



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ENVIRONMENT,  
COMMUNICATIONS AND THE ARTS

ESTIMATES

**(Additional Budget Estimates)**

MONDAY, 23 FEBRUARY 2009

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE STANDING COMMITTEE ON  
ENVIRONMENT, COMMUNICATIONS AND THE ARTS  
Monday, 23 February 2009**

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

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

**Senators in attendance:** Senators Abetz, Arbib, Bernardi, Bilyk, Birmingham, Cormann, Furner, Hutchins, Ludlam, Lundy, McDonald, McEwen, Minchin, Nash, Troeth and Wortley

**Committee met at 9.02 am**

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

**In Attendance**

Senator the Hon. Stephen 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, Chief Financial Officer

**Broadband**

Mr Simon Bryant, Acting First Assistant Secretary, Broadband Division

**National Broadband Network**

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

Mr Philip Mason, Assistant Secretary, Regulatory and Technical Branch

Ms Marianne King, First Assistant Secretary

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**Telecommunications, Network Regulation and Australia Post**

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

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

**Regional Strategy, Digital Economy and Research**

Ms Mia Garlick, First Assistant Secretary, Digital Economy

Miss Liz Forman, Assistant Secretary, Indigenous Telecommunications Branch

Mr Andrew Maurer, Assistant Secretary, Regional Telecommunications 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

**Australia Post**

Mr Michael McCloskey, Corporate Secretary

Mr Michael Tenace, Group Financial Controller

Mr Don Newman, Acting Group Manager, National Logistics

Ms Elizabeth Button, Group Manager, Retail Channels and Infrastructure

Mr Rod McDonald, Group Manager, Human Resources

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Ms Catherine Walsh, Manager, Employee Relations

**Australian Communications and Media Authority**

Mr Chris Chapman, Chairman

Mr Chris Cheah, Member and Acting Deputy Chair

Ms Maureen Cahill, Acting General Manager, Convergence and Coordination Division

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

Ms Claire O'Reilly, Acting General Manager, Legal Services Division

Ms Dianne Carlos, General Manager, Corporate Services Division

Mr Giles Tanner, General Manager, Inputs to Industry Division

Ms Andree Wright, Executive Manager, Industry Outputs Division

Mr Paul White, Executive Manager, Industry Outputs Division

Mr Derek Ambrose, 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, International, Corporate Strategy and Governance

**Special Broadcasting Service Corporation**

Mr Shaun Brown, Managing Director

Mr Jonathon Torpy, Chief Financial Officer

Mr Bruce Meagher, Director, Strategy and Communications

Mr Paul Broderick, Director Technology and Distribution

**CHAIR (Senator McEwen)**—I declare open this meeting of this Senate Standing Committee on Environment, Communications and the Arts. The Senate has referred to the committee the particulars of proposed additional expenditure for 2008-09 for the Broadband, Communications and the Digital Economy Portfolio, the Environment, Water, Heritage and the Arts Portfolio 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 9 April 2009 as the date for return of answers to questions taken on notice. Senators are reminded that written questions on notice should be provided to the secretariat by close of business next Monday.

The committee's proceedings will begin with its examination of the Broadband, Communications and the Digital Economy Portfolio commencing with Australia Post. Agencies will be called in accordance with the agenda.

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

The Senate, by resolution, in 1999 endorsed the following test of relevance for 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 matter 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.

[9.05 am]

### Australia Post

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

**Senator Conroy**—Not at this point, thank you.

**CHAIR**—Thank you. I invite questions. Senator Troeth?

**Senator TROETH**—Thank you. With regard to Australia Post, I would like to ask about the recent devastating bush fires in Victoria. What has Australia Post done in relation to postal services to assist the residents and businesses affected by those fires?

**Mr McCloskey**—Senator, following the devastating bush fires, Australia Post took a number of measures to assist people in the recovery. In the first instance, we made a donation of a million dollars to the Red Cross Bush Fire appeal. We also made available to any of our own staff, contractors or licensees an amount of \$2,000 for any who may have suffered loss of their property or injuries themselves. As far as the delivery of the mail was concerned, of course there was enormous disruption in relation to that so we put in place a series of measures including making available a free redirection service for people who wanted to have their mail redirected to another address. For those where that was not in place, we held mail and we are still holding mail in particular places for particular areas. In that regard, we set up a number of dedicated annexes in Whittlesea and also in Healesville.

**Senator TROETH**—Kingslake?

**Mr McCloskey**—Kingslake is through Whittlesea, Senator.

**Senator TROETH**—All right. What about the other—

**Mr Walter**—I just want to add a few things, if I may, to what Mr McCloskey said. Temporary delivery operations have been set up at the Whittlesea Recovery Centre for Kingslake West and Pheasant Creek. Healesville will be the centre for Marysville, Narbethong and surrounding areas. Mail in other affected areas is being held at the nearest post office and delivery is being attempted as soon as access is made available. I would also like to update, if I may, the fact that almost \$4 million has now been collected through Australia Post outlets around the country, heavily in Victoria, but also very heavily in other states and that figure is mounting every day. The fires actually resulted in 34 regional areas not having mail delivery with another 21 partially affected during the past two weeks. We have had many instances where contractors and others that have lost their own homes have actually reported for work the next day to get the mail through as quickly as possible. Those are the other things I wanted to add to Mr McCloskey's comments.

**Senator TROETH**—Yes, thank you. When you talk about other areas that were affected by the fires apart from the Marysville Kingslake area, I take it that includes the districts in Gippsland where you said mail was being held at a nearby centre; would that be Traralgon or something like that?



**Mr McCloskey**—That is correct, Senator. We have a list and we have published a list of areas and where mail was being held and in most cases it will be the local post office or delivery centre if delivery was not possible as a result of the fires.

**Senator ABETZ**—Could you table that list?

**Mr McCloskey**—Yes, happy to do that, Senator.

**Senator TROETH**—There is a Post Office Agents Association; have you been consulting with the fate of many of their members in the area? How did you establish that contractors were affected either as Mr Walters said by the destruction of their home or by other worse circumstances?

**Mr McCloskey**—We have direct contact with our contractors and also with our licensees, Senator. Three of our outlets were destroyed in the fire—two licensed and one community postal agency were destroyed in the fire. The Marysville Post Office, the Narbethong community postal agency and the Kinglake West Licensed Post Office were all destroyed. Happily, the licensees in each case were not injured or deceased.

**Senator TROETH**—All right.

**Mr Walter**—We did our best right from the start to get in touch with all areas affected and we did that quite effectively. Although, for example, in Kinglake it was a week later before we actually found out that the licensees had actually survived but there had been dislocation.

**Senator TROETH**—When you say that you have been making available free forwarding access for people who want their mail forwarded, for how long will that last?

**Mr McCloskey**—I do not think any limit has been put on it at this stage, Senator, but it is possible at any one time to put in a redirection for up to 12 months.

**Senator TROETH**—Yes, that is right. Good, thank you for that.

**Senator IAN MACDONALD**—On the same general thing, can I get some idea of how the mail service got on in the floods in North Queensland? I understand, particularly in Karumba, that they have been cut off for some time and that there was difficulty in getting the mail through. Perhaps someone could just tell me what happened there, and perhaps Ingham as well?

**Mr Newman**—The North Queensland floods have been problematic for two reasons, one is because of their extent and the second is because of the length of time that some areas have been affected. Karumba and Normanton in fact have been particularly difficult to deal with because they are completely cut off by road and I understand they will be for some additional time.

The situation up there was also complicated by one of the local air providers, called MacAir, being placed into receivership, so it was quite a dilemma for us. We have solved that by obtaining services from another airline company called Skytrans. We have been able to move some mail through that, although in some cases we have had to wait for landing strips to become operational. The other thing we did was we moved a lot of mail in by barge. That had to go from Cairns and it went around the tip and then down the other side, so it was a massive logistics exercise. Obviously some of the mail has been delayed, but we believe now

that the processes that we put in place up there can be sustained. Even though mail moved by barge in particular will continue to move slowly, because it such a long distance, they will get a flow of mail. I believe those barges operate a couple of times a week. We will continue to monitor the situation. There are a lot of initiatives being taken by the local people and all in all we are getting the majority of the mail through in a reasonable time.

**Senator IAN MACDONALD**—For others, taking mail from Cairns by barge involves almost circumnavigating Australia to get it round the top of Cape York.

**Mr Newman**—But it is not the same barge; we take it to Thursday Island and we ship it down to—

**Senator IAN MACDONALD**—The port of Weipa, perhaps.

**Mr Newman**—Then take it down further from there.

**Senator IAN MACDONALD**—The airstrip at Karumba was out for a while; it is an unsealed airstrip. Karumba has been out of contact for five or six weeks now by road. The only way in is by barge, or you can come down the Norman River if you can get to Normanton. The locals have been trying to get this airstrip sealed and extended so that they can get bigger planes in. I assume the mail that comes in by Skytrans is the urgent, what you would call first-class, mail and that anything bulky comes round by the barge.

**Mr Newman**—It is mainly the letter-class mail and it is largely the mail that we can fit on the aircraft. Clearly, in times like these the aircraft are maxed out in their capacity, but we have been able particularly to move the letter-class mail. The parcels and the more bulky stuff is the stuff we are moving by barge.

**Senator IAN MACDONALD**—It is a serious thing. Minister, you might use your good influences in cabinet to support an application by the Karumba people for sealing and extending the runway at Karumba, which has been ongoing for years. The trouble Australia Post is having is just one element of a very difficult situation in that area. It is a great place, Karumba, a great tourist destination the fishing port, but it is cut off.

**Senator Conroy**—I will draw your suggestion to the attention of Minister Albanese.

**Senator IAN MACDONALD**—Minster Albanese, yes—thank you, Minister. Mr Newman, with respect to the road from Cairns west, once you get past the Atherton Tableland going out to Georgetown, Croydon and Normanton, the road there has been cut for something like two or three weeks I think. Have you had trouble getting mail into Croydon and Georgetown as well?

**Mr Newman**—I do not have any exact information on that here with me today, other than a general comment that I believe eventually some of it was getting through. There are dozens of communities there that have been affected by the flood. I would be happy enough to take that on notice to give you a broader picture of the geographic region there. As to specifically Croydon, I would have to get that information for you.

**Senator IAN MACDONALD**—A lot of those mail deliveries are by mail service contractors who do a two-day round trip from Georgetown. With a lot of the agents, licensees and mail contractors out in Karumba and Normanton, and Georgetown I suspect—and Ingham to a lesser extent—do you provide additional assistance to them in these times? The

wear and tear on vehicles trying to do some of those mail runs must be horrendous and would not be, I would assume, in the normal course of the contracted mail delivery contract. Do you provide some extra assistance?

**Mr Newman**—The short answer is yes. I would have to say that wear and tear on the vehicle is not something that I have seen that often. Mostly time and distance are the biggest issues, because they use all sorts of creative methods to get around problem areas. Yes, we do compensate them for that. I am certain that, if a contractor had a case or an issue where damage was done to his equipment, we would consider that favourably.

**Senator IAN MACDONALD**—That is good to know. The mail must get through, as they say, and Australia Post does do a good job. The circumstances in these areas are of course not of Australia Post's doing; they are natural calamities, but Karumba in particular was in some dire straits because the mail was not getting through. Out of your substantial profits every year perhaps Australia Post could put in a contribution to sealing the airstrip—they only need a couple of million. It would be nothing out of your profits, would it?

**Mr Newman**—I am not sure how to comment on that, Senator.

**Senator IAN MACDONALD**—I will not insist on an answer but, if someone does ask, you might see if you have got a few shillings that you might be able to give.

**Senator Conroy**—It could be called the Newman Runway or something.

**Senator IAN MACDONALD**—Indeed. In fact, I think that is a very good idea.

**Mr Newman**—It is getting more attractive by the moment.

**Senator IAN MACDONALD**—Or Conroy Runway.

**Senator Conroy**—Oh, very attractive.

**Senator IAN MACDONALD**—Conrod Straight or something.

**CHAIR**—Conway.

**Senator IAN MACDONALD**—Finally, have you had any difficulties with Ingham? Ingham has had substantial flooding, but they are pretty well used to it and I suspect they are well organised. I guess your mail services would be that way?

**Mr Newman**—We have managed to stay on top of Ingham, even though there were a couple of days on two separate occasions where the town basically went under water. On those days quite a few mail deliveries were not made, but they were made again immediately people could navigate the streets. It was just unfortunate that they had two significant floods in such a short time. I must say the people of Ingham are amazing in their resilience, the way they handle things like that, and we were able to clear the mail in a reasonable time after those days where we could hardly at all navigate the town.

**Senator IAN MACDONALD**—You might pass on to them the committee's appreciation for the work they do, and I guess the same in the bushfire areas too. It is generally well done. Thank you for that.

**Senator ABETZ**—I understand Australia Post is in the market for a new MD, is that correct?

**Mr McCloskey**—That is not correct, no.

**Senator ABETZ**—No plans to recruit a new MD, managing director?

**Mr McCloskey**—No, Senator.

**Senator ABETZ**—Minister, has the government given any indication as to what the pay scales ought to be for executives in these sorts of enterprises?

**Senator Conroy**—I would have to be corrected by Mr McCloskey, but it is my understanding that the executives are set by an internal board process, and I am assuming that the chief executive—or the CEO or managing director as you have called him, Senator Abetz—is set either by the board or by the Remuneration Tribunal. It would be one of those two.

**Mr McCloskey**—The remuneration of the managing director is set by the board but following consultation with the Remuneration Tribunal.

**Senator ABETZ**—Does the government find it completely acceptable, Minister, to follow the recommendations of the Remuneration Tribunal?

**Senator Conroy**—As you know there are the odd occasions when the government does not support the recommendations of the Remuneration Tribunal.

**Senator ABETZ**—Would that be for people that are paid less than the managing director of Australia Post?

**Mr McDonald**—The overall quantum of increase for the executives—the managing director and the executive population as a whole—is set by the board each year. The board has regard to remuneration data from industry and—

**Senator ABETZ**—I am aware of that. I am wondering what the government's policy is. That is why I directed it to the minister. I understand there are some people who are paid about \$127,000—just to pluck out a figure—when the government has a very strong policy that there should be no wage increases for those people and the Remuneration Tribunal recommendations ought to be rejected. But in the case of the Managing Director of Australia Post, who earns I think three, four or five times the amount—

**Senator Conroy**—The Remuneration Tribunal does not have—

**Senator ABETZ**—of \$127,000, is worthy of a pay increase. I am just trying to get a handle on the government's consistency.

**Senator Conroy**—Is there a question in there or is it a speech? I do not believe—and I am again happy to be corrected by Mr McCloskey or Mr McDonald—that the Remuneration Tribunal makes recommendations on any other position than the CEO of Australia Post.

**Mr McDonald**—That is correct, Minister.

**Mr McCloskey**—The Remuneration Tribunal do formally determine the levels of remuneration for the board of Australia Post. As far as the managing director is concerned, the board is required to consult with the Remuneration Tribunal, which it has done. There is a framework that has been agreed between the board and the Remuneration Tribunal and the

parameters within which the board can then, as independently allowed for under the legislation, actually determine the particular levels from year to year.

**Senator ABETZ**—And you follow the Remuneration Tribunal recommendations or parameters?

**Mr McCloskey**—Yes, the parameters have been followed consistently. They have been in place for some time, Senator.

**Senator ABETZ**—All right, but the government minister has not seen any need to intervene?

**Senator Conroy**—Senator Abetz, I think I did read it out a lot of times. I am sure Senator Birmingham would caution you not to go there. I am happy to get a copy for you; I am sure it is handy in my office.

**Senator ABETZ**—If you have said it enough times you should be able to remember it.

**Senator Conroy**—Yes, I am sure I did, but I did not think I would have to say it again.

**Senator ABETZ**—But it is not coming up on his laptop at the moment, so he cannot repeat it—that is his problem.

**Senator Conroy**—No, I was not anticipating that this would be a set of questions again, but I am sure my answers would be consistent with what they were previously.

**Senator ABETZ**—No, I am just trying to get a handle on the consistency of the government's approach on these matters but I do not think there is any. Allow me to move on. Could I ask about the electronic bill payment service. Is that still in existence?

**Mr McCloskey**—Yes, Senator. It is possible to pay many, many bills over the internet with Australia Post—that is correct.

**Senator ABETZ**—Has a decision been made to abandon that or lessen the number of bills that are payable across the counter by the electronic bill payment service?

**Mr McCloskey**—No, Senator, no such decision has been taken.

**Senator ABETZ**—All right. How many outside boards does the MD of Australia Post sit on?

**Mr McCloskey**—The managing director late last year took up an invitation to join the board of Western Australian Newspapers. In addition to that, he has been for some time a commissioner of the Australian Football League, the AFL.

**Senator ABETZ**—All right. Are they the only two board appointments of which you are aware?

**Mr McCloskey**—External boards?

**Senator ABETZ**—Yes.

**Mr McCloskey**—He does sit on some internal joint venture boards and subsidiary boards, but, yes, they are the two external ones.

**Senator ABETZ**—Is there a reason why he does not grace us with his presence at these estimates?

**Senator Conroy**—For the same reason he did not attend any of the times over the 11½ years I questioned Australia Post.

**Senator ABETZ**—Yes, but what is the reason?

**Mr McCloskey**—There has never been a request for the managing director to attend Senate estimates, Senator. As I think I explained at the last estimates hearing, we bring along a team of people, which is consistent with our practice over a decade or so at least, to try and cover all of the areas that are likely to be of interest to the committee.

**Senator ABETZ**—Yes, the decision makers, as I understand it, in all the various areas, which begs the question: which decisions does the managing director make?

**Senator Conroy**—I move an extension of time for Senator Abetz.

**Mr McCloskey**—We bring along experts in particular areas, Senator. As far as we are aware, the committee has never criticised us or our performance at Senate estimates.

**Senator ABETZ**—I am not being critical; I am just asking: what is the rationale and what is the reason? It is on the basis—

**Mr McCloskey**—The situation—

**Senator ABETZ**—Does the managing director have no particular or specialist expertise in any of the areas that it is anticipated that senators might ask questions about?

**Mr McCloskey**—The situation of the managing director's attendance or otherwise has not been raised substantively previously.

**Senator ABETZ**—Well, if it has not been, it has today. I want to know what the reasons are. Just because it happened under a previous regime, with great respect, does not necessarily justify it.

**Senator CORMANN**—We have a new era of transparency.

**Senator Conroy**—A new era of transparency.

**Senator ABETZ**—And openness. It was Operation Sunlight, was it not?

**Senator Conroy**—Welcome, Senator Cormann.

**Senator ABETZ**—It was Operation Sunlight, if I recall.

**Senator CORMANN**—Yes, Senator Conroy was going to be more transparent.

**Senator ABETZ**—But the old solar spots are not firing as they used to before November 2007. But, look, thanks for the—

**Senator HUTCHINS**—We advised well before who we would like to appear at our Senate estimates committees and they are here. If Senator Abetz and the coalition did not advise you, Madam Chair, or the secretariat that Mr John should have been here, well that is their problem, not ours.

**Senator ABETZ**—Senator Hutchins, I accept that and I am not critical, but I am relatively sure that when we ask for the Australian Broadcasting Commission to appear, without making a special request I daresay Mr Scott would be here. I have just got that funny feeling, and about a lot of the other enterprises as well. For whatever reason, under the previous

government—and I accept that—Australia Post’s managing director did not appear and I was just wanting to know what the rationale for that was.

