance from the ombudsman. The ombudsman is there to provide free,

independent, informal and speedy resolution of complaints, and that is very much the first port of call.

**Senator PARRY**—So when does ACMA get involved? Is that when everything is exhausted through the ombudsman? Do you get a table from the ombudsman saying, ‘These are some of the issues that we’ve experienced’?

**Ms O’Loughlin**—The Telecommunications Industry Ombudsman keep us informed of pretty much systemic issues which come to them where they have not been able to resolve matters directly with the provider and the consumer, so that is when we would play more of a role.

**Senator PARRY**—So do you have tables that you could table here or any documentation indicating what time frames have been experienced, what delays and the level of complaint? To me this seems to be an extraordinary length of time—in excess of 12 months. If that was not flagged with the ombudsman, you would never get to see that. Is that what you are saying?

**Ms O’Loughlin**—Sometimes complaints will come directly to us and we would refer them to the ombudsman again, but I think it is fair to say that if it is not raised directly with us or directly with the TIO we would not have this ability of the—

**Senator PARRY**—Does Telstra have any obligation to report complaints that are outstanding? Is there any obligation on them, or any other private provider for that matter?

**Ms O’Loughlin**—I would have to double-check on that, Senator, which we can do during the break.

**Senator PARRY**—I am happy to take that on notice.

**Ms O’Loughlin**—Yes, happy to.

**Senator PARRY**—Can I move to the table, and you are obviously familiar with the Glasson report. I would imagine that you would be familiar with the Glasson report. There is a table on page 208. It is table 2.4.3 and it is Telstra’s performance against fault repairs. In urban areas, as of December 2007, 96 per cent of repairs were undertaken—that is, for telephone boxes or payphones or public phones. It took one working day in urban areas and 96 per cent of faults were rectified. In rural areas, the faults rectified drops down to 89 per cent but that takes two working days and in remote areas 66 per cent of faults are repaired within three working days. Under the USO, is this a concern to ACMA?

**Ms O’Loughlin**—I think payphone performance generally has been an ongoing concern for the authority. There are informal benchmarks set within the Telstra standard marketing plan about what they need to deliver on and we concern ourselves when the level of performance drops below those benchmarks.

**Senator PARRY**—Are these below the benchmarks?

**Ms O’Loughlin**—In remote areas, yes.

**Senator PARRY**—What about rural areas?

**Ms O’Loughlin**—In rural I think they are on the benchmark at the moment.

**Senator PARRY**—And who sets the benchmarks?

**Ms O'Loughlin**—They have been benchmarks that we have used over a number of years. They are fairly much informal benchmarks—

**Senator PARRY**—So how are they derived? Are they derived by international standards or your own standards?

**Ms O'Loughlin**—It is historical setting of those benchmarks, and that is something I might need to take on—

**Senator PARRY**—So if the benchmarks were very low—

**Ms O'Loughlin**—Benchmarks generally, as you can see, have been relatively high.

**Senator PARRY**—Also in the report there was a strong emphasis on the fact that remote and rural areas need the phones more obviously than urban areas in particular because of the lack of mobile phone coverage. I think somewhere between 20 per cent and 25 per cent of Australia has mobile phone coverage. I have asked others, but I cannot find a definition—and I would like the minister to answer this—of 'remote' or 'rural' areas, as I have had a discussion with a Telstra executive of recent days who does not determine some of Tasmania as remote or rural.

**Senator Conroy**—Sorry, Senator Parry. Can you repeat that, please?

**Senator PARRY**—What is your definition of 'remote' and 'rural'? It is mentioned strongly throughout the Glasson report and I have gone through the report and I cannot find a definition of 'remote' or 'rural'.

**Senator Conroy**—You are talking about for the purposes of which program?

**Senator PARRY**—For the purposes of the report and in particular the table 2.4.3 that I mentioned.

**Mr Chapman**—Senator, the ACMA issues a fact sheet which consolidates that information, so Ms O'Loughlin will relate that to you.

**Ms O'Loughlin**—The geographic locations are defined as follows: an urban area is equal to or more than 10,000 people; major rural areas are equal to or more than 2,500 but less than 10,000 people—

**Senator PARRY**—Sorry, that was—

**Ms O'Loughlin**—Major rural.

**Senator PARRY**—Major rural, right.

**Ms O'Loughlin**—Minor rural is equal to or more than 200 but less than 2,500 people within a Telstra standard zone; and remote areas are less than 200 people or located outside a Telstra standard zone.

**Senator PARRY**—What is a Telstra standard zone? I can take that on notice; that is fine.

**Ms O'Loughlin**—Yes. It may be in the same fact sheet, Senator, but I will double-check.

**Senator PARRY**—What is that fact sheet you are referring to?

**Mr Chapman**—Senator, that is a fact sheet issued by the ACMA. It is on our website under the heading of ‘Your Rights to an Interim or Alternative Telephone Service Under the Universal Service Obligation’ and it is dated March 2007.

**Senator PARRY**—Thank you. Would that be the definition used, then, by the Glasson report or referenced in the Glasson report? You cannot equate that?

**Ms O’Loughlin**—We would have to double-check that.

**Mr Chapman**—That is our assumption in answering. We will confirm that for you.

**Senator PARRY**—All right. Thank you. So just coming back to the rural and remote delays in repairs, you are saying that that is below benchmark. We have established that. What, then, is the action of ACMA now that it is below benchmark?

**Ms O’Loughlin**—At this point in time, particularly on remote payphones where that performance measure has dropped, we have written quite recently to Telstra again to request additional information from them as to the reason behind that performance.

**Senator PARRY**—When did you last write?

**Ms O’Loughlin**—Last week. Once we get that information from Telstra, we will consider the actions available to us.

**Senator PARRY**—So what course of action is available?

**Ms O’Loughlin**—They are actually quite limited courses of action to us. We can issue things like remedial directions, but I think also it would be fair to say that if there was an ongoing performance issue that would be a matter that we would take up with the government.

**Senator PARRY**—Thank you, Madam Chair.

**CHAIR**—Thank you, Senator Parry.

**Senator LUNDY**—What is ACMA’s relationship with the International Association of Internet Hotlines, or INHOPE?

**Ms O’Loughlin**—We are a member of INHOPE.

**Senator LUNDY**—How does that process work? I do not know much about the organisation, so I am interested in how that works, how you actually become a member and what that means.

**Ms O’Loughlin**—I might invite Andree Wright, who is the executive manager responsible for our cybersafety initiatives, to the table to give you some more detailed information on that, Senator.

**Senator LUNDY**—Thank you.

**Ms Wright**—It has been said that to become a member of INHOPE is probably tougher than to be appointed a Federal or High Court judge. What you need to do to qualify is you need to have the active support of your government, your industry and enforcement in your country. You have to have demonstrable security arrangements in place to safeguard the security of the material that comes to you with your hotline and you need to have adequate occupational health and safety measures in place for your staff. The INHOPE network does



not take that for granted. They will come and visit—usually spend a week at a time—to assess your processes, to speak with government, to speak with industry and to speak with law enforcement. So I can say with some pride that the ACMA hotline since 2000 has been a foundation member of the INHOPE network. In those days there were eight hotlines. This has expanded to 33 and they now exist throughout Asia, the Americas and Europe. They receive some funding from the European Union but also each hotline, if accepted, does pay membership fees.

In terms of the value of INHOPE for our organisation and for Australia, it is often said to us, ‘You can take down material in your own country, but what can you do overseas?’ The answer to that is quite a lot, because the INHOPE network would deal between the hotlines with over 10,000 reports of material, usually child sexual abuse material, a month. What happens is that each hotline has in place arrangements, as we do here, for take-down of material by issuing take-down notices to local content hosts.

I do not know if you are aware, but less than two per cent of the complaints that come to ACMA are Australian hosted material, so 98 per cent of the material that we receive complaints about is hosted overseas. So where there is an INHOPE hotline we can refer under secure arrangements to the partner hotline in another country. Unfortunately, most of the material continues to be hosted in the United States of America, but we know that if we make a referral to the CyberTipline they have seconded to them their own FBI officer and that material will be investigated by law enforcement in the USA within 24 to 48 hours of receipt of the complaint. That means that material is exchanged between countries with a view to the country of origin ensuring that the material is taken down.

INHOPE also has in place training and up-to-date protocols to ensure that hotlines are able to trace the material and to have up-to-date security arrangements and indeed to see forthcoming trends with new services and new technologies so that we can continue to do what I think is a vital work. There is an INHOPE meeting being hosted internationally this week. Again, it is a matter of some pride for our agency that we recently I think broke new ground in tandem with the Irish hotline, which reported I think approximately 30 child sexual abuse websites to us.

We discovered that while the domain name was registered here the material was not hosted here. Normally a hotline can only work where the material is hosted. However, working in conjunction with the domain register, we were able to I think break new ground, and they took action to ensure that those domain addresses did not point to child abuse material. This was of considerable interest to the other 32 hotlines, and they have asked for us, in conjunction with the Irish hotline, to demonstrate how we undertook this work with a view to it being a new protocol, a new procedure, for hotlines generally.

**Mr Chapman**—The pride with which Ms Wright speaks is indicative of a range of activities we are undertaking, particularly with the online safety aspects. International collaboration is for Australia the key.

**Senator LUNDY**—I must admit that I was not aware of the extent of the international collaboration of this service and particularly the sorts of successes you are describing. So that is very good news.

**Mr Chapman**—We would like to think that with the initiatives that we undertake and the department undertakes in this field we punch well above our weight internationally and we make a very strong contribution. There are a number of aspects of the online activities we have undertaken. The one you touched on is an example of recent collaboration. There was one announced just last week where we are working with the United States authorities and New Zealand authorities. We do not want to go into detail because it is a very sensitive investigation. But there again we are getting very strong international cooperation, particularly on the forensic side of it. This is with respect to somebody who lives in Australia but is undertaking business activities overseas. The momentum is starting to swing our way—'our way' being Australia's way in terms of international cooperation.

**Senator LUNDY**—Thanks for that comprehensive response. I was not aware of the way that it had expanded, so thank you.

**Senator IAN MACDONALD**—Just on that point, Mr Chapman, I note the work your people are doing on that. I am also assured by the secretary that you would have been listening to my questions previously about Townsville and the cut-off of the analog network. You are supposed to be monitoring that, I think. I also referred to press releases about shutting regional operations centres and reducing field staff. I suspect it is not because you want to but because you are constrained.

My staffers found for me a submission which ACMA has made to the Joint Committee of Public Accounts and Audit which deals with the difficult position of the effective cutback in your spending. I see from that paper that effectively over the out years you are going to lose something like 17.2 per cent of a \$94 million budget. How do you do all of this work that the previous officer was talking about? That is all new stuff, I understand. You are increasingly being asked to do things. How do you manage that with a budget which is substantially reducing? Do you apply for additional money for those sorts of things? It is a big question, but I am concerned about how we in Townsville can be assured that you are looking after us when your money seems to be substantially cut back?

**Mr Chapman**—We responded to a government invitation to submit to the Joint Committee of Public Accounts and Audit. We put in a submission in July, which is the one you referred to, which in the scheme of things was relatively unguarded and it did indeed highlight that, even net net of parameter adjustments over the next four years, like with like we would be 17.2 per cent down compared with where we are at the moment. It probably links in to a question that Senator Parry I think asked me last May with respect to our current programs. I can only reiterate what I indicated to Senator Parry then. For this financial year that we are currently in, the 2008-09 year, we have not cut back on any programs. We have had to be very judicious in the budget this year. We have cut to a very large extent discretionary spend, particularly on travel. We have parked all non-critical path consultancies. We have generally had to reprioritise work within the organisation. There have not been any cuts to the program. I think I am blessed to have within the organisation a very strong financial team.

**Senator IAN MACDONALD**—You must have some magicians, I think.

**Mr Chapman**—For the 2007-08 financial year, we came within \$10,000 of the budget. In the 2008-09 year, in the three months to date we are tracking sensibly against our budget for 2008-09. I have indicated to the minister that obviously we would be making representations through the department to the minister over time as things, as foreshadowed in the submission, get tighter and tighter. But for this financial year we are on track to deliver against our KPIs and the appropriations, and we are against budget for this year.

**Senator IAN MACDONALD**—We accept that you have taken your field officers out of Townsville and elsewhere.

**Mr Chapman**—With respect to the field officers, that was not done with respect to getting any short-term hit in 2008-09. The savings from the closure of those six operations centres in the 2008-09 budget deliver nominal savings. It was a new delivery model, consistent with a total reorganisation of one of our branches. It is a continuation of a trend over a number of years where larger offices have either been downsized or have been closed. For example, we closed our Darwin office in 2007. The closure of the six operations centres around the country is but a continuation of a trend as we have moved to a new delivery model for regional operations. That trend is enhanced by three things: firstly, staff are far more portable than they used to be and equipment is far more capable of being transported; secondly, telecommunications and technology allow more effective work to be done without the need for large infrastructure throughout the country; and, thirdly, accessibility into regional areas continues to improve over the years. The new delivery model—

**Senator IAN MACDONALD**—How does it continue to improve when you are downsizing regional staff?

**Mr Chapman**—Accessibility—the ability to catch planes within a reasonable time to get to where we need to be.

**Senator IAN MACDONALD**—Obviously your travel and your accommodation bill is going to go up substantially.

**Mr Chapman**—It is, but on a net net basis over the outer years we will actually save money as a result of the new delivery model. So when I made those decisions, which I did, I did it with a view to outer years, not this current financial year.

**Senator IAN MACDONALD**—You seem to be the action agency of the department. You seem to be doing a lot of work on regional radio station content and inquiries. Every couple of months you seem to be tasked with a new job by former ministers and current ministers. How can you possibly continue to do that when your budget is being effectively cut by 17 per cent over the out years? And it is not a big budget, either.

**Mr Chapman**—Thank you for saying what you did, Senator. I appreciate the feedback. To date we have done it through, I think, staff within the organisation that are highly motivated. They are very focused on outcomes. I think deep down the key to the transformation of the organisation which is partially underway is a greater awareness within the organisation that you need to risk assess various things. In other words, we do not take every activity and do it to 101 per cent perfection as we seek to achieve outcomes. We assess things on a more risk-assessment basis. There has always been a culture I think in the Public Service to do every task perfectly, whereas we are seeking to be more pragmatic and make a greater up-front risk

assessment of the things we do. We are at the moment squeezing more resources out of our current budget than historically has been the case.

**Senator IAN MACDONALD**—Thanks for that. I know other senators want to ask you a question on this. I will quickly don my parochial hat again. As I understand it, when analog is shut down you will be called upon to assess whether digital is being received with a quality signal. I am using Townsville for example, but it applies elsewhere where this is happening. Are you able to do that? Is that your job? How do you go about it within straitened circumstances?

**Mr Chapman**—Equivalence of coverage is an assessment we would make. Mr Tanner has the detail of that. If you have a minute, Senator, Mr Tanner will go into that.

**Senator IAN MACDONALD**—Okay. As briefly as you can, Mr Tanner.

**Mr Tanner**—Thank you, Senator. The field strength measurement program was something for which ACMA was provided with an additional \$8.5 million over four years. That was for technical switch-over related projects, but the evaluation of field strength surveys was much the largest. That occurred earlier this year and it basically revived a program that was existing and that will continue throughout the period between now and analog closure and which is intended to provide advice to the government basically on field strength and coverage issues as we approach the switch-over dates. Its focus is Australia-wide and in no way will the delivery of that be hindered or the geographical range of it be restricted by the changes to the operation centres. The service can be more efficiently delivered out of a smaller number of larger offices, and that is what we are already doing.

**Senator IAN MACDONALD**—So you have an extra \$8 million per year—for this year?

**Mr Tanner**—No. It is over a four-year period.

**Senator IAN MACDONALD**—Four years. So a couple of million a year. Okay. I know that other senators want to ask, but can I quickly go to my other issue. Can you tell me anything about NewsRadio or will I save that for ABC?

**Mr Chapman**—Our contribution to that discussion is that we are likely to take a final LAP variation—the licence area plan—for Townsville to the authority in November. In all likelihood, without pre-empting it, we will be approving that variation. So from our more narrow perspective that will be the end of matter.

**Senator IAN MACDONALD**—So technical issues from ACMA's point of view are finished?

**Mr Chapman**—Exactly.

**Senator IAN MACDONALD**—Or will be at that time, in November?

**Mr Chapman**—Yes.

**Senator IAN MACDONALD**—Thanks for that. Just for ABC's benefit, I note that whilst their website says that Mount Isa and others are about to start their NewsRadio, Townsville is not included in that. That is a forewarning. Thank you for your part and over the years for what you have tried to help me with.

**CHAIR**—We should just go to a tea break. Can I just have an indication of how many senators have further questions for ACMA so we can make a judgement whether to let them go?

**Senator EGGLESTON**—I would like to ask a quick question—without taking anyone else's time.

**CHAIR**—That will be the ABC?

**Senator EGGLESTON**—No, here. Senator Macdonald was just asking about the rollout. How far has the rollout gone? How many NewsRadio broadcast stations do we have now?

**Mr Chapman**—Mr Tanner might answer the specifics, Senator.

**Mr Tanner**—Senator, I might have to scratch a bit to get you some more accurate statistics. The goal of the policy that we are now coming to the end of—the PNN extension—is to get PNN into communities of 10,000 or more. There are specifics which I will find in the brief presently which show that that has not been possible in every area, and that is simply because in some spectrum-congest areas we have run out of FM spectrum. We have by and large completed that, but there are a bit more than a handful of markets left, of which Townsville is one, where we have been working at the margins of spectrum productivity but in a number of cases finding it. So there have been a small number where we have advised it is not possible to find extra capacity. I have those statistics here. I will actually find them for you. But basically the rollout has been to communities of 10,000 or more.

**Senator EGGLESTON**—Could you take on notice a question as to which rural communities in Western Australia have now got a NewsRadio service?

**Mr Tanner**—Certainly, Senator.

**Senator EGGLESTON**—Thank you.

#### **Proceedings suspended from 6.01 pm to 7.03 pm**

**CHAIR**—We will now resume. Senator Minchin has questions for ACMA.

**Senator MINCHIN**—Thank you, Madam Chair. Mr Chapman, you gave evidence earlier that the reduction in your budget caused by the efficiency dividend had not affected your organisation's capacity to perform its key functions. I trust that applies to your role with respect to the switchover to digital TV, does it?

**Mr Chapman**—It does, yes.

**Senator MINCHIN**—So you reject the assertions reported in the media that the effect on your budget of what I may say I regard as an inappropriate increase in the efficiency dividend has not forced you to reduce your testing of the reception of digital TV as compared to analog.

**Mr Chapman**—Thank you for raising that matter. The short answer to your question is that it has not affected our testing at all. The profoundly disappointing aspect of that media commentary at the time was that it absolutely had not a skerrick of validity to the claims that were then made. We put out a press release the following day, confirming what I have indicated to you now, and we have not missed a beat since, nor had we missed a beat before. So the allegation that was reported that it was going to interfere with our field strength testing or that we put programs on hold was completely without a skerrick of truth.

**Senator MINCHIN**—This is the first opportunity that this committee has had to meet with you since that incident. Would you like to take advantage of this opportunity to explain to the committee what actions you took, and why, with respect to the appearance of that story and the subsequent reference of the matter to the Australian Federal Police?

**Mr Chapman**—Following the publication of that article—I think it was on a Thursday morning—I put out a press release that day, which was a very to-the-point, unqualified rebuttal of the assertions made. I then had a discussion with the senior management team of the organisation, because to some extent it was such a shock to see the allegations there. It seemed to me and to the management team that prima facie there was potentially both a breach of the APS Code of Conduct and a breach of section 70 of the Crimes Act. Under the code, an APS employee ‘must not make improper use of inside information in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person’. I do not think that is applicable. Further, ‘An APS employee must not disclose information which the APS employee obtains or generates in connection with the APS employee’s employment if it is reasonably foreseeable that the disclosure could be prejudicial to the effective working of government, including the formulation or implementation of policies or programs.’

I might add that there is a very well-articulated whistleblower provision within the ACMA provisions—within the suite of our policies, I should say—and this did not touch on any of the matters, and the concept of ‘whistleblower’ is a totally inapplicable concept on this occasion. For the reasons I indicated, there is not a skerrick of evidence and, secondly and equally disappointingly, the employee or employees who made the allegations had not, to the best of my advice, undertaken any escalation of the matters internally within the organisation either to their immediate boss, up the line to the general manager, Mr Tanner, or ultimately to me.

Under our policy concerning whistleblowing, there is the opportunity to take advantage of the protection you have as a whistleblower, if you follow certain procedures, leaving aside the well-recognised ability to escalate matters internally. So to some extent we were blind-sided and shocked by it, notwithstanding that I had indicated to the journalist the day before that there was not any truth to the story at all.

**Senator MINCHIN**—At that meeting of your management team, it was obvious to you all, was it, that it had to be someone within ACMA that had been the source of this information or malinformation?

**Mr Chapman**—The articles seemed to clearly depict that. The articles clearly indicated that.

**Senator MINCHIN**—You referred to the APS Code of Conduct and section 70. Did you receive at that point external advice to that effect or was that, in a sense, the in-house prima facie position?

**Mr Chapman**—One of my general managers is Mr Bezzi, at the far end of this table. Mr Bezzi is the general manager responsible for legal services and an extremely competent lawyer in his own right. He was part of that team. The code of conduct that I was referring to is separate to section 70 of the Crimes Act.

**Senator MINCHIN**—Sure, yes.

**Mr Chapman**—Section 70 of the Crimes Act prohibits a Commonwealth officer from publishing or communicating to another person, without authorisation or without legal authority or excuse, any fact or information which comes to their knowledge or into their possession by virtue of being a Commonwealth officer and which it is their duty not to disclose. We opened an investigation internally under the code of conduct, but I felt that, particularly because it sent a very poor message potentially to people outside of the organisation, stakeholders outside of the organisation, that this is an organisation that could not be trusted to deal with sensitive or confidential information properly. It sent such a poor message that I felt strongly that I wanted to take definitive action about it and, as I indicated, particularly because there was not a skerrick of truth to the matter. That is what so surprised me. So, following an initial assessment by our in-house security officer, we then had a further meeting of the senior management team, and I then authorised the referral of the matter to the AFP.