**Senator HUTCHINS**—Excuse me, Senator, but you should have made it known that he should be here. I think he should have been here too.

**Senator ABETZ**—We do not have to do that for the ABC and others.

**Senator HUTCHINS**—No. I think he should have been here too, but you should have made sure he was here.

**Senator ABETZ**—I just wanted to know what the rationale was for that; that is all. Could I ask—and chances are this might have to be on notice—do we know how much Australia spent at the Beijing Olympics on entertaining customers and officers?

**Senator Conroy**—I think you mean Australia Post.

**Senator ABETZ**—Excuse me?

**Senator Conroy**—Australia Post.

**Senator ABETZ**—What did I say?

**Senator Conroy**—Australia.

**Senator ABETZ**—I did mean Australia Post. Thank you very much, Minister; that was very helpful.

**Senator Conroy**—But it is a good question.

**Senator ABETZ**—It is just as well I did not put that one on notice, because I know what I would have done with a question like that on notice.

**Senator Conroy**—I am just here to help the committee, Senator.

**Senator ABETZ**—I know you are, Senator.

**Senator Conroy**—Unlike perhaps your attitude, the suggestion that you had—

**Senator ABETZ**—Could I just say that I think that is the role of deputies in the Senate—to be helpful.

**CHAIR**—Can we get back to the questions. Other senators have got questions.

**Senator ABETZ**—Yes. I think Mr Walters might have an answer.

**Mr Walter**—Expenditure on our sponsorship of the Australian Olympic team and other associated programs was \$2.73 million; our revenue was \$7 million.

**Senator ABETZ**—Your revenue?

**Mr Walter**—Was \$7 million.

**Senator ABETZ**—Excuse me—what from?

**Mr Walter**—On the gold medal stamps and the philatelic products. We actually have a very good return on our outlay.

**Senator ABETZ**—Are you saying you would not have sold \$7.3 million worth of product but for the \$2 million worth of sponsorship? I think you would have sold your first day covers and whatever anyway.

**Mr Walter**—We have a long record of supporting the Australian Olympic team going back to 1992, I think, so that was in place before the gold medal stamps. We have worked very hard on ways to make the sponsorship work for us and with the introduction of the gold medal stamps in 2000 that has clearly given us a return. Of course the IOC and the AOC have to agree to us doing the gold medal stamps, and part of our sponsorship arrangements covers the gold medal stamps.

**Senator ABETZ**—Apart from sponsorship, what about entertaining customers and its own officers? How many Australia Post personnel went to the Beijing Olympics? For how long did they go? And how much was spent?

**Mr Walter**—We had four staff members attend. We had 36 guests representing our biggest and most influential customers, each attending for a period of seven days, with spouses and partners in most cases, and we also entertained the President of China Post. We have several alliances with China Post, both directly and through an alliance of Pacific Rim postal organisations. The ratio was something like one Australia Post staff member to 12 customers. I think the norm is something like one to four.

**Senator ABETZ**—And the cost?

**Mr Walter**—The cost of the program was \$1.2 million. I have not got a separation between promotions and hospitality, so that cost includes our advertising and our involvement in the Games as well.

**Senator ABETZ**—So that \$1.2 million is above and beyond the \$2.3 million?

**Mr Walter**—No, that is part of the \$2.3 million.

**Senator ABETZ**—Part of the \$2.3 million. Could I invite you to disaggregate that figure for us on notice and provide us with the detail. Please do not put ‘other’; put sponsorship, hospitality, travel, accommodation and those sorts of categories so we can get a handle on it. That would be very helpful, thank you.

**Mr Walter**—I could tell you the sponsorship was 1.15 and I will break down the others for you.

**Senator ABETZ**—1.15?

**Mr Walter**—That was the sponsorship with the Australian Olympic Committee. We also ran a letter link program where 200,000 children wrote to their athlete. We also ran a consumer competition.

**Senator ABETZ**—I would be very interested in something like that as well, because I would have thought most people would welcome the involvement of children in that activity. It hopefully might also entice some interest in stamp collecting et cetera, which may be of benefit to Australia Post’s business operations for the future.

**Mr Walter**—Absolutely. In fact, we actually helped the athletes. We facilitated the athletes writing back to each and every child, so that was a very successful program for us.



**Senator ABETZ**—So you do not like the idea of emailing to athletes; you prefer letters?

**Mr Walter**—There is nothing like a tangible letter.

**Senator ABETZ**—Exactly. I am with you on that but I think it is only a particular age category that likes that idea. Can I move onto the area of private boxes. I understand those charges have been increased or will be increased this year.

**Mr McCloskey**—That is correct.

**Senator ABETZ**—Do we have licensed post offices categorised as specific post offices for the purpose of private box rental fees?

**Mr McCloskey**—I am sorry, Senator; would you mind repeating the question?

**Senator ABETZ**—First of all, what is the justification for the increased fees for your private box rentals?

**Mr McCloskey**—The small private box has gone up from \$75 to \$80 per year.

**Senator ABETZ**—Is that based on CPI?

**Mr McCloskey**—That would be a mixture of CPI, normal cost increases and also demand.

**Senator ABETZ**—I understand that Australia Post has licensed post offices categorised as specific post offices.

**Mr McCloskey**—Yes. I think we answered a question in relation to that either at the last estimates at which we appeared or the one before that. From memory, I think there were two licensed post offices nationally that fell into that category.

**Senator ABETZ**—Do those two still exist? Are they still provided with that categorisation? Are you amending the categorisation for those two?

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

**Senator ABETZ**—All right, thank you.

**Ms Button**—We were talking to them about that.

**Senator ABETZ**—All right. How many licensed post offices were closed in 2008, and can you provide us with a list of those? I assume you do not have them in your back pocket, so if you can take that on notice.

**Mr McCloskey**—I will take that on notice.

**Senator ABETZ**—Similarly, with the corporate post offices, how many were closed in 2008 and how many corporate post offices were converted to licensed post offices? If you can provide me with a list of those, that would be very helpful.

**Mr McCloskey**—I probably do have some information here that may help with that. Our annual report will give those particular figures but on a financial year basis, so we would have the figures for 2007-08 and then I can separately perhaps give the figures for the year to date.

**Senator ABETZ**—If that does not cause you too much inconvenience, thank you. I should have thought of that and asked on a financial year basis. If you can provide that to us, albeit in your annual report, I would be obliged.

**Mr McCloskey**—I will do that.

**Senator ABETZ**—I understand that Australia Post designates some delivery points as businesses, like farmers, for the purposes of redirecting mail, but the same delivery points are sometimes categorised as private for the purpose of paying licensees; is that correct or not? So the licensees that do the delivery get paid on the basis that delivery to a farm is a private delivery but the farmers actually get charged on the basis that the farms are business premises. I am wondering whether Australia Post is aware of that assertion, whether they agree with that assertion and, if that assertion is correct, what is the rationale?

**Mr McCloskey**—If we could take that on notice.

**Senator ABETZ**—Yes, all right; thank you very much. I have been on the issue of fuel costs to mail contractors in the past, and of course, now that fuel prices are coming down, it may have been to the benefit of Australia Post to have struck some sort of deal. Where are we at with that?

**Mr Newman**—The fuel prices up until December dropped over 30 per cent. As we have reported here before, we made some fairly significant changes to the price adjustments that we give contractors over the last couple of years. Getting a fuel adjustment for a specified term contract two years ago required a six-month period and a 10 per cent movement. We adjusted that down to seven per cent and three months, and then more recently we adjusted that down again to five per cent and three months. Throughout that time, there were several occasions where the price of fuel dropped, and Australia Post in fact has the right to apply for that adjustment downwards as much as a contractor has the right to apply for adjusting upwards.

**Senator ABETZ**—Do we have an automated system now?

**Mr Newman**—No. I could comment on that if you like.

**Senator ABETZ**—Yes, please, because that is where I am leading to with this question.

**Mr Newman**—That system worked fairly well and we really did not ever exercise our right to reduce the fuel price in a midyear review to a contractor. We just let that flow over us, I guess; it was something that we just accepted. In the December quarter of last year, the price fell in excess of 30 per cent and we were no longer able to carry that cost. We advised contractors in January that we would be reviewing the price of fuel from February, and that has occurred. Those adjustments have been made, except we used seven per cent instead of five per cent. We were entitled to do that late last year and we made a deliberate decision to postpone that until February to give the contractors a bit of a break. That now has gone ahead and that is in place.

To answer your question about the automated fuel cost adjustment, we still have that under consideration. In fact, I think about a year and a half ago, I said pretty much the same thing in this committee. It is problematic in some areas. The modelling we have done shows that in fact it can hurt a contractor as much as help a contractor.

**Senator ABETZ**—Can I just interrupt there; have you shared that modelling with POAAL, the Post Office Agents Association Ltd?

**Mr Newman**—No, we have not.

**Senator ABETZ**—Are there any commercial reasons why you would not? POAAL, on behalf of their members, are anxious for this to occur. I am sure, if it could be shown that in some circumstances it would hurt their membership, it might assist you and POAAL in coming to an arrangement that suits both sides.

**Mr Newman**—The relationship we have with our contractors is between Australia Post and the contractors; we do not have a relationship relative to our contractors with POAAL. POAAL is the representative body of the licensed post office organisation.

**Senator ABETZ**—Yes, but POAAL make representations to you, do they not?

**Mr Newman**—Yes, they do.

**Senator ABETZ**—Do you respond to POAAL?

**Mr Newman**—We do in the broadest of terms, but our relationship is with the contractor. We do not get into specifics with POAAL on matters relating to contractors, and that is the position we have held for quite a long time.

**Senator ABETZ**—Can I put it to you that POAAL, I assume, would get most of their ideas and questions—in fact, I make no apologies; a bit of information supplied to me from time to time is from them—from gathering data from your contractors and their membership. I would have thought it might make sense to have a bit of a closer relationship with POAAL and discuss with them some of the issues that they do bring forward on behalf of the membership.

**Mr Newman**—I guess that would be an issue that I would prefer to take on notice.

**Senator ABETZ**—All right.

**Mr Newman**—There are legal implications to do with who represents who, but the reality remains that in terms of our contractual arrangements—

**Senator Conroy**—You are almost asking POAAL to collectively bargain on behalf of them there, aren't you, Senator Abetz?

**Senator ABETZ**—Just to make representations; we have never been opposed to that. But of course a contractor—

**Senator Conroy**—To collective bargaining?

**Senator ABETZ**—that does not wish to be represented by POAAL should not have their business records inspected by POAAL. There should be no right of entry for POAAL if that is what you are getting at, Minister.

**Mr Newman**—We have maintained that position for a long time. Getting back onto the specific issue of automatic adjustments, that will take a significant software upgrade on the system that we use to calculate that. It will be expensive. I have been given a preliminary estimate in excess of three-quarters of a million dollars.

**Senator ABETZ**—Can I simply say to you that if some of this information were actually shared with POAAL as to some of the difficulties, that may well help allay some of the concerns of the contractors that are contacting POAAL and me. But that is fine.

**Mr Newman**—Certainly an example of that would be that if we had had automatic adjustments during the last quarter of 2008 the contractors would have been in a much more

difficult position than they are today. That is without a doubt, because we continued with that high rate of pay even though fuel was dropping off that 30 per cent plus. That would be a good example of where it would not have helped the contractors at all.

**Senator ABETZ**—Thank you. Who is the dog expert? I have been asking about dog attacks from time to time. We have been getting some good responses, and I thank Australia Post for that. But I have been asked—

**Senator Conroy**—Senator Bernardi might be able to answer that.

**Senator ABETZ**—to ask about what recourse—

**Senator BERNARDI**—You are a nasty human being, Senator.

**Senator Conroy**—I am confident your successor will not make the same mistake—

**Senator BERNARDI**—Little wonder you got drummed out of the Right faction.

**CHAIR**—Senators!

**Senator Conroy**—You are the pin-up boy of that faction now.

**CHAIR**—Order!

**Senator ABETZ**—What recourse does a contractor have? We have been told that Australia Post provides instructions on procedures for dealing with dog attacks et cetera, but what recourse does a contractor have if Australia Post fails to act, following a dog attack on the contractor? If, for whatever reason, Australia Post determine that it is not worthy for them to pursue the matter, have Australia Post provided any advice to contractors as to how they might be able to personally or individually follow up?

**Mr Newman**—Frankly, I would be very concerned if Australia Post failed to act on a report of a dog attack and then there was an injury resulting from that. We have answered questions in this regard before, on notice. The bottom line is that a contractor has exactly the same protection from dog attacks as our own staff. If they feel threatened by a dog, we initiate the exact same procedure, which has been tabled in this committee before, as if they were our own staff.

**Senator ABETZ**—To your knowledge, every single report has been followed up and acted upon by Australia Post?

**Mr Newman**—Having said that, I would probably prefer to take that on notice to confirm it.

**Senator ABETZ**—All right.

**Mr Newman**—To the best of my knowledge, that is correct. I should say that I know of no injury that has resulted from a failure of Australia Post to act.

**Senator ABETZ**—That is fair enough.

**Mr Newman**—However, I will confirm that on notice.

**Senator ABETZ**—I do not want to put any specific allegation to you. I just wanted to understand the broad principle. I thank you for that. I should indicate I have a number of questions that I will be placing on notice.

**Senator NASH**—I have got some specific questions relating to the Murrumbateman Post Office. Have I got the right people here? Can you just confirm that the post office in Murrumbateman will be closing at the end of February?

**Mr McCloskey**—That is correct; it will be closing at the end of next week unless we can find someone to take on the licence or to act as a Community Postal Agent in the township.

**Senator NASH**—Before I get onto that, what are the reasons that it is being closed?

**Mr McCloskey**—Australia Post is not itself closing the outlet. What happened is that in July or August of last year the current licensee sold the business complex within which her licensed outlet operated. She started a process to assign the licence to the new owner of the complex, because I think she had in mind that she wished to retire. We started that process with the new owner and a little bit into that process they decided that they did not want to proceed with it; they wanted to use the space that was allocated for the licensed post office for other business purposes.

Following that, the licensee looked at whether there were any other businesses or businesspeople in the town that would take on the role. Also she advised Australia Post that she was giving the required three months notice of her intention to cease to be the licensee. As I understand it, at the same time we started to canvass other options within the town but without success. In the absence of any success, and as a fallback position, we started to put in place the processes that would allow us to introduce a street mail delivery, which the community had not previously received.

The licensee's term of notice expired at the end of December. In that period we had not been able to get anyone to definitely take on the licence, so we advised the community in early December that from 1 March we would introduce a street mail delivery. At the same time, we came to an agreement with the new owner of the premises and also the licensee to continue until that time. In that regard, we have been paying rent of \$1,000 a week to the new owner of the premises since the start of January. Normally a licensee is responsible for their own costs. In this case, to bridge the gap between the conclusion of the notice period for the licence and the start of the street mail delivery, we made the exceptional decision to pay a significant portion of rent for that period.

**Senator NASH**—I am just trying to clarify a few things around this. Was Australia Post paying rent previously before that ownership changed?

**Mr McCloskey**—I do not think so.

**Senator NASH**—You do not think so?

**Mr McCloskey**—No, we would not have been paying rent.

**Senator NASH**—They had not been paying rent previously, so obviously the new owner thought that rent should be paid. Is that correct?

**Mr McCloskey**—Normally a licensee is responsible for their own accommodation costs. That is the way the model is established. The new owner was agreeable to the licence continuing up until the end of February, provided we paid rent for that period of \$1,000 a week, which is what we have been doing.

**Senator NASH**—It was my understanding, though, that the new owner had actually offered a six-month period of grace at no rent so the issue could be resolved. Is that simply not correct?

**Mr McCloskey**—My understanding is that that is not correct. I had not heard that before. What I had heard was that the new owner had offered to extend the period up until the end of June but on the same basis as is currently operating—that is, Australia Post paying rent.

**Senator NASH**—My understanding is also that a number of people had actually expressed an interest in running the post office. Obviously these are the ones that you have referred to where there were some discussions but none were suitable.

**Mr McCloskey**—There have been discussions going on and people have withdrawn for one reason or another or they have not, as I understand it, been able to provide the necessary accommodation. It certainly would be our very strong preference to continue to have a licensed operation in the town. It is not in our interests to see it withdrawn.

Failing a licensed operation, we would like at least to have a community postal agent in place. I think we have had some discussions with individuals and individual businesses going on right up until last week. I did hear on Friday that somebody who was a prospective community postal agent had in fact decided not to proceed. On that basis, our area manager will be visiting Murrumbateman in this coming week—I think on Wednesday—to meet with the progress association and to again try and find out if there is anybody in the town who can take it on. Ultimately we are dependent on somebody within the community putting up their hand and saying, ‘Yes, we will perform the functions.’

**Senator NASH**—I understand that, but within all those discussions you had with potential people, am I right to assume that all of those people who had expressed an interest perhaps in taking it over had withdrawn and that you had not actually decided that there would be an unsuitable candidate?

**Mr McCloskey**—I am not aware of the detail of the individual discussions, but my understanding is that people either withdrew because, from their perspective, it did not make financial sense or because they were not able to provide the accommodation that is necessary to operate a postal outlet from.

**Senator NASH**—Given that it is at least 15 minutes to any of the alternatives that the people of Murrumbateman will have if this does indeed close down, has Australia Post taken into account the fact that there is no public transport, that some people may not have transport and that some people may very well work in areas other than where those post offices are now going to be? Has Australia Post taken all of that into account? The second part of that is, what would be the requirement from Australia Post in terms of funding to keep the current operation going?

**Mr McCloskey**—In terms of funding, if I could just address that. By the way, this was a very, very small outlet.

**Senator NASH**—With very, very important people. Just because it is small does not mean they are any less important.

**Mr McCloskey**—I understand that. But, just to put it into context, apart from the mail delivery function of handing mail across the counter or sorting it into private boxes, my understanding is that the average number of retail transactions within the outlet was around 12 a day. It is not one for which there is a great level of business, unfortunately.

**Senator NASH**—What is the cut-off of a ‘great level of business’ from the perspective of Australia Post?

**Mr McCloskey**—From the perspective of Australia Post, there isn’t one.

**Senator NASH**—It should not make any difference, should it really? No matter about how much—

**Mr McCloskey**—No, it does not—that is right. As I said earlier, it would be our very strong preference to maintain an outlet there, be it a licensed outlet or at the lesser level of a community postal agent. But to date in our efforts to get that—and we will continue to try and get that—we have not been able to find anyone who can do it.

**Senator NASH**—Just back to my previous question about the funding, what level of funding would it actually take to keep that open?

**Mr McCloskey**—Where it is a licensed outlet, we do provide a minimum level of guaranteed funding of an income of \$12,000 a year for a licensee.

**Senator NASH**—What I am getting at is whether there is anything over and above that that could be offered? I do not understand the workings of Australia Post to that level of detail, but is there any flexibility within arrangements to come to some kind of agreement with the current provider to enable the service to continue?

**Mr McCloskey**—We have standard arrangements for all of our licensees and we have standard arrangements for our community postal agents as well, and they are what would apply in this situation. We have special arrangements in place at the moment where we are paying this rent of \$1,000 a week. It would just be unsustainable from Australia Post’s point of view to continue that. In addition, of course, we have now let a contract for street mail delivery, and that will be costing us. I do not know the precise amount, but I would guess it would be in that order as well.

**Senator NASH**—Is there a particular process that Australia Post uses when you are moving to that kerbside or street side delivery process?

**Mr McCloskey**—In this case, it is a replacement for what has been in place in the community for some time. It is not our preferred option. We would have preferred that the licensed outlet continue to operate the way it has done previously. When we were running into great difficulties in getting anyone to take that on, we had to move to the fallback position of getting at least a street mail delivery in place for the community.

**Senator NASH**—Are you aware that the contractor that has been engaged to do that is leaving pink rocks on the nature strip to indicate where people should perhaps place their letterboxes now that they are moving to this roadside delivery?

**Mr McCloskey**—No, I am not aware of that.

**Senator NASH**—Is that a usual practice for Australia Post?

**Mr McCloskey**—I do not know about leaving pink rocks, but certainly we would provide advice as to where people would best place their letterboxes for mail.

**Senator NASH**—Are you in communication with the contractor while this kerbside delivery is being set up?

**Mr McCloskey**—I imagine we are. We must be.

**Senator NASH**—Is there some sort of standard procedure that perhaps you normally discuss with contractors about how these letterboxes will be placed on the side of the road that does not include pink rocks?

**Mr McCloskey**—I would have to take that on notice. I am just not aware of the circumstances.

**Senator NASH**—If you could do that. Just finally,—I am nearly done, Chair—in order to understand the process, if say in three months after this has all been changed and it has been closed down, someone in Murrumbateman found that they were actually in a position to be able to take this on, what is the process for going back to the current type of arrangements that already exist?

**Mr McCloskey**—We would be very happy if someone came now or in three months time to take it on—there is no question. We are committed. As I said previously, it is our very strong preference to continue to have a licensed outlet or at least a community postal agency within that community.

**Senator NASH**—I understand you did not have that information before, so would you mind then taking on notice details of the discussions that have happened with those that expressed an interest in running it and the reasons why those discussions did not reach any kind of successful conclusion?

**Mr McCloskey**—Yes, I am happy to do that, perhaps in terms of individuals, without naming individuals.

**Senator NASH**—That is fine. Just the individual cases would be most helpful.

**Mr McCloskey**—I would be happy to do that.

**Senator HUTCHINS**—My questions relate to a number of issues involving your relationship with your staff. My first question is: do you have a figure on how many matters involving Australia Post and its employees have been listed before the Australian Industrial Relations Commission in the past financial year?

**Mr McDonald**—I will provide that on notice.

**Senator HUTCHINS**—Can you show figures as to how that compares to the previous financial year as well?

**Mr McDonald**—Yes.

**Senator HUTCHINS**—Can you advise what the corporation's costs for legal representation were in responding to the industrial relations disputes before the AIRC?

**Mr McDonald**—For what period?

**Senator HUTCHINS**—For both those periods.



**Mr McDonald**—Yes, I think we can.

**Senator HUTCHINS**—Can you also advise what the legal costs were for not just 2006-07 but for 2005-06 as well, back three years?

**Mr McDonald**—Let me see what I can produce.

**Senator HUTCHINS**—I have some questions in relation to the Future Delivery Design program—is that to you Mr McDonald?

**Mr McDonald**—Either me or Mr Newman, depending on the nature of them.

**Senator HUTCHINS**—When did work commence on the development of the Future Delivery Design?

**Mr Newman**—The formal program was put together about two years ago. In its early stages it was mainly doing research and modelling to see whether there were benefits and how those benefits could be achieved. That evolved into trials in some areas and now that has evolved into a program. It has been going for about two years. I can get the exact date if you wish.

**Senator HUTCHINS**—That would be fine, yes. How many people within Australia Post have been involved in the development and implementation of the FFD?

**Mr Newman**—To get the exact number, I would have to provide it on notice, but there is in excess of 20 people working on it.

**Senator HUTCHINS**—Can you advise the Senate the total amount of money that has been budgeted for this process?

**Mr Newman**—I would have to take that on notice too. There are two elements to that: the operating money and the capital investment money in some areas.

**Senator HUTCHINS**—But you will be able to provide that?

**Mr Newman**—Yes, certainly.

**Senator HUTCHINS**—Has Australia Post consulted with other postal administrations around the world about the use of this sequencing technology?

**Mr Newman**—We have relationships with many overseas countries and we have discussed their approaches to sequencing specifically with a variety of other countries. My information is that most countries now are planning to go down this path, have gone down this path or are in the process of doing so.

**Senator HUTCHINS**—Is that with North American, European or Asian countries?

**Mr Newman**—America has done sequencing for many years.

**Senator HUTCHINS**—That is the United States?

**Mr Newman**—Now it is becoming quite common in Europe.

**Senator HUTCHINS**—France, Germany, the United Kingdom, Belgium—which countries?

**Mr Newman**—The ones that we have been dealing with and have a good knowledge of are Holland, Sweden, Norway and Germany. I believe Great Britain is considering it in some form.

**Senator HUTCHINS**—So the four countries that you have spoken to are the United States and those three European countries.

**Mr Newman**—Four: Holland, Sweden, Norway and Germany.

**Senator HUTCHINS**—Sorry. In relation to the potential of this FFD coming in, have you got information as to what might be the estimated job losses in areas such as delivery, transport and mail processing?

**Mr Newman**—I can give you a high-level estimate. Before I proceed with this, Senator, there are about six elements of the Future Delivery Design program. Firstly, I will just deal with the recognition upgrade, which is a program where we improve the processing capacity of optical character recognition, OCR, on computers and we hope that will increase the read rate of letters by around 10 per cent across the board. The probable staff savings for this year nationally is about 63 and there will be additional savings in the out years.

**Senator HUTCHINS**—Is that \$63,000?

**Mr Newman**—I beg your pardon; that is 63 full-time equivalents that are associated with recognition upgrade. Regarding sequencing itself, for 2008-09 there were 20 and for 2009-10 there are 70 planned. Clearly, if you have a better read rate on your letters with the OCR upgrade, that also makes our sequencing processes more efficient, so there will be an additional 23 in 2009-10 for that. As part of this, we are also looking at the way we restructure the network and how we manage our delivery centre network, and we expect a further 19 to be made there. Having said that, at the same time we also have an inherent delivery point growth of about 1.3 per cent; so there will be increases of labour in some areas, particularly those to do with growth. I have not got the exact number for next year, but it will be around 90, I believe—so that will be increased staff numbers.

What we are trying to do is to manage our growth in delivery points and also make the last mile, as it were, the last delivery part of our process, more efficient. It is largely a fixed cost structure—that is, from the delivery centre outwards. That has been brought about mainly because we have to go to the majority of delivery points every day, so that is a very high fixed cost element. The use of technology as we have planned it, particularly with the recognition upgrade and the sequencing machines, is one way of making part of that fixed cost variable. These are still just the planned figures at this stage, by the way, but in total we have 176 planned for next year and off that will be any increase we have in delivery points growth that we cannot cover any other way.

**Senator HUTCHINS**—So that is 176 full-time jobs?

**Mr Newman**—Full-time equivalent jobs.

**Senator HUTCHINS**—Full-time equivalents—fair enough.

**Mr McDonald**—Senator, I just wish to point out that there will not be any forced redundancies as part of this process. Australia Post have been very successful for a long time in managing change, and our emphasis is on redeployment and retraining of staff, so what we

are looking at is attrition in the future. As I said, we have been very successful and we have not had any forced retrenchments in award based staff, certainly not in the last decade.

**Senator HUTCHINS**—With the potential of this FDD coming in, what do you anticipate the mix of full- and part-time employment will be at Australia Post? Of the 90 people you have talked about, Mr Newman, are they likely to be overwhelmingly part time or full time?

**Mr Newman**—We suspect that there will be a gradual decline in full-time numbers and there will be a gradual increase in part-time numbers. I might add that that has been going on for many years. We believe that will be manageable. Just picking up on the point Mr McDonald made, we will achieve that and have achieved that through no redundancies and using our triple-R policy, which has stood us in good stead for 20 years.

**Senator HUTCHINS**—Overall, it is not just the 176 or 90; we are going to see a gradual increase in, as you said, part-time numbers in Australia Post; is that correct? I do not dispute that you do not dismiss people or sack them; I am just trying to get a better indication.

**Mr Newman**—It varies between country and metropolitan areas. For example, in the Mails and Networks Division, there has been a drop-off in full-time staff over the last three years, of 24. At the same time, there has been an increase of around 400 part-time staff in metropolitan areas. Even though there are additional part-time staff, the full-time staff decrease at a much lower rate. What could be said about that—and it makes sense—is that some of the growth is addressed by use of part-time staff. In the country areas it is slightly different in terms of full-time staff; in fact, they have increased by about 45 over the last three years, from 2006 to 2008, and there has been an increase also in part-time staff, around 140, in country areas.

In summary, there is a slight drop-off in full-time staff over time. There is an increase in part-time staff at fairly modest levels. So far, there has actually been an increase in full-time staff in the country areas and also a very modest increase in part-time staff in country areas.

**Mr McDonald**—Senator, if you looked at the situation for Australia Post overall over time, our full-time staff numbers have stayed much the same over the last four or five years. We had 25,394 full-time staff at December 2008. The previous year it was 25,093. The previous year it was 25,072. As Mr Newman has indicated, there has been an increase in the number of part-time staff over the years. Currently there are 10,000 part-time staff, compared with 9,200 five years ago. So we have maintained our full-time staff numbers—and I reinforce again the comment I made about our success in redeployment and retraining staff with change.

**Senator HUTCHINS**—Understandably, your employees would be a bit concerned about the impact this design might have on their jobs. Have you discussed it with them?

**Mr McDonald**—Yes, we have got an ongoing consultation process. We have been talking to the unions at both national and state levels. There was a hearing in the Industrial Relations Commission recently which endorsed the consultation process we have been following, and the model Australia Post have used again with change generally is to consult with both unions and staff affected.

**Senator HUTCHINS**—Can you advise the committee of the total amount of expenditure that is going to be invested in implementing FDD and over what period of time this investment will be carried out? You might need to take that on notice.

**Mr Newman**—We would have to take that on notice. The FDD program will continue up until about 2013. It is a fairly lengthy program, so that time frame helps us a lot in managing any big change to the workplace, obviously.

**Senator HUTCHINS**—On another issue, is it true that Australia Post undertook a stakeholder survey late last year to analyse the perceptions of your stakeholders towards the corporation?

**Mr Walter**—Yes, it is true that we did that. It was part of the development of our corporate responsibility strategy that was approved by the board last year. It involved input from a range of external stakeholders as to how we would go about engaging them into the future and also their views on a range of topics. The board did endorse a corporate responsibility strategy in October last year, as I say, and set a number of strategic objectives for Australia Post in the corporate responsibility area. Our vision was to contribute every day for a sustainable tomorrow. I can go through the strategy in some detail, but it was part of that process.

**Senator HUTCHINS**—Who undertook the survey for you?

**Mr Walter**—Allen Consulting Group.

**Senator HUTCHINS**—I imagine you will take this on notice, but I would like to know how much it cost for that survey.

**Mr Walter**—I will take that on notice.

**Senator HUTCHINS**—How was the survey conducted? Was it written? Was it face to face? Was it done by email? How was it done?

**Mr Walter**—There were a range of contacts. Some were face-to-face interviews. A range of others were survey style communications to identify the stakeholders and their responses to surveys.

**Senator HUTCHINS**—I think you undertook to give us a copy of the survey. Is it true that one of the questions asked was, 'How would you feel if Australia Post was privatised'?

**Mr Walter**—I cannot remember the exact wording, but there was a question around that.

**Senator HUTCHINS**—Why would you do that knowing the government's intention or position about not privatising Australia Post? Why would you do that?

**Mr Walter**—I would have to look into that because I do not want to mislead you. I just do not think I can give you—

**Senator HUTCHINS**—If we had Mr John here I suppose we could ask him, but the opposition did not get off their bums about getting him here so—

**Senator ABETZ**—Chair, could I ask a follow-up question on that?

**CHAIR**—No. We will let Senator Hutchins finish his line of questioning.

**Senator ABETZ**—I have a direct follow-up.

**CHAIR**—Yes, I know that, Senator Abetz. Senator Hutchins, please continue.

**Mr Walter**—It goes back to at least nine months ago. Several facts about it have come to my mind. Of course we were aware that both sides, the government and the opposition, have a

policy of not privatising Australia Post. I will need to go into the circumstances, but I can recall that 60 to 70 per cent felt that Australia Post should not be privatised. But the actual context of the question I would need to take on notice.

**Senator HUTCHINS**—Fair enough. I want to ask about the purchase of the Mercedes vans. I understand Australia Post recently awarded Mercedes with a major contract for vehicles used to collect mail from street postboxes. Is that correct?

**Ms Walsh**—I was not directly involved in the decision to award Mercedes with that contract, but I am aware that, yes, that occurred and I am across the subsequent dealings with staff on the issue.

**Senator HUTCHINS**—Who made that decision, then? Whose recommendation was it?

**Mr McCloskey**—It was a decision taken by the board.

**Senator HUTCHINS**—Who actually made the recommendation to the board, then?

**Mr McCloskey**—The recommendation came up through our mail and network division and our corporate sourcing division.

**Mr Newman**—It was a group of people selected from across the various responsible areas of Post that formed an evaluation committee. It went to tender in the marketplace and the responses were evaluated according to our normal internal methods.

**Senator HUTCHINS**—Who used to do this work for you? Who used to supply the vehicles before Mercedes?

**Mr Newman**—I believe Ford Transit vans were used prior to this.

**Senator HUTCHINS**—How long had Ford been supplying vehicles to Australia Post?

**Mr Newman**—I would have to take the exact time on notice, but it has been at least 10 years that I can recall—probably before that.

**Senator HUTCHINS**—Was this a public tender?

**Mr Newman**—I believe so.

**Senator HUTCHINS**—On what date were companies formally invited to tender and how were they notified that there was a tender?

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

**Senator HUTCHINS**—Over what period of time were their submitted tenders considered? Can you take that on notice as well?

**Mr Newman**—Yes.

**Senator HUTCHINS**—Are the Mercedes vans built here in Australia? They are not, are they?

**Mr McCloskey**—As far as I am aware, they are not, no. Indeed just—

**Senator HUTCHINS**—The Ford Transits were built here, weren't they?

**Mr McCloskey**—I would need to confirm this, but my impression is that the Ford Transits were actually built in Turkey.

**Senator HUTCHINS**—In Turkey, not in Australia?

**Mr McCloskey**—I do need to confirm that.

**Senator HUTCHINS**—The Mercedes are not built in Turkey, are they?

**Mr McCloskey**—I am not sure where the particular vehicles are built.

**Senator HUTCHINS**—Have you discussed with your drivers their issues relating to these new vans? Have there been some concerns in relation to safety?

**Ms Walsh**—We are aware that there have been concerns raised, but this has come after a series of focus groups were conducted. Before we actually selected the Mercedes vans, focus groups were run with the range of vans that were available and were an option for us to purchase. Those focus groups were conducted with our employees, union members who are employees, as well as organisers from the CEPU, the relevant union. Actually, the van favoured by the CEPU came out on top with respect to the safety issues that have now come up.

**Senator HUTCHINS**—Comcare is investigating complaints. Is that correct?

**Ms Walsh**—That is correct. Following a PIN notice being placed on the vans, Comcare have become involved and have undertaken an investigation. We are now awaiting the outcome of that investigation. Obviously, once that report comes out we will consider it closely and determine any next steps on the findings.

**Senator HUTCHINS**—Am I right in stating that a number of your employees have refused to drive these vans because of what they believe is a safety risk?

**Ms Walsh**—I am aware that the union have placed a ban on driving the vans. However, that has not actually had any impact on the use of the vans and people are driving them.

**Senator HUTCHINS**—My final question is: have Ford lodged any official complaint about any aspect of the tender process that saw them lose that contract with Australia Post?

**Mr Newman**—Not that I am aware of, but I am more than happy to confirm that.

**Senator ABETZ**—Mr McCloskey, can you tell me who is the head of the agency Australia Post?

**Mr McCloskey**—Sorry?

**Senator ABETZ**—The head of the agency known as Australia Post.

**Mr McCloskey**—There is a non-executive chairman and there is a managing director. The managing director is Mr Graeme John.

**Senator ABETZ**—Mr McCloskey, did you receive a letter dated 7 April 2008 from this committee?

**Mr McCloskey**—I do not recall.

**Senator ABETZ**—Part of it said:

At previous estimates hearings the committee has stated its view that estimates hearings are an important part of the public accountability process. It has emphasised that heads of agencies should be available to attend estimate hearings and to answer questions.

You do not recall receiving that letter?

**Mr McCloskey**—No.

**Senator ABETZ**—Right. Your postal address is GPO Box 1777, Melbourne 3001?

**Mr McCloskey**—That is correct.

**Senator ABETZ**—And you are the corporate secretary, Mr Michael McCloskey?

**Mr McCloskey**—That is correct.

**Senator ABETZ**—You say you did not receive that letter?

**Mr McCloskey**—I said I do not recall it, Senator.

**Senator ABETZ**—You do not recall it? Could you please check your records?

**Mr McCloskey**—I will do that, Senator.

**Senator ABETZ**—It is interesting to note that in these estimate hearings the agency the Australian Communications and Media Authority, ACMA, has its chairman; Australian Broadcasting Corporation has its managing director; SBS has its managing director. The only agency that does not have its head with us is Australia Post.

**Senator Conroy**—Telstra for many years also failed to provide—

**Senator ABETZ**—It was unfortunate that Senator Hutchins overcooked the egg a bit in accusing the opposition of not getting off their backside. I will use a politer term than Senator Hutchins did. The committee, as I am advised at least, wrote to a number of agencies, being the secretary of the department, SBS, ABC, ACMA and also Australia Post and it seems that the only agency that has not complied with that request of 7 April 2008 is Australia Post. I draw that to your attention and if you could take on notice (1) whether you received that letter and (2) if you received that letter, why it was not acted upon and will you be acting upon the committee's request in the future.

**Mr McCloskey**—Senator, I have no doubt if the committee makes a specific request that we will act upon it.

**Senator ABETZ**—There was a specific request by way of a letter dated 7 April 2008.

**Mr McCloskey**—If I heard the words that you read out it said 'should be available to attend'.

**Senator ABETZ**—Yes, that is right.

**Mr McCloskey**—Which could be interpreted as meaning if a request is made. To my knowledge there has never been a specific request, but I am happy to take—

**Senator ABETZ**—It is interesting that Australia Post is the only agency to have so interpreted the correspondence and all the other agencies have not. But, if there is some ambiguity, could I then put on notice, from here on in, that the managing director is hereby requested to attend at all future estimates .

**Mr McCloskey**—Certainly Senator, yes.

**Senator ABETZ**—Thank you very much.

**Senator Conroy**—The managing director of Telstra never attended this committee in any of the years when they were eligible to.

**CHAIR**—Thank you.

**Senator ABETZ**—Senator Conroy, can I say that that is right. I understand that the government, of which I was part, never requested the Chief Scientist to appear before estimates. One of the very, very few areas that I can actually praise your new best friend Senator Carr is that he has now made the Chief Scientist available for estimates. There is a silver lining in every cloud and providing the Chief Scientist is one of the positives from this Labor government. I would like to think that you could add another positive by having the Managing Director of Australia Post appearing as well.