**Senator MINCHIN**—Coming back to the breach of the code of conduct, having formed a prima facie view at the initial management meeting that a breach had occurred, are you required to conduct an internal inquiry, or was that an option open to you which you elected to undertake?

**Mr Chapman**—In theory you could be put on notice that there is a potential breach of the code of conduct, but it would be very unusual in such circumstances not to push on with an internal investigation. Code of conduct investigations within the organisation are not unusual, and people within the organisation—which is within their rights—often test propositions. Over my 2½ years as chairman, I have probably dealt with six or seven internal code of conduct investigations. In that sense, it was no big deal for me to do that, because it was something that I have grown accustomed to, but it was the reference to the AFP that was the next step.

**Senator MINCHIN**—Sure. I was going to come to that. But that code of conduct inquiry was initiated on that first day, was it, at that first meeting?

**Mr Chapman**—I cannot remember the chronological time lines and whether I and the team formed a definitive view. But, having met the senior management team and having briefed the security officer, and the security officer having done an initial reconnaissance or an initial assessment, we then reconstituted and decided that there was validity to the proposition that there was a prima facie breach of the code of conduct and, secondly, that there was a potential prima facie breach of section 70 of the Crimes Act.

**Senator MINCHIN**—At what point did you make the decision to involve the Federal Police?

**Mr Chapman**—Ms Carlos might be able to help me out. I think it was a couple of days later that we referred the matter to the AFP. Ms Carlos was the referring officer to the AFP.

**Senator MINCHIN**—Right.

**Mr Chapman**—Then the AFP, as is their process, sought further and better particulars about the potential breach and took it to their ‘committee’—and I use the word advisedly—as to whether they would run with the matter and, for reasons that are best known to them, they decided to run with the matter.

**Senator MINCHIN**—Did you consult with or advise either the department or the minister or his office of your proposed actions before you took them?

**Mr Chapman**—No, I did not.

**Senator MINCHIN**—Are you required to?

**Mr Chapman**—No, I do not believe I am.

**Senator MINCHIN**—At what point would the department and the minister, or his office, have had advice to the effect that you had taken this course of action?

**Senator Conroy**—When I read the *Australian*.

**Mr Chapman**—I think Ms Scott rang me up the day it was released in the *Australian* and said, ‘Mr Chapman, it would have been nice for you to let me know,’ but it was some time after. It was not a matter that I considered appropriate to involve either the secretary of the department or the minister in.

**Senator MINCHIN**—On reflection, do you think you should have advised them that you had taken that action before it turned up in a newspaper?

**Mr Chapman**—Yes. I think, with the benefit of hindsight, it would have been nice to advise the secretary and the minister’s office that there had been a media inquiry put to me, as there was in the afternoon before it was published. I thought that I had indicated sufficiently strongly to the journalist that there was not any truth to the matter at all and, frankly, felt so confident that I had done that that it just did not occur to me to relate the matter to the secretary or the minister’s office.

**Senator MINCHIN**—Just to confirm, because there is obviously media interest in all this, I think you said you do have whistleblower provisions built into your system. You formed at some point a judgement that the set of circumstances did not conform in any way to those and therefore your action was appropriate. Is that right?

**Mr Chapman**—That is correct. We have a policy that deals with whistleblowing. It was first issued in July 2005 and it was updated, coincidentally, in July 2008 and was put on the web. It is a policy that I have been through subsequently to just reassure myself, and it is very clear about the process and it is very clear about the entitlements of the employee to protection in the event that they followed due process. I have made extensive investigations of the management team as to whether there was any suggestion that an employee or employees tried to in any way, shape or form take advantage of it, and there is a resounding no that he, she or they did not.

**Senator MINCHIN**—The AFP investigation is ongoing?

**Mr Chapman**—It is, as I understand it. Yes, it is ongoing.

**Senator MINCHIN**—Have you separately and independently taken any disciplinary action against any current ACMA employee with respect to this matter?

**Mr Chapman**—I have not furthered the internal investigation under the code of conduct.

**Senator MINCHIN**—What does that mean? Is the investigation complete, or have you terminated it halfway through?



**Mr Chapman**—No, it is still in place, but I have not actively pursued it or prosecuted it. I am awaiting advice from the AFP as to the outcome of their investigations, because that will almost certainly help inform our own internal code of conduct investigation.

**Senator MINCHIN**—So the suggestion in the *Australian* that an ACMA employee was stood down after a meeting with ‘a senior departmental chief’—in that context—is incorrect?

**Mr Chapman**—No, that is correct. I have not furthered the investigation, but that aspect that you just read out is correct.

**Senator MINCHIN**—I prefaced that by asking whether any disciplinary action had been taken.

**Ms Carlos**—The officer has been provided with miscellaneous leave with pay, awaiting the outcome of the AFP investigation, so he has not been stood down.

**Senator MINCHIN**—Miscellaneous leave with pay? That’s a new one! I have not heard of that. That means what? You don’t turn up but you get paid?

**Senator ABETZ**—Is that full pay?

**Ms Carlos**—Yes, it is.

**Senator MINCHIN**—So your position at the moment is that you are simply awaiting the response from the AFP as to whether there is prima facie, in their view, a breach of section 70.

**Mr Chapman**—Yes, that is correct. That is its current status.

**Senator MINCHIN**—That is all I wanted on that subject. I have more ACMA questions. Just quickly on the draft children’s television standards of 2008, I understand you have reviewed those and come to a variety of views, which include a decision not to make any changes to the ‘food and beverage advertising standard’. Is that a correct summary of your position?

**Mr Chapman**—The food and beverage component of the children’s television standards, yes.

**Senator MINCHIN**—Is it possible to give a shorthand description of the current standard with respect to food and beverage advertising?

**Mr Chapman**—There is no restriction.

**Ms O’Loughlin**—There is absolutely no advertising allowed currently for P programming, which is preschool programming.

**Senator MINCHIN**—For any food or beverage?

**Ms O’Loughlin**—For anything. For C programming, advertising is allowed. There are some restrictions in their current provisions around how issues like premium products are handled, and those have been tightened in the new draft standards.

**Senator MINCHIN**—I understand from a release of yours that you had conducted an independent review of research on the effect of a ban on food and beverage advertising on childhood obesity. Are you familiar with my reference? Could you briefly describe that project and what it found?

**Ms O'Loughlin**—Yes. We undertook quite a range of research in the development of the new standard. I think what you are referring to is a study that was undertaken by Dr Jeffrey Brand, which was called 'Television advertising to children'. It was an independent review of the currently available peer review literature and research available from the health sector.

**Senator MINCHIN**—You separately commissioned him to undertake this?

**Ms O'Loughlin**—We did, yes. That was focused on television advertising to children, including the relationship between children's television advertising exposure and their food and beverage preferences. That is probably the main one that you are referring to.

**Senator MINCHIN**—Yes.

**Ms O'Loughlin**—We undertook a large range of other research. One focused on the production project, in which we looked at the current state of children's television production in Australia, because obviously the standard itself puts quotas for the provision of children's programming on free-to-air television, which has an interplay with the Australian production sector. We also undertook some economic analysis, looking at the economic impact of restrictions.

**Senator MINCHIN**—Is any of that research able to be made public or available to this committee?

**Ms O'Loughlin**—All of those are available on our website.

**Senator MINCHIN**—Good.

**Ms O'Loughlin**—There is a page specifically about the children's television standard review, and all that data is there.

**Senator MINCHIN**—So ACMA's bottom line position is that there is not sufficient evidence of any impact of food and beverage advertising on children in relation to childhood obesity such as to warrant any further restriction. Would that be a fair summation?

**Mr Chapman**—I think we expressed it in a couple of thoughts, and it might be helpful if we just go through those thoughts very quickly.

**Senator MINCHIN**—Yes.

**Mr Chapman**—In reaching the decision not to ban food advertising, the ACMA drew on findings of the independent literature review, which we have just discussed, which is, I would observe, an incredibly thorough and well-grounded literature review. The review found that there was no consensus in the research community on the impact of banning food advertising on obesity levels. There was some association but there was no consensus, and there certainly was not a correlation, as you would talk about in research terms.

We also undertook significant economic modelling work using the Nielsen media data. The modelling showed that even the most limited restriction on food advertising could be expected to impact materially on broadcaster profitability.

In addition, without a food identification standard, a complete ban on all food and advertising would be a disproportionate response and would prevent healthy products from being advertised. We then further indicated, as we moved from draft to final—because we put out a draft of the Children's Television Standards—that we were happy to review our position

should the body of research find a stronger association between food advertising and obesity, demonstrate greater benefits to be gained in the banning of food and beverage advertising and when a food identification standard appropriate for the Australian market were or was successfully introduced. So that is the way in which we shaped our draft CTS.

**Senator MINCHIN**—I understand that some state governments are contemplating their own actions in this area. Could you advise me of your view as to what, if any, legislative or other authority they would have to act in this area, and what the consequences of any such action might be?

**Mr Chapman**—We are aware that several state governments have released discussion papers. Clearly the material that is part of those discussion papers or in response to those discussion papers will inform our body of information. As to the matter you are alluding to, the potential constitutional issue between the state approach and federal approach, that is not a matter we have a view on.

**Senator MINCHIN**—You cannot tell me as a matter of fact whether they could tomorrow pass a law in Queensland banning junk food advertising on TV in Queensland?

**Mr Chapman**—It is not a matter that we have to opine on. It is potentially a very complex constitutional matter and, whilst I am broadly aware of the outline of what that constitutional proposition might be, I do not feel that I or anyone in the organisation has sufficiently looked at it or researched it, nor do we have a responsibility to make that determination.

**Senator MINCHIN**—So you have not sought your own legal advice on that matter?

**Mr Chapman**—No, we have not.

**Senator MINCHIN**—Minister, do you have a view on this matter from the point of view of (a) the federal government but also (b) the much more serious issue of state governments unilaterally acting?

**Senator Conroy**—I might get Patricia to come back to the table.

**Ms Scott**—This does raise some interesting policy questions because, unlike many other areas of Commonwealth-state relations, this is one area where the Commonwealth does consider that the Constitution is reasonably clear in relation to the powers. I am not aware that the department has sought advice from the Attorney-General's Department. You will be familiar that, under the legal services direction arrangements, Commonwealth officers seek the advice of the Attorney-General's Department and AGS. They do not go out to external advisers. At this stage we are monitoring the situation of the states reportedly expressing interest in doing individual things, individual actions of the states. Certainly, if it is seen to be more serious than that, I think we would take advice. At this stage we have not done it. We are just monitoring developments.

**Senator MINCHIN**—So you have had no correspondence with the state governments in question, suggesting to them that it may raise significant constitutional issues and alerting them to the advice which ACMA has in respect to this matter on the substance of the issue?

**Ms Scott**—No. To the best of my knowledge, we have not had exchanges of correspondence on that matter. I get a sense that the states are expressing some concern and they may be seeking to take this further in health forums that exist in other portfolios. I know

that there are a number of other initiatives in the health area where I can imagine their views are aired from time to time. Our Health colleagues are going to keep us informed of any developments that relate to our particular areas of interest. But, no, there has not been correspondence.

**Senator MINCHIN**—That is all I had on that issue. Could I just quickly refer to ACMA's responsibility with respect to the antisiphoning list. As I understand it, you are required to provide reports to the minister, on the basis of no less than once every six months, on your assessment of the monitoring of the use of the rights under the antisiphoning list, how those rights are used, and whether unused or partially used rights are offered to other broadcasters including pay TV. Is that an accurate description of your current role and responsibilities?

**Mr Chapman**—It is not, because on 28 August of this year the minister revoked the previous minister's direction on the need for the ACMA to provide periodic reports, so we have discontinued that reporting function.

**Senator MINCHIN**—That was a revocation of the requirement?

**Mr Chapman**—That is correct.

**Senator MINCHIN**—It does not mean you cannot still continue to provide them; just that apparently you are not required to provide them any longer?

**Mr Chapman**—If we are not required to provide them and, given the resource constraints we spoke about before the break, I am not going to dedicate resources to it.

**Senator MINCHIN**—Could you then remind us, Minister, why you revoked that requirement? What was the public policy objective you were seeking to achieve by the revocation of—

**Senator Conroy**—We have a stated commitment to reduce red tape and regulation, particularly those imposed unnecessarily and arbitrarily by the previous government. The business community has complained long and loud about the amount of irrelevant paper that is being collected due to government regulations, and we have a drive to reduce the amount of red tape and regulation that basically serves no purpose. The issue of what is being shown and when has been well canvassed. It changes little, and it serves no purpose to have an ongoing number of officers of ACMA wasting their time collating this information. It is certainly of no benefit to the businesses that have been wasting their resources supplying the information, so we are quite comfortable at abolishing one of the many pieces of red tape that the former government wrapped the business community up in.

**Senator MINCHIN**—So you find it of no value whatsoever to know how these rights are being used and whether unused or partially used rights are offered to other broadcasters, including pay TV? You do not wish to know that?

**Senator Conroy**—Most of the rights—and we are only talking about 14 sports, notwithstanding some of the claims about 1,400—12 categories. The rights do not change on a weekly basis. They are usually three-, four- or five-year contracts, so they are in place. I have noticed that, whenever the free to airs fail to produce something live to air, usually there is public commentary on it. I do not see any value in maintaining that. It is an administrative

burden for both ACMA and the organisations who have to supply the information for no net gain in public information.

**Senator MINCHIN**—You do not think, in the context of what I understand is the current view of the antisiphoning arrangements—which expire, what, at the end of 2010—that this is useful information in relation to that review?

**Senator Conroy**—My experience with the antisiphoning list—and I have followed it both at a viewer level and a policy level for many years now—is that there is little science involved in the list. I am personally very familiar with how the list works.

**Senator MINCHIN**—As someone who was in cabinet for nine years, I will not comment on that.

**Senator Conroy**—I am very familiar with how the list operates and I do not need a regular quarterly, six-monthly or annual update from ACMA.

**Senator BIRMINGHAM**—Can I take it from that, Minister, that you are not intending to inject any science into the review?

**Senator Conroy**—What I am suggesting is that there has been little science involved in the past. I have been engaged with the stakeholders in the sector on this matter from before the election and I continue to be actively engaged. We will go through a process with the review next year which will throw up all the usual debates and all the usual science that is claimed.

**Senator MINCHIN**—As you know, Minister, the pay TV industry, which I am sure has made representations to you on this issue—

**Senator Conroy**—I was just with them a few moments ago.

**Senator MINCHIN**—Well done!

**Senator Conroy**—I am looking forward to my ongoing dialogue with Mr Bracks.

**Senator MINCHIN**—So I read. I am sure you will be entirely objective, given that you have got Mr Goss on the other side. Their concern is, as you know, about the extent to which the free TV industry's rights are not being adequately used and therefore not made available to pay TV. Part of the charter, up until 28 August, was for ACMA to monitor the use of these rights. What are you saying to the pay TV industry in respect of that matter?

**Senator Conroy**—As I said, on the issue of the piece of regulation that we removed, the basic argument is that the costs outweigh the benefits. It is very simple. I read in a press release earlier today that you are apparently a big fan of cost-benefit analysis.

**Senator MINCHIN**—I am indeed.

**Senator Conroy**—In terms of the discussions with all stakeholders in the sector, I would prefer to keep that to myself. I am not going to reveal to you my private discussions with individual stakeholders.

**Senator MINCHIN**—Did you suggest that the pay TV industry might like to pick up the tab, given that you seem to think that the cost burden on ACMA was the reason you do not want this information?

**Senator Conroy**—Perhaps I was not clear enough. The repetitive nature of the information does not throw a lot of new light into the debate.

**Senator MINCHIN**—I have not gone back.

**Senator Conroy**—I am sure you have not.

**Senator MINCHIN**—I do not know whether these responses went public. Are you putting as evidence to this committee that all these reports essentially showed a static situation, are you, and that there weren't six-monthly fluctuations?

**Senator Conroy**—As a sporting tragic, I tend to follow these things fairly closely at a personal level. So I am conscious of what is and is not on, when it is and is not on. The debate is kept well informed by press releases from both sides of the argument. When something is not shown, it is drawn to the public's attention quite extensively in newspapers. So duplicating that individual process by then having ACMA officials collating information that simply confirms press releases on this issue is not a valuable use of ACMA's limited resources.

**Senator MINCHIN**—I would query that. Was this a decision you made of your own volition or was it made by cabinet?

**Senator Conroy**—No, it was a decision that I took without reference to cabinet. It is within my portfolio area.

**Senator MINCHIN**—Yes, sure. As we are on the antisiphoning list, Minister, on the issue of soccer, which I know is a particular passion of yours—

**Senator Conroy**—The Socceroos.

**Senator MINCHIN**—I am sure you are very pleased at how well Adelaide United are doing.

**Senator Conroy**—I will be barracking for them.

**Senator MINCHIN**—Good man!

**Senator Conroy**—Are they on this Wednesday night?

**Senator MINCHIN**—That is right.

**Senator Conroy**—No, they are doing very well.

**Senator MINCHIN**—I note that with pleasure myself. Your position, as I understand it, is that you have said you will amend the list to include world cup qualifying matches. Is that correct?

**Senator Conroy**—Yes. We have a longstanding election commitment that the Socceroos fall into the same sort of iconic status as the Wallabies or the Kangaroos or the Australian cricket team or the Australian netball team and a whole range of other sports that are covered. We believe that the Socceroos' matches for world cup qualifiers should be on the antisiphoning list.

We are very conscious of the fantastic job that both Foxtel and Austar have done in reviving football in this country. Without them, we would not have an A-League. Without them, we would not have the infrastructure that has proved so successful in assisting the

Socceroos and the Football Federation. The free-to-air networks collectively should hang their heads in shame for how they have treated football in the past. But the Socceroos world cup qualifiers fall into that sort of iconic category.

I was chatting with the pay TV industry a moment ago. There was a good, strong audience for the Socceroos' match the other night when they beat Qatar 4-0. Tim Cahill played another blinder for us. We believe that the world cup qualifiers fall into that same category and should be included.

**Senator MINCHIN**—And that cannot occur, what, until the current contract is—

**Senator Conroy**—Yes, there is a contract that I have been advised by the Football Federation would be very costly for them. But if we were to impose that—and it is within our rights to do so—there would be quite a costly impact on the Football Federation in terms of their contract with Fox Sports. We are very conscious of not wanting to be breaking existing contracts, so we said that we would add the Socceroos' world cup qualifier matches to the antisiphoning list so that Australians can see them after 2013.

**Senator MINCHIN**—Has Australian soccer made representations to you expressing their concern that even in 2013 this will cause Australian soccer—

**Senator Conroy**—I have talked with Ben Buckley a few times. He is aware of our policy. I saw an interesting interview with chairman Frank Lowy recently, where he expressed the desire publicly, in the newspapers, that he wanted to see football on free-to-air and they would be looking for that in their next negotiation. I have not had a chance to catch up with Mr Lowy since that newspaper article, but I look forward to seeing him at the next qualifier.

**Senator MINCHIN**—If I could return to ACMA—

**Senator Conroy**—Parliament was unfortunately sitting last week, as you would remember—

**Senator MINCHIN**—I do recall that.

**Senator Conroy**—and it meant that I could not attend the Qatar match.

**Senator MINCHIN**—I think I got an invitation too.

**Senator Conroy**—Yes, I am sure you did.

**Senator MINCHIN**—We had Penny Wong away as well. We need at least a few ministers there.

**Senator Conroy**—You could not have complained about Penny being away and then slipped off without me to the football.

**Senator MINCHIN**—Yes.

**Senator Conroy**—I stress the 'without me' there.

**Senator MINCHIN**—Mr Chapman, I wonder if you could bring the committee up to speed on the issue of mobile devices on aircraft. There has been some recent publicity, and I am a little confused, I must say, as to exactly the current position and what is likely to change.

**Mr Chapman**—Certainly, I am happy to do that. Mr Tanner, do you want to lead?

**Mr Tanner**—At around the end of last year the industry completed a trial which ACMA had permitted. That trial expired.

**Senator MINCHIN**—Who conducted the trial? Who initiated the trial?

**Mr Tanner**—AeroMobile and Qantas, I believe.

**Mr Chapman**—AeroMobile is the provider of the technology and they did it with Qantas, and essentially we facilitated that trial through certain exemptions.

**Mr Tanner**—ACMA is currently examining whether or not to make a new exception in the prohibition on jamming devices to permit the operation of so-called ecocell technology, which is a key feature of the AeroMobile system. Although the intention of the system is not to jam telecommunications but to facilitate it, it basically functions by locking external sources of telecommunication signals to telephones on the aircraft, so it is technically a jammer within the terms of our prohibition. What we are examining at the moment is whether or not to make that exemption. Once such an exemption is made, that would remove an impediment to licensing commercial telecommunication services on aircraft.

**Senator MINCHIN**—What is the process from here? Where does this all lead? What are the next steps in this?

**Mr Chapman**—We have gone out to consultation on the proposal and put a month's consultation period around that. There will be stakeholders who will have views on that. That will come back to the authority indicatively in late November for a final confirmation by the authority, or otherwise they provide an exemption to the otherwise jamming prohibition. If the current draft position which is put out there in the amendment is proceeded with, that will, from the ACMA perspective, overcome one of the technical hurdles that Qantas has, or indeed any other airline has, in moving ahead with in-flight services. There are a number of other steps, and they require other approvals which deal with Attorney-General's Department and civil aviation, but from our perspective with respect to the technical side of it the confirmation of the exemption would essentially allow the airlines to push on with the service from a technical perspective.

**Senator MINCHIN**—But there are a number of other regulatory barriers in place, are there, that prevent airlines allowing their passengers to use mobile devices?

**Mr Tanner**—The services would need to be licensed, and the next task for ACMA, if we decide to amend the prohibition, would be to establish an appropriate licensing arrangement, which we would do in consultation with other stakeholder parts of government such as Attorney-General's Department, which is concerned with the security aspects, and the aviation community, which is concerned with the safety aspects. Our remit runs to the requirements on telecommunications licensees. So, in consultation with the licence applicants on issues within our remit and with other parts of government on issues within their remit, we would be working on an appropriate licence for the service going forward.