**CHAIR**—Senator Birmingham.

**Senator BIRMINGHAM**—McCloskey, does Australia Post report under the National Greenhouse and Energy Reporting Act?

**Mr Walter**—Yes, it does.

**Senator BIRMINGHAM**—What level of emissions have been reported since that act came into operation?

**Mr Walter**—Emissions for last year were just under 367,000 tonnes of carbon, which was a two per cent reduction on the previous year.

**Senator BIRMINGHAM**—Has Australia Post made any submissions to the government's Carbon Pollution Reduction Scheme, CPRS, green paper or white paper processes?

**Mr Walter**—No.

**Senator BIRMINGHAM**—Has Australia Post undertaken any modelling or estimates as to the costs that an emissions trading scheme may have on their operations?

**Mr Walter**—No, we have not, Senator.

**Senator BIRMINGHAM**—Have you budgeted anything in the forward years as to the cost that emissions trading may have on your operations?

**Mr Walter**—Not at this stage, Senator. From the information we have, we understand from the first round that we are not taken up in the first part of any scheme and that it would be just purely an increase in energy costs and other things at that stage. But certainly, like every other business, we are keeping a close eye on developments. We have always and will continue to comply with all requirements of government—federal, state and other legislation.

**Senator BIRMINGHAM**—From the information that you have present you will not be required to partake in the first part of any scheme. Is that because of the size or nature of your emissions or because of your status as a government agency? What is your understanding there as to the reasons why?

**Mr Walter**—As I understand it, it is just that we are not one of the companies taken up in the first round; it is as simple as that. Further detail I would have to go into for you, but that is our advice. As to the full detail of that, I do not think we are one of the emitters of carbon that is covered by the proposed first round. It is as simple as that.



**Senator BIRMINGHAM**—If you could clarify the reasons why Australia Post believes it is exempt, that would be appreciated. Further to that, if you could look at any estimates of costs you believe, given the government's proposed trajectory, that Australia Post may have to budget, either if it were to be captured by the scheme or if not captured by the scheme, what additional costs you believe you would face as a result of those more indirect costs such as increased electricity or fuel or other prices.

**Mr Walter**—I will certainly take that on board. As you would be aware from previous hearings, we are working very hard to reduce our emissions right across the board through both our fleet and through our fixed energy costs. As part of the National Greenhouse and Energy Reporting System and as part of the Energy Efficiencies Opportunities Act 2006, we are auditing all our facilities and identifying where savings can be made. They are starting to come through into reality with savings of up to 35 per cent in energy on some occasions by purely making changes to air conditioning and elements like that. We have actually been working for over 10 years and reporting on our emissions and it is incumbent on us for a sustainable future to undertake everything we can. I referred to the development of a corporate responsibility strategy earlier on which is all about the sustainability of Australia Post going forward and adapting and meeting all the requirements to reduce its emissions.

**Senator BIRMINGHAM**—Thank you, Mr Walter.

**Senator WORTLEY**—In relation to mail contracts on previously put questions on notice and to which you responded, in your answer you said that in 15 cases successful tenderer's labour rate was below the federal minimum wage. I am wondering could you give examples of how Australia Post would be satisfied that it could accept a tender where the labour rate was below the federal minimum wage. I am asking for specific examples here.

**Mr Newman**—That does occur sometimes and it is largely dependent on the circumstances of the tenderer. Of those 15 cases, there were several that simply had another business, so the Australia Post mail carriage was part of another business, for example, a fuel delivery service or other types of businesses. Australia Post does not pay the full wage or the contractor is prepared to do it on a shared cost basis with the other activities that they undertake. There is a whole raft of those. There are other tenderers who, for reasons that do not necessarily require to be known to us, simply want to keep their income on a lower level. It is a requirement of ours, though, that we interview those people and they need to satisfy us that they can perform that at that rate. Strange as it may seem, people use all sorts of reasons for wanting that to happen, whether it be something to do with any benefit they may receive or something to do with the business that they run. Some are actually running out of licensed post offices.

The tendering process always compares a tender with what we have as an assessed reasonable rate. If it is below that labour rate, it will also obviously be below the reasonable assessed price. It is that instrument that we use to sit down with the contractor and discuss and if we are in any doubt, we do not accept the contract. I think we have previously answered that there was over 200 in that same year for which we did not accept the lowest tenderer because it was not possible for us to accept the assurances they were giving us. Yes, we accepted 15 of those below the rate. There were good personal reasons for the contract for every one of those and I do add that there were another 200 that we did not accept.

**Senator WORTLEY**—Specifically, you are saying it may be because they receive a benefit and they do not want to earn above a certain amount—is that what you are saying?

**Mr Newman**—That is probably what I did not really want to say at all, actually. What we say is that they have their personal and private reasons and if they satisfy us that they are doing this with their full knowledge and they have additional reasons which we may or may not inquire into, we will accept a tender in certain circumstances. I am just trying to think of some anecdotal examples. Some people just do it for the exercise, for example; it defies logic, but that is just exactly what happens. The majority of these, though, are people who have income elsewhere, off whatever route that they are delivering on, whether it be cartage of fuel, cartage of goods, groceries or any sort of business. The majority of them are people who have alternative income streams associated with the route that they are driving. But I just do point out that some people, defying all the logic in the world, insist on doing it at whatever price they put.

**Senator WORTLEY**—This was 2007 that these 15 cases were put forward where the tenderer's labour rate was below the federal minimum wage?

**Mr Newman**—Yes.

**Senator WORTLEY**—So it was not really a level playing field.

**Mr Newman**—I do not understand, Senator.

**Senator WORTLEY**—Putting the tender forward as such.

**Mr Newman**—If somebody has a service to, for example, deliver groceries out into a rural area and that is a viable service and then they carry a couple of bags of mail for a very small incremental time, it sometimes is not expressed as a labour rate. That is the problem that we have, that some people do not even separate out their labour prices, and we cannot make them do that. It is just a lump of money they tender for. But then when we apply what we think to be the vehicle operating costs and take it away from their tender price, we actually calculate what their labour rate could be, so that puts us in a dilemma. As I said, we do take a lot of care in that. We do reject probably 10 or 15 times more than we accept. But, at the bottom of the day, if somebody insists that their circumstances are suitable to what their tender price is, we do not have a lot of options.

**Senator WORTLEY**—I would like to move on to the licensed post offices. Has the number of Australia Post staff working solely on licensed post office matters decreased or increased in the past five years?

**Ms Button**—I would have to confirm that on notice but over the last five years I would say that it has increased.

**Senator WORTLEY**—Would you also be able to provide year-by-year details of the Australia Post staff dedicated to managing the LPO network?

**Ms Button**—As far as it is available, certainly.

**Senator WORTLEY**—You do not have that information here either?

**Ms Button**—No, I do not. We provided some information on notice but certainly not for five years.

**Senator WORTLEY**—No, it was not over the five years. That was in a previous response.

**Mr McCloskey**—Senator, in the information that we did provide, we indicated that our systems could not provide historical reporting on tasks performed by specific position, so we could not provide the year-on-year details going back that were requested. But we did indicate that there had been no change since dedicated LPO management had been introduced in all states in 2006, and then we were able to give the number of staff as of November of last year.

**Senator WORTLEY**—That is right.

**Mr McCloskey**—I am not sure that there is anything further that we could actually provide to you.

**Senator WORTLEY**—So you do not have details going back for five years?

**Mr McCloskey**—No.

**Senator WORTLEY**—Of the staff dedicated to managing LPOs, how many have ever owned an LPO?

**Mr McCloskey**—I think in answer to the same question we indicated that four had operated licensed post offices among our dedicated management staff and three had had experience on owning small businesses.

**Senator WORTLEY**—Thank you. Has Australia Post ever been subject to legal action in relation to an allegation of an unfair contract in relation to a mail contract?

**Mr McCloskey**—I think in the answer we provided to that we indicated that there had been two such disputes relating to delivery contracts that had resulted in legal action. One occurred in 2001 and was settled prior to an AIRC hearing and there is another one that is due to be heard in the AIRC in May of this year.

**Senator WORTLEY**—What was the outcome of the first one?

**Mr McCloskey**—Other than that it was settled, Senator, I do not have any information. I do not know if Mr Newman has any further information.

**Senator WORTLEY**—The second one is May?

**Mr McCloskey**—May of this year.

**Mr Newman**—That is right.

**Senator WORTLEY**—As a government business enterprise, Australia Post has an obligation to behave ethically, obviously, while operating in the commercial environment. I am just wondering if to date you can state that child labour has not been used to produce any of the products stocked in the corporate post offices?

**Mr McCloskey**—Our supplier agreements, which we call commercial trading agreements, are designed to ensure that child labour and other prohibited practices are not utilised in the production process of products that we sell in our outlets.

**Senator WORTLEY**—In relation to that agreement, can you perhaps elaborate a little bit on what it says basically to ensure that the products it sells are produced ethically?

**Mr McCloskey**—I know we have some provisions in our supplier agreement but also, to reinforce those provisions, we have devised and are about to introduce a supplier code of conduct that we will be ensuring all suppliers actually have. Among the statements in there will be things like: ‘Suppliers are expected to comply with all local and national laws and regulations on bribery, corruption and prohibited business practices. Suppliers are expected to demonstrate a commitment to human rights and fair employment practices in accordance with existing international standards such as the UN Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the ILO Declaration on Fundamental Principles and Rights at Work and the UN Convention on the Rights of the Child.’

**Senator WORTLEY**—This is something new that you are putting in place?

**Mr McCloskey**—This is an elaboration of the intent of what is in the actual current supplier agreements. This will be an additional piece of information for our suppliers that actually tells them exactly what these particular elements within their contract mean, what we expect of them.

**Senator WORTLEY**—How does that improve on what currently exists?

**Mr McCloskey**—It makes it absolutely clear so that there will be no doubt in a supplier’s mind as to what was expected of them. At the moment there are references. This goes further than just references and takes it down to specific international conventions, including the UN Convention on the Rights of the Child.

**Senator WORTLEY**—What led to this new piece coming about?

**Mr McCloskey**—It is part of our corporate responsibility strategy that Mr Walter was referring earlier. We are looking at all sorts of things, and within that strategy there are commitments to human rights and the like. This is work that our sourcing area has been doing in that context in order to reinforce the more general provisions that are within the current supplier agreements.

**Senator WORTLEY**—Thank you.

**Senator BILYK**—With regard to the staffing issues, can you tell me how many Australia Post staff are dedicated to managing mail contracts at a national and state level?

**Mr McCloskey**—Senator, we did provide some information in another place on that. As of November last year, the number of staff dedicated to managing mail contractors nationally totalled 55.65 full-time equivalents. The breakdown of that was 5.6 at headquarters, 13.6 in New South Wales, eight in Victoria, 12.6 in Queensland, 5.25 in South Australia-Northern Territory, 9.6 in Western Australia and one in Tasmania.

**Senator BILYK**—That was as of November last year; there are no more up-to-date figures?

**Mr McCloskey**—That was information that we provided in response to a specific question that was put on notice late last year by Senator Wortley in the Senate.

**Senator BILYK**—Could you get back to me if there are any more updates?

**Mr Newman**—There has been no material change to that, but we can confirm that if you wish.

**Senator BILYK**—Thank you. What role do the local delivery centre managers have in managing mail contractors?

**Mr Newman**—The local delivery centre is the first-line supervisor or the manager of contractors. Management staff at these premises are responsible for the contractors on a day-to-day basis including the handover of mail, monitoring compliance, safety plans, service performance against the standards and contract requirements. They also are the first line in handling the inquiries and concerns of the contractor but they also form part of an escalation or a process where the contractor can get additional information from the professional contract staff associated with each state. By and large, the local delivery centre manager is the day-to-day supervisor of the contracts; that is a simple way of expressing that.

**Senator BILYK**—Thank you.

**CHAIR**—Thank you. Are there any further questions for the officers of Australia Post? If not, thank you very much for appearing before the committee this morning.

#### **Proceedings suspended from 10.44 am to 11.02 am**

#### **Australian Broadcasting Corporation**

**CHAIR**—I welcome officers from the Australian Broadcasting Corporation. Thanks for coming along today. Does anybody wish to make an opening statement?

**Mr Scott**—Yes, thank you. I would like to quickly report on the ABC's response to the Victorian bushfires. We join the rest of the nation in mourning the victims and acknowledging the valour shown both by firefighters and locals. For my part, I would like to thank the ABC staff for the incredible work that they have put in over the past two weeks. Many have worked around the clock in stressful and trying conditions to deliver on our obligation to act as the nation's communications lifeline in times of emergency. All arms of the ABC—news, television, radio, online—have done their bit to assist in this task. The ABC has worked in partnership with emergency authorities and with our transmission partners, Broadcast Australia, and other key community organisations. All these activities required staff to go above and beyond the call of duty, and they have done so with great professionalism and dedication in the most difficult circumstances imaginable.

Although there are many people who should be thanked, I would like to pay a special single tribute to the tireless work and expertise of Ian Mannix, the Manager of Emergency Services and Community Development in local radio. His planning and direction were instrumental in ensuring that the local radio network was able to assist besieged communities by passing on the latest news and official advice, and allowing residents to communicate with and support each other. In recent weeks, in addition to the fires, our emergency services operation also did extensive work with the floods in Queensland. We also want to acknowledge the assistance provided by others to ensure the ABC was able to do its work. Radio and television services in Victoria have been affected by fire damage to transmission equipment and power supplies. WIN, for example, allowed us to use its transmission to provide a digital TV service to the Latrobe Valley.

Using its emergency role as a springboard, the ABC can provide other forms of tangible assistance to stricken communities. According to the Red Cross, the ABC's local radio appeal

helped it raise nearly \$5.8 million across the period from 11 am on Saturday, 14 February, until 6 pm the following day. As part of the rebuilding process in Victoria, the ABC will stage a free community concert at the Sidney Myer Music Bowl next Sunday, 1 March. The aim is to thank Victorians for their support and generosity at a time of incredible hardship and challenge. It is important to stress at this point that the ABC takes its emergency service role very seriously, and is committed to using every tool at its disposal to extend and improve its performance.

The royal commission in Victoria will almost certainly look at the role played by the ABC, and we will fully cooperate with its work. The ABC has worked with emergency authorities around the country to plan for events like those that have devastated Victoria. The ABC's performance is a testament to the effectiveness of that work. The appreciation expressed by local communities and by so many parliamentarians is a source of both pride and comfort to us. Thank you, Senator.

**CHAIR**—Thank you very much, Mr Scott, for that opening statement. I understand that Senator Cormann has some questions.

**Senator CORMANN**—Before I get into my questions, I would like to congratulate you, Mr Scott, on the work the ABC has done in relation to the Victorian bushfires tragedy. My question relates to an issue that people feel very strongly about, not only in Western Australia but also across Australia. I have had a number of conversations with Senator Lundy about this as well, and I gather she might be asking some questions about this as well. It relates to the ABC's ongoing commitment to the Hopman Cup and the coverage of the Hopman Cup into the future. What is the current status of the ABC's considerations of that?

**Mr Scott**—The ABC is currently reviewing whether to continue with the broadcasting of the Hopman Cup. The current contract has expired with the broadcast of the last Hopman Cup in January. We are continuing to review this process. I still have meetings to be held with the director of television around this. Let me talk briefly about where our strategic priorities are in the coverage of sport. Our strategic priorities are to broadcast the sports that the commercial networks largely ignore. So, if you look at where we have been allocating our resources in recent times, we have been allocating our resources in our transmission time to women's sport, paralympic sport and to coverage of regional sport like the South Australian football, Queensland Rugby League, VFL, WAFL and others. We have also provided national coverage to the Tiwi Islands games. I think it is fair to say that, as we review it at the moment, tennis is not quite in the same category as some of those other sports. There is extensive tennis coverage in Australia over the summer. Of course, it is a highly professionalised code, a highly professionalised game, and one that has a lot of money and a lot of support around it. So, it is different when we weigh it up compared to our decisions to support, say, the women's football league or women's basketball, or our coverage of events like lawn bowls or the Paralympics or other sports like that. Our association with the Hopman Cup has been considerable. It has lasted over a significant period of time. I know that it is an important event in Western Australia. We are weighing up all of those factors as we come to a final decision on it.

**Senator CORMANN**—Was that a decision that was taken in Sydney or in Perth? Where was the decision made to essentially review it?

**Mr Scott**—The decision making around all of our programming happens within our television division. So, finally, the decision of where the financial resources are allocated will be made in our head office, and finally that will be made in association with me.

**Senator CORMANN**—In Sydney?

**Mr Scott**—There is not a budget for our team in Perth based around further production, even though we do do extensive productions in Perth, like *Can We Help?* We have made a number of documentaries in Perth, and drama work has been under way recently in Perth.

**Senator CORMANN**—So as part of your review, are you consulting with the ABC team in Perth? Are they part of the review process?

**Mr Scott**—Absolutely. I have spoken to the state director in Perth around this. My colleague Mr Pendleton has had meetings in Perth, including with the Western Australian Premier. I understand that I will be speaking with the Western Australian Premier shortly about it. We are aware that it is an important issue in Western Australia.

**Senator CORMANN**—So what representations have you had since you announced a review in early January?

**Mr Scott**—I would have to check on that. I have had some correspondence, and there was a discussion with the Premier of Western Australia, but as to further detail, I will have to come back to you.

**Senator CORMANN**—So you could provide that on notice? You see, the Hopman Cup is a pretty unique sort of event. You mentioned women's sport, and it is of course a mixed sports event that is quite unique in the world. How many years has the ABC covered the Hopman Cup?

**Mr Scott**—I would have to check on that.

**Senator CORMANN**—Is it about 15 years?

**Mr Scott**—I would have to check on that. You may have that detail; I am not sure that I have that detail in front of me.

**Senator CORMANN**—Is it about 15 years?

**Mr Scott**—It has been for many years now.

**Senator CORMANN**—Have you been there since inception?

**Mr Scott**—No, I have not.

**Senator CORMANN**—Has the ABC been involved with the Hopman Cup since inception?

**Mr Scott**—No; I think it has been going for 21 years now, so I think there are others who may have broadcast it in advance.

**Senator CORMANN**—But it is fair to say that the ABC has played a significant role in sort of lifting the Hopman Cup to the international status that it enjoys today?

**Mr Scott**—That is true, Senator. When we make programming decisions, we are trying to make program decisions around scarce resources, and we are looking at where they need to be

invested. We do look at ratings. Ratings are not the only thing that is important to us, but they do give an indication of audience engagement, and the ratings for the Hopman Cup have been declining in recent years, including declining in Perth, I must say. So they are all things that we need to weigh up and consider as we look at whether in fact this is the priority area for our investment in sport, or whether in fact there are other sports that are a better fit for the ABC.

**Senator CORMANN**—Locally in Perth, is it fair to say that the ABC has built up a significant level of expertise in terms of managing an event of that nature?

**Mr Scott**—Actually, as to the broadcasting of the Hopman Cup, a lot of that expertise is drawn from ABC sports coverage around the country, so people come in to provide that kind of service. We have national crews that deliver that for us. We do sport in Perth apart from that, including the Western Australian Football League, and the other national sports that we are covering such as women's basketball and women's football. A lot of our radio coverage for ABC Sport on *Grandstand* comes out of Western Australia. Of course, I can understand the sentiment that says there is strong support for us to continue that work. We will be taking that on board as we come to a final decision.