**Senator MINCHIN**—But is your responsibility to determine whether technically these devices interfere with the operation of the aircraft? Is that you?

**Mr Tanner**—No, that is the role of the aviation safety community, with whom we have consulted at each step of this. We are not experts in plane safety. Our roles really are to do



with the licensing and facilitation of telecommunications and, as such, the jamming prohibition is a general approach which stops jamming devices, unless there are exceptional circumstances that might lead us to exemptions. When we license telecommunications, there are various obligations on telecommunications licensees, such as the provision of intercept capabilities and those sorts of things. Those are within our remit as the telecommunications licensing authority. Issues like the safety of aircraft are issues on which we are going to take input from expert bodies. Similarly with security, we have worked closely with the Attorney-General's Department on the trial and we will work with them on any licensing scheme.

**Senator MINCHIN**—I could not help but notice a *Sydney Morning Herald* editorial which said:

Anyway, something called the Australian Communications and Media Authority has, in its bureaucratic wisdom, decided to permit personal mobile phone use on domestic flights.

So that would be a gross misrepresentation of not only your stature, of course, but also your position and the consequences of the decisions you have made so far, would it?

**Mr Chapman**—I think it is an unfair characterisation. Our role is to facilitate innovation in telecommunications in the country, at the same time with a weather eye always to maintaining safety and to ensure that there is no spectrum interference. Essentially that is what we have done here. We have tried to find a line between ensuring that we are satisfied that there is no spurious, technical spectrum interference, at the same time providing optionality to the carrier as to whether they want to push on with the service. They have indicated to date that they do, and we have played a facilitative role with our colleagues in Attorney-General's and air safety with respect to a potential whole-of-government approach. That editorial, which someone brought to my attention a little earlier today, again was not the complete picture.

**Senator MINCHIN**—I respectfully suggest you invite the Fairfax leader writers around for lunch and explain the august role you perform. I am sorry they treat you with such disrespect.

**Mr Chapman**—Maybe we will give them an infringement notice.

**Senator MINCHIN**—All right. That is all I have, I think.

**CHAIR**—Thank you, Senator Minchin. Senator Ludlam.

**Senator LUDLAM**—Thanks, Madam Chair. Just for a change of pace, I would like to ask about the regulation of subliminal advertising on television in Australia. Are you okay to take those?

**Mr Chapman**—Yes. Ms O'Loughlin and I will take the questions.

**Senator LUDLAM**—Great; thank you. Can you give us a brief overview of how subliminal advertising is regulated in Australia—just the broad brush.

**Ms O'Loughlin**—The commercial free TV code of practice contains provisions which require that the commercial broadcasters cannot transmit messages or advertising which are at the threshold of recognition. That is the technical term for what you have characterised as subliminal advertising. That has been in the code for a considerable length of time. As you

will be aware, we recently breached Channel 10 for breaches of those code provisions in last year's ARIA presentations.

**Senator LUDLAM**—That is right. That is commercial free-to-air. What about pay TV and government owned stations, community stations?

**Ms O'Loughlin**—I think it is limited to free TV, but I might need to take that on notice.

**Senator LUDLAM**—I would not mind, if you could just confirm that—

**Ms O'Loughlin**—Yes, I would be happy to do that.

**Senator LUDLAM**—that the pay stations are not just blipping people with stuff in an unregulated fashion.

**Ms O'Loughlin**—I do not believe they are.

**Senator LUDLAM**—I would not have thought so.

**Ms O'Loughlin**—I am certainly happy to take on board the provisions of their codes.

**Senator LUDLAM**—I will talk about the ARIAs in a moment, but how prevalent is the practice? How many times a year are you alerted to these sorts of practices?

**Ms O'Loughlin**—I think this is the first complaint we have had in many years, probably since the code provisions were put into the code.

**Senator LUDLAM**—Is the code mandatory or voluntary?

**Ms O'Loughlin**—It is a co-regulatory code, so we can take action against the broadcaster for breaches of the code.

**Senator LUDLAM**—Can you define for me how and where 'subliminal' is defined? What is the definition of it?

**Ms O'Loughlin**—It is not defined in the code, but we have taken the approach—and I need to check my notes on exactly what that one is—

**Mr Chapman**—The reference is clause 1.8 of the TV code, the Commercial Television Industry Code of Practice. It does not use the word 'subliminal'. It says:

A licensee may not broadcast a program, program promotion, station identification or community service announcement which is likely, in all the circumstances, to use or involve any technique which attempts to convey information to the viewer by transmitting messages below or near the threshold of normal awareness.

'Below or near the threshold of normal awareness' is what has been parleyed into 'subliminal'.

**Ms O'Loughlin**—The approach we took was that we considered the threshold of normal awareness to be any image visible to the ordinary, reasonable viewer at normal speed and any image that lasted for three or more frames.

**Senator LUDLAM**—Three or more frames is okay, because that is above the threshold?

**Ms O'Loughlin**—Three or more frames is above. It is 24 frames per second for free-to-air television, so three frames or above were okay.

**Senator LUDLAM**—That is about one-eighth of a second?

**Ms O'Loughlin**—About, yes.

**Senator LUDLAM**—Did you say you referenced that to the normal viewer? What was the language around who it is benchmarked against?

**Ms O'Loughlin**—Sorry?

**Senator LUDLAM**—Maybe if you could just read that short statement again as to the normal viewer.

**Ms O'Loughlin**—Certainly. There is not a definition in the code, but the approach we took was to look at the threshold of normal awareness as being any image visible to the ordinary, reasonable viewer at normal speed.

**Senator LUDLAM**—That was the ordinary, reasonable viewer.

**Ms O'Loughlin**—Yes.

**Senator LUDLAM**—Is that defined anywhere? It is an interesting term.

**Ms O'Loughlin**—It is a construct we use quite a lot in our broadcasting investigations to leave aside, say, our own prejudices and look at it from the point of view of just an ordinary, reasonable viewer and how they would view a program.

**Senator LUDLAM**—There is a huge diversity of people watching television. My question to you in this context is whether that is benchmarked against, for example, an adult's threshold of awareness or a child's. The three frames per second is perceptible to an ordinary, reasonable adult. Are you aware of how that might relate to child viewers, for example?

**Ms O'Loughlin**—No. I do not think we looked at that matter. We thought that the approach we were taking in the circumstances would help us, as the broadcasting regulator, to come up with what we needed to do, which was to investigate the matter and see whether or not we felt comfortable that the advertising was at the threshold of normal awareness, and this is the construct that we used to have a look at that.

**Senator LUDLAM**—Perhaps it is more worthwhile to take something like this on notice, but could you provide us with information about where that definition of the three frames per second came from and are you aware of any research in the field on how that threshold would be different for people of different ages?

**Ms O'Loughlin**—We certainly looked at some of the international investigations around this matter and how other jurisdictions have used it, so I am happy to take that on notice and give you a more complete answer.

**Senator LUDLAM**—What is the maximum penalty for when a station does knowingly breach the code?

**Ms O'Loughlin**—There are a range of sanctions available to us under the co-regulatory framework. In terms of codes, in the first instance they range from anything from a licence condition that we can impose on broadcasters through to media directions once those licence conditions are imposed. But in the circumstances of this particular investigation, as I mentioned, it was the first breach of this particular provision of the code by Channel 10 or any broadcaster and we did not feel that those heightened, escalated enforcement actions were necessary.

**Senator LUDLAM**—Even though, to me, it looked as though they were quite conscious and intentional breaches of the code?

**Ms O’Loughlin**—I think the broadcasters put to us that it was an attempt by them to do something innovative in their advertising.

**Senator LUDLAM**—Did they really put that to you?

**Ms O’Loughlin**—That is what they put to us. I think we were concerned that it did breach the code provisions. I think Channel 10 put to us that they would certainly take very seriously the findings of the breach of the code and not pursue that short cut type of advertising again.

**Senator LUDLAM**—To your knowledge, that has not occurred?

**Ms O’Loughlin**—No, and I think the media release that we put out also put the other broadcasters on notice that the authority would take very seriously any further breaches of this provision, given the sensitivities of subliminal advertising in the community.

**Mr Chapman**—In addition to that, we took the more unusual step of writing to the other networks, with a copy of the determination, pointing out to them, and reiterating, what Ms O’Loughlin just indicated. We felt that it was a practice that would simply be unacceptable if it were to occur again. To take it outside the realm of the licensee or network and actually put it in front of the other networks was a more unusual step for us to take, but we took that step.

**Senator LUDLAM**—For what reason did it take 10 months for that investigation to be completed?

**Ms O’Loughlin**—I think any of the investigations we undertake rest on a number of common factors, including that there are requirements under the act in terms of how long broadcasters have to respond to complaints that come to them. From the time of the broadcast, the complaints originally go to the broadcasters themselves. The broadcasters have a period of time in which they can respond to complainants. The complainants then have some time to come to us if they are not happy with those complaints, which usually takes some time. We had a number of separate complaints come to us, so we put those together into one sort of chunk of investigation.

The process for broadcasting investigations requires us not only to comply with the provisions of the Broadcasting Services Act but there are also issues of administrative law in terms of natural justice. So there are periods of time through an investigations process where ACMA is doing its work and there is also a period of time where we are awaiting the advice of broadcasters or we are awaiting their responses to the preliminary investigation reports that we put to them.

Those investigations can take quite a long period of time. This was quite a complex investigation, given that we were looking at matters such as you have raised: what is the threshold of normal awareness and how would we test that? So there were some very complex issues involved. We would always like to do our investigations in a more speedy manner, and it is something we take very seriously, but there are often investigations which are complex which take more time than we would like them to.

**Senator LUDLAM**—Thanks. I have no other questions. If you could provide us with some of that information, that would be great.

**Ms O'Loughlin**—Certainly.

**Senator LUDLAM**—Thanks, Chair.

**CHAIR**—Thank you. If there are no further questions for ACMA, we will then thank the officers for appearing tonight. We will now move on to the ABC.

**Ms P. Scott**—I wish to correct an answer I gave earlier this evening in answer to a question from Senator Minchin. He asked had the department sought legal advice in relation to the matter of state regulation of advertising on broadcast services and I said that, to my knowledge, we had not. I now have checked on that answer. We have obtained some general advice from AGS on the matter. It does not go to a level of precision we would normally have, because we do not have a precise proposal from the state, so I apologise for my error and correct the record.

**Senator MINCHIN**—I suspect it was made available to the state governments.

**Ms P. Scott**—No, I understand it has not been.

**Senator MINCHIN**—It has not gone anywhere? Okay. Thank you.

**CHAIR**—Thank you, Ms Scott. We are awaiting the arrival of the corporation.

[8.01 pm]

#### **Australian Broadcasting Corporation**

**CHAIR**—Thank you, gentlemen. We will start with questions from Senator Birmingham.

**Senator BIRMINGHAM**—Thank you, Chair. Mr Scott and colleagues, welcome again. I want to start on issues of, I guess, divergence and the new media that you may be entering into in terms of mobile services, free downloads and those types of areas. What opportunities does the ABC see in these areas and how do you see commercial opportunities, if at all, within those new areas?

**Mr Scott**—Thanks for the question. Good to be back with you. We see new media providing a great opportunity for the ABC to connect with more audiences in more ways more often. We believe that we have been the most innovative media organisation in Australia in taking advantage of the opportunities that are out there in the new media space. In the main, if you look at our track record, we have taken advantage of new media opportunities to take content that we have been previously creating for radio and television and using the new media space to connect with new audiences.

For example, iView is Australia's first internet television service, so this is a service that the ABC has made available. Many shows are up there so people can catch up on watching television. This is available free of charge. You need a relatively fast broadband connection to take advantage of it, but we have made this available free of charge as an adjunct to our ABC television service. ABC Now is a widget that you can download to your desktop that allows you to have an RSS stream of radio services and television catch-up services as well. Our podcasting and vodcasting, which everyone is aware of, had 60 million downloads in the last year; again, available free of charge.

We have taken advantage of the opportunity to make our store available online, so things that previously people have had to go to our store to purchase, like an old television series, we

now make some of those programs available for people to download to purchase or to download to rent; so it is a download video store. But that is largely taking advantage of the technology to make it more convenient for people who have previously gone into our store to purchase programs.

We are developing an ABC mobile service. That will be commercial free on abc.net.au, and there is no advertising on abc.net.au. We have had, for many years now, licensing agreements that have allowed our content to be sold to other providers to be used; in particular, content that has been made available free of charge already on our output areas. We have, for numbers of years now, sold some our content, say, to mobile phone providers which they can use, and that is a fairly standard licensing agreement.

**Senator BIRMINGHAM**—In terms of iView, how do you respond to suggestions that, given that content has been aired on free-to-air television, it should be treated as you would treat DVDs or other products and that it is an opportunity for the commercial arm of the ABC?

**Mr Scott**—The opportunities of new media are really now changing the way that people can consume content. The model we are following in iView is very similar to the model that the BBC is using with their iPlayer, which says there should be a period of time for people to be able to watch content and be able to experience that content free of charge. So, if you happen to be out one night and miss *The 7.30 Report* and you want to see it the next morning, really you should be able to watch that free of charge provided by the public broadcaster under a public broadcasting arena. I suppose at the ABC we take a view that that kind of service is an opportunity to connect our content with more people, to make it more convenient for them to experience it. I think watching say *The 7.30 Report* the next day or if you are out and you missed *Dr Who* and it is Monday night—

**Senator Conroy**—That is a serious issue.

**Mr Scott**—the ability to catch up in the next day or so, I think, is a very different proposition to going down to the shop a year after *Dr Who* has aired and expecting to pay to see the DVD. What we are doing is very similar to what the BBC has done. We recognise that the new media environment is a movement away from appointment viewing and that audiences want to be able to experience this and see and listen to this content at a time they want and on a device they want, and so we as a public broadcaster should be able to deliver that to them.

**Senator BIRMINGHAM**—I will just reflect that the shared viewing habits of the minister and the shadow minister are a little disturbing! That aside, Mr Scott, how long are programs available on iView?

**Mr Scott**—It varies according to the rights agreements that we have with different rights holders; so it will regularly be a week, sometimes it might be two weeks. We do have some programming there that actually has not been seen on air before, but it is a good distribution mechanism. That may stay up for longer. But at the same time, we have our store, so if you want to go and watch a program that, say, we put to air last year—a previous season of *Dr Who*, for example—that is what you would be able to download for purchase, either to rent or to buy, using our ABC Shop online.

I am not saying that we are not taking advantage of opportunities that exist there, but we are following the model and the precedent that our stores have created. We think our audience knows that, if they want to take advantage of archival material, generally they have to pay for that, but within a moderate window, if they want to see something free to air—which they have paid for; they have paid \$850 million for us to be able to provide that content—for us to be able to make it available to them in a convenient way we think is a good approach.

**Senator BIRMINGHAM**—How much has the development of iView cost the ABC?

**Mr Scott**—I do not know the precise figures here. I have had it put to me that it cost 1/150th of the cost of the BBC's iPlayer.

**Senator BIRMINGHAM**—We congratulate you on that.

**Mr Scott**—I think we can be very proud of the achievement. It was really led by our innovation team. They had a very small budget to be able to deliver that program. It was developed in-house and it has worked very effectively and very well. We have now had 1.4 million views since it was launched in July and nearly half a million visitors to that site—separate visitors to that site—and really I think everyone in the Australian media setting, certainly heads of commercial television, have said to me that in this area the ABC has been streets ahead.

**Senator BIRMINGHAM**—Do you believe it would be within the charter or act of the ABC to charge for access to anything on iView?

**Mr Scott**—I think decisions need to be made on when the free window stops and when you start to charge. We are trying to exercise some discretion around that. I am certainly not saying to you that the content that appears on iView is never charged for. It just goes through a migration period where there is a free window and then there is a period where it basically migrates to the store and where people are charged for it. That is pretty much the way it is operated now. It is more convenient for audiences now and so we think it is a logical and sensible process that we have generated.

**Senator BIRMINGHAM**—In the answer to the initial question you mentioned commercial mobile service.

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—Or the development of a commercial mobile service. What is the proposal in that regard?

**Mr Scott**—What I have said is that we are developing a site—at the moment you can look at ABC online sites on your mobile phone, but often it is not as satisfactory an experience as you would want it to be because—

**Senator BIRMINGHAM**—I can vouch for that.

**Mr Scott**—basically that site has not been generated for viewing on a mobile phone. It has been generated for viewing on a fully fledged computer. Most providers of internet information are creating special sites that are designed specifically to be seen on a mobile phone. The ABC is doing that, so it will be a streamlined version of our online content, and that will be available commercial free. There will not be advertising on that. Our mindset on

that is that really the mobile phone website is no different to abc.net.au. There is no advertising on abc.net.au. This content is content that has been created often for radio and television. There is no advertising on that.

The mobile phone is effectively another platform, but, as I have said, just as we on-sell some of our television content, we have on-sold some of our online content to other websites, and that does bring some income stream back to the ABC.

**Senator BIRMINGHAM**—Just to be clear, the mobile version of the website will be commercial free as well?

**Mr Scott**—We are looking to call it—and this is the usual way these things are described—m.abc.net.au, the ‘m’ standing for ‘mobile’, and these sites will not carry advertising. That site will effectively be the equivalent of abc.net.au.

**Senator BIRMINGHAM**—In terms of the grand vision, if we can describe it as that, to extend into digital television, multichannelling—likewise on radio—does the ABC view all of those extensions as being commercial free?

**Mr Scott**—Yes, at this stage. As we have moved into digital television, we certainly did not consider putting advertising on ABC2. In relation to our proposal for ABC3, the children’s channel, part of that whole proposition is around creating an environment for children where they can watch high-quality Australian content in a commercial-free environment.

Currently our plans for digital radio are to take the radio stations that are currently available on analog, and also our internet radio stations, and to put them out on digital radio. They do not have advertising at the moment.

I have been in the ABC job now for more than two years. We have just in this last six months done an extensive round of community consultations. We have had meetings with stakeholders, community groups in cities and regional areas in every state and territory. I must say the overwhelming message I get from those meetings is not a message for us to increase levels of commercialisation of ABC content but for us to be very cautious and conservative about any moves to increase the level of commercialisation. That is certainly not where the intent of our focus is.

We have a commercial division. We operate shops and stores, we sell books and CDs and DVDs. We do license our content, but overwhelmingly our feeling is that the public want us to remain independent and commercial free. Our latest news poll demonstrates that nine in 10 Australians believe we provide a valuable or very valuable service and that the money the taxpayers provide us with to provide that service, independent and commercial free, is money well spent.

**Senator BIRMINGHAM**—If the ABC is to get to the stage of broadcasting five or six digital television channels ultimately, do you accept that there would be a question asked as to whether there was a demand for, or a genuine need for, the government and the taxpayer to subsidise so many commercial-free networks on television?

**Mr Scott**—That is a fair question, and the answer to that fundamentally lies on what kinds of channels they are and what kinds of things they are broadcasting, because if you take a



look at our proposition, say, around a public affairs channel, a public affairs channel would broadcast hearings like this, which might be good news or bad news.

**Senator BIRMINGHAM**—I am sure the ratings would be enormous.

**Mr Scott**—Yes, the ratings would be enormous.

**Senator BIRMINGHAM**—The people of Tasmania would have tuned in.

**Mr Scott**—Parliamentary hearings, press conferences in full, annual general meetings of major companies, key speeches at places like the Evatt Foundation or the Melbourne Press Club or the Lowy Institute.

**Senator BIRMINGHAM**—The Page Research Centre.

**Mr Scott**—Good examples of democracy in action, but clearly not a commercial enterprise. I think part of the question for government will be, if we can broadcast that much more using the digital spectrum—if there are more channels—should some channels be put to air that are of public benefit, even though there may not be a commercial return? I can tell you that in relation to a public affairs channel, the way that that is envisaged—just like C-SPAN in the States—you do not make money out of doing those.

If in fact you are a commercial media company trying to invest your money to generate shareholder return, you do not create a public affairs channel. Similarly, one of our propositions identified in the government's discussion paper is about an education channel. There might be very clear public benefits in an education channel, but again is that a channel that should be commercialised? Is that a channel that should only operate if it can generate a commercial return? I would think that is questionable.

If our proposition was, 'Give us six versions of ABC1,' then there might be more debate around your proposition, but that is not what we took to the 2020 Summit, that is not what is reflected in the government's discussion paper, and the kinds of ideas that we have put forward for multichannelling are clearly non-commercial but clearly generate significant public benefit.

**Senator BIRMINGHAM**—Did the ABC give consideration to implementing a specialised channel—a children's channel or a public affairs channel—ahead of implementing ABC2?

**Mr Scott**—We previously did have some channels, but the funding was not there for those channels to continue. There was an ABC kids' channel and some other channels some years ago now, but there was not time to keep that going. When I arrived at the ABC, ABC2 was up and running and there is a block of that channel that is allocated to children's programming.

But we have plans for the development of ABC2 and there are things we think we can do in that channel to skew it younger. Giving it more arts coverage is something that we are focusing on—again, things that a commercial broadcaster would find it very hard to sustain but we think are of benefit. Then we think there are benefits in the other multichannels as well.

**Senator BIRMINGHAM**—I have some other questions, Chair, but I think Senator Abetz is on a tight time frame.

**Senator ABETZ**—That is very kind. Thank you very much. Good to be back. Unfortunately, I have to canvass some of the issues we have canvassed in the past. To start off with, did the ABC have a view about using the phrase ‘so-called war on terror’?

**Mr Scott**—Let me check that.

**Senator ABETZ**—Because I thought it had been agreed that that term, prefaced with ‘so-called’, would not be used.

**Mr Scott**—Do you have an example that has come to your attention?

**Senator ABETZ**—Yes, I do—the 8 am news on Radio National this morning. I did not hear it, but I have an email from a colleague that raises it, and in that email my colleague said, ‘I thought the ABC got in trouble for saying this last year.’

**Mr Scott**—I have advice from our style guide, which asks journalists to take care when the using the term ‘so-called’—it can carry negative connotations. It is not as though it is an overarching ban, but our journalists are encouraged to take care when using the expression, but I can investigate that example. You said you had not heard it. I did not hear it either, but I can investigate it for you.

**Senator ABETZ**—It was 8 am this morning, Monday the 20th. In relation to the program *Q&A*—and thank you for the information that you provided to me, which was of some interest—in one program, for example, the audience make-up was 10 per cent coalition supporters, 47 per cent Labor supporters, 26 per cent Greens supporters. I recall that as being the worst example. Since we last met, has anything been done to address the audience balance?

**Mr Scott**—Yes. Thanks for the question. We are very proud of *Q&A*. We think it has been an outstanding addition to the schedule this year on ABC television and we are delighted that so many politicians from all sides of the House have been pleased to attend—

**Senator ABETZ**—That is all very nice, Mr Scott. We are under a very tight timetable and there are a number of questions I will not be asking tonight because of that timetable. The question is not how many politicians and how proud you are. I am asking you specifically: have you done anything to balance the audiences?

**Mr Scott**—There are two tests that the program makers at *Q&A* have in mind. Under our editorial policies, the test is this: have all principal, relevant viewpoints been heard by the audience that watches that program? The first test is, ‘Are a range of views being heard on the panel?’ That is why who is invited to turn up and speak is important.

**Senator ABETZ**—Yes, but I am not asking you about that.

**Mr Scott**—And I think we have well achieved that. On the audience, we have been very keen, because it is an audience participation program, to try and ensure that there are a range of views that are evident in our program. We have put together a panel, and I understand now that in the course of the program over 2008, of those who were willing to give their voting intentions—and not everyone was willing to give their voting intentions—32 per cent were ALP, 24 per cent were coalition, 17 per cent were Greens and the others were not specified or were others, preferring not to give their voting intention.

I know that the producers of the program have been keen to put together a panel coming into the audience that is as broad and representative as we can, and I think it is fair to say that a range of views have been evident in the audience every night that we have put *Q&A* together. The critical question is not so much, 'Who's in the audience?' but, 'Have we had a good balance of questions that have come from that audience?' and, 'Have we had a good panel that has been able to engage on those issues?' *Q&A* has passed the test.

**Senator ABETZ**—So you think that having 10 per cent coalition supporters is a balanced audience for audience participation?

**Senator Conroy**—Probably nine per cent too many, but that is purely a personal view.

**Senator ABETZ**—It shows an immature attitude to the public broadcaster, Minister, and, if that is the sort of attitude that you will be showing in your involvement with the ABC, it confirms our worst fears as to how the ALP treats the ABC—as its own plaything.

**Senator Conroy**—We are setting up an independent board process to avoid the sort of immature approach that your former Prime Minister took.

**Senator ABETZ**—In that case, you might like to reflect it personally.

**Senator MINCHIN**—I take it the audiences for *Q&A* are selected?

**Mr Scott**—We invite people to come in. We put together a panel. We invite people to register on our website. At the end of the program we ask people to come and register. We have approached Liberal MPs as we have tried to put together a pool of people from which we can then select the audience.

I indicated to you when we spoke last time, Senator Abetz, that this was an experiment. We had never really asked people what their voting intentions were in an attempt to try to get a representative audience in the past. There are a few realities we need to consider as well. As you know, Senator Minchin, we record this live in Ultimo in inner Sydney at 9.30 at night. We recorded it across winter. We did seek the cooperation of Liberal MPs as we were trying to put this panel together, as others would know.

But the critical question is, if you are speaking from your side of politics, Senator Abetz: have those MPs who have turned up felt that their voice has been heard, that there has been a good range of questions fielded, that the principal relevant viewpoints have been heard and there has been a spirited and engaging discussion? I think *Q&A* has passed all those tests.

**Senator ABETZ**—The test surely is that the ABC provide a balanced audience because the chairing, the support, the commentary out of the audience can potentially be off-putting for some people that are part of the panel or, indeed, give those listening at home the impression that this balanced audience is somehow against a particular participant. I would have thought that the ABC would acknowledge that it has an obligation to get a fair and balanced audience. Do you accept that that is an obligation?

**Mr Scott**—We have an obligation to try to ensure that our audience reflects the plurality of users that exist in the community. That is what we are attempting to do.

**Senator ABETZ**—Do you have any increasing percentages—

**Mr Scott**—We are attempting to recruit.

**Senator ABETZ**—or appropriate percentages?

**Mr Scott**—No, and if you look at our editorial policies, that is not the test we operate on either. The test we operate is not with a stopwatch; it is not with a clipboard counting heads. It is to ensure that our audiences hear the range of viewpoints that exist in the community. I accept that the example that you bring to bear of 10 per cent is a small percentage. The *Q&A* team have been looking to balance that up.

**Senator ABETZ**—How?

**Mr Scott**—Through their recruitment.

**Senator ABETZ**—How?

**Mr Scott**—I understand that Liberal MPs were approached, asking whether they were aware of people who might like to come and join our audience.

**Senator Conroy**—Senator Abetz always found a six-pack was helpful to bring people to meetings.

**Senator ABETZ**—You were in the Supreme Court about branch stacking, Senator Conroy. I would not go there.

**Senator Conroy**—I never offered anyone a six-pack to come to a meeting.

**Senator ABETZ**—I have never done that, and you know that.

**Mr Scott**—But finally we have to judge on the quality of the program. We are continuing to count, to monitor, to try to ensure that a plurality of views is represented in our audience.

**Senator ABETZ**—Do you agree that there is an over-representation in all or most of your audience from—let's call it the centre—the Centre Left of Australian politics?

**Mr Scott**—I have given you the voting intention. I have given you the breakdown.

**Senator ABETZ**—Does that tell you something about the balance or imbalance?

**Mr Scott**—No, we are working assiduously to try to ensure that there is a full range of viewpoints that are evidenced in our audience. This is the first time this has been tried on Australian television.

**Senator ABETZ**—Yes, and I am asking you how you are trying to make it better, and you are defensive.

**Mr Scott**—And I would give us good marks for doing an outstanding season of television. Ray Martin at the Andrew Olle Media Lecture last Friday night paid tribute to the ABC for creating a program like this and for generating such a large audience, and numerous politicians from all sides have told me what an asset they think *Q&A* has been to our schedule this year. They think it has been a benefit.

**Senator ABETZ**—So we cannot make it better?

**Mr Scott**—I have not said that at all.

**Senator ABETZ**—That is what I am trying to explore, so do not play defensive. Let's get to the detail.

**Mr Scott**—We are continuing to monitor and finetune the format of the program, how we can recruit audience members to the program, how we can get the kinds of people out who want to be involved in a conversation in a studio audience, live at 9.30 at night in Sydney, and as we do that we will continue to finetune it.

**Senator ABETZ**—How do you do that? Can you go through every specific way that you try to get people into your audience?

**Mr Scott**—I can come back to you in writing on that, but a number of different strategies were tried to draw audience members out. I am happy to provide you with details. A number of members on your own side of the House would be able to provide you with advice on that too, because they were involved in that process.

**Senator ABETZ**—Do you also ask Labor and Greens politicians to provide audiences?

**Mr Scott**—I am not aware of that but, on the data that we provided you with, we were aware that we were keen to recruit more people to come into the studio audience who were coalition supporters, clearly.

**Senator ABETZ**—Yes, but how are you doing that other than asking some Liberal politicians?

**Mr Scott**—There have been a range of activities.

**Senator ABETZ**—All right, which are?

**Mr Scott**—We have contacted various law and accounting firms and business groups, such as the Australian Retailers Association, the Sydney Chamber of Commerce and a number of other local chamber groups; a number of other organisations, such as the Australian Christian Lobby, the Australian Family Association, Rotary and Probus clubs, student groups from various universities. We have contacted politicians and political parties, including the Liberal Party of New South Wales, the Young Liberals and every state Liberal MP within one hour's drive of the ABC studio. So we can demonstrate that we have tried a number of different things to try to ensure that we have all the viewpoints represented in the audience, and I think we have.

**Senator ABETZ**—Just remind me, in which electorate is the ABC studio situated?

**Mr Scott**—It is in the Sydney electorate.

**Senator ABETZ**—The marginal Liberal seat of Sydney, of course; then we gravitate out from there.

**Mr Scott**—We were in Gore Hill but we were moved.

**Senator ABETZ**—Within an hour's drive from there, you might after a while come across the electorate of Parkes.

**CHAIR**—Senator Abetz, I do not mean to interrupt your flow, but could I have an indication of who else has questions, because we only have half an hour left. Three? Okay, continue.

**Senator ABETZ**—Can you let me know exactly what groups have been contacted in relation to this?

**Mr Scott**—Yes.

**Senator ABETZ**—Can you also provide to us in writing when you have a panel? I know on a recent occasion you had only Mr Turnbull, as I understand it, as a sole guest.

**Mr Scott**—Yes.

**Senator ABETZ**—I am not sure how many—

**Mr Scott**—Only two episodes have had a sole guest: Mr Rudd and Mr Turnbull.

**Senator ABETZ**—I am told, for example, that there is or will be a panel consisting of Peter Costello, David Meagher, Tom Switzer, Cheryl Kernot and Nicola Roxon. Is that right?

**Mr Scott**—It went to air.

**Senator ABETZ**—It has already gone to air?

**Mr Scott**—It was compelling television. I can get you a disk of that.

**Senator ABETZ**—Right. And those five made up the panel?

**Mr Scott**—That is correct, yes.

**Senator ABETZ**—On another occasion we had Linda Jaivin, Tim Wilson, Tanya Plibersek, Mungo MacCallum and Senator Minchin. Once again, if you go through that, it is three to two.

**Senator MINCHIN**—But I was there!

**Senator ABETZ**—I know.

**CHAIR**—Order! Come on, we are on a short time line here.

**Mr Scott**—It is a very important point. The test is not ticking boxes and dividing people to the left and the right. The test is, 'Are we sure that, when that program goes to air, the principal, relevant viewpoints are heard?'

**Senator ABETZ**—That is three to two.

**Mr Scott**—Mr Costello and Senator Minchin both performed admirably.

**Senator ABETZ**—Of course they did.

**Mr Scott**—You are asking about a program that you thought may have been going to air. It has been to air. Having seen it, I can assure you that there is no sense at all that the senator and the former Treasurer were, in a sense, ganged up on, shouted down, and their voices and their views were not heard. It just does not operate like that. That is not how the program functions.

**Senator ABETZ**—You keep saying that to me. I will wait and see what answers you provide.

**Mr Scott**—I am happy to send you disks of the program.

**Senator ABETZ**—I want to go to question 55—and a written answer was provided to that—at the last estimates, in which I specifically asked:

Does the ABC acknowledge that Mr Lachlan Harris blocked the path of an ABC cameraperson from being allowed into the ABC radio studio?

**Mr Scott**—Yes.

**Senator ABETZ**—You studiously avoided answering that specific question.

**Mr Scott**—I think I said that I would get the detail to you.

**Senator ABETZ**—Sorry?

**Mr Scott**—Are you talking about in the hearing?

**Senator ABETZ**—That is right. You said, ‘We will check on the detail on that and come back to you.’

**Mr Scott**—Yes.

**Senator ABETZ**—Where is the detail of whether Mr Harris blocked or did not block in that answer?

**Mr Scott**—What we have there is that the cameraman—

**Senator ABETZ**—I am sure you will tell me that it is all about having the proper balance and everything, but I would like a specific answer.

**Mr Scott**—I am into balance, as you know.

**Senator ABETZ**—Yes.

**Mr Scott**—The cameraman was advised by the Prime Minister’s media adviser that the interview would not be conducted, and discussions were subsequently held. It does not have detail about blocking.

**Senator ABETZ**—Right. I am now asking for the detail because I asked specifically—

**Mr Scott**—‘Blocked the path’. All right, thank you, I will—

**Senator ABETZ**—Can I have an answer to that, please?

**Senator Conroy**—What is the definition of ‘blocking the path’, Senator Abetz?

**Senator ABETZ**—I think the path is a physical thing, and blocking a path is also a physical thing.

**Senator Conroy**—You asked a very specific question of Mr Scott. I think you can define that a little bit more literally.

**Senator ABETZ**—Even Mr Scott had the decency to indicate that he would provide a specific answer, so your interference is simply a waste of time.

**Senator Conroy**—I just do not want to go through this again at the next estimates while you sort out what ‘blocked the path’ means.

**Senator ABETZ**—I want to ask, in relation to question 56, Mr Scott, about your involvement with this Lachlan Harris incident.

**Mr Scott**—Yes.

**Senator ABETZ**—You said:

The issue was discussed with the Managing Director shortly after the incident ...

**Mr Scott**—Yes.

**Senator ABETZ**—What does ‘shortly after’ mean? Was it on the same day?

**Mr Scott**—No, I do not think it was.

**Senator ABETZ**—Can you get me the exact date, please?

**Mr Scott**—I am going to struggle to remember. I was aware, of course, that we had the strategy under way—which certainly we will see the benefit of—to put cameras in the *AM* studios permanently, and this is coinciding with the creation of our breakfast television program.

**Senator ABETZ**—I know all that. We had that last time. But the defence that is being run for Mr Harris, I think, is inappropriate for an independent media organisation. I would have thought that you would be able to tell us whether or not somebody’s path was blocked and then exactly when you were told about that. I want to take you to question 52, and the answer, in relation to *The 7.30 Report* of 5 June 2007. When I asked a number of very specific questions, you agreed to get back in touch. You did get back in touch—

**Mr Scott**—Yes.

**Senator ABETZ**—but, with great respect, there was not much of the information that I specifically sought, other than you do admit that the program did not meet editorial requirements for impartiality. But I asked, ‘Has the journalist been taken off forestry issues?’

**Mr Scott**—The journalist has left the ABC.

**Senator ABETZ**—Right. Was she taken off forestry issues prior to her departure?

**Mr Scott**—I am not aware of that.

**Senator ABETZ**—Well, can you please find out for me—take it on notice?

**Mr Scott**—I can assure you that she is no longer reporting on forestry issues for us.

**Senator ABETZ**—Thank you very much. Very droll. We know that: she has left.

**Mr Scott**—Yes.

**Senator ABETZ**—Was she taken off after this clear breach of editorial requirements for impartiality? That is what I specifically asked. You specifically avoided that, and now you give us, with great respect, a smart-alec response that she is no longer with the ABC. That is fine, but I want to know what happens when people are employed in the ABC and what action is taken? These matters and this program caused a lot of angst within the Tasmanian community. The program was clearly not impartial, was clearly biased. You yourselves have admitted that now, and I thank you for it. But the people that were affected would like to know that there are actually consequences that flow from that sort of unprofessional behaviour. Can we be advised whether a copy of this correcting statement has ever been aired on *The 7.30 Report*, indicating that that report was not of appropriate editorial standards?

**Mr Scott**—The vision was removed from the website.

**Senator ABETZ**—Yes, we know that, but has a correcting—

**Mr Scott**—But, no, there was not an on-air correction.

**Senator ABETZ**—There wasn’t?



**Mr Scott**—No.

**Senator ABETZ**—Why not?

**Mr Scott**—It was reviewed by our complaints review executive, which is an independent review process that we have internally. If I can just refresh my memory on it: there were two instances of inaccuracy that were found. One was that the graphic of the pulp mill had been incorrectly designated, and there was the debate, as you know, about the current commercial scallop fishing industry.

**Senator ABETZ**—Yes.

**Mr Scott**—We corrected that on the website. The website was revised and the correction was made more prominent. That was a decision that was made after the review by our complaints review executive. A meeting was convened with the program team with the reporter.

**Senator ABETZ**—I know that. That is all in the written answer that I have got in front of me.

**Mr Scott**—You asked about the consequences, and that is part of what—

**Senator ABETZ**—No. What I was asking was whether a correction had gone to air, because the unsuspecting public, having seen that 7.30 segment, what would alert them to go to the website to actually see this correction of matters which did not meet editorial requirements for impartiality, and a story that ‘contained significant and avoidable errors’, to use the ABC’s language. Surely there is a duty to air that publicly and advise people to have a look at the website for further information. These things get out into the public arena, they cause a lot of discomfort, a lot of hurt, a lot of upset, a lot of uncertainty, and then the ABC says, ‘Oh, we’ve corrected it on the website.’ Well, hello! How many people do you think would access that in comparison to people that actually saw the 7.30 program?

**Mr Scott**—I should say that Mr Barry Chipman, who I met with—and you would know as the Tasmanian state manager of Timber Communities Australia—is seeking an appeal of this from the Independent Complaints Review Panel, which is set up to review these matters. So we will see what the ICRP has to say on that matter.

**Senator ABETZ**—Yes, but you have admitted yourselves—right?

**Mr Scott**—Yes.

**Senator ABETZ**—You have admitted yourselves that it was not up to editorial requirements for impartiality:

... the story contained significant and avoidable errors.

Surely that of itself should be enough to motivate the ABC to air something either at the beginning or the end of *The 7.30 Report* segment to indicate to the Australian or Tasmanian public that that in fact occurred.

**Mr Scott**—I understand the view. We have run corrections—

**Senator ABETZ**—What is wrong with that view?

**Mr Scott**—The critical issue around the program was a graphic that was in error, not the script. The script in fact met the editorial requirements. It was the visual elements that there was a problem with, and we have corrected those visual elements as they exist, and the video footage, I think, has been removed from the website.

**Senator ABETZ**—The editorial requirements were not met, were they?

**Mr Scott**—We have indicated that there were problems with those stories. We admitted that—

**Senator ABETZ**—So why don't you put that up in lights for the viewer to see?

**Mr Scott**—We have a range of corrective processes that we have in place. On an occasion when there is a fundamental error to a story, we do do corrections on air. We have just created a new website in our new programs.

**Senator ABETZ**—Yes, but it is not the website—

**Mr Scott**—I understand your view, and we will soon—

**Senator ABETZ**—But what is the matter with the ABC acting on that view when the ABC itself has come to the findings that I have now, I think, repeated three times into the *Hansard*? Why wouldn't the ABC of its own volition say, 'Look, this is way beyond what we would accept as being professionally appropriate. Therefore, we will put the correction on air to show how impartial we are'? We seem to have a difficulty with that.

**Mr Scott**—What I am trying to explain to you is that there were some specific visual elements in the item that were errors, but other aspects of the item, such as the story, the range of relevant views and the script, met the editorial requirements.

**Senator ABETZ**—But it talked about a scallop industry that was not actually being fished at the time.

**Mr Scott**—At that time.

**Senator ABETZ**—Was that a visual or was that actually given to the people verbally?

**Mr Scott**—No, I think the words were okay. It was the file footage, I think, that was used at the time. So the complaints review executive considered that the website correction, as opposed to an on-air correction, was appropriate but that it was appropriate to remove all vision from the program's website. This action removes the possibility of online users being misled by the vision while still giving them access to the transcript which does not contain misleading elements.

**Senator ABETZ**—But there is no need for the unsuspecting viewer of that program on that particular evening to have it corrected.

**Mr Scott**—I understand your views. It is going to now be reviewed by the Independent Complaints Review Panel, and we will see what they have to say.

**Senator ABETZ**—Yes, but there is no need for you to rely on that review panel to take some corrective action, is there? In fact, you would think that the review panel would compliment you if you in fact took that sort of proactive stance in relation to these—if I can use the term—'errors'. There would be no difficulty with that, would there?

**Mr Scott**—We have run internal processes on it, and Mr Chipman is not happy with that, so we are waiting to hear what the ICRP has to say.

**Senator ABETZ**—But there is nothing stopping you from doing it now, is there?

**Mr Scott**—No.

**Senator ABETZ**—Thank you.

**CHAIR**—I have Senators Eggleston, Ludlam and Lundy. Senator Eggleston?

**Senator EGGLESTON**—Thank you, Madam Chair. I would like to ask some questions about Radio National.

**Mr Scott**—Certainly.

**Senator EGGLESTON**—There has been quite a lot of press about some of these specialist programs on Radio National, such as *The Health Report*, *The Law Report* and *The Media Report* being cancelled.

**Mr Scott**—*The Health Report* has not been cancelled.

**Senator EGGLESTON**—Hasn't it? Then this article in the *Canberra Times* is incorrect.

**Mr Scott**—I am sorry. I will speak to the editor of the *Canberra Times*.

**Senator EGGLESTON**—You must do that.

**Senator Conroy**—Senator Abetz should follow it up!

**Senator EGGLESTON**—Some of these specialist programs, which I think are very popular, have been cancelled. Most significantly, the *Religion Report* has been cancelled, and I had a lot of people contact me about that. I wonder what the reason for the cancelling of these very interesting programs was.

**Mr Scott**—I have been concerned at some of the reporting on this matter and I have been concerned at the reporting that may suggest that Radio National is moving away from specialist programming. That is emphatically and demonstrably untrue. Next year, Radio National in its programming slate will run more than 40 specialist programs, programs with considerable depth in areas such as arts, music, science, history, philosophy, design, religion, law, books, film, rural issues, Indigenous studies and many others.

In fact, when it comes to religion, the *Religion Report* is not returning next year but there will be 2½ hours of religious programming on Radio National every week, further religious programming on ABC local radio and ABC Classic FM, and of course we do a great religious program in prime time on a Sunday night called *Compass* on ABC1. So we are absolutely committed to specialist programming, and specialist programming is to stay. I think there is an argument that asks: should a subject like religion have a half-hour program like the *Religion Report*? For some years the ABC has run the *Religion Report*. Then it stopped for a couple of years and then it came back. It is a very important time slot that it has held down, and I think the conversation we have in the management of Radio National is: should that time slot be used for a period of time to cover some other issues? Just because we do not have a religion report in that half-hour time slot does not mean that we are not going to cover religion.

The ABC used to have a half-hour environment program. We do not have that on Radio National now, but I do not think anyone would seriously say that the ABC is not significantly covering environmental issues at some level of depth and specialisation on radio, on television, in news and online—tonight on *Four Corners*, last week in *The National Interest*. We cover a lot of environmental issues, even though we do not have a half-hour program.