**Senator CORMANN**—Through the ABC, the Hopman Cup does get coverage around the world. Can you give me an indication as to how many nations around the world—

**Mr Scott**—No, I do not have that information. That is simply through the role of the ABC being a host broadcaster for it. The ABC provides a broadcast that is then taken up by international networks. For example, if another network, be it a free-to-air network or a subscription service, were to broadcast the Hopman Cup, then similarly the international reach of that program would be no different.

**Senator CORMANN**—As a host broadcaster, do you sell rights?

**Mr Scott**—I do not think we are doing that. What we do is provide the feed that is then sold by those who run the tournament and the tennis officials.

**Senator CORMANN**—So the ABC does not get any—

**Mr Scott**—Believe me, we do not make money out of covering the Hopman Cup.

**Senator CORMANN**—No, I am not asking you whether you are making money; I am asking you what sort of return you get from being the host broadcaster?

**Mr Scott**—I can provide you with some detail on that.

**Senator CORMANN**—Could you provide us with some detail on how many countries around the world do cover the Hopman Cup using your feed?

**Mr Scott**—I will provide you with the information that we have, even though, as I said, we really provide a feed and I do not think that the financial arrangements and the distribution arrangements on the back of that are within the ABC's domain.

**Senator CORMANN**—As a closing comment, I think the ABC and the Hopman Cup have been a great team over 15 years. I think it has been a significant achievement to lift the status internationally of an event that is really quite unique in the world. I cannot understand for the life of me why the ABC, rather than continuing to be associated with that success, would want to kill it off. I do not think that linking it into fee-for-service commercial broadcasters is



satisfactory at all. As a final question, from a regional point of view, this is one of the few international tennis events that does get broad coverage at a regional level, isn't it?

**Mr Scott**—When you say at a regional level—

**Senator CORMANN**—Channel 7 coverage of other events is not as easily accessible across rural and regional Australia as the Hopman Cup.

**Mr Scott**—I would suggest, and I am happy to be contradicted on it, that Channel 7's coverage of the Australian Open goes to as extensive an audience footprint as does the ABC's coverage of the Hopman Cup—to a vastly different level of audience, I must say. I understand your views. If I can just take a long-term view on it, when I was growing up, I used to watch cricket and Australian Rules and Rugby League and Rugby Union all on the ABC. Over time, those rights have become more expensive. The ABC does not cover those events on television to anything like the level that it once did. But those events are seen elsewhere. So, our focus over time has been on the sports that do not get broadcasting coverage. A particular focus has been on regional sport. A particular focus has been on women's sport. We have finite resources; we need to make choices. I understand your argument that the Hopman Cup is a distinctive event, but it is a distinctive event of a sport that gets very broad coverage in Australia over summer. So we need to weigh up all those factors when we come to a final decision.

**Senator CORMANN**—What is your time frame for a final decision?

**Mr Scott**—We will come to a decision on this in coming weeks.

**Senator CORMANN**—In this coming week?

**Mr Scott**—In coming weeks. We are aware of the need for those who run the tournament to have some certainty around this, so we are giving it full focus.

**Senator CORMANN**—You might want to take on board—and Senator Lundy will ask some questions on this as well—that there does appear to be pretty broad bipartisan support for the ongoing coverage by the ABC—

**Mr Scott**—I have discussed this with Senator Lundy, and I look forward to her questions on it. She has been very supportive of sporting coverage on the ABC, but she has also been very supportive of the strategy.

**Senator CORMANN**—As a senator from Western Australia, could I urge you to very seriously consider the issues that I have raised. From my point of view, I certainly hope that the coverage, which is outstanding, will continue for many years to come.

**Mr Scott**—I take on board your point.

**Senator BIRMINGHAM**—Firstly, on the bushfire—and thank you for your opening remarks and, indeed, to all ABC personnel for the work that they have done—my understanding, more as a listener than from any other perspective, is that the role of the ABC, though longstanding, was particularly escalated in response to the Eyre Peninsula bushfires in South Australia a couple of years ago. Is that correct?

**Mr Scott**—That is true. It was after those events and other events that we in a sense upgraded our status about being an emergency services broadcaster. We formalised our

relationship with the emergency services divisions in different states. We appointed a permanent manager to develop our practices and protocols around this. One of the interesting things is that we continue to review and learn after each experience. I was talking to General Cosgrove the other day. The ABC took into account some of his findings after Cyclone Larry hit Innisfail, and that was reflected in the changes that we made to our coverage of the Queensland floods, including the setting up of a local radio station in Ingham when that community was totally isolated. We now have a very systematic process that is underway to cover our emergency services response, to review over time and to improve our performance over time.

**Senator BIRMINGHAM**—Obviously this is the first big test of the new system and probably the greatest challenge, in a sense, that the systems, new or old, have faced. In terms of internal review processes, have you set in train any formal internal review processes into the way the ABC handled them, or will you be awaiting the process of the royal commission and other such reviews?

**Mr Scott**—No; we have set in train some internal processes of review already. It is like a debrief of our key people who are in key roles. It is simply asking the questions: what did we feel worked well? What would we do differently now? Were there any internal or external impediments to our fulfilling the services that we want to improve? We will be asking those questions around radio and television and news—a fairly standard debriefing practice. We have two senior executives who are work on that for us. Inevitably, the ABC's coverage will be a factor that is raised as part of the royal commission, and we will be ready and will cooperate with anything that is required there.

**Senator BIRMINGHAM**—I picked up some talk—I am not sure how accurate it was, but you touched on digital television transmission and so on. Were there any technological issues that the ABC had in terms of transmission reach and coverage of the affected regions?

**Mr Scott**—The fires affected some of the Broadcast Australia transmitters. Some heroic actions were undertaken by Broadcast Australia staff right in the midst of the fire. Some of our signals were knocked off air, but we had ways of working around that. We increased the capacity of others to reach into the area, and then it was actually an information campaign that we needed to undertake to tell people on which frequency they could hear us. Broadcast Australia did an exceptional job. As I indicated, WIN helped us out on a digital TV issue that we had. I think it is fair to say that the challenges we faced on transmission were absolutely understandable given the breadth and intensity of the fires. There were not failures apart from what could have been anticipated as a result directly of the firestorm.

**Senator BIRMINGHAM**—Thanks, Mr Scott. That is all I have on that issue, unless anybody else has anything on the fires. I might move on to project W. First, why is the closer integration of ABC and SBS named project W?

**Mr Scott**—That is a question for management consultants, not us. Can I give you a bit of background and a bit of context. Back in 2007, the ABC had engaged a leading consultancy firm to do a significant review of our television production processes. That review took place over several months. It was a very important and significant piece of work. There have been ongoing questions for a numbers of year around possible closer integration with SBS. This

consultancy firm had undertaken some work for us, and we thought it might be worthwhile to simply piggyback on that investment—they were in the building; they had looked at our television model—to ask the question about savings that could possibly be made through closer integration. I think the project W phrase came from them, not us. They looked at it and provided us with some detail and some information. Finally, matters of this are not in the ambit of the ABC to be resolved, but SBS went to the 2020 Summit and raised the issue of closer integration. So we had that report revised on the back of that.

**Senator BIRMINGHAM**—Okay. This is pure curiosity. You cannot tell me why the Boston Consulting Group chose the name ‘project W’?

**Mr Scott**—As you will understand, they use code words for everything.

**Senator BIRMINGHAM**—Indeed. It makes it sound—

**Senator Conroy**—Do you know?

**Senator BIRMINGHAM**—I do not know, Minister. I am genuinely interested. It makes it sound very probing.

**Mr Scott**—No, it is just one of those things, I am afraid.

**Senator BIRMINGHAM**—Who commissioned the Boston Consulting Group?

**Mr Scott**—The ABC did.

**Senator BIRMINGHAM**—Was the decision taken by the board or by the minister?

**Mr Scott**—The decision was finally taken by management, but I think the chairman of the board was briefed on it at the time.

**Senator BIRMINGHAM**—The chairman was briefed, but it was not a matter that went to a board meeting?

**Mr Scott**—No. That is the way I recall it. In a sense, Boston Consulting had been doing work for us, and it was simply an addendum to the work that they were doing. It followed the work that KPMG had done in the lead-up to the last triennium funding review where they had continued to encourage us to look and identify possible areas of efficiency and saving in our operations. I think there had been quite a lot of speculation around this, and, to try and bring a fact base to it, we got Boston to do that work.

**Senator BIRMINGHAM**—When was Boston engaged to do the work?

**Mr Scott**—It was under the previous government. I think it was around August 2007.

**Senator BIRMINGHAM**—But this particular report, the report headed *Project W summary findings* October 2008, was commissioned—

**Mr Scott**—Yes, it was commissioned. Largely that is a freshening up with the latest information available in annual reports and on the public record, I understand, of the report that was done in 2007.

**Senator BIRMINGHAM**—This report was commissioned when? By the previous government or under the term of the previous government in August 2007?

**Mr Scott**—No, it was commissioned under the term of the previous government. To get the chronology right: we had engaged Boston; we asked them to do some supplementary work, given the information that was available to us and information that was on the public record. Then the broader issue was raised about closer working together by SBS initially at the 2020 Summit, and then it bubbled up as a term of reference in the public-broadcasting review. So, in the light of that and the fact that there was some additional financial information available on the public record, that was just populated with fresher data, but that is basically the report from 2007.

**Senator BIRMINGHAM**—So this is the report from 2007 but refreshed at the request of the ABC subsequent to the 2020 Summit?

**Mr Scott**—Correct.

**Senator BIRMINGHAM**—So there is an original version of this report that was provided to the ABC some time in late 2007?

**Mr Scott**—There were working papers and the like. It was an attempt to provide some indication of operational and capital savings that might be available by closer integration.

**Senator BIRMINGHAM**—What discussions did ABC management and/or the Boston Consulting Group have with SBS in regard to this report?

**Mr Scott**—No, Senator, it just drew on the information that was available on the public record.

**Senator BIRMINGHAM**—So it was spurred by SBS comments at the 2020 Summit?

**Mr Scott**—No, the report was effectively done in 2007, prior to the 2020 Summit. So it was just done with ABC information and then information that was available on the public record.

**Senator BIRMINGHAM**—For what purpose was it undertaken?

**Mr Scott**—As I have indicated to you—

**Senator BIRMINGHAM**—For what purpose was the refreshed report undertaken?

**Mr Scott**—The issue of opportunities for cooperation and saving had been raised and put on the public record, so therefore we had some information available, and we updated it.

**Senator BIRMINGHAM**—Has any of the material from this report fed into the triennial funding discussions with the government?

**Mr Scott**—Fed into triennial funding discussions? Not this report, I think. The issue around cooperation has now been on the agenda for the best part of a year. That report has now been available to senators and it has attracted levels of public discussion. I think a few points need to be made on it. The ABC is not pursuing or promoting a merger of public broadcasters. SBS has its charter and its brief; it has its brand and it delivers out there to its audiences. If you think it through, the charter of SBS and its model of public broadcasting is quite separate and distinctive from that of the ABC. That is not to say that there may not be ways, given the amount of public money that goes into running both public broadcasters, to improve some areas of efficiency around back office cooperation. That has actually been on

the agenda since the 2020 Summit, but the Boston Consulting Group report is, in a sense, separate from that process.

**Senator BIRMINGHAM**—How much has the Boston Consulting Group been paid for the overall work, dating back to its first engagement that I take to be around August 2007, and then in particular for this refreshed report dated October 2008?

**Mr Scott**—It is over \$1 million, and I can get a precise figure for you, but I must give you the context of that. The vast majority of work they have done has been for the overhaul of our television production model. A multiple number of projects have been undertaken on the back of that work to improve the efficiency and effectiveness of the way we make television, the way we make television news, and that has found very significant savings that have allowed us to reinvest that money in television production. So, as a percentage of what we expect to save, that sum, which is in excess of \$1 million, will be quite a small percentage. In fact, we have already recouped savings that cover that initial investment, and we have a savings program that will roll out over the next four or five years as a consequence of these changes.

**Senator BIRMINGHAM**—You may need to take this on notice, but are you able to advise what the cost of the October 2008 refreshed report was?

**Mr Scott**—We can get that information to you.

**Senator BIRMINGHAM**—Has that report been taken to the board?

**Mr Scott**—No, I am not sure that it has. Again, the chairman has been briefed on the findings, but the decision making around this is not finally for the ABC to make. We are not promoting a merger. We are interested in back office synergies, if they exist—but the chairman has been briefed on it, as I have been briefed on it.

**Senator BIRMINGHAM**—What discussions have ABC management had with SBS management since the receipt of the report?

**Mr Scott**—Some initial work was done around transmission and transmission contacts, particularly the relationship that exists with Broadcast Australia. That work is ongoing. I expect that we will continue to have conversations around where the opportunities exist. However, as the Boston report suggests, some savings that you might want to find, in order to really set up a structure that effectively delivers them, may need a significant restructuring of the governance model for the organisations. But there might be other ways of delivering some of these savings. The discussions around transmission and some procurement matters that were first raised by SBS have been continuing.

**Senator BIRMINGHAM**—Have there been high-level discussions about the options presented in the report, which range, of course, as you state, across a whole vast series of alternatives—but those alternatives cite savings of potentially \$40 million plus across the organisations? Have there been discussions between you and Mr Brown since the report?

**Mr Scott**—No, only in passing, not serious discussions around that. The discussions that have been undertaken have been around issues like the Broadcast Australia contracts and our approach to distribution and transmission issues. When you dig into the budgets of the ABC and SBS, a very significant amount of public money goes into transmission and distribution issues, and that has been the focus of the discussions.

**Senator BIRMINGHAM**—These were pre-existing discussions prior to the receipt of this report, weren't they?

**Mr Scott**—No—

**Senator BIRMINGHAM**—These are ongoing since then?

**Mr Scott**—These discussions have been ongoing since last year. They certainly date past the initial receipt of this work that the ABC has received.

**Senator BIRMINGHAM**—Has the report been provided to the minister?

**Mr Scott**—I think the minister would be aware of the report because it has been tabled on this committee's website, and I know he is a close student of that.

**Senator BIRMINGHAM**—I know that the minister is an avid reader of many websites, and I am sure he has seen the answers to questions on notice provided to this committee. Nonetheless, was the report provided to the minister prior to the receipt of it by this committee sometime from memory in late January?

**Mr Scott**—No, it was not.

**Senator BIRMINGHAM**—Was it provided to the department or any other officials in the context of triennial funding discussions or any other discussions?

**Mr Scott**—Yes, I think there might have been some discussion with the department around the contents of the report. I am not sure whether or not a copy was finally provided; that would have been dealt with at an officer level, and we can check that out.

**Senator BIRMINGHAM**—Does it relate to future triennial funding arrangements?

**Mr Scott**—I need to make it quite clear: the basis of the ABC's triennial funding submission can be seen all the way back to our submission to the 2020 Summit. In the 2020 Summit, we put a proposal for a multichannel, multiplatform future of the public broadcaster in the digital age. I addressed those matters in detail in my address to the National Press Club last year. We have spoken broadly about that. That is the focus of the ABC's triennial funding submission. The ABC has not put into any triennial funding submission any details around a merger or a dramatic restructuring of the relationship with the other public broadcaster.

**Senator BIRMINGHAM**—Where does the ABC intend to go with the options presented in the Boston Consulting Group's *Project W* report?

**Mr Scott**—The ABC has nowhere to go on this. We will continue to work and talk with SBS as to whether in fact there are appropriate things we can do under our existing governance model and structure to find ways of effectively and efficiently spending public money. But we are both independent public broadcasters and we do have different management teams and different governance structures. Whilst that remains the case, there are limits to what we can do. I think we have a good relationship with SBS. There are a number of issues that we are cooperating closely on. Mr Brown and I are both directors of Freeview Australia, which is an important driver of the take-up of digital television in Australia. So we will continue to cooperate where we can, but we are not envisaging anything bolder or more dramatic than that.

**Senator BIRMINGHAM**—Does the handling of this report and the commissioning of this report in your opinion assist in relations with SBS in terms of potential ongoing cooperation?

**Mr Scott**—Mr Brown and I have had a conversation. I do not see any reason or need for any impediment on that. I did indicate to him that I regretted I had not called him before it had been posted on the website, but that was an error on my behalf. But I have a good relationship with Mr Brown. SBS is a public broadcaster that operates under a different charter and under a different model. It is really quite distinctive and quite separate. We can cooperate where we can, but there are lots of other areas where we operate in totally different fields.

**Senator BIRMINGHAM**—I note that Mr Brown described it as a ‘clandestine report’. I take it that he was not happy—

**Mr Scott**—I assured him that this was not the case. I assured him that, had the ABC serious ambitions or an overwhelming sense of public policy priority that there needed to be a merger with SBS, we would have taken advantage of the many opportunities to put that on the public agenda—from the 2020 Summit, through addresses at the National Press Club, and at numerous other events. However, I do not think it is irresponsible for the ABC to take advantage of the opportunity that existed to test the data, and that is what we did.

**Senator BIRMINGHAM**—Minister, what consideration are you or your department giving to the potential savings identified under project W?

**Senator Conroy**—The government gave an indication after the 2020 Summit that it would be responding to the recommendations from the 2020 Summit. That was originally hoped to be early this year, but a number of factors have held up the release of the government’s response. The economic stimulus package and then the bushfires have slowed down the response.

**Senator BIRMINGHAM**—No money left I think is the problem.

**Senator Conroy**—I know that it has actually been finished; it has just been a case that there have been far more pressing matters for the Prime Minister to attend to. I believe we will be giving a response to the 2020 Summit’s recommendations as a collective relatively soon, without wanting to commit the Prime Minister to timing. He has had a number of other very pressing matters on his hands in the last few weeks.

**Mr Scott**—One other fact, if I can add in; I think the context around this is important. The previous minister did write to the ABC in light of the KPMG report and asked us to do a review that identified areas of efficiency and possible savings. The issue of our relationship with SBS had long been discussed and identified as an area of possible efficiency and savings. I believe that even prior to my time at the ABC it had been discussed extensively at this committee, probably pre-dating your participation here also, Senator. So, looking at a range of possible areas of investigation in response to the letter from the previous minister, that is why the ABC took advantage of the opportunity of doing this work under the previous government. That is the context and the history behind it. That data is now available for people to review, and it is there on the public record.

**Senator BIRMINGHAM**—Out of curiosity, did the previous minister write to SBS at the same time or inform SBS at the same time?

**Mr Scott**—The correspondence was not about SBS; the correspondence was out of the KPMG review and the budget outcome that happened as a consequence of that—the triennial funding budget outcome of 2006—asking the ABC to identify other areas of efficiency and savings. Some of these issues were to do with capital, some were to do with the property portfolio, and others were to do with areas of efficiency. We undertook a number of internal reviews on the back of that, including our HR system, our legal system and other matters as well. That is the context of this work.

**Senator BIRMINGHAM**—Back to you, Minister: you were quoted as saying that \$41 million estimated savings was worthy of consideration, and part of the reason for pursuing these questions is that I agree that they are worthy of consideration. Given that this report was commissioned subsequent to the 2020 Summit and received subsequent to the 2020 Summit—admittedly only apparently received by you at the same time as it was by senators on this committee—since the receipt of it, what consideration have you given to those potential savings and what consideration will you be giving in future to them?