We are looking to build our religious content online. We are going to build a major website. It will be the leading website covering issues of religion in Australia. Religion will be covered in a range of other programs that we put to air, and we are going to continue to develop Radio National. Radio National, as I said the other day, is the jewel in the crown of the ABC. It has been tremendously successful. Its audience has grown very significantly as we have moved into podcasts and vodcasts. We are committed to continue to do specialist programming and to do the best we can so it can find its audience, but we do need to finetune our schedule from time to time.

Let me give you the example of *The Media Report*. When that program started, I think it is fair to say there was no media section in the *Australian*, the *Sydney Morning Herald* or the *Financial Review*; there was no Crikey; there were no blogs; there was no internet. So *The Media Report* was about the only place that was covering the media. Now media coverage is somewhat ubiquitous. So there is a question as to whether in fact the time slot that *The Media Report* is filling should be used for other programs.

We are doing something called *The Futures Report*, which is going to investigate issues to do with sustainability, issues to do with technology and issues to do with change in society, which are very relevant and compelling issues to us now. That is not to say we are not going to cover the media. Radio National *Breakfast* is going to do more extensive coverage of the media and media will be covered in other Radio National programs, but choices need to be made.

I was reading Tom Friedman's—from the *New York Times*—new book, and he quoted the line:

If we want things to stay as they are, things will have to change.

If we want to keep Radio National as Australia's pre-eminent forum for ideas and engagement around quality thinking, then from time to time Radio National will have to change as well. So we are trying to do the best of all of that, and one of the great things about the media is that, if you are unhappy with some of these changes and they do not work out so well, then of course you can finetune and modify as you go along.

**Senator EGGLESTON**—Of course, that is very interesting, Mr Scott. I found an article in the *Australian* from Friday, 17 October, where Andrew Denton and Margaret Pomeranz, who are very well-known ABC presenters, wrote to the broadcaster's managing director—none other than yourself—expressing their dissatisfaction with the cuts to Radio National, and a former ABC Board member, who is not named, is quoted as expressing concern at the recent dumbing down of the corporation, particularly with reference to news and current affairs.

**Mr Scott**—Let me address that.

**Senator EGGLESTON**—Notwithstanding what you were saying that there is a view that the nature of Radio National is changing.

**Mr Scott**—The debates around Radio National and what it should be doing in its programming and changes to its programming are internal issues at the ABC, and the debate continues on. What do we know? There are not cuts to the Radio National budget, so this is not a cost-cutting exercise that is under way. You make reference to ABC news and current affairs. As Ray Martin pointed out the other night in the Andrew Olle lecture, the audiences for ABC's news and current affairs coverage—seven o'clock, 7.30, *Lateline*, *Four Corners*—are growing, and I think the rigour and the independence and integrity of our news and current affairs program are well documented and finding a strong audience, but I appreciate that not everyone will agree with every programming decision. There will be some people who are fans of a program who will be disappointed when it goes, but I suspect they will often be fans of the news programs when they start.

We will continue to monitor and finetune our schedule at Radio National, but I can tell you that we are committed to broadcasting of the highest quality, broadcasting of specialisation, broadcasting of integrity, and we have made no decisions at all that fly in the face of that strategy.

**Senator EGGLESTON**—There is a bit of a view, however, that the rationale for all of this is to provide more online services and to provide finance for them. Matthew Ricketson in, this time, the *Age* on 20 October says:

The ABC's success with podcasting has created a problem: how does it resource all the projects made possible by new digital media technologies without more funding? Removing programs and replacing them with more "online features content", as the ABC put it in a media release, may be nice digital-speak but it ignores the fact that people want the programs, not technology for its own sake.

**Mr Scott**—Yes.

**Senator EGGLESTON**—I think I read somewhere else that Radio National, or the ABC, has now become one of the most listened to or accessed radio services on the net, and there is a suggestion that you are more concerned with an international audience than a domestic audience—

**Mr Scott**—No.

**Senator EGGLESTON**—which has supported Radio National over the years.

**Mr Scott**—I think that is a little unfair. You talk to someone like Robyn Williams. It is not that we are seeking an international audience for the *Science Show*, but Robyn is delighted that, when he travels to international conferences, the international audience that has emerged for the *Science Show* since we started podcasts brings that kind of recognition to the excellence in broadcasting that has been happening for 30 years now on the *Science Show*. But, yes, we can find a new audience. We are not seeking international audiences, but podcasting is a good example.

If we just sat on our hands and said, 'Let's just do what we've always done the way we've always done it,' the audience for Radio National would be dramatically smaller than it is today. We have taken our excellence in broadcasting and found new audiences—in the main Australians—who can now listen to that programming at a time they want on a device they want. But, you are right: there has been no extra budget for Radio National. We have had to find the budget ourselves in order to deliver this content. There are trade-offs that are involved

in that and we continue to judge that, but finally it is the quality of the content that makes Radio National different. I can tell you that, with 40 specialist programs going out on Radio National next year, we are doing nothing to walk away from our commitment to high-quality specialist broadcasting on Radio National.

**Senator EGGLESTON**—What you are saying is that your rationale and vision for Radio National is not different to what it was five or 10 years ago?

**Mr Scott**—I can tell you that the step they made at Radio National to decide to, in a sense, unlock it from the radio schedule and make it available at a time that the audience wants, as a small experiment in podcasting, will be viewed in history as one of the greatest achievements of the ABC and it has helped to lead to the renaissance of Radio National. In recent years Radio National has achieved great success, and that great success has been based on the integrity and the quality of its programming, and then the way it uses technology to allow audiences to experience that.

But it is the vision and the commitment that we have, and the Radio National schedule which is a mix of specialist programming and then intelligent generalist programming like *Counterpoint* and *Late Night Live* and then live flow programming, like Fran Kelly's *Breakfast*, that is an outstanding mix. We have had that mix for a number of years now and we are committed to continuing that mix into the future.

**Senator EGGLESTON**—Nobody denies that it is an outstanding mix, and I think people do genuinely respect Radio National for the programs it produces—

**Mr Scott**—Yes.

**Senator EGGLESTON**—and broadcasts, but they want to be able to hear them on air, not on the net. There is an Australian audience which is very concerned that they are going to lose access to these programs, and that is where the reassurance is needed—

**Mr Scott**—Yes, and there are very few—

**Senator EGGLESTON**—that you really are going to maintain these programs domestically.

**Mr Scott**—Yes. I must say that the number of programs that we are putting to air solely as podcasts is quite small, though not insignificant. If you look across the ABC, I think most of those programs are not taking place on Radio National, and we certainly have not said that we are going to take the sports report and only do that online. What we are saying is we have to make choices about what is in our prime time slots, and that is a prime time slot for Radio National, just like we have to make choices in our television schedule. We will continue to monitor and finetune that schedule over time, but nothing that we are doing is taking away from our core commitment and integrity to Radio National.

**Senator EGGLESTON**—I have one last question about audience figures for Radio National.

**Mr Scott**—Yes.

**Senator EGGLESTON**—and percentages of the ABC total audience. What is happening there? Which way are those figures going—up or down?

**Mr Scott**—They are pretty steady actually. I think it is an audience share of about 1.5 to two per cent of the radio audiences who listen to Radio National. It has been very steady. The thing that has been very interesting about the podcasting—

**Senator EGGLESTON**—Is this of the total ABC audience?

**Mr Scott**—No, this is of the total radio listening audience. I am not sure about the—

**Senator EGGLESTON**—Just the ABC audience?

**Mr Scott**—I would have to get that and come back to you on that.

**Senator EGGLESTON**—If you would. I would be very interested.

**Mr Scott**—One of the interesting things though has been that, even though the podcasting audience has exploded, the Radio National audience—the audience listening to the radio, Radio National programming—has not diminished, so that has all been additional audience that we have brought to bear.

**Senator EGGLESTON**—That is my point. There is a strong support base for Radio National—

**Senator BIRMINGHAM**—Can I just ask one question along the line that Mr Eggleston followed?

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—Do you believe that ABC management and, in particular, Radio Australia—

**Mr Scott**—Radio National or Radio Australia?

**Senator BIRMINGHAM**—Radio National management handled the changes to the line-up appropriately with regard to the way they handled both staff and the Radio National listenership?

**Mr Scott**—I think in hindsight we possibly can always do a better job in communicating these things. There may have been some lessons that we have learned from that; but fundamentally on the core of the decision—was this the right decision to make?—this was the advice of Radio National management and the advice of the director of radio. I am happy to support that. I think they have got a very good track record in our radio schedule. It is fair to say that our internal and external communication strategy probably could have been better, and we will review those things for the future.

**Senator BIRMINGHAM**—You will review those things for the future?

**Mr Scott**—Yes.

**Senator MINCHIN**—Mr Scott, you may want to say a little bit about the *Religion Report*.

**Mr Scott**—Yes.

**Senator MINCHIN**—Are you proposing to, or have you, or will you, give to members of parliament a fact sheet on exactly the position?

**Mr Scott**—Yes, I am happy to do that.

**Senator MINCHIN**—I think that would be quite helpful, because I noted with interest what you said about—

**Mr Scott**—Yes. We can give an outline of the Radio National schedule, but there are still a number of key religion programs that are going to air.

**Senator MINCHIN**—Yes. I think it would be helpful if we had a fact sheet.

**Mr Scott**—Including *Encounter*, which is actually a higher rating program than the *Religion Report*.

**Senator MINCHIN**—Right.

**Mr Scott**—We can give an outline to the committee.

**Senator MINCHIN**—That would be useful.

**Mr Scott**—Yes.

**Senator MINCHIN**—Because we are getting, you know—

**Mr Scott**—Sure. I understand.

**CHAIR**—Thank you. Senator Ludlam.

**Senator LUDLAM**—In terms of perceived or actual breakdown of communications where you say it could have been done better, can you tell me what action the ABC has taken in response to Mr Stephen Crittenden's on-air comments?

**Mr Scott**—Yes, I can. Mr Crittenden has been suspended pending an investigation into his conduct, but parties to the investigation are required to maintain confidentiality regarding the details and I therefore prefer not to comment further at this stage.

**Senator LUDLAM**—So you cannot tell us anything about the process? Is there a regular process that the ABC—

**Mr Scott**—Yes, there is. When there are allegations that are pertaining to breaches of ABC editorial policies, there is a process that is then rolled out, so we are doing that now. But it is important that I not comment further on any details around this.

**Senator LUDLAM**—Is this a process that is invoked very often?

**Mr Scott**—It is from time to time, when it is perceived that there has been a significant breach of editorial policies.

**Senator LUDLAM**—And you would consider that that is what has occurred?

**Mr Scott**—I do not want to prejudge it. That is what the investigation is about.

**Senator BIRMINGHAM**—When was the last time that a journalist or on-air personality was suspended?

**Mr Scott**—I would have to come back to you on that.

**CHAIR**—Thank you. Senator Lundy.

**Senator LUNDY**—Thank you, chair. I am interested in the ABC's digital multichannel, ABC2.

**Mr Scott**—Yes.



**Senator LUNDY**—How long has it been on air for now?

**Mr Scott**—That is a very good question. March 2005, I understand.

**Senator LUNDY**—Quite a while now. Is it received right across regional Australia as well?

**Mr Scott**—Yes, it is received where digital television has been rolled out, and I understand that has now reached, I think, I think 97 per cent of the population—digital transmission rollout.

**Senator LUNDY**—Yes.

**Mr Scott**—That is where it can be received, but of course not everyone there has a set-top box or has upgraded their television set in order to receive it—97.3 per cent of the population.

**Senator LUNDY**—It is very much from the ABC's perspective a national service, isn't it? We had discussions to this effect—

**Mr Scott**—Yes, it is. At the moment we can only broadcast it nationally.

**Senator LUNDY**—Yes.

**Mr Scott**—We do not have a capacity to do local inserts the way we can with ABC1.

**Senator LUNDY**—You released some ratings figures recently.

**Mr Scott**—Yes.

**Senator LUNDY**—What were they?

**Mr Scott**—They showed a very significant increase in the reach; the number of people who are watching ABC2. We only started getting the ratings figures in the middle of the year and, as I recall those figures, they showed basically a doubling in the reach of ABC2 over that time, with a particular increase in audience that was coming through our coverage of the Paralympics. We thought it was a compelling example of the case that we have been making to government about how quality exclusive content on multichannels will drive the take-up of digital television.

**Senator LUNDY**—Like sport.

**Mr Scott**—Like sport, for example.

**Senator LUNDY**—Excellent. I am really pleased to hear it.

**Mr Scott**—Yes.

**Senator LUNDY**—I note you are continuing your coverage of the WNBL.

**Mr Scott**—I was delighted to go to the opening match of the season.

**Senator LUNDY**—Excellent. How do those figures compare with ABC1?

**Mr Scott**—Well, it is still quite small. It is unusual for us to get a program on ABC2 that gets an audience much beyond 50,000 to 75,000, whereas regularly prime time slots on ABC1 will get 750,000 or one million. But we are now aggressively promoting ABC2 on ABC1 and our audience is increasingly aware that it is there.

When we have a showcase event like the Paralympics or the live broadcast we did of *Keating! The Musical*, we get many phone calls from people asking how they get ABC2. So part of it is an education and awareness program for people to know that they need to upgrade their set, they need to get a set-top box, so they can then watch it. The numbers, in ABC terms, are significant but they are still relatively small. The most important thing, though, has been the very significant growth we have seen in the numbers of ABC2 viewers.

**Senator LUNDY**—Can you tell how many people are receiving ABC1 via digital as compared to analog?

**Mr Scott**—No, we do not get those figures. We only get a breakdown in our audience share, I believe.

**Senator LUNDY**—It just crossed my mind that that would be interesting to look at.

**Mr Scott**—Yes.

**Senator LUNDY**—How do the figures you are getting for ABC2 rate with your other multichannels?

**Mr Scott**—That is the only other channel. We do not get a breakdown for our high-definition channel, and they are the only ones we have got. We only started getting the ABC2 figures in the middle of the year when we paid more money to get that data.

**Senator EGGLESTON**—Are you broadcasting a separate HD channel with separate content, or is it just a HD version of 2?

**Mr Scott**—No, it is a simulcast of ABC1, in the main. Every now and again we do something exciting for the audiences like show the ACT election results on high definition on Saturday night.

**Senator EGGLESTON**—Riveting!

**Mr Scott**—We did not get that breakdown. I certainly enjoyed that. I thought it was tremendous. Very interesting.

**Senator LUNDY**—Shame the computer did not work for a while there. To what degree do you program specifically or create programs specifically for ABC2, or is it primarily or wholly time-shifting programs?

**Mr Scott**—No, it is not time-shifting programs. We have not received additional funding for ABC2, so what we are creating for ABC2 is programming that we have really been able to find out of our broad television budget. There have been a few comedy shows that have been skewed to a younger audience—slightly edgier content—that we have debuted on ABC2 first of all. There have been a range of specialist programs—things that we have been able to purchase quite cheaply—that we have been able to put to air on ABC2 that have found good audiences.

There is quite a gap actually between programming that will find a good audience on ABC2 but would not get the kind of audience that the other programming you could do that more people would want to see on ABC1. So we have ambitions to do more programming, to create more content specifically for ABC2, particularly for younger audiences and around arts

content. That is the kind of thing that we are in discussion with the government on at the moment.

**Senator LUNDY**—I have been quite enjoying it actually.

**Mr Scott**—Thank you.

**Senator LUNDY**—I like being able to see what is on ABC2, but I do notice, because sometimes I stay up late enough, that it is not a 24-hour service.

**Mr Scott**—No, it is not. That is true.

**Senator LUNDY**—Can't you find something to fill up that space?

**Mr Scott**—It is a cost factor. We really are running on the smell of an oily rag.

**Senator LUNDY**—Does it cost you more to keep programming going through the night?

**Mr Scott**—Yes, it does, because you need people there to put it out.

**Senator LUNDY**—Even if you just rip it straight from ABC1?

**Mr Scott**—Yes. There are two issues. One is that you need people there through the night to broadcast.

**Senator LUNDY**—Right.

**Mr Scott**—The other thing, though, is that every time we show a program it does cost us. Even, say, if you buy British programming, you often are purchasing a licence fee to show it on a number of occasions—even programs that we have done in co-production with somebody. So the question is whether in fact you should be using up your licence fee to show something at 2 am on ABC2 where there are relatively few people watching.

**Senator LUNDY**—So you incur costs just to put it up?

**Mr Scott**—Yes.

**Senator LUNDY**—Can you envisage at some point in the future that you would run it through the night?

**Mr Scott**—As we have said, we have receive no stand-alone funding for it at the moment. It is part of our discussion with government. If there was more funding for ABC2, of course we would like to be able to provide that service through the day.

You talk about stand-alone programming. One of the things that we are doing is starting our new slot of news and public affairs coverage in early November, which includes our new breakfast television program. That will be stand-alone content that you can only see on ABC2 and that will be available every day of the week, starting at 6 am.

**Senator LUNDY**—What are you doing about having a TV program or TV guide that has ABC2 in it? At the moment it is guesswork.

**Mr Scott**—A few things. It is up to basically the newspapers to decide which channels they are going to print a guide to, and we do ask them to run ABC2. One of the features of digital television, though, is an electronic program guide that comes with the set-top box, or comes with the set, which gives you an indication as to what is happening that night and what is coming up.

**Senator LUNDY**—It is not the same as having a scrappy bit of paper folded up, stuffed down the side of the couch, though, is it?

**Mr Scott**—I understand that.

**Senator LUNDY**—Not that I am an analog person or anything.

**Mr Scott**—No, I would be the last to say that, because I was going to say we have the full program guide on line. But also, if you look at what is happening around the world, the world is moving to electronic program guides. I know that a feature of the Freeview set-top box that the ABC is involved in with SBS and the commercial networks will be a set-top box which makes it easier for people to experience digital television, and part of that will be an electronic programming guide.

**Senator LUNDY**—Sure. Let me have one more go at you on this one: you are trying to attract people to ABC2—

**Mr Scott**—Yes.

**Senator LUNDY**—but you are making it harder for them because they are not used to finding out about the new TV station in digital format. Why don't you make it easier for them by doing more? I appreciate it is not your decision.

**Mr Scott**—It is actually the newspapers'.

**Senator LUNDY**—Yes. I take that point.

**Mr Scott**—We will have to badger the newspaper editors together, Senator.

**Senator LUNDY**—But surely it would help promote what you are doing on ABC2.

**Mr Scott**—It would. We would be delighted. Maybe we can approach them together.

**Senator MINCHIN**—Do the editors wish to speak to you?

**Mr Scott**—One or two. I can talk to those who still speak to me. We can go and see the *Canberra Times* together, Senator.

**Senator BIRMINGHAM**—Those that have not been retrenched.

**Senator LUNDY**—All right. We will do that. Thank you.

**CHAIR**—Thank you, Senator Lundy. Are there any further questions of the ABC? I know Senator Pratt has got one very important question.

**Senator PRATT**—I want to know if there is going to be a series 3 of *The Hollowmen*?

**Senator BIRMINGHAM**—The government is concerned!

**Mr Scott**—If only I knew, Senator. It has had a very wide and engaged audience, particularly in this building.

**Senator MINCHIN**—Could I ask about the board processes, which may be to the minister or to Mr Scott. As I understand it, you are putting in place a nomination panel. Is that correct? Who is on this nomination panel or who will appoint it?

**Senator Conroy**—As I indicated in the documents and in the speech that I gave on this, the ALP's policy was that it would be independent of the minister—myself—and Mr Terry Moran, the secretary of Prime Minister and Cabinet, is selecting the nominating committee.

**Senator MINCHIN**—So he will decide of his own volition, without reference to anybody who is on this panel?

**Senator Conroy**—The commitment we gave, and the Prime Minister gave, was that it would be independent of the minister for communications.

**Senator MINCHIN**—Does that mean it is not independent of any other minister?

**Senator Conroy**—It is independent of the minister for communications.

**Senator MINCHIN**—But it may not be independent of the Prime Minister?

**Senator Conroy**—Unless you are casting aspersions on the secretary of Prime Minister and Cabinet, he has been chosen to nominate the panel, and my understanding is the nominations will be announced imminently.

**Senator MINCHIN**—Yes, I know, and I would not cast aspersions upon him. You have said it is independent of you, but does that mean that he does it entirely of his own volition and of his own accord, or does he refer to his minister, who happens to be the Prime Minister, in reaching his conclusion?

**Senator Conroy**—It is independent of the minister for communications.

**Senator BIRMINGHAM**—Minister, could you show me in the guidelines where it says that it is independent of the minister for communications?

**Senator Conroy**—This part of the process I think I announced in press release and speech.

**Senator BIRMINGHAM**—I am not asking about the press release or your speech. 2.6.1 of your released guideline says:

The Nomination Panel will comprise up to four independent members that will be appointed for a term of two to three years. The Nomination Panel will be determined by the Head of the Department of the Prime Minister and Cabinet.

**Ms Scott**—That is correct.

**Senator BIRMINGHAM**—There appear to be no limitations on who he can or cannot consult with.

**Senator Conroy**—We are drawing on the ALP policy document to indicate it is independent of the minister for communications.

**Senator BIRMINGHAM**—Minister, you have taken nearly 12 months to put together the *Merit and transparency in appointments to the ABC and SBS Boards* document. I am not sure why you would not have incorporated those aspects of the ALP policy documents.

**Senator Conroy**—It has been a well-consulted document, Senator Birmingham.

**Senator BIRMINGHAM**—It appears to be missing a factor that you are saying is a key element of this.

**Senator Conroy**—I am not sure of the point you are trying to make.

**Senator MINCHIN**—You have made much of the independence of this process and asserted that Mr Moran is responsible for this nomination panel independent of you, but you cannot assure us that his decision or the process in which he is involved is independent of another minister, to wit the Prime Minister. You seem not to be willing to answer that question.

**Senator Conroy**—We are delivering on our election commitments, and the election commitment was that it would be a process independent of the minister for communications.

**Senator MINCHIN**—So we can only take it that Mr Moran, as the head of the Department of the Prime Minister and Cabinet, is capable of being subject to influence by his minister, the Prime Minister, or indeed that he may well consult the Prime Minister.

**Senator Conroy**—Mr Moran is a fine and upstanding public servant, and I would think it unfortunate if you chose to start reflecting on his capacities.