**Senator Conroy**—You have identified two processes. As I have indicated, I believe that we will be responding to the 2020 Summit shortly. I do not want to put a time frame on the Prime Minister. Secondly, we are engaged in a budgetary process for the triennial funding, and I am sure you would not expect me to reveal any discussions or considerations that we are having in the lead-up to budget.

**Senator BIRMINGHAM**—I am happy for you to reveal anything you are willing to, Minister.

**Senator Conroy**—Probably the most fundamental message for the committee to get is that the government will do nothing and is committed to maintaining separate ABC and SBS identities. We will not support any proposal that will erode the integrity or independence of them. If there are opportunities to achieve efficiencies without eroding that independence, they should be considered.

**Senator BIRMINGHAM**—In terms of identity and independence, can I just ask you to be very clear what you mean there?

**Senator Conroy**—There are no plans to merge them.

**Senator BIRMINGHAM**—Identity can be as easy as separate brands. ABC1 and ABC2 have separate identities.

**Senator Conroy**—There are no plans to merge them.

**Senator BIRMINGHAM**—There are no plans to merge.

**Senator Conroy**—No. That is pretty categorical, pretty simple.

**Senator BIRMINGHAM**—In terms of their independence, that means maintaining separate boards, separate structures?

**Senator Conroy**—Yes, you are getting it. I think you have it.

**Senator BIRMINGHAM**—That is a yes from you, Minister?

**Senator Conroy**—Yes, I saw some mischievous reporting in a newspaper a little while ago, but it was entirely mischievous and inaccurate.



**Senator BIRMINGHAM**—Well, you did not seem to be ruling anything clearly in or out in those reports.

**Senator Conroy**—No, I repeat: I think there was some entirely mischievous and inaccurate reporting of what was said.

**Senator BIRMINGHAM**—If it was mischievous, what did you do to try to set the record straight subsequent to that?

**Senator Conroy**—I was sure that this would come up at Senate estimates, so I am quite happy to give the same commitment I gave at the last estimates, the one before that, and at the next one. There is no ALP policy; there is no suggestion of a merger along the lines that you have been identifying.

**Senator BIRMINGHAM**—Okay. Let us step back, because I think you managed to dodge it quite well, Minister. What consideration are you giving to the \$41 million worth of potential savings?

**Senator Conroy**—As I said, we are engaged in a budgetary process, so I am sure you would understand that we are not in a position to discuss the financial contributions by the federal government, and that includes considerations of the issues that you are identifying and have been identified by the ABC prior to the budget.

**Senator BIRMINGHAM**—Having been provided with this report in late January of this year—

**Senator Conroy**—Yes, the same time as you.

**Senator BIRMINGHAM**—the same time as me, that had been sitting around for a few months at that stage, does the consideration in the budgetary context mean that it is being looked at as part of the triennial funding arrangements?

**Senator ABETZ**—It is 1,000.

**Senator Conroy**—I think Mr Scott indicated that there had been some discussions with, at least, the department on that matter, but I am not going to be speculating on what is or is not in the budget.

**Senator BIRMINGHAM**—I do not expect that you will, Minister; I just want to know that all of these potential savings that could be reinvested into other programming will be considered.

**Senator Conroy**—We are very keen to get more programming and we are very keen to support public broadcasting.

**Senator BIRMINGHAM**—Do you think there would be greater value in perhaps the ABC and SBS management working more cooperatively on some of the potential benefits from these synergies than seems to have been the case?

**Senator Conroy**—I think Mr Scott identified that SBS were the people who raised it at the 2020 Summit, so there seems to be a fair degree of consensus and discussion taking place. It is up to Mr Scott to reveal any discussions he has had with Mr Brown and Mr Brown is not far away. You will get a chance to have a chat with him shortly.

**Senator BIRMINGHAM**—Indeed we will, Minister, and we will look forward to that. But surely it should be a matter of some concern that there appears to be a level of friction established between the two broadcasters on these issues which, I would have thought, you would be concerned to overcome to ensure that any future synergies could be maximised?

**Senator Conroy**—We are always keen to ensure that synergies can be maximised and that resources are devoted to programming to ensure that the ABC is meeting its charter obligations.

**Senator BIRMINGHAM**—Would you prefer that this report had been provided to you sooner than it was?

**Senator Conroy**—It is a report commissioned by the ABC. I think it is a matter of some interest, but we are getting on with the triennial funding rounds. If opportunities have arisen—

**Senator ABETZ**—And the answer is?

**Senator Conroy**—We are happy to look at them.

**Senator ABETZ**—And the answer is?

**Senator Conroy**—The answer is that you will find out on May, the—

**Senator BIRMINGHAM**—The answer is you would have preferred perhaps that, given the negotiations on triennial funding, a report that identifies such potential savings could have been provided to you and the department sooner that may have aided in your negotiations and discussions? Would you have preferred that, Minister?

**Senator Conroy**—The government is quite comfortable with its processes.

**Senator BIRMINGHAM**—Have you asked Mr Scott to either undertake any further work in regard to these areas since being furnished with the report at the same time as the rest of us on project W, or have you looked at further processes that may be pursued inside the department as to developing the pathway for integration and future synergy?

**Senator Conroy**—As I said, the 2020 report will be responding to the recommendation, and it is due shortly. You will get a chance to see what the government's formal view of the recommendation is.

**Senator BIRMINGHAM**—Thank you, Minister. I will let Senator Abetz have a go.

**Senator ABETZ**—Thank you very much. Possibly you could indicate, Chair, has anybody raised the issue of Peter Lloyd this morning?

**Senator BIRMINGHAM**—Not yet.

**Senator ABETZ**—We now know the unfortunate circumstances of Mr Lloyd, and I assume he is still serving his period of imprisonment in Singapore?

**Mr Scott**—Yes, he is.

**Senator ABETZ**—The issue I want to canvass is: is it a fact that he was on leave at the time of his arrest?

**Mr Scott**—Yes, he was.

**Senator ABETZ**—What was the reason or rationale in the ABC flying somebody over there and assisting him with legal costs, because I would imagine that if any other ABC employee whilst on leave was arrested on drug related matters, the ABC would not necessarily be subsidising the legal costs et cetera? I just wonder why Mr Lloyd was the beneficiary?

**Mr Scott**—Mr Lloyd was overseas because he had taken up a position as a foreign correspondent on behalf of the ABC. Therefore he was detained in a foreign jurisdiction. The very reason he was overseas was because he was our reporter over there. If you look at his time overseas you will see that he had been reporting on a number of very significant and very major events, and then suddenly and unexpectedly he was detained in Singapore. I made a decision that, under those circumstances, the fact that he was in a foreign country and had been sent overseas on behalf of the ABC, we needed to make some initial steps to ensure that appropriate legal representation was put in place for him, and initial steps in a provision of duty of care to him as our employee who was overseas as a foreign correspondent. So we did that in the initial days that followed his arrest. We had ascertained that Mr Lloyd had received and was in a position to receive appropriate legal representation, that he was in a position where he perhaps had accommodation when he was bailed, and that that initial duty of care was done. The ABC then stepped back and it became a matter for Mr Lloyd. I think the fact that it happened overseas made these circumstances different to a circumstance that if an Australian journalist, or a journalist on leave in Australia, had been detained in Australia.

**Senator ABETZ**—Australia, as I understand it, has a very competent high commission in Singapore that deals with these matters on a regular basis for and on behalf of Australian citizens in exactly identical circumstances. Did the ABC lack confidence in the high commission? Why was it necessary, as I understand it, to fly somebody from the ABC to Singapore rather than pick up the phone to the high commission, and say, ‘You guys have experience in these matters, you have plenty of experience in matters overseas with people getting arrested, especially in Singapore; could you please handle this matter to ensure that our employee is looked after?’

**Mr Scott**—I understand that view. We certainly were in contact with consular officials, but I think we took—

**Senator ABETZ**—So why was their expertise not deemed to be sufficient, because every other Australian citizen who was in Singapore on holidays and arrested, one would have assumed would have got all the benefits of the high commission?

**Mr Scott**—He was overseas for us. He was overseas as our reporter, as our correspondent. He had been reporting through South-East Asia for a number of years. I think we also have a particular radar, a sense of awareness. In the initial circumstances, we were not aware of what had gone on. There had been circumstances of foreign correspondents from other international news agencies who have been detained under very uncertain circumstances, and in those initial days we did not know what had gone on. So, in a sense, we were dealing with the consulate, but we wanted to have some of our expertise on the ground there too, and we did that for a matter of days.

**Senator ABETZ**—But what expertise did you have that the high commission did not have? I would have thought these people in the high commission are specifically trained for these circumstances, with great respect, unlike any ABC official?

**Mr Scott**—Yes.

**Senator ABETZ**—What did they value add that the high commission could not provide?

**Mr Scott**—What did we do? I am making no comments at all on the expertise of the Australian diplomatic staff on the ground, but we simply went up there exercising a duty of care for a member of our staff who had found himself in terrible circumstances, exercising that duty of care to a staff member whom we had sent overseas and who had undertaken several years of very, very distinguished service on behalf of the ABC in covering some of the worst stories imaginable, from the tsunami to bombings through South Asia and the like.

We felt we had a duty of care and responsibility to that staff, so, yes, we did spend some money to have people on the ground there who had clear links with legal firms in South-East Asia and who helped ensure that some initial steps were made on the ground. If you have a view that that was unnecessary, I respect that view, but we had an employee who had been in distinguished service for us and who, whilst being overseas for us, had found himself in a dire predicament, and we put in some steps in those initial days to provide him with some additional support. I do not resile from that.

**Senator ABETZ**—Would that be a service available to any ABC correspondent who works overseas and is on leave and gets charged with a drug offence—or indeed any offence?

**Mr Scott**—I can tell you that if any ABC correspondent overseas working as a foreign correspondent for us finds themselves in some difficulty and in some trouble, for whatever reason, of course that will receive the full attention and engagement of the ABC, its senior executives and its news management.

**Senator ABETZ**—But I am asking whether the treatment would be the same as—

**Mr Scott**—I think we would review the circumstances at the time. We reviewed the circumstances here and we undertook to take this decision, to provide some initial support for opening days. Finally, when Mr Lloyd needed to post bail and, finally, when Mr Lloyd had to have a trial, there was no support provided by the ABC for him for all of those costs as part of that legal process.

**Senator BIRMINGHAM**—Subsequent to Mr Lloyd's case and issues, have you reviewed internally the ABC's handling of those matters and considered what precedent they may set? Have you established any policies or guidelines with regard to how the ABC may handle such future matters?

**Mr Scott**—We have continued to review it, but it has been more to do, in a sense, with broader questions of our duty of care for our foreign correspondents, given the kinds of stories that they are covering over time. As you would be aware, Mr Lloyd's defence raised some issues that, of course, we will have been engaged in. But I am comfortable with the decisions that we made. We had a distinguished foreign correspondent unexpectedly facing serious charges in a foreign country, with some level of uncertainty. There was no access to Mr Lloyd for the first day or two after he was detained. He had been in hospital because he had an eye

complaint that was viewed as quite serious. There was a lot of uncertainty in those initial days. I am comfortable that the steps we put in place were worth while. Heaven forbid, if we ever face circumstances like this again—and we have not faced circumstances like this in the past—I imagine—

**Senator ABETZ**—Sorry, you have or have not?

**Mr Scott**—We had not.

**Senator ABETZ**—Thank you. Because of the bells ringing, I could not quite hear you.

**Mr Scott**—That is fine—I imagine that we would do what we did this time. We convened a senior group within the ABC that included me, our head of legal and our head of news, and I briefed the board on decisions that we were taking. But we would examine the facts at the time and exercise our judgment accordingly. I do not think this is the kind of thing that you can have hard and fast rules about. We have a duty of care to our staff. This staff member was overseas and had covered terrible stories on behalf of the ABC. He had been one of our most distinguished foreign correspondents, and unexpectedly and dramatically these circumstances occurred. We wanted to put in initial steps to provide a duty of care to ensure that he was in a position to provide himself with the legal support he needed and other support on the ground. He was in a country that he did not live in, of course.

**Senator BIRMINGHAM**—I do not think anybody doubts your duty of care to the staff and, indeed, the extent to which you as Managing Director and the other managers of the ABC wish to ensure that duty of care is upheld to the highest standards. That is to be respected. The questions that I know Senator Abetz and I are pursuing relate to what precedent it sets and how it would be handled in future. Without going around and around in circles, it sounds like you are saying that you will handle them all on a case by case basis. As we would all agree, we hope that you never have to handle a similar or like case again.

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—But you are not looking to establish particular guidelines; there is no decision that you would not pursue this type of path again or that indeed that you would automatically pursue this path again?

**Mr Scott**—That is correct.

**Senator ABETZ**—So is Mr Lloyd still in the employ of the ABC?

**Mr Scott**—No, he is not.

**Senator ABETZ**—How did that come about?

**Mr Scott**—When Mr Lloyd was sentenced to prison, that in effect was frustration of his employment contract with the ABC, so his employment was terminated at that point.

**Senator ABETZ**—Was that on his plea of guilty or was it earlier?

**Mr Scott**—I would have to check on that. I think it was when he was sentenced. But I think that all happened when he pleaded guilty.

**Senator ABETZ**—Yes, very close.

**Senator BIRMINGHAM**—In answer to question on notice No. 92 from our last supplementary estimates hearings, the ABC indicated that it had incurred external legal costs of \$36,243; counselling session costs of \$11,200; and travel and accommodation costs of \$18,427. Are they the final and total costs that were incurred by the ABC in regard to the matter?

**Mr Scott**—Yes, I believe that is so.

**Senator ABETZ**—Could you confirm that on notice for us?

**Mr Scott**—Yes. Certainly there were no further external legal costs or travel and accommodation costs. I will just check on the counselling cost.

**Senator BIRMINGHAM**—It is nearly \$70,000. Can you confirm that that was the capped amount?

**Mr Scott**—Yes.

**Senator ABETZ**—I will move on to some issues not surprisingly related to forestry. Firstly, in relation to the *Four Corners* program *Lord of the Rings*—

**Mr Scott**—*Lords of the Forests*.

**Senator ABETZ**—I am sorry. As somebody who read *Lord of the Rings* to his boys, you will forgive me that slip of the tongue—a great book and great series, unlike *Lords of the Forests*. Can I ask when the errata sheet on the *Four Corners* website was posted?

**Mr Scott**—I will have to check on that.

**Senator ABETZ**—Was the errata sheet in fact backdated by some three months?

**Mr Scott**—I will check on that. It has not been raised with me.

**Senator ABETZ**—It has not been raised with you?

**Mr Scott**—I am not aware of it.

**Senator ABETZ**—Because the allegation is that when the ABC finally agreed that an errata should be posted for *Lords of the Forests*, it carried a date for the unsuspecting person looking online that it in fact had been posted three months before the date that it was actually posted, which if I might say, from a layman's perspective like mine, is a very unhealthy and unacceptable practice and may well have misled the odd person into believing that the ABC had dealt with this in a very timely and proper manner, whereas in fact it had not.

**Mr Scott**—I will check on that. Let me just add one thing, though: when the ACMA report came down, with criticisms about the *Lords of the Forests* episode, and I believe that that was in late 2006, we immediately, at the next episode of *Four Corners*—

**Senator ABETZ**—In 2006?

**Mr Scott**—The ACMA report.

**Senator ABETZ**—The ACMA report, yes.

**Mr Scott**—We immediately—the following week—put up a notice at the end of *Four Corners* alerting our audiences to the ACMA report and pointing them to the full report that we put up online, a move that was praised by ACMA at the time. I believe that some problems

had been identified with the Audience and Consumer Affairs division with that program prior to the ACMA report—I might be wrong on that, but I will check on that; that might well predate. So there might be some confusion around the findings of Audience and Consumer Affairs and the ACMA finding, both of which happened at separate points. We will clarify those dates and let you know.

**Senator ABETZ**—If you could, because the information that I have is that the ABC posted the errata on 11 May 2004, but it carried a date some three months earlier, which I would have thought is a very unhealthy practice, if my information is correct.

**Mr Scott**—Sure. We will check that.

**Senator ABETZ**—If you could do that, I would be much obliged. Can I go to *Q&A*, a topic that we canvassed last time and you kindly—

**Senator Conroy**—How did Joe Hockey get on it?

**Senator ABETZ**—You kindly indicated to me that you would let me know what groups had been contacted in relation to getting a more balanced audience of more liberal-minded people. I was given this list of student groups—they have always been a hotbed of Liberal Party support—

**Senator Conroy**—You proved particularly successful at the University of Tasmania with a sixpack.

**Senator ABETZ**—including the University of Sydney Politics Society. I am not sure the Australasian Union of Jewish Students would necessarily identify themselves as such. All of a sudden Senator Conroy has gone quiet—very wise. But then we move on to PricewaterhouseCoopers, Ernst & Young, Mallesons Stephen Jacques and Brown Wright Stein. Does the ABC identify these organisations as being Liberal Party supporters? The list also includes business groups such as the Sydney Chamber of Commerce and a variety of local chambers. Can I suggest if that is the list to which you refer when trying to balance it up with coalition supporters, some of these organisations might take offence, given that they take great pains in asserting and working on their political independence. I will just pick out the Australasian Union of Jewish Students; why were they written to to try to provide coalition supporters for the *Q&A* program?

**Mr Scott**—As you are aware, what we are trying to do with *Q&A* is, on the panel of people who present and then in the audience, have a plurality of views, and we have for the first time asked our audiences about voting intention. We have sought to ensure not that everything gets to be fifty-fifty but that there is a mix of views there. I have the latest figures from the last two weeks, which I am sure you would be interested in.

**Senator ABETZ**—You have pre-empted one of my questions, so thank you for that.

**Mr Scott**—I am shocked at it being anticipated. On 19 February, the first week back of *Q&A*, 20 per cent of our audience did not want to be specified, and I think we need to take that into account. Many people do not want to be specified. But the specified groups were: Democrats, two per cent; Greens, 10 per cent—

**Senator ABETZ**—What, Democrats at two per cent? My word, there is still a heartbeat left in them!

**Mr Scott**—Democrats, two per cent; Greens, 10 per cent; ALP, 29 per cent; coalition, 36 per cent.

**Senator ABETZ**—It just goes to show that these questions at estimates do bear results.

**Mr Scott**—But as you are aware, Senator, this process is to ensure that we can attract to Ultimo at 9.30 on a Thursday night an audience that has a plurality of views. This process has been underway for a period of time that even predates your probe in estimates. For this last week, when we had Mr Swan and Mr Hockey and others, the figures were: ALP, 33 per cent; coalition, 33 per cent; Greens, 11 per cent; other, two per cent; with 22 per cent not specified.

**Senator ABETZ**—Can I bring you back, however, to the original question. The answer that I was provided with was:

In addition to the list of groups provided at the hearing, the producers of Q&A have contacted the following between May and October 2008 in order to recruit more Coalition supporters ...

I was then given a list, including the Australasian Union of Jewish Students, Ernst & Young and the Sydney Chamber of Commerce.

**Mr Scott**—And Macquarie University Liberal Club.

**Senator ABETZ**—That is right.

**Mr Scott**—And Facebook groups such as ‘Don’t blame me I voted Liberal’—

**Senator ABETZ**—I am aware of those. They would make eminent sense. People would not in fact be offended at the suggestion that somebody who is in the Macquarie University Liberal Club might in fact be a coalition supporter.

**Senator Conroy**—According to Senator Bernardi, that is not necessarily the case.

**Senator ABETZ**—The Australasian—

**Senator Conroy**—That could just be where they lived.

**Senator ABETZ**—Have you finished? Thanks. I would have thought with a group such as the Australasian Union of Jewish Students, Ernst & Young and the Sydney Chamber of Commerce it is highly inappropriate for the ABC to, if you like, finger them as hotbeds of coalition support. I wish they would be. Can I tell you, I know many good students in the Australasian Union of Jewish Students who are hot Labor and who are hot Liberal, and they are a very good organisation.

**Senator Conroy**—Excellent.

**Mr Scott**—I am not sure of the precise phrasing of the letter.

**Senator ABETZ**—If you have difficulty, it was an answer on notice that I will read to you:

In addition to the list of groups provided at the hearing, the producers of Q&A have contacted the following between May and October 2008 in order to recruit more Coalition supporters:

- Student groups, including the Sydney University Politics Society—  
apolitical—
- the Australian Union of Jewish Students—



apolitical—

... PriceWaterhouseCoopers, Ernst & Young, Malleon Stephen Jaques, and Brown Wright Stein;

- business groups, including the Sydney Chamber of Commerce and a variety of local chambers ...

There is no misquoting here, Mr Scott.

**Mr Scott**—Yes, I understand that, but the difference is that I do not think the ABC have ever said that there are only people who are coalition supporters who adhere to those organisations. What we have tried to do is go to different places where, in the membership or in the employment, whatever, you may find some people who are, firstly, willing to identify in two ways—one is as coalition supporters—and, secondly, willing to come out to Ultimo at 9.30 on a Thursday night to participate in a studio audience. I am not precisely sure of the language that was used in any correspondence to any of these organisations. But I do not think for a moment we have suggested that in those groups and in many of those other groups that we have put down as well you would only find coalition supporters.

**Senator ABETZ**—Could you take on notice whether the approach was by telephone or by writing. If it was by writing or email, could you find out whether we could be provided with copies of the correspondence, please. But this was specifically designed ‘in order to recruit more coalition supporters’. I would have thought that that was singularly unhelpful to the University of Sydney Politics Society, the Australasian Union of Jewish Students, PricewaterhouseCoopers and the others that I have read out.

**Mr Scott**—I may be corrected on this, but I am not aware of any complaints we have received from any of these organisations through our soliciting interest by their members to join the audience of *Q&A*.

**Senator ABETZ**—Do you know what I suspect? You did not write to them saying, ‘We are writing to you with a view to gaining more coalition supporters for the *Q&A* program,’ and that is why I am specifically interested in your actual communication with them.

**Mr Scott**—Okay.

**Senator ABETZ**—If you wrote to them just in general terms, as you did to a whole host of other groups like the ANU Student Association, the Auburn Gallipoli Mosque and the Cabramatta Community Centre, that would be fine, but do not try to spin the line to us that specific organisations were contacted to try to enhance coalition participation. Suffice it to say, whatever you have done seems to have worked, given the latest figures, and I am pleased about that. Allow me to finish that bracket of questions with a tick.

Can I take you to the *7.30 Report* that was broadcast in Tasmania on 5 June 2007. After, if I might say, a campaign of belligerence by the ABC, we have now finally received the retraction and on-air correction. First of all, I would like to know how many on-air apologies or corrections has the ABC aired from 1 January 2007? You can take that on notice for us. In relation to each one of those, can you tell us: how long did it take between the complaint being made and the airing or the posting on the website of an apology? My understanding is that if it relates to forestry, , as opposed to other issues, there is an unfortunate delay and a case of getting into the trenches to defend. The evidence may well show me to be wrong on that. If you could take that on notice, I would be much obliged. As I understand it, finally, a

finding was made by the ICRP in relation to this. If I might say, it made a number of findings which I trust the ABC would find somewhat concerning. Would that be agreed?

**Mr Scott**—Senator, when this program went to air and it was reviewed by our audience in the consumer affairs division, complaints were upheld at that time. The video was removed from the website.

**Senator ABETZ**—Yes.

**Mr Scott**—An editor's note was appended. There was debate over whether, in fact, there should be an on-air correction, and when we discussed it at this committee—

**Senator ABETZ**—Last time.

**Mr Scott**—I indicated to you that this had been referred to the Independent Complaints Review Panel and we looked forward to their verdict. Now—

**Senator ABETZ**—Because the ABC was not willing to volunteer such an apology, so you had to be dragged screaming to make this on-air apology.

**Mr Scott**—No, no. Well—

**Senator Conroy**—I think that was an opinion rather than a question, Mr Scott.

**Mr Scott**—I had discussed it with Mr Chipman. I met with him when I was in Tasmania. The ICRP said that we should air this correction next time we ran a story related to the Tasmanian forests issue, I understand. We took a decision that we should wait no further in light of this report because that could have been a case of some months, as you would be aware. It was just before Christmas. We were about to go into the summer programming. So we brought forward that on-air correction. That on-air correction was broadcast on 16 December.

The issue about when we correct on air and our policies around that is being reviewed by a process that we have underway now and a review of our self-regulation mechanisms. We do correct things on air, and the data that you have requested on notice will demonstrate that, but precisely when and what policies and decision-making process around that are currently being reviewed and underway. That is being done in concert between our Director of Editorial Policies, Paul Chadwick, and the Chairman of the ABC board, Maurice Newman. So that work is underway, and I will be able to report back to the Senate on findings of that work possibly at our next hearing.

**Senator ABETZ**—Thank you for that. Will the ABC provide another on-air apology when the program is again dealing with issues relating to the pulp mill development?

**Mr Scott**—Senator, I cannot recall a circumstance where we have run a correction twice.

**Senator ABETZ**—Given that the strong recommendation was that a correction should be publicised on an occasion when the program is again dealing with issues relating to the pulp mill development and the ABC ignoring that recommendation by Michael Foster QC, and you have explained the reason why you ignored that because you thought—

**Mr Scott**—Well, we improved it. And I think there was discussion—

**Senator ABETZ**—because you thought—

**Mr Scott**—at the time, as to whether, in fact, it was better to wait or, given that the pressure had been around, how long people had waited for the correction. With no disrespect to Mr Foster and his timings, our policy and practice has been at the ABC, but also in other media outlets, when you agree to run an on-air correction or a correction in print in publishing that you do that at the next available opportunity. It was our feeling that it was preferable to run that correction as soon as possible, and I understand there were discussions with Mr Chipman at the time. I might be wrong on that, but there was an appreciation that we were going to put this correction to air right away rather than waiting what could have been some months. We believed that that was advantageous. But we now have corrected that to our *7.30 Report* audience.

**Senator ABETZ**—Do you accept the finding of the ICRP that an online correction clearly was not a satisfactory way of dealing with it because the vast majority of viewers would not have their attention drawn to it, which, if I might say, was the suggestion I was making to you at the last estimates which the ABC, unfortunately, was not willing to accept? Now that the ICRP has found that it was appropriate, will you take that into account in future? Can I say that I am still concerned at the ABC's cultural approach, especially in relation to matters relating to forestry.

**Mr Scott**—As I indicated we will be considering that in light of our review of self-regulation processes, which does include the issue of corrections and corrections policy.

**Senator ABETZ**—But do you agree that the unlabelled archive file footage was used incorrectly?

**Mr Scott**—Senator, we found that.

**Senator ABETZ**—Yes.

**Mr Scott**—That was a finding not by Mr Foster; that was a finding by the ABC's internal review processes. That is why the video was removed and an editor's note was added.

**Senator ABETZ**—I have one final question. Page 6 of the ICRP's review says:

In the Panel's view, few of the viewers who saw the program would do so.

That is, the ABC on-line correction:

For the majority of viewers, the program's mischievous effect would remain uncorrected.

They used the words 'mischievous effect. So if in the past I have been somewhat agitated over this issue, it is because I, like the ICRP, found the report, in fact, to be mischievous. For it to have taken so long, especially when this was an issue at the last election, is a matter, might I say, of great regret because a lot of people were misled. I will leave it at that and thank the committee for its forbearance.

**CHAIR**—Thank you, Senator Abetz. Senator Wortley.

**Senator WORTLEY**—Thank you, Mr Scott, for your opening statement, particularly regarding the recent and ongoing bushfires in Victoria and the role the ABC played in the reporting of those. I was just wondering about the ABC's resources with regard to the reporting of the bushfires. Has there been a need for additional resources?

**Mr Scott**—Part of the process that we put in place as the emergency services broadcaster is to deploy staff and technology where necessary to enable us to continue broadcasting. For example, Tim Cox, who is the morning announcer for ABC local radio Hobart, flew to Victoria on the Saturday afternoon in order to be able to broadcast, I think, late on Saturday night and through Sunday and coming days on 774 and local radio ABC in Victoria. An announcer from ABC Illawarra flew as part of an emergency team to Queensland to be a broadcaster at ABC Ingham, the new local radio station we opened there in the heart of the flooded and isolated territory. So we do have a process where we redeploy staff, and also we drop in fly-away transmitters and the like where necessary. So we have quite a program underway. Our staff volunteer to provide this level of support, and it has operated well.

**Senator WORTLEY**—What is in place for the journalists and camera crews, given that they were reporting on the bushfires? I know that previously we have had issues about single camera crews and so on. Perhaps you could tell us what occurred in this instance.

**Mr Scott**—We sent our teams out there. They reported with great distinction. This is the kind of story that the ABC is in a position to cover well. We have 40 local television crews that we can deploy around the country; we have 60 local radio stations; we have a network of, I think, 70 reporters who work in regional radio. So we send them out. One of the things that we are very pleased about is how well these teams from different divisions worked together. I would add also that for some of our reporters who are people on the ground, and even those who work in the studios, it is a very harrowing story to cover. The ABC has an employee assistance program that we can deploy and activate. We have done that. We have had counsellors available to talk with our staff and to debrief them, and that is an ongoing service that we are providing. It is part of, in a sense, a trauma awareness program that we have had in place now for some years working with our journalists, with our reporters, in helping them to deal with the aftermath of the work that we ask them to do.

**Senator WORTLEY**—It is very good to know that the journalists and the camera crews who have been out reporting on the recent bushfires have the counselling services and the support that they need available to them. We would hope that the other media organisations have in place the same sort of support. Just in relation to that, and we were just talking about rural, regional and the deployment of staff to cover such emergencies, in May 2007 I asked some questions relating specifically to the National Interest Initiatives funding and sought figures for full-time equivalents budgeted for 2006-07. Today I will put the same sorts of questions in relation to figures for 2007-08. In particular, I would be interested in knowing how that funding is allocated to the regions and the capital cities and how the program is placed for the future.

**Mr Scott**—I am happy to do that, Senator. We can tell you now that the NII program has given priority to new programs and content that is produced in or reflect on regional and rural Australia. Since the scheme start we have established 75 program maker positions, four new regional radio stations, 16 new radio programming shifts, a range of television programs, news bulletins in the ACT and the Northern Territory, and a number of programs like *The Cook and the Chef*, *Can We Help?* and *Talking Heads*, which are done outside Sydney and Melbourne. They are all funded under the NII scheme. We think it has been very successful and we will be able to provide you with more detail.

**Senator WORTLEY**—So the allocation of that funding goes to rural and regional areas and cities outside of Sydney and Melbourne?

**Mr Scott**—Yes, 90 per cent of that funding goes to rural Australia, Senator.

**Senator WORTLEY**—And 10 per cent to the capital cities?

**Mr Scott**—Yes.

**Senator WORTLEY**—The other capital cities?

**Mr Scott**—The other capitals. None in Sydney and Melbourne; they are different initiatives.

**Mr Pendleton**—But 90 per cent of the funding is spent on regional and rural initiatives.

**Senator WORTLEY**—Outside the capital cities?

**Mr Pendleton**—Outside.

**Senator WORTLEY**—That includes New South Wales and Victoria as well?

**Mr Pendleton**—With the exception of TV. If I could qualify, ‘TV regional and rural’ is defined as ‘outside Sydney and Melbourne’, but it can be capital cities. There is no real television capability in rural WA, for example, so production that is done in Perth is classified as an NII.

**Mr Scott**—*The Cook and the Chef* is done in South Australia, as you know; *Can We Help?* is done in Western Australia; and *Talking Heads* is now done in South Australia.

**Senator WORTLEY**—How is the decision made about where the funding is allocated?

**Mr Pendleton**—There are criteria that were committed to when the NII funding was originally made available. For radio, it is all production and staffing outside capital cities, so it is all definitely regional and rural locations. For television, as I said, it has been defined to be production outside Sydney and Melbourne. There are a couple of other initiatives that sit around it in terms of business and the economy. Children’s, family and educational are a much lesser extent of the spend, but, again, there is a five- or six-point definition that sits around what qualifies for NII funding.

**Senator WORTLEY**—Would you be able to provide a breakdown of the funding allocated to the regions and the capital cities and where it is allocated—what the programs are and so on?

**Mr Scott**—Yes.

**Senator WORTLEY**—Thank you. Just turning to ABC2 now, we have had ABC2 on air for four years, is it—March 2005, I think.?

**Mr Scott**—It would be about that, certainly, yes.

**Senator WORTLEY**—Can you just tell us about new programs that are available on ABC2 that you will not find on other television channels?

**Mr Scott**—There are a range of programs under way there now, and there have been a number of initiatives. Some programs, like *Good Game*, appear on ABC2. A number of programs have debuted on ABC2 and then moved back to ABC1, and some of our more

experimental comedy is there as well. The big one is *ABC News Breakfast*, which is a new three-hour live news and public affairs program that we produce out of Melbourne that goes to the country. That is the single biggest new news investment that the ABC has made for many, many years in terms of volume, also given the kind of technology we are doing to bring that about. We are delighted about that program because it really does showcase the best of the ABC in action. I sat in with the production team the week before last and watched them being able to move around the country and to link in with local radio. There was a story about the draining of the Torrens Lakes that morning. That story was provided by the ABC local radio staff coming into *News Breakfast*. I believe that the Treasurer was being interviewed by Fran Kelly on Radio National *Breakfast*. They were able to cross to that and broadcast that live. That is an example of the kind of innovation that we are putting to air on ABC2. We have been able to experiment more on ABC2 with the kinds of programs that we are making, and it is a broader array of programming that we have been putting to air there.

**Senator WORTLEY**—What can you tell us about the audience for ABC2?

**Mr Scott**—It has been growing significantly, especially since we started aggressively promoting it on the ABC schedule on ABC1, which was about a year ago now. So regularly when you are watching ABC1, we are promoting programs that are going to air on ABC2. It is also around distinctive programming. The single biggest spike that we have had was when we covered the Paralympics, and I believe that the reach of ABC2, the number of people watching, effectively doubled through that time and then increased again or stayed at that level once the Paralympics was over. Also, as we do specific programming—*Keating! The Musical* was one—we are finding audiences come and watch what is available on ABC2. We would like to develop more programming for that content if our budget constraints allow.

**Senator WORTLEY**—Thank you. In relation to the talks about a children's channel, where are you going with that?

**Mr Scott**—Of course, that is a matter that really is covered by our triennial submission in the budget, but I must say I have been very, very pleased by the strong and broad support there has been in the community for an ABC children's channel, which we believe would drive the take-up of digital television and deliver content that families want to see free of charge into every home. As you know, it was raised and strongly supported at the 2020 Summit and it is a matter that we are continuing to advance in our discussions with the department and with government.

**Senator WORTLEY**—Does that mean the same for your multichannelling and digital television broadcasting?

**Mr Scott**—Yes, it does. They are matters that we are raising and discussing with government at the present time. A major challenge for government will be the switch-off of analog television. We know that a driver of digital television take-up is having quality, distinctive content that is not available elsewhere. We believe with the investment that already exists in the ABC—not just in television but also in our network of news and local radio services—the ABC is ideally positioned to deliver a number of additional channels if funding becomes available.

**Senator WORTLEY**—I would just like to move to the criticism that you received last year when you made the changes to Radio National.

**Mr Scott**—Yes.

**Senator WORTLEY**—We have read in the media different positions, but why was the decision taken and why were those programs discontinued?

**Mr Scott**—Let me talk about that, Senator. Decisions are taken every year around programming on local radio, national radio networks and television. Programs go, new programs enter the schedule, and sometimes programs go and come back. That has been the case with *The Religion Report* in the past, which was on for a number of years. It was taken off the air for a period of time and then it came back. I have met with a number of religious leaders and community leaders who were concerned at the loss of *The Religion Report*, and I have indicated to them that we will continue to review our programming mix over time. If we feel that there is a gap in what we are offering then we will review it over time.

There were, though, a number of I think concerning arguments that were circulated that I am glad for the opportunity to address. We have not cut the Radio National budget, nor have we walked away at all from our commitment to high-quality, specialised broadcasting on Radio National, but our audience demands and expectations on Radio National are increasing over time. As you will be aware, and we have discussed here, there has been a big move for Radio National content online. We have put a lot of programs out as podcasts and we are developing a very extensive suite of online services for Radio National, including the Pool, which is now almost Australia's pre-eminent arts website.

Radio National wanted to reallocate some resources to increase our online play and also to put some new specialist programming in the 8.30 time slot. Some of those programming changes did not generate much comment; others did generate significant comment. But we will review that programming mix over time and we will make good progress. I can tell you that the decision makers around that in Radio National are very passionate about Radio National, they desire greatly to connect with audiences, want to make Radio National as relevant in the new media world as it has been in the traditional era of radio, and we will continue to review progress as we go along.

**Senator WORTLEY**—Just moving back to the newsrooms and the people who work in them, I understand that there are some issues regarding the current round of enterprise agreement negotiations and there has been some concern as to how they have been developing. I just wonder whether you could shed some light on that.

**Mr Scott**—I can simply update you, Senator, that there is a proposal to pay a funding increase to our staff from 1 July of four per cent. That would allocate them a lump sum payment for the months April through June. Four per cent from July, we believe, is a good salary increase for our staff, above the CPI level, I think quite generous in what might be expected in the media sector, given what is happening to the media sector at the moment. I am pleased to be able to inform you that the MEAA have written to us and told us that their staff members have voted in favour of that. We wait for a verdict from the CPSU in coming days. But I believe it is a good, strong offer in difficult times, and we have encouraged staff to accept it.

**Senator WORTLEY**—It was a reviewed offer? Is that correct?

**Mr Scott**—No, I wrote to all staff on this. There was some lack of clarity and some ambiguity around a proposal that was previously circulated by the unions to staff. The ABC was never in a position to pay the proposal that they circulated because it would have indicated pay increases of seven per cent through this calendar year.

That has not been handled well, and I have admitted that to staff, but this is not a revised offer. This is the offer that we intended to put, even probably slightly more generous than we intended to put in our initial discussions with the union. We believe it is generous in the circumstances. We are confident that if staff accept it that gives us a good way forward, particularly to prepare for the new enterprise agreement, which would take place from July 2010, and we would need some significant consultations with journalists and our staff across the ABC in anticipation of that.