**Senator MINCHIN**—I am not, but he is answerable to and accountable to his minister, who happens to be the Prime Minister. Either he makes this decision entirely of his own volition or he does not. You cannot seem to answer that question.

**Senator Conroy**—The ALP's policy is quite clear: it is independent of the minister for communications.

**Senator MINCHIN**—Thank you, that leaves a big door wide open. Who is on this panel and when is it going to be announced?

**Senator Conroy**—I understand the announcement is imminent.

**Senator MINCHIN**—Does it have published and set criteria for assessing nominations?

**Ms Scott**—Yes. There is a document that is now available, setting out the arrangements. Senator Birmingham was reading from it before, but we can table it if you wish.

**Senator MINCHIN**—Thank you. The field from which this panel can choose—you have told us you have spent \$92,000 or something already, asking the public to, what, self-nominate or nominate others, or both? But presumably this panel is not restricted to the nominations it receives as a result of that process? Presumably it can generate its own field of nominations from within the panel or from any other source? Would that be correct?

**Mr Neil**—The way it is established is that there will be an advertising process. We have hired a firm to undertake the process of preliminary short-listing, because we expect there to be a large number of people, and to manage the overall interaction with applicants. They will then provide a short list to the merit selection nomination panel, and there may be some interaction between them and the panel, with this department providing a secretariat to assist the nomination panel.

**Senator MINCHIN**—Who provides the nomination panel with the short list?

**Mr Neil**—It will come via the department's secretariat but essentially it will be compiled for this particular exercise by Ford Kelly, who have been taken on as consultants to manage the preliminary assessment of nominations.

**Senator MINCHIN**—Who?

**Mr Neil**—Ford Kelly, a recruitment firm.

**Senator MINCHIN**—So they do a preliminary cull?

**Mr Neil**—Yes, they bring it down to 100.

**Senator MINCHIN**—Using the same criteria that the panel have, which you referred to earlier?

**Mr Neil**—Yes, they will use the criteria that have been published and are available to all applicants on our website. Their job is to bring it down to a short list of people who fulfil those criteria and appear appropriate.

**Senator MINCHIN**—A short list of 100?

**Senator Conroy**—I know the Prime Minister's Christmas card list was not quite that long, but we are going through a rigorous process.

**Senator MINCHIN**—Are they prioritised in any way, or do they just give the panel 100 people and say, 'Choose one'?

**Mr Neil**—No. There are four positions, and there have been discussions—and there will be more—with the chairs of the boards.

**Senator Conroy**—To ABC and to SBS.

**Mr Neil**—Eventually that needs to be brought down, but we want the nomination panel to do the largest part of the short-listing, hence the large number in the first place to ensure that it is the nomination panel that does the main part of the short list.

**Senator MINCHIN**—So the nomination panel will then select, in this case, four people from this list of 100, will it?

**Ms Scott**—No.

**Senator Conroy**—We are slightly at cross-purposes.

**Ms Scott**—The head of the Department of the Prime Minister and Cabinet will select four people to be on the nomination panel. The nomination panel will sit like a selection committee and they will have a consultant to help them sift through what we expect to be a large volume of people.

**Senator Conroy**—There are currently a total of four vacancies.

**Senator MINCHIN**—Yes, my reference to four was that there are four vacancies at the moment and that this panel, which you say is of four people, will select from the short list of 100?

**Mr Neil**—Twelve is the expected number.

**Senator MINCHIN**—Twelve?

**Mr Neil**—Three for each of the vacancies.

**Senator MINCHIN**—Hang on.

**Ms Scott**—The idea is that, rather than the nomination panel saying, 'You've got four vacancies and here are four names,' the nomination panel will provide the minister with three

names for each vacancy. Amendment 3 provides the minister with some choice. It is stated in the document that, in circumstances where the nomination panel provides a report to the minister and the minister considers that there is not a suitable candidate in the field, the minister can direct the panel to readvertise the position and engage a recruitment agency to locate suitable candidates. All candidates identified will be assessed on merit against the selection criteria. It is anticipated by the secretariat that the committee, with sufficiently wide advertising, will attract a sufficient field.

**Senator MINCHIN**—So the minister will be given three names for each vacancy, and presumably this is the process that will be followed every time there is a vacancy?

**Ms Scott**—That is right. This is the process for all future—

**Senator MINCHIN**—Will you advertise every time there is a vacancy?

**Ms Scott**—Yes.

**Mr Neil**—Widely.

**Senator MINCHIN**—Then you get three goes to the minister.

**Senator Conroy**—I appreciate that it is a more extensive process than the Prime Minister's Christmas card list.

**Senator MINCHIN**—I thought you were trying to cut out red tape, Minister.

**Senator Conroy**—There is a lot of red tape in that Prime Minister's Christmas card list.

**Senator MINCHIN**—So then the minister decides whether he wishes to refer or bring to cabinet one of those three names?

**Mr Neil**—They go to cabinet. The standard process of appointment to the boards of both organisations is via cabinet.

**Senator MINCHIN**—Sure, but the minister will select one of those three names and go to cabinet with it?

**Mr Neil**—Yes.

**Senator MINCHIN**—And presumably say, 'This is the person I want the cabinet to appoint.'

**Mr Neil**—Yes.

**Senator MINCHIN**—If the minister is not satisfied that any of those three are satisfactory, he presumably has two courses of action: he can take another nomination altogether to cabinet or he can go back through the process and ask the committee to readvertise. I suspect I know which course he will adopt. Apart from my editorial, is that a correct description of the two options then open to the minister?

**Senator Conroy**—If the minister chooses to nominate someone other than recommended by the panel, then there is a requirement to table the reasons why to parliament.

**Senator MINCHIN**—We are just establishing that it is open to the minister and the government to appoint somebody other than anybody who applied.

**Senator Conroy**—That is clearly set out in the paper.



**Senator MINCHIN**—And you would table a statement in parliament after they had gone to executive council and been approved? At what point would this tabling in parliament take place?

**Senator Conroy**—After it has been through Executive Council.

**Senator MINCHIN**—Right.

**Senator Conroy**—There is a nice coloured flow chart.

**Senator MINCHIN**—Right, we will all familiarise ourselves with that, won't we, Senator Conroy?

**Senator Conroy**—Yes.

**Senator MINCHIN**—Which will state the reasons why the government has selected someone who was not on any list?

**Senator Conroy**—Yes.

**Senator MINCHIN**—So it is not absolutely independent? My personal view is that you should have that discretion, but to describe this as an independent process belies the fact that it remains a government appointment and it is open to the government to appoint anybody it likes.

**Senator Conroy**—It is required by legislation for it to be a government appointment, as in it has to be approved by the Governor-General on the recommendation of the cabinet.

**Senator MINCHIN**—No, you could have—

**Senator Conroy**—So I am not sure if there is a way around what you are suggesting. If we were to overturn the recommendation, as in not accept any of the minimum of three recommendations, then we would have to make an explanation to parliament. But we are not trying to pretend that there is not: it is all set out quite clearly in the paper.

**Senator MINCHIN**—But it was open to you, if you so wished, to establish a mechanism by which an independent panel chose the person, and all you did was rubber stamp it. I am making the point that is not what you do: you still have a mechanism by which the government of the day can appoint whoever it likes.

**Senator Conroy**—We are not trying to suggest that that is not the case.

**Senator MINCHIN**—I think that is the appropriate course of action, but to describe that as entirely independent is not exactly the position. You keep referring to Christmas cards. I notice that you assert that the former Prime Minister went down his Christmas card list and, when he finished, he went back to the bidding. I wonder if you could describe to me which of the current directors are a result of the former Prime Minister looking through his Christmas card list, as you so choicely put it. Does Mr Maurice Newman fit that description, Minister?

**Senator Conroy**—I was speaking figuratively.

**Senator MINCHIN**—Figuratively? Well, no, you said he went down his Christmas card list.

**Senator Conroy**—It is a figure of speech, Senator Minchin.

**Senator MINCHIN**—What did you mean then?

**Senator Conroy**—I could be wrong, but, other than perhaps one or two individuals in this room, I do not think that there are many other people in the country who do not think that the general direction of the ABC Board was of a more conservative flavour. You perhaps may think it was still ‘pinko’, but the majority of people who have commented on this would suggest that the board probably leaned in a more conservative direction than it had previously with appointments like Mr Michael Kroger, someone well known to me and yourself, who is a prominent activist in the Liberal Party.

**Senator MINCHIN**—I put it to you that to flippantly go into the media with an existing board and describe them as the results of the Prime Minister going down his Christmas card list—

**Senator Conroy**—No. As Senator Birmingham will inform you, I have been far more direct about it—

**Senator MINCHIN**—It is an appalling reflection on people like Mr Maurice Newman, Mr Steven Skala and Mr Peter Hurley and others on that board; indeed, Mr Mark Scott I see is a member of the board. I think that is a pretty outrageous reflection and I give you this opportunity—

**Senator Conroy**—I have been far more direct in Senate estimates in the past.

**Senator MINCHIN**—to withdraw that reflection upon the members of the board.

**Senator Conroy**—I stand by exactly what I said. I have said it on a number of occasions, including here at estimates and, if you want to have an argument about it, I am more than willing to waste the committee’s time.

**Senator MINCHIN**—I put it to you, and I place on record my view, that that is an appalling reflection on the character and integrity of the people concerned. It is perfectly open to you to make an attack on their politics, if you so choose. To suggest that they are simply selected at random by a prime minister looking at his Christmas card list I think is an appalling reflection on what is a high-quality board that you have inherited and which you should be grateful for.

On the question of your decision to reappoint the staff-elected director, you can confirm that that will require legislation, will it not?

**Senator Conroy**—Yes. We look forward to your support.

**Senator MINCHIN**—You do recall that the current chairman, when he was a director of the board, resigned over this matter, don’t you?

**Senator Conroy**—I do not think he specified it in those terms.

**Senator MINCHIN**—I think he did. He made it clear that he could not stay on the board while the staff-elected director—

**Senator Conroy**—I do not think he named any individual. No, I do not think that is right. I think a lot of people drew that interpretation from it. I do not know that Mr Newman actually made that point.

**Senator MINCHIN**—We do not have the time to argue that. Nobody would agree with you.

**Senator Conroy**—No. It is a reflection on a board member and I think, given your recent leaping to the defence of board members, it is a little hypocritical to suddenly start attacking a board member, when I do not think that Mr Newman—

**Senator MINCHIN**—No, I uphold his integrity in so doing. I thought he did absolutely the right thing.

**Senator Conroy**—No. I do not think that Mr Newman made the allegation that you are claiming he made, but the position—

**Senator MINCHIN**—My question is: did you speak to, consult or talk to the chairman about this matter prior to your announcement?

**Senator Conroy**—Senator Birmingham, I think, has pursued this issue at previous estimates.

**Senator MINCHIN**—No, you only just made your announcement. I do not know how he could have pursued it five months ago when you have only just confirmed in a press statement recently—

**Senator Conroy**—We had an election commitment to restore the board position and I think Senator Birmingham has asked me on a number of occasions about that.

**Senator MINCHIN**—I am asking in respect to your formal announcement which you made, I think, just last week, that you would be proceeding with this matter.

**Senator Conroy**—Senator Birmingham has asked this previously about my commitment—

**Senator BIRMINGHAM**—That was in May, Minister, and I am sure that you have met with Mr Newman many times since then.

**Senator MINCHIN**—I am asking you whether, prior to your statement last week, you consulted the chairman.

**Senator Conroy**—I do not know how you ran the ABC, Senator Birmingham. As much as I admire and like Mr Newman, I do not meet with him that often.

**Senator BIRMINGHAM**—Have you met with him since 26 May, when I last asked you?

**Senator Conroy**—I think I said at the time that I have not actually scored an invite to the board at any stage since I became the minister.

**Senator MINCHIN**—Well, you keep insulting them.

**Senator Conroy**—So I cannot say that I have—

**Senator MINCHIN**—Did you or did you not?

**CHAIR**—Last question, Senator Minchin.

**Senator MINCHIN**—Minister, did you or did you not advise Mr Newman of your statement prior to you issuing it last week?

**Senator Conroy**—Mr Newman is fully aware of the commitment that we had to restore the—

**Senator MINCHIN**—So you did not tell him?

**Senator Conroy**—Mr Newman is fully aware of the ALP's election commitment, and I do not reveal the content of conversations that I have with—

**Senator MINCHIN**—If you had told him, you would be quite happy to tell us.

**CHAIR**—Thank you. We are scheduled to go to a tea break. Are there any further questions for the ABC before we determine what to do?

**Senator BIRMINGHAM**—A couple of quick ones.

**CHAIR**—We still have not had SBS. Senator Birmingham.

**Senator BIRMINGHAM**—Thank you, Chair. Minister, are there any restrictions on who could comprise the nomination panel? There are restrictions on who could be nominated in terms of not being former MPs or former political staffers.

**Senator Conroy**—Are you angling for a possie?

**Senator BIRMINGHAM**—I am still looking after former Senator Kemp's interests.

**Senator Conroy**—No, I can see that. Kempy was constantly trying to get himself nominated. He was just shameless about self-promotion in terms of the board—

**Senator BIRMINGHAM**—Anyway, Minister, are there any restrictions on who can be on the nomination panel?

**Senator Conroy**—I do not believe so. I am double-checking to confirm that, but I do not believe there are any restrictions.

**Ms Scott**—No.

**Senator BIRMINGHAM**—Minister, there seem to be more holes in these policies and guidelines than there are in a block of Swiss cheese. You are telling us that—

**Senator Conroy**—You have borrowed that line from me.

**Senator BIRMINGHAM**—I honestly did not; I would be concerned if I have repeated one of your good lines, Minister. You are telling us that the head of the DPM&C is unable to consult with you, yet it is written nowhere in the guidelines. You are telling us that the same logic will be applied to the appointment of the nomination panel as is to the appointment of ABC members but it is not written in the guidelines.

**Senator Conroy**—I think you just verballed me.

**Senator BIRMINGHAM**—You could not find anywhere in the guidelines where it does say—

**Senator Conroy**—No, I said it was an election commitment.

**Senator BIRMINGHAM**—Yes, and it is an election commitment that you have not reflected in your guidelines that the department released only last week—quite possibly rushed for these estimates hearings, mind you.

**Senator Conroy**—I think you overestimate your influence in the scheme of government.

**Senator BIRMINGHAM**—Minister, they are at least two areas that you are claiming are commitments that you do not appear to be able to demonstrate are reflected in these guidelines anywhere.

**Senator Conroy**—I am sorry. I am not sure that there was a question there.

**Senator BIRMINGHAM**—I was not sure whether you were looking for a response.

**Senator Conroy**—No. I am not sure that you asked a question. I thought there were some rhetorical flourishes that did not necessarily invite an answer.

**Senator BIRMINGHAM**—I invite you to respond, if you can point to anywhere in the guidelines that covers those two issues at least. Minister, as to the appointment of the chair of the ABC Board, it was a Labor Party commitment that the Prime Minister consult with the Leader of the Opposition—

**Senator Conroy**—Have you found a copy of that?

**Senator BIRMINGHAM**—I can recall that. I do not need to find that.

**Senator Conroy**—Right.

**Senator BIRMINGHAM**—Is that correct—that it was a Labor commitment that the Prime Minister consult with the Leader of the Opposition?

**Senator Conroy**—Yes, absolutely.

**Senator BIRMINGHAM**—Do you genuinely believe that, not only after the independent nomination committee's process has been done and the Prime Minister has selected the person but after the Prime Minister had not only conferred with cabinet but sought cabinet endorsement of the nominee, that is actually a valid consultation process with the Leader of the Opposition?

**Senator Conroy**—Yes. I think in terms of where we have been at with the Prime Minister's Christmas card list, this is a much improved process for selection of the—

**Senator BIRMINGHAM**—Once cabinet endorsement has been reached, it sounds more like a cursory advice to the leader that the Prime Minister is putting out a press release.

**Senator Conroy**—I think the clear indication from the Prime Minister is that he would consult with the Leader of the Opposition in an attempt to reach at least an understanding—'understanding' has many different definitions, but he would attempt to seek the support of the Leader of the Opposition. If you move beyond the former Prime Minister's Christmas card list, this is a far more rigorous process and will put a lot more pressure on this government to ensure the genuine independence of the ABC Board.

**Senator BIRMINGHAM**—Minister, was any thought given to that—

**Senator Conroy**—Was there any consultation other than with the previous Prime Minister's Christmas card list?

**Senator BIRMINGHAM**—Minister, was any thought given to that consultation process occurring prior to the Prime Minister seeking cabinet endorsement?

**Senator Conroy**—Sorry, I just want to clarify what the question is.

**Senator BIRMINGHAM**—Was any thought given to that consultation process with the Leader of the Opposition over the appointment of a chairman—given to that consultation occurring prior to cabinet endorsement of that appointment being made?

**Senator Conroy**—There were a range of different options considered, and, following consultations and discussions, this was the method put forward.

**Senator BIRMINGHAM**—The method that appears to be the least meaningful form of consultation.

**Senator Conroy**—I think that is a rhetorical flourish. I do not think that is actually a question, Senator Birmingham.

**Senator BIRMINGHAM**—Minister or officials, when were Ford Kelly appointed?

**Mr Neil**—I appointed them. It was the 16th or the 14th, but I can get that exact—I believe we signed the contract on the 14th, but if I could confirm that for you.

**Senator BIRMINGHAM**—On 14 October?

**Mr Neil**—Yes.

**Senator MINCHIN**—For how long?

**Mr Neil**—Until the process is finished.

**Senator MINCHIN**—The process is ongoing.

**Mr Neil**—No, this process, the appointment of—

**Senator MINCHIN**—They were only appointed for this initial process?

**Mr Neil**—Yes, they are hired for this process.

**Senator BIRMINGHAM**—And they were selected by competitive tender or—

**Mr Neil**—It was a competitive select tender; limited tender.

**Senator BIRMINGHAM**—Limited tender process. When was that invitation to tender made?

**Mr Neil**—The week before. I can give you the precise dates. It was the previous week we went out to tender direct to four companies.

**Senator BIRMINGHAM**—Who has signed off on this document? Is this a cabinet approved document, the policy and guidelines for merit based appointments to the ABC and SBS boards?

**Ms Scott**—It is a minister's approved document.

**Senator BIRMINGHAM**—When did the Minister approve it?

**Senator Conroy**—It was finalised after extensive consultation early last week.

**Senator BIRMINGHAM**—Okay. So the policy and guidelines were completed—

**Senator Conroy**—Possibly a bit earlier.

**Senator BIRMINGHAM**—The policy and guidelines were completed after in fact you had gone out and selected an agency to assist.

**Ms Scott**—No, that would be a mis-characterisation. This process has been some time in development. I do not want to give the impression it was just last week. As it was nearing completion we wanted to have a firm engaged, so that was really one of the last steps in the process. We can do two things at the same time: we were finalising this document with the minister and at the same time the department went to a select competitive tender for the recruitment firm.

**Senator BIRMINGHAM**—Chair, I am mindful of the time. I will leave it there. Thank you.

**CHAIR**—Thank you. There are no further questions for the ABC? Thank you very much for appearing before us tonight.

**Senator MINCHIN**—Merry Christmas.

**CHAIR**—The committee will suspend for a short time while we reorganise the program, and I will advise everybody what that decision is.

**Proceedings suspended from 9.39 pm to 9.45 pm**

**Special Broadcasting Service Corporation**

**CHAIR**—We will resume proceedings. I welcome officers from SBS. Senator Birmingham.

**Senator BIRMINGHAM**—Thank you, Chair. Mr Brown and colleagues, welcome again. You have recently released details of some of your triennial funding submission, which has been reported as suggesting that SBS is at a serious crossroads.

**Senator Conroy**—Entirely created by your former government!

**Senator BIRMINGHAM**—What does SBS require to avert going down the wrong road?

**Mr Brown**—In our SBS plan for the future document, which was sent out as part of a consultation process with stakeholders across the country, we outlined a number of initiatives that we believed were necessary for SBS to properly position itself in digital space. We have since followed that up with the lodging of our triennial funding bid. We have released a summary of that, but obviously the detail of it is confidential.

In broad brush terms, the reason why SBS is at a crossroads is that it arrives at this situation chronically underfunded and, on the other hand, faces a dramatic challenge—as do all broadcasters—in properly taking advantage of the digital opportunity.

**Senator BIRMINGHAM**—What services or activities of SBS face the potential of reduction without additional funding?

**Mr Brown**—Without additional funding, I think there will be pressure on all services. But I think we have also been clear in the plan that we have put forward that our focus is on delivering new services, and it is new services that are necessary to bring our digital opportunity to life. For instance, creating an effective and durable second channel—SBS World—clearly requires funding and has done for many years. I think this will be the third occasion when we have sought funding for a digital channel.

Currently we put on that channel SBS *World Watch*—a recycling of world news content. In my view, that is not an appropriate use of such a valuable spectrum. That is why we have built a plan for an entirely new channel called SBS World. Clearly, if we are to take up the opportunity for digital radio, the content needs to be funded. There is a commitment to fund the transmission infrastructure for that, but that needs to be matched with content. I think that is pretty much a situation that we have been living with for some time.

The digital rollout for television is largely complete. We are probably up to about 95 per cent penetration. There are a few more sites to be added to that, but the missing ingredient in that billion dollar investment for the ABC and SBS to have digital capacity in television is the funds for content to bring that to life so it actually produces a service of value to consumers.

**Senator BIRMINGHAM**—What do you believe can be provided on SBS World to additionally meet SBS's charter and obligations that could not already be provided on the existing main SBS channel?

**Mr Brown**—Fundamentally, it is about volume. To put a bit of context around that, our broader strategy going beyond this next triennium is to move to a four-channel proposition, hopefully because of the availability of additional spectrum or compression regimes changing that allow us to make better use of existing spectrum. Really what lies behind that expansion—this SBS World and then the subsequent two channels—is that, if SBS is to reflect Australia's multicultural society and the true diversity that exists, there is an enormous array of content that is available for us to put to air but a very strangled sort of pipe down which to deliver it, which is one channel.

So the opportunity to produce a second channel means that we can satisfy more of our audience, with more content that is relevant to them. We can, for the very first time, bring children's programs or younger viewers' programs onto SBS. There is no room on our current schedule to do that. We can bring English language tuition onto SBS. There is no room on our current schedule to do that either. Our current schedule is chocker. We cannot expand our *World Watch* capacity. We are currently up to about 19 or 20 communities that receive a news program in their own language direct from their country of origin. We are under a lot of pressure to expand that, and quite legitimate demand is being placed on us by communities like the Hindi-speaking community, which is the tenth ranked language group in this country and yet there is no space on SBS to satisfy its needs. A second channel allows us to do that.

**Senator BIRMINGHAM**—Some argue that the current channel is chockers because of an increase in higher-rating English language programs. How does SBS respond to that?

**Mr Brown**—That is simply not true. The level of English language programs against language-other-than-English programs has remained constant probably for the last 10 years. It is enshrined in our codes, which require us to broadly maintain a fifty-fifty split. When I look over the numbers over the previous years, they have tended to range between 47 and 53, either side. So there has not been any variance in that.

Higher rating? Yes, I have no problems with programs being higher rated. The fact that some of our programs in the English language are achieving higher ratings is probably not surprising. English is the common language. SBS is required to deliver both multicultural and multilingual services, not exclusively multilingual services. So if some of our multicultural



content in English is reaching larger audiences, that is probably to be expected and, I suggest, applauded.

**Senator BIRMINGHAM**—Has SBS, in its requests in the triennial funding agreement, made those requests based on the premise of a continuation of intraprogram advertising?

**Mr Brown**—Our assumption in all of our planning for the future is that our model of hybrid funding, including the placement of ads in programs in accordance with the act, is unchanged.

**Senator BIRMINGHAM**—What would the cost to SBS be if those in-program ads were removed?

**Mr Brown**—It gets increasingly difficult to answer that question—I know I have been asked it before—because the prognosis for the old model, which was two years ago, where the ads were placed only between programs, was that the revenue would drop if no action was taken; that this was a model that was rejected by advertisers and they simply would not put their ads in it. I am thinking back now to a base that has probably been eroded over two years, and would be eroded in the future anyhow, and contrasting that with current levels of revenue, which are running, I suppose, \$30 million ahead of where they would otherwise have been. That gives you a scale of it.

**Senator BIRMINGHAM**—It sounds like you have not detailed in the triennial funding agreement the benefit of in-program advertising or the cost of its removal specifically. Is that correct?

**Mr Brown**—Our assumption is that that model is unchanged. So unless we were asked to do an exercise of that type, we would not ordinarily consider doing it.

**Senator BIRMINGHAM**—The government has not asked you to do that at this stage?

**Mr Brown**—No, I have had no request from the government to do that.

**Senator BIRMINGHAM**—It sounds like you have waved the white flag on in-program advertising, Minister. I am happy to defer to others if they have some questions, just to share the time.

**Senator MINCHIN**—Minister, I wonder if you could advise us whether you are proposing to institute a staff-elected director on the SBS Board.

**Senator Conroy**—No.

**Senator MINCHIN**—Given that you have made the point in your press statement that:

The position of a staff-elected director makes an important contribution to the ABC's independence by providing the Board with a unique and important insight into ABC operations.

Why doesn't the same argument apply to SBS?

**Senator Conroy**—If you are advocating it, I look forward to your submission to the—

**Senator MINCHIN**—No, I am not. I want to know why you, who so strongly believe that the ABC will benefit so uniquely and importantly from having a staff-elected director, given that you are responsible for two broadcasting operations, distinguished the ABC from the SBS in terms of the great benefits you assert the ABC will derive from having a staff-elected

director. Why on earth wouldn't the same arguments apply to the SBS? Why wouldn't you make these great benefits available to the SBS?

**Mr Brown**—Perhaps I could put a bit of context around that. The SBS Act currently provides for a member of the board to represent staff positions by having an awareness of industrial matters. So there is a special provision in the SBS Act. It is not staff elected, but there is one member of the board that carries a specific responsibility for being able to address staff affairs.

**Senator Conroy**—In among all those culture wars you were fighting you missed that one.

**Senator MINCHIN**—An awareness of industrial relations matters?

**Senator Conroy**—Yes.

**Senator MINCHIN**—So that could be just a legal representative on industrial relations?

**Senator Conroy**—Australia Post has the same provision, in case you missed that one, too.

**Senator MINCHIN**—I am aware of that. I think it is a nonsense provision, may I say. But what happened in the case of Australia Post was simply stupidly having to find somebody who, among their other considerable qualities, had some experience in the practice or academic involvement with industrial relations. It says nothing about them being a member of the staff or reflecting views of staff, with great respect to you, Mr Brown. I appreciate you are trying to help the minister here. But that has nothing to do with the qualities which the minister said a staff-elected director could bring to the ABC Board.

**Senator Conroy**—We are going through a review process. If there is a groundswell among people to suggest that, then that is something we could consider. But it is not something that we have promised, it is not something we have committed to. But if it came up as part of the review process, we would consider it, like we consider a range of other proposals.

**Senator MINCHIN**—I do not understand why you think it is so important for the ABC Board but it is a trifle so far as the SBS Board is concerned. If it is so important to the ABC, I cannot understand why you are not out there championing the cause of a staff-elected director for the SBS.

**Senator Conroy**—As I said, if you feel strongly enough about it—

**Senator MINCHIN**—It strikes me as utterly hypocritical that you have no element of consistency whatsoever. If you really believed in the importance of this, you would have said in your press statement here that you were going to have a staff-elected director on the SBS Board, which shows what a nonsense it is. That is all I have got to say. Thanks.

**CHAIR**—Thanks, Senator Minchin. Are there any further questions for SBS? If not, thank you very much, gentlemen, for appearing before us this evening. There being no further questions, the committee has now concluded its examination of the Broadband, Communications and the Digital Economy portfolio.

[10.03 pm]

**ENVIRONMENT, WATER, HERITAGE AND THE ARTS PORTFOLIO**

**In Attendance**

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

**Executive**

Mr David Borthwick PSM, Secretary  
Mr Gerard Early, Deputy Secretary  
Mr Mike Callaghan, Deputy Secretary  
Dr James Horne, Deputy Secretary  
Mr Mark Tucker, Deputy Secretary

**Approvals and Wildlife Division**

Mr Peter Burnett, First Assistant Secretary  
Ms Michelle Wicks, Acting Assistant Secretary, Environment Assessment Branch  
Ms Cathy Skippington, Assistant Secretary, Environment Assessment Branch  
Mr Mark Flanigan, Assistant Secretary, Strategic Approvals and Legislation Branch  
Ms Rose Webb, Assistant Secretary, Compliance and Enforcement Branch  
Ms Kerry Smith, Assistant Secretary, Wildlife Branch

**Arts Division**

Ms Lynn Bean, First Assistant Secretary  
Mr Mark Taylor, Assistant Secretary, Arts Development and Training Branch  
Mr Paul McInnes, Assistant Secretary, Arts Policy and Access Branch

**Australian Antarctic Division**

Dr Tony Press, Director  
Mr Mathew Sutton, Finance Manager

**Australia Council**

Ms Kathy Keele, Chief Executive Officer  
Ms Robin Cowdery, Executive Director, Corporate Resources

**Australian Government Land and Coast**

Ms Alex Rankin, First Assistant Secretary  
Mr Hilton Taylor, Assistant Secretary  
Ms Mary Colreavy, Acting First Assistant Secretary  
Mr Ian Thompson, Executive Manager  
Ms Kate Gowland, Acting Assistant Secretary, Business Planning and Performance  
Ms Kathleen Mackie, Assistant Secretary, Indigenous Policy  
Mr Rod Shaw, General Manager, Landcare and Sustainable Agriculture  
Ms Glenda Kidman, General Manager Acting, Community Partnerships and Communications  
Mr David Lambert, Director, Policy and Governance

**Bureau of Meteorology**

Mr Neville Smith, Acting Director of Meteorology  
Dr Rob Vertessy, Deputy Director

**Corporate Strategies Division**

Mr Malcolm Forbes, First Assistant Secretary

Mr Darren Schaeffer, Assistant Secretary, Financial Management Branch

**Culture Division**

Ms Sally Basser, First Assistant Secretary

Mr Kim Allen, Assistant Secretary, Collections Branch

Mr Peter Young, Assistant Secretary, Film and Creative Industries Branch

Mr Stephen Cassidy, Acting Assistant Secretary, Literature and Indigenous Culture Branch

**Environment Quality Division**

Dr Diana Wright, First Assistant Secretary, Environment Quality Division

**Great Barrier Reef Marine Park Authority**

Dr Russell Reichelt, Chair and Chief Executive

Mr Bruce Elliot, General Manager, Corporate Services;

Ms Margaret Johnson, Manager, Strategy and Policy Unit

**Heritage Division**

Mr James Shevlin, First Assistant Secretary

Mr Theo Hooy, Assistant Secretary, Historic Heritage Branch

Mr Terry Bailey, Assistant Secretary, Natural and Indigenous Heritage Branch

Mr Greg Terrill, Assistant Secretary, International Heritage and Policy Branch

**Marine Division**

Ms Donna Petrachenko, First Assistant Secretary

Ms Tania Rishniw, Assistant Secretary, Marine Conservation Branch

Mr Andrew McNee, Assistant Secretary, Marine Environment Branch

Ms Clair Howlett, Acting Assistant Secretary

Mr Charlton Clark, Acting Assistant Secretary

**Murray-Darling Basin Authority**

Mr Rob Freeman, Acting Chair/Chief Executive

Mr Frank Nicholas, Executive Director

Dr Tony McLeod, General Manager

**National Water Commission**

Mr Ken Matthews, Chair and Chief Executive Officer

Mr Gary Bullivant, Corporate Manager

Ms Kerry Olsson, General Manager, Water Reform Group

Mr Ross Martin, General Manager, Water Markets and Assessments Group

**Parks Australia Division**

Mr Peter Cochrane, Director of National Parks

**Policy Coordination Division**

Mr Malcolm Thompson, First Assistant Secretary

Mr Sean Sullivan, Assistant Secretary, Portfolio Policy and Advice Branch

Ms Sally Troy, Assistant Secretary, Environment Research and Information

Mr Richard Webb, Assistant Secretary, Communications and International

Mr Peter Webb, Director, Portfolio Policy and Advice Branch

**Renewable Energy Efficiency Division**

Mr Ross Carter, First Assistant Secretary  
Mr Stephen Oxley, Assistant Secretary, Renewable Energy Branch  
Mr Chris Baker, Acting Assistant Secretary, Energy Futures Branch  
Ms Anne Pellegrino, Acting Assistant Secretary, Energy Efficiency Branch  
Ms Mary Wiley-Smith, Acting Assistant Secretary, Community and Industry Partnerships Branch

**Screen Australia**

Ms Lyn Maddock, Interim Chief Executive Officer  
Ms Fiona Cameron, Executive Director, Strategy and Operations  
Mr Chris Fitchett, Executive Director  
Mr Ross Pearson, Chief Commercial Officer

**Supervising Scientist Division**

Mr Alan Hughes, Supervising Scientist

**Sydney Harbour Federation Trust**

Mr Geoff Bailey, Executive Director

**Water Reform Division**

Mr Tony Slatyer, First Assistant Secretary

**Water Efficiency Division**

Ms Mary Harwood, First Assistant Secretary  
Dr Rob Wooding, Assistant Secretary, Murray Branch  
Richard McLoughlin, Assistant Director, National Irrigation Efficiency Branch  
Ms Chris Schweizer, Assistant Director

**Water Governance Division**

Mr Ian Robinson, First Assistant Secretary  
Mr Steve Costello, Assistant Secretary, Urban Water Security Branch  
Ms Gayle Milnes

**CHAIR**—We will now commence the examination of the Environment, Water, Heritage and the Arts portfolio, 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 purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has 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. Mobile phones should be switched off. The committee has set a deadline for the return of answers to questions placed on notice as the close of business on Thursday, 4 December 2008. Senators are reminded that written questions on notice to those agencies or divisions nominated to appear at this round of supplementary estimates should be provided by close of business this Friday.

I welcome the Hon. Senator Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, representing the Minister for the Environment, Heritage and the Arts and portfolio office. Minister, did you wish to make an opening statement?

**Senator Conroy**—No, I think we can throw to the committee.

#### **Screen Australia**

**CHAIR**—I will call agencies in accordance with the agenda. I now call Screen Australia. I remind officers that, for the benefit of the *Hansard* record, when they first speak they should identify themselves in the capacity in which they are appearing today. I invite questions. Are there any questions for Screen Australia?

**Senator BIRMINGHAM**—Thanks, Chair.

**CHAIR**—Senator Birmingham.

**Senator BIRMINGHAM**—Welcome, officials. The merger for the three entities that comprised Screen Australia I understand involved a guarantee that all staff from the previous entities would be retained. Has that been the case?

**Ms Maddock**—Yes, it has. There have been a number of people who have obviously left since then, but the commitment to retain everyone has been adhered to. We are currently in the process of developing the set of programs for the agency to go forward in the new calendar year and we will be developing a structure to fit those new programs.

**Senator BIRMINGHAM**—Have any staff left voluntarily?

**Ms Maddock**—Yes.

**Senator BIRMINGHAM**—Since the merger?

**Ms Maddock**—Yes.

**Senator BIRMINGHAM**—How many?

**Ms Maddock**—I think it is 18. Some of those were people who had been on fixed terms; others were ongoing staff.

**Senator BIRMINGHAM**—That is 18 out of a total of how many from the combined agency?

**Ms Maddock**—Full-time equivalent. We have currently got 172½.

**Senator BIRMINGHAM**—Perhaps you could take on notice and provide us with details from which of the original agencies those 18 persons came and a breakdown of their levels or organisational positions in some way. Will the offices in William Street be retained as a permanent head office of Screen Australia?

**Ms Maddock**—As you may know, I am the interim CEO. The intent at the moment is that it will be retained for the foreseeable future. I cannot speak about what might happen in the longer term.

**Senator BIRMINGHAM**—Which, if any, functions of the Australian Film Commission have not been retained by Screen Australia?

**Ms Maddock**—We are working on a remit that has all programs retained until the end of this calendar year, with the board to decide before then as to the programs that will go forward for the new calendar year. At the moment we are working on business as per prior to the mergers.

**Senator BIRMINGHAM**—So the programs relating to the Film Finance Corporation, Film Australia Ltd and Australian Film Commission have all been retained at present?

**Ms Maddock**—That is my understanding, yes.

**Senator BIRMINGHAM**—Are programs for all three of those former agencies then under review from the end of the year?

**Ms Maddock**—The board has chosen to make a broad review of programs, but I am going to pass to Ms Cameron who is in charge of that exercise at the moment.

**Ms Cameron**—Yes. We are reviewing all of the legacy organisations' programs with a view to developing new programs commencing on 1 January. Those are under active consideration by the board meeting tomorrow, details of which we cannot talk about at this stage.

**Senator BIRMINGHAM**—Sorry. Those are under active consideration. The board is meeting tomorrow, did you say?

**Ms Cameron**—The board meets tomorrow to look at some draft guidelines for programs to be introduced from 1 January.

**Senator BIRMINGHAM**—When are decisions on those revised programs expected?

**Ms Cameron**—We are likely to hopefully produce some guidelines for publication in early December. So we go to further public consultation on draft guidelines in late October.

**Senator BIRMINGHAM**—Is there a reduction of allocation or other funding that necessitates cutting of any programs from next year onwards?

**Ms Cameron**—I will turn to my colleague to talk about the appropriations in 2009-10, Ross Pearson, but in 2008-09, no.

**Mr Pearson**—There will be a reduction of appropriation of some \$9 million, which was contained in forward estimates for 2009-10.

**Senator BIRMINGHAM**—That \$9 million reduction obviously then does necessitate a reduction in programs and presumably, commensurate with that, staffing levels?

**Ms Cameron**—Those things are under review at the moment, yes, and, indeed, whether or not there will be any savings with the merger of three organisations into one. So obviously any savings will go to programs.

**Ms Maddock**—Can I just clarify something I said? I said that all programs are continuing. Now, that of course is with the exception of the NFSA programs which transferred into their own organisation.

**Senator BIRMINGHAM**—Thank you, Ms Maddock. Has a single business plan been developed for Screen Australia?

**Ms Maddock**—Not yet. Let me answer that in a couple of ways. There has not been a business plan developed for the new programs because they are not settled yet. The existing organisations are operating, as I said, on an ‘as it goes’ basis. We are in the business also of developing a corporate plan which would go with the new agencies’ new programs.

**Senator BIRMINGHAM**—When would you expect a unified corporate plan to be finalised?

**Ms Maddock**—My colleague is just going to write me the date. We are obliged to have one with the minister by 30 November.

**Senator BIRMINGHAM**—You would expect, though, program decisions to be made in advance of that if they are to be carried through for the next calendar year?

**Ms Maddock**—If we are to have guidelines for the new programs to operate on 1 January 2009, we will have had to make decisions on them by that time.

**Senator BIRMINGHAM**—So obviously it provides a challenge in terms of making program decisions in tandem with the development of a corporate plan.

**Ms Maddock**—Yes.

**Senator BIRMINGHAM**—What consultation with industry is occurring in the development of that corporate plan?

**Ms Maddock**—We are primarily, in the first instance, consulting with industry over the programs and there has been extensive consultation; an informal one when I first took up the position of interim CEO and a more formal one in recent times with industry, which we will go into the next round of next week.

**Ms Cameron**—Yes. We have done extensive consultation, as Ms Maddock has said. It involved the release of the draft statement of intent which went out to the industry, and then we did a national road show in every state where we discussed it with state agencies and had an industry-wide consultation in every state, which has been a very comprehensive process.



That was round 1 and, as I alluded to earlier, round 2 starts on 27 October when we actually ask for consultation on the draft program guidelines.

**Senator BIRMINGHAM**—At previous estimates you indicated that it was estimated Screen Australia would approve between 20 and 25 films this year. How many films have been approved to date?

**Mr Fitchett**—We have approved five. There is another one that we are considering, and there are four, I think, going to the board meeting tomorrow.

**Senator BIRMINGHAM**—Does the current global financial turmoil and the tightening of financial markets impact on your estimates of the number of films likely to be approved?

**Mr Fitchett**—Not at the moment. The impact is yet to be seen in the film industry. It could affect the way certain things are cash flowed, but at the moment, no, we are seeing the same—well, an increase in the number of applications, anyway, and a number of films putting their deals together before coming to us.

**Senator BIRMINGHAM**—There has been some criticism, particularly from the former chief executive of Film Finance Corporation, Mr Rosen, who suggested that the new entity is heavily overstaffed, demoralised and will have outrageous overheads of \$30 million this year. How does the agency respond to that criticism?

**Ms Maddock**—As I replied to your earlier question, we took on board the government's commitment to give everyone who had been in the previous three agencies a position. The board took the view that the appropriate way to proceed was to get the programs going forward right and to do that thoroughly and with wide consultation. As part of that process, but not preceding that process, you then get the structure right to officially deliver those programs. That is what the board has decided to do and that is what we are in the process of doing. We may end up with a differently shaped organisation at the end of that process.

**Senator BIRMINGHAM**—What support is being provided to staff in this process of change?

**Ms Maddock**—We have adopted a policy of very open communications with staff, to attempt to allay fears and difficulties. We are also making available, as one would expect, employee support services, which we keep reminding staff are available for them to use. We have also set up internal consultative mechanisms.

**Senator BIRMINGHAM**—What does the agency estimate the cost of the merger to have been?

**Mr Pearson**—The current budget level for what we refer to as integration issues is just under \$3.3 million.

**Senator BIRMINGHAM**—How does that compare against budget?

**Mr Pearson**—That was the budget.

**Senator BIRMINGHAM**—And that is what you estimate the cost to have been?

**Mr Pearson**—Yes.

**Ms Maddock**—With some of those aspects, I think we were travelling slightly under budget, but it is too early to actually come up with a final answer.

**Senator BIRMINGHAM**—When does the permanent chief executive start?

**Ms Maddock**—17 November.

**Senator BIRMINGHAM**—17 November?

**Ms Maddock**—I hope that is the Monday.

**Senator BIRMINGHAM**—Again, that is very close to when the finalisation of the corporate plan is required. There was some criticism over the time it took to appoint a chief executive, and I realise this might be something that the department might need to answer, or the minister, although I doubt the minister will be intimately aware of these details. What delays were there in the appointment of a chief executive?

**Mr Borthwick**—I do not think there was a delay, quite frankly. The new agency came into being on 1 July. We determined that there needed to be the legislation in place before we could proceed to get a new CEO, because they had to have the surety that the parliament was going to pass the legislation along the lines that were envisaged. I think, in conjunction with that legislation that went through, the normal advertisement and recruitment process occurred, involving a recruitment firm and the establishment of a panel, which I chaired.

I think we proceeded pretty expeditiously to that appointment. We knew there was going to be a problem occurring in the interim period, and that is why we approached Lyn Maddock to act as an interim CEO and why we had Mark Tucker, who is a deputy secretary in the department, charged over this period for bringing the three organisations together. I think, in all the circumstances, through Mark Tucker's efforts, through Lyn Maddock's efforts, having the board established and having the chairman of the board involved in the selection process, amongst others, that we proceeded very expeditiously.

In the event, the successful candidate, for various reasons, was tied to New Zealand and could not come across before mid-November, and over that period Lyn Maddock kindly agreed to continue in her role as interim CEO. So there were a number of circumstances, but I think it has been handled very well. There was certainly no delay in the appointment process as a result of consideration at the political level. It was straight through in terms of the processes I have outlined.

**Senator BIRMINGHAM**—When were the board appointments finalised?

**Ms Maddock**—I cannot remember the date, but it was sometime in June. Let me come back to you on that.

**Senator BIRMINGHAM**—Will Ms Harley have any opportunity to provide input or participate in the development of the corporate plan prior to her commencing employment in mid-November?

**Ms Maddock**—Absolutely. One of the things that both she and I have been determined to achieve is a seamless handover. I have had extensive briefing of her in New Zealand. She has attended meetings with us in Australia, has been copied in on the relevant papers and is joining meetings on the relevant papers, either in person or over the phone. We have been

making sure that she has been directly involved and is fully aware and part of the exercise processes.

**Senator BIRMINGHAM**—She has continued to be involved in decisions about the program priorities for next year, as well as the corporate plan and any other structural or major staffing decisions. Is that correct?

**Ms Maddock**—Yes, is the quick answer. While preserving the propriety of the board being the board, and she is not yet a formal member of the organisation, she has, yes, been extensively involved in all those matters.

**Senator BIRMINGHAM**—Thank you.

**Ms Maddock**—20 June was the date of announcement of the board.

**Senator BIRMINGHAM**—Okay, thank you. Chair, I am mindful of the time and I am happy to defer to anybody else.

**CHAIR**—Thank you. Are there any further questions for Screen Australia? If not, thank you very much to the officers of Screen Australia for appearing before us tonight.

**Ms Cameron**—Thank you very much.

**CHAIR**—I now invite officers of the Australia Council to come to the table.

[10.24 pm]

#### **Australia Council**

**CHAIR**—Thank you. Senator Eggleston.

**Senator EGGLESTON**—I am not quite sure whether this is the right agency. Does the Regional Arts program come under your organisation?

**Mr Borthwick**—It is the department.

**Senator EGGLESTON**—Okay.

**CHAIR**—Senator Birmingham.

**Senator BIRMINGHAM**—Thank you, Chair. Welcome, Ms Keele and others. The budget, as I understand it, requires the Australia Council to spend \$6.6 million over four years on young and emerging artists. Where are those funds coming from?

**Ms Keele**—As I understand it, those funds are coming from existing departmental resources.

**Senator BIRMINGHAM**—You looked worry for a second, Mr Borthwick. That is why I hesitated.

**Mr Borthwick**—No, I was just confirming that with my colleagues.

**Senator BIRMINGHAM**—What proportion of grant moneys was previously given to young and emerging artists?

**Ms Keele**—Could you be clear about what you mean? Proportion of what? The total?

**Senator BIRMINGHAM**—We are talking about a \$6.6 million figure over four years at present. What funds previously were given to young and emerging artists?

**Ms Keele**—We will have to take that on notice to get you the exact number, if we can do that.

**Senator BIRMINGHAM**—That is fine. Let me jump to the Sydney Theatre Company. The company received initial funding of \$1.5 million. On what basis was this grant or allowance made?

**Ms Keele**—The Sydney Theatre Company is a major performing arts board company. So it was as a result of the second funding model review. After that funding model review, which looked at the level of funding for all the major performing arts companies, it was decided that that was the appropriate level of funding. What that does is look at both the market and the company and how it is meeting the market. That was done one or two years ago.

**Senator BIRMINGHAM**—How was that funding provided to the company? Was it provided as a grant or in some other means?

**Ms Keele**—It is triennial, tripartite funding—that is to say, it is a funding arrangement between the company, the government and the state and it is for three years, ongoing.

**Senator BIRMINGHAM**—It is the company's funds, then. It is not a loan or anything else of that sort?

**Ms Keele**—No.

**Senator BIRMINGHAM**—It is a standard triennial funding agreement?

**Ms Keele**—Yes.

**Senator BIRMINGHAM**—As we would know it. What is the current overall position of the Sydney Theatre Company?

**Ms Keele**—In 2007 it did post a deficit. That was due to box office income shortfalls. But it is not in any kind of danger because it has reserves that more than cover that shortfall. That is the answer to that question.

**Senator BIRMINGHAM**—Is the primary income stream of the company government grants or box office receipts or otherwise?

**Ms Keele**—I would have to have a closer look at it to answer that question.

**Senator BIRMINGHAM**—I might have some other questions on notice that you can take in that regard. Turning to the Indigenous expenditure and allocations for the Australia Council, why is the council receiving \$3 million less in grants for Indigenous specific measures in the budget this year?

**Ms Keele**—The Aboriginal and Torres Strait Islander Arts Board received \$3 million in what we call strategic initiative funds, which went for a period of three years from inside council. Those will be ending at the end of this budget year. That is why the budget shows \$3 million less. I would have to get you the detail on what the initiatives were for, but they have made an intervention and that has carried out what it was meant to do. It was not meant to go on.

**Senator BIRMINGHAM**—What types of programs were being funded there?

**Ms Keele**—Programs about Indigenous employment in the arts. I do not know the specifics of them, I will get you the detail of that, but they would have had to do with interventions that help to strengthen the arts sector for the Indigenous.

**Senator BIRMINGHAM**—Did the Australia Council seek further funding to maintain its activities in Indigenous arts?

**Ms Keele**—The \$3 million funding was not from outside, it was from within the Australia Council. Since it had accomplished what it had meant to do for those strategic initiatives, no, we did not go out and seek to have those programs continued. Have we sought additional funding for the Indigenous? No, at this point we have not.

**Senator BIRMINGHAM**—Where has that funding now been allocated to: back in a general pot for the Australia Council somewhere? Did it go in efficiency dividends?

**Ms Keele**—We have a series of strategic priorities, which these feed into. There are six strategic priorities. Would you like me to name those?

**Senator BIRMINGHAM**—That is probably okay. I am mindful of time, Ms Keele. What programs is the council running to support Indigenous arts now?

**Ms Keele**—All kinds of programs. It has a separate division called the Aboriginal and Torres Strait Islander Arts Board. It has its own separate board. It has quite a few different programs that have to do with quite a lot of things. I would have to get you a list. The programs cover everything from how to get more Indigenous employed, how to get them to be able to preserve their culture, how to be able to get them to actually produce more art, how to be able to have them be in residency and programs; interact. There are quite a lot of programs to just be able to name them off the top of my head, but I would be happy to get you a full listing.

**Senator BIRMINGHAM**—Has funding been increased in any program areas this year that might offset the reduced expenditure as a result of these other programs that we were referring to coming to an end?

**Ms Keele**—The ATSIA Board will benefit from the three initiatives that came from the government: the Creative Communities, artists-in-residence and Young and Emerging. Those programs go across council programs. They will benefit some from those. But I would not say that the Aboriginal and Torres Strait Islander base funding has decreased or increased. It has stayed the same. That funding that you are seeing as going away was a strategic initiative to accomplish a certain outcome. That was put there before my arrival. So that funding has just lapsed, basically, from inside council strategic priorities, which happens with all of our strategic priorities.

**Senator BIRMINGHAM**—Why have programs relating to the Visual Arts and Crafts Strategy been cut from \$6 million in funding to \$5.3 million in funding?

**Ms Keele**—I do not know the detail of that. I would have to get some more information.

**Senator BIRMINGHAM**—That is fine. Where is the Australia Council at in the development of protocols for artists and guidelines around the placement of children in art?

**Ms Keele**—As you know, we have been asked to develop a set of protocols for the depiction of children in art in exhibitions and in the distribution of these images. There is a three- or four-stage process that we are going through. The first is do a bit of secondary research to look at all the laws, codes, standards, community regulations that are out in all the states so that we can get a sense of what guides working with children in general. That is where we are right now.

We have also been consulting and receiving submissions from throughout the community on concerns and issues about what we are trying to do. We have probably received input from 45 to 55 different people across the community and across the arts sector, plus there has been a fair amount of general chat in the sector about it. So the next stage is to propose a set of protocols that successful applicants would use when working with children to create, to exhibit or to distribute work depicting children. So we are in the process of working that through.

Then with the draft set of protocols, we would go through another set of consultation, both online and face to face and in groups, possibly, to get a sense of whether that will actually work and what issues they would bring up. Then we would work to have those protocols put into the contracts for our grantees. That would happen by 1 January.

**Senator BIRMINGHAM**—That will happen by 1 January?

**Ms Keele**—Unbelievable, isn't it?

**Senator BIRMINGHAM**—Who is responsible for the final approval of the protocols?

**Ms Keele**—Our governing board.

**Senator BIRMINGHAM**—The Australia Council board?

**Ms Keele**—Correct.

**Senator BIRMINGHAM**—There is no expectation that they will go either to the minister or to cabinet?

**Ms Keele**—No. We would keep the minister's office and the department informed, but, no, the governing board is expecting to approve those protocols.

**Senator BIRMINGHAM**—Have public submissions been called for?

**Ms Keele**—Yes.

**Senator BIRMINGHAM**—So that is where the 40 to 50, or thereabouts—

**Ms Keele**—We received 22, maybe 23, submissions and a lot of input. People will call up and say, 'Can we have a chat?' We have had a lot of those kinds of meetings as well.

**Senator BIRMINGHAM**—You have indicated that you are developing a new strategic direction for the council, I understand. What process is being undertaken in the development of that new strategic direction?

**Ms Keele**—That has been ongoing for almost two years now. We, with the governing board, have taken a look at what we do and how we do it. We reviewed what is done in the world and how other people do it and came to a view, at a board level, of what our strategic priorities were, which is what I referred to earlier.

**Senator BIRMINGHAM**—Six priorities?

**Ms Keele**—That is right. Those have then become the basis for our strategic direction and how we set ourselves up. In that came a view that we had a lot of room for improvement and, when we put our budget together last year and we had to deal with the two per cent efficiency dividend, we went through a process which we called a business process review, where we looked at how we did things, the mundane things like how we went about giving out grants, how we did our travel, those things that really do cost in admin.

When we got the two per cent efficiency dividend, we made a decision at the governing council level to take that against administration and not against the artist grants and support for organisations. That made us have to get fairly forensic about what we do and how we do it, which has driven a lot about how we are organised now. We have reorganised and for a few months now have been working along that new organisational structure. We are getting good reviews for it making sense, being easier to understand, being easier to get through to people.

So we have the strategic priorities which in this budget process have been reinforced. We have a new direction for how we work and we have staff engaged with what that means for how they do their day-to-day work and set standards for going forward. We have quite a bit of investment being made in our IT and systems so that we can do these things in a more integrated, easier, less resourced way.

**Senator BIRMINGHAM**—Have all of those different activities culminated in a new strategic directions paper or corporate plan for Australia Council?

**Ms Keele**—We do a corporate plan as a matter of course every year, so we have updated and will update our plan based on these outcomes. We have not gone out and gone, ‘Ta da, here’s a new corporate plan!’ but we will be doing our normal business planning process to include those directions.

**Senator BIRMINGHAM**—Has the minister had any direct input into, or given any direction to, the development of those changes and reviews?

**Ms Keele**—No. We were on our way all alone. He is not unhappy with the direction, I am sure, but those were the directions we were going in.

**Senator BIRMINGHAM**—Thank you. Thanks, Chair.

**CHAIR**—Thank you, Senator Birmingham. Are there any further questions? If not, thank you very much to the officers of the Australia Council for appearing before us tonight.

**Senator Conroy**—Well done.

[10.40 pm]

**CHAIR**—We will now move to questions of the department. Senator Eggleston is going to lead off.

**Senator EGGLESTON**—I have a couple of issues to do with Indigenous art in particular, Madam Chair.

**CHAIR**—Certainly. Arts Division.

**Senator EGGLESTON**—Firstly, I understand an Indigenous art resale royalty scheme has been introduced or is proposed.

**Ms Bean**—Yes, a resale royalty scheme was announced by the minister the week before last.

**Senator EGGLESTON**—As I understand it, this scheme provides that five per cent of the sale price of a work of art valued at more than \$1,000 in the secondary market will go to the artist concerned and that the scheme will cover works resold during the artist's lifetime and for a period of 70 years after their death. Is that right?

**Ms Bean**—That is the proposal, yes.

**Senator EGGLESTON**—Last year this committee did a report on Indigenous art and opposed the introduction of a resale royalty scheme because it felt that it would be of little benefit to living artists or their descendants. This scheme does not change that much at all, because is it not the case that art generally becomes more valuable as time goes on and that there is not going to be a lot of return to the artists until they are quite old and certainly very little return to their descendants if it is only for 70 years after their death?

**Ms Bean**—The 70 years aligns with the copyright law. That is why that was selected.

**Senator EGGLESTON**—Nevertheless, it does not seem to provide a great deal for the families concerned.

**Ms Bean**—The implementation of a resale royalty scheme was a government election commitment.

**Senator EGGLESTON**—That may be the case. I am simply saying that it is deficient because the prices of these works of art—

**Senator Conroy**—That is a matter of opinion, Senator Eggleston. That is not a question for the official.

**Senator EGGLESTON**—It is, in a way, because it is the structure of the scheme. It is well known that works of art become more valuable as time goes on. I would have thought that, if there were going to be any real benefit returned to Aboriginal artists and communities, this proposal should apply for the future indefinitely.

**Senator Conroy**—The policy as it stands, and you've asked an opinion—

**Senator EGGLESTON**—It is not a policy question. It is about the structure of the scheme and the benefit to the artist.

**Senator Conroy**—You are expressing an opinion about what you would think would be a better scheme, and we appreciate your opinion.

**Senator EGGLESTON**—Not at all. I am making a valid observation.

**Senator Conroy**—Which is not a question, which is my point. If you would like to ask a question of the official, feel free.

**Senator EGGLESTON**—I will, because there are other resale royalty schemes around the world. Tamara Winikoff, the executive director of the National Association for the Visual Arts, believes this proposed Australian scheme is incompatible with those operating



internationally, which may prevent countries such as Britain and New Zealand from passing on royalties to Australian artists who sell their work overseas.

**Ms Bean**—The bulk of international resale royalty schemes have either a similar or lesser post-artist's death period. The issue that Ms Winikoff had, I believe, relates to the prospective nature of the scheme.

**Senator EGGLESTON**—This article, which is from the *Sydney Morning Herald*, goes on to say:

Unless the Australian model delivers the same benefits as royalty schemes overseas, there is no incentive for those countries to offer us a reciprocal arrangement.

Do you have any comment on that comment? This is an article by Louise Schwartzkoff in the *Sydney Morning Herald* of 4 October this year.

**Ms Bean**—Until the detail of the legislation is finally settled, obviously we cannot know—

**Senator Conroy**—Was that a question, 'Would you like to offer a comment'?

**Senator EGGLESTON**—It is a question.

**Senator Conroy**—Asking an official to comment on government policy is outside—

**Senator EGGLESTON**—It is not a question of government policy, it is a comment on an article in the *Sydney Morning Herald*, Minister.

**Senator Conroy**—Which is commenting on government policy.

**Senator EGGLESTON**—That is a different thing to a government policy. It is an article in a newspaper which makes an observation.

**Senator Conroy**—Is there anything you would like to add?

**Ms Bean**—All I was going to say was that, until the details of the scheme are finally settled, we cannot know whether there will be exact reciprocity, but we would anticipate broad reciprocity with the bulk of countries.

**Senator EGGLESTON**—Are you able to tell the committee about resale royalty schemes that exist in other countries; what their structure is, how long the royalties are paid to artists and their descendants for?

**Ms Bean**—I can certainly take that on notice and we have the information, but it is quite lengthy.

**Senator EGGLESTON**—I am sure it would be. It is appropriate for it to be taken on notice, I agree. One other issue that is also related to Indigenous art—that is, a code of conduct for the sale of Indigenous art. I understand that NAVA have developed a code of conduct—NAVA being the National Association for the Visual Arts—but there was a meeting in Alice Springs not so long ago at which it was decided by the cultural ministers not to accept the proposal put forward by NAVA. Is that the case?

**Ms Bean**—Not entirely; not quite. NAVA had commenced drafting a code of conduct. It was not finalised. The cultural ministers decided that the Australia Council should take lead responsibility for bringing it to finalisation.

**Senator EGGLESTON**—Thank you for clarifying that. I do remember when that Indigenous art inquiry was held that we were provided with a draft code of conduct at that point. Was that the NAVA proposal?

**Ms Bean**—As far as I can recollect, that would have been the NAVA draft. There is no other draft around that I know of. But I do not know how advanced that draft was at the time.

**Senator EGGLESTON**—So we are still developing the code of conduct, in effect?

**Ms Bean**—That is correct.

**Senator EGGLESTON**—Now under the auspices of the Australia Council.

**Ms Bean**—That is correct.

**Senator EGGLESTON**—One of the other proposals that came out of that Indigenous art inquiry was that the ACCC should set up an Indigenous art unit because of their cross-jurisdictional coverage through the Trade Practices Act. Do we know if that recommendation has been progressed at all?

**Ms Bean**—The ACCC are certainly doing a lot of work in this area. Really it is probably a matter for them to—

**Senator EGGLESTON**—I will ask them later in the week.

**Ms Bean**—But they certainly are doing a lot of work in the area.

**Senator EGGLESTON**—Thank you. The only other question I have is about regional arts. I do not know whether that is your area.

**Ms Bean**—Yes.

**Senator EGGLESTON**—I have got a press release here from the minister about ‘10 bands to hit the road thanks to government grants’. Is this part of the road back to restoring the funding that was cut to regional arts in the May budget?

**Ms Bean**—That is actually the Contemporary Music Touring Program, which is a separate program.

**Senator EGGLESTON**—It is a separate program. Thank you very much. They are my questions.

**CHAIR**—Thank you, Senator Eggleston. Are there any other questions of the department? Senator Birmingham.

**Senator BIRMINGHAM**—Thank you, Chair. Ms Bean, it is good to see you again. Welcome. Can you or the department advise the committee about the date it received in writing the resignation of the chair of the Festivals Australia advisory committee, Mr Darren McCubbin?

**Ms Bean**—No, I do not have the date with me.

**Senator BIRMINGHAM**—Could you provide the committee, please, with the date of receipt and a copy of Mr McCubbin’s resignation letter?

**Ms Bean**—I will have to take it on notice.

**Senator BIRMINGHAM**—Yes, thank you. Has a replacement candidate for that position been found?

**Ms Bean**—No chair has been appointed. Simon Bogle is acting as chair.

**Senator BIRMINGHAM**—Is there a plan in place at present for the appointment of a replacement chair?

**Ms Bean**—The minister will announce the appointment when he has made it.

**Senator BIRMINGHAM**—What process is expected to be followed, or is being followed, in regard to the appointment of a replacement chair?

**Ms Bean**—There is no public process. There is no advertising or that sort of process at this stage.

**Senator BIRMINGHAM**—Has the minister asked the department for a short-list or recommendations or anything?

**Ms Bean**—We normally do put recommendations up or suggestions. Whether that has actually happened, I would have to take it on notice.

**Senator BIRMINGHAM**—If you could check, that would be appreciated. Thank you. I did not quite catch the answer to Senator Eggleston's last question, but if I can indulge and ask about the Regional Arts Fund. What measures are being put in place to ensure that the cuts made to that fund do not translate into fewer projects and performances in rural and regional communities?

**Ms Bean**—That is a devolved fund that is managed for the government by the regional arts organisations in each state and by the arts department or subdepartment in the Northern Territory. We have a funding agreement with each of those organisations that sets out the guidelines for expenditure. That is accompanied by a set of quite substantial guidelines that say basically what they can do with the money, who can get the money.

**Senator RONALDSON**—Has that program ever been reviewed?

**Ms Bean**—It has been subject to the normal lapsing program reviews from time to time.

**Senator RONALDSON**—But nothing more formal than that informal—

**Ms Bean**—It is a formal process but it is an internal government process.

**Senator RONALDSON**—My experience with it is that it has been a spectacularly successful program, but I am wondering whether that review has ascertained what sort of coverage is getting into regional areas and whether the mixture of programs is right.

**Ms Bean**—Certainly in the lapsing program reviews that have been done—and I think they are done every four years—we have looked quite closely at the nature of projects funded and the spread of the money, the kinds of art forms that have been supported, and those sorts of things.

**Senator BIRMINGHAM**—Is there an assessment process in place for how the cuts or changes to the Regional Arts Fund impact on regional communities?

**Ms Bean**—At this stage, the guidelines have just been released. It is not possible to give any indication of where the regional arts organisations will actually take the program at this stage.

**Senator BIRMINGHAM**—Yes, but has the department put in place procedures to assess the impact of those cuts?

**Ms Bean**—The department has published guidelines that will determine how the money is spent. Sorry, I am told the guidelines have not been published yet, but they have certainly been conveyed informally to the regional arts organisations.

**Senator BIRMINGHAM**—When will those guidelines be published?

**Ms Bean**—In the very near future.

**Senator BIRMINGHAM**—Is there a reason for any delay? Are they awaiting ministerial approval or anything?

**Ms Bean**—No, the guidelines were signed off by the minister. There was one issue that was raised by the regional arts organisations, so we are having a look at that particular issue for them.

**Senator BIRMINGHAM**—It was raised in consultations on a draft version of the guidelines or—

**Ms Bean**—It was raised when the guidelines were provided informally to them.

**Senator BIRMINGHAM**—Is this an issue that you expect will cause particular difficulties to regional arts organisations?

**Ms Bean**—I think we can find a satisfactory resolution.

**Senator RONALDSON**—Were they drafts for comment?

**Ms Bean**—No, it was the guidelines.

**Senator RONALDSON**—They had no involvement themselves? There was no consultation with them in relation to—

**Ms Bean**—There were discussions. There are ongoing discussions and there have been over the years with the regional arts organisations and RAA, the peak organisation in particular, about the shape of the guidelines and what they want to do and what the government want of them at various points in time, so the guidelines have continued to evolve over the years.

**Senator BIRMINGHAM**—I understand that the guidelines are in place. But to go back to my original question: does the government have an assessment procedure in place to look at the impact of the cuts and the new guidelines on arts in regional communities?

**Ms Bean**—As I said, it is too early. There is not a process in place at the moment because it is too early to see how the regional arts organisations will actually work with those guidelines.

**Senator BIRMINGHAM**—Is there a commitment to the implementation of some type of process at some stage?

**Ms Bean**—I am not aware of one.

**Senator BIRMINGHAM**—No worries, Ms Bean, thank you. Chair, that is it for me.

**CHAIR**—Thank you. No further questions for the officers? Then thank you very much for appearing before us tonight. There being no further questions, the committee has now concluded today's program. The examination of the Environment, Water, Heritage and the Arts portfolio will continue tomorrow morning at 9 am.

**Committee adjourned at 10.59 pm**