**Senator WORTLEY**—Thank you.

**Senator LUDLAM**—Thanks, Chair. I might just pick up where Senator Wortley left off. In terms of the changes that were made to Radio National programming last year, on 16 October last year after those program changes the Senate passed a motion, which I can provide to you if that would help, calling on the ABC management to publicly reveal any criticisms that had been made against that programming and to make public the reasons for that programming decision. Did anything ever come of that?

**Mr Scott**—Can I say just two things about that, Senator. We were never formally notified of any request for information by the Senate. I am not quite sure what the processes are on that.

**Senator LUDLAM**—That is interesting.

**Mr Scott**—But I can tell you that the previous day, on 15 October, we had provided detailed reasons for the changes in a media release, and on the following day, 17 October, I held a press conference here with the minister, where I was asked questions in detail on the changes to the Radio National schedule, and at a press conference here I outlined the reasons for those changes. I have subsequently made a number of other public statements on it, and even the issues of how many letters of concern were forwarded to the ABC, around a range of issues, I must say, related to Radio National. We have provided, and we will in future be providing, detail of the volume of correspondence.

**Senator LUDLAM**—Were you a bit surprised by the reaction, particularly with the axing of *The Religion Report*?

**Mr Scott**—Senator, the changes to programming sometimes trigger strong response. I remember when I started in the role there was a similar volume of response, I recall, to the axing of *The Glass House* by ABC Television, to be replaced by *The Chaser*. That was, in hindsight, I think, a strong and positive programming move by ABC Television, but programs have their fans and programs have their supporters. I would say on *The Religion Report* that I had a very profitable and productive discussion with Reverend Gregor Henderson, who is President of the Uniting Church in Australia, and a number of other religious leaders, where they articulated their concerns to me about what they perceived might be a gap in religious



content in the ABC schedule. I was pleased to be able to point out to them that the ABC will still be broadcasting two and a half hours of religious programming through our radio schedules on local and national networks.

The *Compass* program that covers issues of religion and ethics is now in its 21st year, about to commemorate its 21st birthday. We are committed to covering these issues, but I do not necessarily think, as I think I have indicated to you previously, that the only way you demonstrate your commitment is by having a half-hour program on Radio National. I expect there will be other programs like *Background Briefing*, *Four Corners*, *The 7.30 Report*, *Lateline*—a range of others—that will cover issues related to religion in modern Australian life. If we feel that there is a gap as we review our schedule over time then we will make adjustments accordingly, as we have done in the past.

**Senator LUDLAM**—So what has left in terms of programming on Radio National where you might discuss religious issues?

**Mr Scott**—We have *Encounter*, *The Spirit of Things*, *The Rhythm Divine*, John Cleary's Sunday night program on ABC local radio, religious programming on ABC Classic FM, and, of course, delivering the biggest audience of all week in, week out we have *Compass* on ABC television, which we show in prime time. But there is nothing to suggest that many of our leading news and current affairs programs will not cover religious issues. On the very important contemporary issue a year or so ago about whether, in fact, Muslim schools should be established in south-west Sydney I recall *Four Corners* doing a very interesting program on that, which, again, takes that issue to a very, very significant audience. So it is not a case of either you do it on Radio National or you do not do it at all.

The ABC has had debates with Senator Bob Brown on this. The ABC once ran an environment program in a half-hour slot on Radio National. I do not think anyone can seriously say that the ABC does not cover environmental issues with great depth and great breadth across news, television radio and online, and there are many opportunities for us to address these issues beyond the narrowness of one program on the Radio National schedule.

**Senator LUDLAM**—Sure. But I think as you mentioned earlier, Radio National does have a fierce and fairly loyal audience.

**Mr Scott**—They do, and we respect that, and we like the fact that they are fierce and loyal, and we engage with our audiences on this, and we will continue to review over time.

**Senator LUDLAM**—Is there the intention to maintain the specialist content units—

**Mr Scott**—Yes.

**Senator LUDLAM**—of which the religion unit is one?

**Mr Scott**—We have no intention to move away from specialist programming or to move away from specialist programming units, and there is still the specialist religious programming unit.

**Senator LUDLAM**—Did the staff of that unit write to you recently expressing their concerns about a gap in coverage of religious—

**Mr Scott**—I do not necessarily recall. I had a number of discussions. I had a very productive discussion with a senior representative group of Radio National staff at the time. I think it ran for an hour and a half or so. I held a meeting recently with senior figures from the ABC science unit, discussing the issue of specialisation. The religious affairs unit may well have written to me. I would have to check on that.

**Senator LUDLAM**—What will your process be for deciding, as you mentioned before, if there is acknowledged to be a gap? Then you would reconsider?

**Mr Scott**—It is what we do all the time. We look at our resources, we look at our array of offerings. This is what our program managers, our station managers, are paid to do and they do it very well. So we will review and consider over time. I think our feeling on environment coverage is that if you take the environment report away there is still very significant environment coverage, and we can point to numerous examples. If we cannot find those examples of religious programming being aired in other outlets on the ABC, then when we come to review the Radio National schedule again for 2010 we will take that into account.

**Senator LUDLAM**—Are the specialist units funded separately out of your budget? Do they have separate allocations?

**Mr Scott**—No, they are funded out of the Radio National division.

**Senator LUDLAM**—So is there any way for us to know whether the funding or resourcing of those units is going up or down over time?

**Mr Scott**—I would have to check. It is really carried within those radio division budgets, and they are not released, appropriately. But I have told you, Senator, that we do have a commitment to specialisation. We are committed to that. It is very important, it is very distinctive, it is something only the ABC can do, and I think it is increasingly important in this era when there is so much media choice to have some depth and specialisation.

**Senator LUDLAM**—What specialist program units remain in the ABC?

**Mr Scott**—I would have to get the detail of that, but there is certainly religion and science, and others too, but I do not have the list here.

**Senator LUDLAM**—Is it possible for you to provide those to us?

**Mr Scott**—Yes, of course.

**Senator LUDLAM**—I presume that is public information?

**Mr Scott**—Yes.

**Senator LUDLAM**—A question on the program *In Conversation*. What was the rationale for that?

**Mr Scott**—I do not want to speak on programs specifically, but let me speak about programs generally.

**Senator LUDLAM**—If you could add some comments on that one in particular, I am interested in it.

**Mr Scott**—Fine. Let me come to you and provide you with some detail on that. These choices were made having made an assessment of how long they had been on air, how

distinctive they were and whether there was other programming that was covering similar ground but also, importantly, whether there other things that we thought could be beneficial to our audience that was a more effective use of the resources we have available. We have not cut the radio budget, but I can assure you, there has not been more money made available to radio over the last 20 years to fund the expansion of our services the way our audience wants to expand them. So this is a case of finite resources and our audience having legitimate expectations of further services that they want us to provide.

**Senator LUDLAM**—Have you proposed an expansion of funding in the current submissions for radio?

**Mr Scott**—I am not in a position to go into detail around the triennial funding bid of the ABC, but suffice it to say there are three discrete elements to it. One is on new initiatives we want to launch which we think would be beneficial; the second one is for operational money for our current services, because the ABC has suffered significant real funding declines over the past 20 years; and the third one is for the capital that we need to transform ourselves continually into a digital broadcaster.

**Senator LUDLAM**—If I could go to some broader questions—and I am not sure whether to direct these to you or to the minister, but I expect you will let me know—a large number of people nominated to be part of the ABC board last year in response to the advertisements that were placed outlining the board criteria. Can you let us know when the panel's process is expected to be complete?

**Senator Conroy**—If I could briefly outline the process, advertisements calling for expressions of interest were placed in the national and metropolitan press as well as leading regional and ethnic papers during the period 17 to 30 October. Applications closed on 7 November. They were assessed against the selection criteria by the independent nomination panel, which provided the government with a report of candidates suitable for appointment on 19 January of this year. The government is currently considering the report and it is expected that the successful candidates will be appointed by the Governor-General very shortly.

**Senator LUDLAM**—Does very shortly mean days or weeks? Months?

**Senator Conroy**—Imminent.

**Senator LUDLAM**—Within weeks?

**Senator Conroy**—Yes, I would say within weeks.

**Senator LUDLAM**—I understand there has been a process—correct me if I am wrong—in formally having Nolan rules for board nomination and selection processes made a part of your selection for the board.

**Senator Conroy**—Yes. We have followed the guidelines, which I think we outlined, and the whole process has followed those principles. They are not identical. I think Senator Birmingham often calls them the Nolan-Conroy principles because there are some variations. I am doing well—I have my own process, my own airport tarmac. I am having a good morning.

**Senator BIRMINGHAM**—You are getting lots of things named after you.

**Senator Conroy**—I am having a very good morning. No doubt I will have my own internet filtering soon.

**Senator LUDLAM**—We will get to that.

**Senator Conroy**—So we have followed that process. An independent process was set up. The head of Prime Minister and Cabinet recommended the establishment of a panel independent of me. That panel then met separately. I think I had one conversation with the chairman just to say hello. He outlined to me the process they were going to undertake. They employed a company to help them sift through the initial expressions of interest. Ford Kelly Executive Connection, I think it was. That panel then recommended, and I think I received, seven names. I will confirm that exact number. I think it was seven names for the two ABC positions, but I will confirm that in a second.

**Senator LUDLAM**—Thank you.

**Senator Conroy**—Seven for each.

**Senator LUDLAM**—Seven for each. Of two?

**Senator Conroy**—Yes.

**Senator LUDLAM**—Will that be made the official standard here too for board selection processes?

**Senator Conroy**—Yes, that is our ongoing process and we are looking at—well, we do not need to legislate it.

**Senator LUDLAM**—That was my next question.

**Senator Conroy**—We are keen to ensure that we maintain that independent process.

**Senator LUDLAM**—So you do not need to legislate that?

**Senator Conroy**—No.

**Senator LUDLAM**—That is a matter of policy?

**Senator Conroy**—Yes, it is our policy that we would like to set it in concrete so that that process can help depoliticise the selection process for the ABC. Clearly, as I think you indicated, hundreds of people applied. That is far wider than the former Prime Minister's Christmas card list, particularly by the end of his prime ministership. So we intend to legislate that, and it will just go through the normal processes. We have a number of priorities at the moment in terms of passing—

**Senator LUDLAM**—So you do intend to legislate?

**Senator Conroy**—Yes.

**Senator LUDLAM**—Can you tell us where the staff elected director position fits in with that process?

**Senator Conroy**—That is separate from that process. We indicated as a separate election commitment we would be reintroducing that. The timing of that is simply on the basis of drafting and putting through the processes. The government has a number of key priorities, including industrial relations legislation, the stimulus package and a range of other priorities

that are ahead of that process on the list at the moment, but we anticipate that the legislation will be introduced some time this year.

**Senator LUDLAM**—But from your point of view as the minister with carriage of that, how much priority do you see that—

**Senator Conroy**—I think it is important. I did note a particular report that said we had put it on the backburner. It is not on the backburner. What we have clearly said is that the government as a whole has key priorities. We have a limited number of parliamentary draftspersons and we are simply working our way through our legislative backlog. In the first six or eight months of our parliamentary term—as you would be aware, Senator Ludlum, before your arrival the former coalition government had an absolute majority in its own right—we have had a huge backlog of legislation on which we are seeking the support of the Senate. We have had to prioritise that. It is not an unlimited situation. So we are just relentlessly grinding our way through. All 30 ministers have their own pet projects. I have mine. This is one of them. We will be grinding our way through that process to deliver on all of our election commitments.

**Senator BIRMINGHAM**—Will the staff appointed director be legislated before the end of Mr Newman's term as chairman?

**Senator Conroy**—That would depend on you, Senator Birmingham. We will be seeking your support. I cannot predict the outcome.

**Senator BIRMINGHAM**—Will you actually introduce the legislation before the end of Mr Newman's term as chairman?

**Senator Conroy**—Yes. As I said—

**Senator BIRMINGHAM**—I am not sure when that is, I would hasten to add.

**Senator Conroy**—I think he still has a while to serve.

**Mr Scott**—Three years to go.

**Senator Conroy**—He has three years to go, so I am confident that the legislation will be introduced. Whether or not you choose to vote for it, Senator Birmingham, will be a test of your support for the public broadcasting principles.

**Senator LUDLAM**—Is it fair to say—

**Senator BIRMINGHAM**—That is a very long bow.

**Senator Conroy**—If I could just come back to Senator Ludlam, whom you did interrupt.

**Senator BIRMINGHAM**—Sorry, Senator Ludlam.

**Senator LUDLAM**—That is all right. So it is fair to say that that position will not be included in the current board, that that is still some way off?

**Senator Conroy**—As I said, we need legislative passage to be able to facilitate that.

**Senator LUDLAM**—Before it can be restored.

**Senator Conroy**—As I said, we are keen to do it as fast as we can working through a new government's enormous workload, but we will be introducing the legislation and hoping that it will be passed this year. It is a little out of our hands, as you would know.

**Senator LUDLAM**—The passage is out of your hands but the introduction certainly is not. Can you just recall for me, though, whether you said that you hoped to introduce that legislation this year?

**Senator Conroy**—Yes, absolutely.

**Senator LUDLAM**—Thanks. If I can just turn to another matter which might be back in Mr Scott's domain—

**Senator BIRMINGHAM**—Chair, without wanting to cut across Senator Ludlam, is it possible to jump in with a few questions related to the board appointments process?

**CHAIR**—Yes.

**Senator BIRMINGHAM**—Thank you. Minister, do you know how many applications were received?

**Senator Conroy**—Dr Pelling might want to come to the table. I am sure he may have that handy.

**Dr Pelling**—The number of applications was 332.

**Senator BIRMINGHAM**—Three hundred and thirty two?

**Senator Conroy**—Yes, 221, I understand, for the ABC and—

**Dr Pelling**—and 111 for the SBS.

**Senator BIRMINGHAM**—How many applications were short-listed by Ford Kelly?

**Dr Pelling**—Ford Kelly undertook a two-stage short-listing process. Stage one was a preliminary sifting and sorting against the selection criteria down to 100 applications, which comprised 50 individuals for each board. Then they did stage two, a further short-listing of the 100 applications down to a short list of 50 applications, which comprised approximately 25 unique individuals for each board—but that process was merely to assist the nomination panel in its decisions. It was not as if the nomination panel no longer had access to those applications.

**Senator BIRMINGHAM**—Was the second stage an interview process or just a more detailed assessment of the applications?

**Dr Pelling**—There was a short list which was identified for interview.

**Senator BIRMINGHAM**—So the 25 were interviewed or the 50 were interviewed?

**Dr Pelling**—The panel decided to interview 12 of the ABC applicants and 10 of the SBS applicants, which was a total of 20 interviews, as two applicants were considered for both boards.

**Senator BIRMINGHAM**—Did Ford Kelly interview any of the applicants?

**Dr Pelling**—No.

**Senator BIRMINGHAM**—No?

**Dr Pelling**—All the interviews were done by the nomination panel.

**Senator BIRMINGHAM**—How did the second stage of Ford Kelly's elimination process differ from the first stage?

**Dr Pelling**—It was merely an attempt to try to provide some guidance to the nomination panel in terms of the applicants who most met or best met the selection criteria. They made an initial cull, as I understand it, based on a preliminary assessment against the selection criteria to determine who the better set of applicants was. Then they reduced that further into a second stage to try to make the panel's job easier so that they were able to consider a shorter list of applicants.

**Senator BIRMINGHAM**—How many times did the panel meet?

**Dr Pelling**—I would have to take that on notice. It might be a difficult one to get a precise number for. There were two meetings of the whole panel and then a series of interviews, but whether there were things like phone conversations and so on between panel members I could not tell you.

**Mr Pendleton**—We are happy to get that information.

**Senator BIRMINGHAM**—You could take on notice how often the panel met, the costs involved with the panel's meeting, the fees paid to the panel.

**Dr Pelling**—I can give you some of that information now.

**Senator MINCHIN**—And a bit of background on Ford Kelly.

**Dr Pelling**—We can give you a fair bit of background. For the recruitment agency the cost was \$77,000. The total cost of the whole exercise so far has been \$186,857, and there are still, we estimate, approximately \$16,000 of costs still to come.

**Senator BIRMINGHAM**—Sixty or 16?

**Dr Pelling**—Sixteen thousand dollars worth of costs are still to come onto that. That included, as I said, the \$77,000 for the consultant, roughly \$85,000 for advertising and then a series of smaller expenditures in terms of the nomination panel's travel and accommodation and so on and hire of meeting rooms and a scribe.

**Senator MINCHIN**—Was the panel paid?

**Dr Pelling**—The panel was paid.

**Senator Conroy**—It was paid based on a daily fee and expenses incurred. I think we followed the Remuneration Tribunal.

**Dr Pelling**—Yes, we consulted with the Remuneration Tribunal. It assisted us in advising on the fee to pay the panel members.

**Senator BIRMINGHAM**—So it was approximately \$50,000 per board member, assuming we get four final appointments from this process, although I assume that the—

**Senator Conroy**—Sorry?

**Senator BIRMINGHAM**—Well, if the total cost is \$200,000—

**Senator Conroy**—And that included advertising. How does that go to the cost?

**Senator BIRMINGHAM**—It is per board member that you end up with on the ABC and SBS, Minister. I think you are appointing two to each, aren't you?

**Senator Conroy**—Yes.

**Senator BIRMINGHAM**—So if the total cost including advertising, sitting fees, recruitment, consultancy et cetera is \$200,000, that would be an approximate cost per ABC or SBS board member appointed of about \$50,000.

**Senator Conroy**—You do not support the process?

**Senator BIRMINGHAM**—No, I am just trying to get to the bottom of the cost of the process.

**Senator Conroy**—We have been perfectly transparent—

**Senator BIRMINGHAM**—The cost of the process in ensuring, Minister, the—

**Senator Conroy**—that it would be around \$200,000. It is been transparent.

**Senator BIRMINGHAM**—These are budget estimates, as you know, so ensuring that finances are well spent is, of course, a key part of what we are here for.

**Senator Conroy**—We are being perfectly transparent.

**Senator BIRMINGHAM**—Yes, you are, and we appreciate the fact that the figures are there. So thank you, Minister. Have the appointment—

**CHAIR**—We are going to lunch at one o'clock.

**Senator BIRMINGHAM**—I will ask one quick question. I know Senator Macdonald has two very quick questions that might be able to be dealt with before lunch.

**CHAIR**—We will be going at one.

**Senator BIRMINGHAM**—Have the appointments been to cabinet yet?

**Senator Conroy**—I am not sure I am in a position where I can reveal what has and has not gone to cabinet at this stage. I can just say that the announcements are imminent, and I think Senator Ludlam will help me to find those within the next week or two.

**Senator BIRMINGHAM**—Okay.

**Senator IAN MACDONALD**—Mr Scott, just my normal parochial question: when is ABC News Radio going to open in Townsville?

**Mr Pendleton**—The low-power trial was completed over December. The report was done in January. That has been back to ACMA. There is now approval to go to the high-power testing, which will take place in March. If that is successful—and we believe it will be, with quite good results from the low-power testing—then it will open mid-year, June 2009, we expect.

**Senator IAN MACDONALD**—You did tell me before that it would be December 2008, but we have been waiting since then.

**Mr Pendleton**—But that was to commence the testing, Senator.

**Senator IAN MACDONALD**—I thought it was going to open by then.



**Mr Pendleton**—No. We needed to test the interference in relation to—

**Senator IAN MACDONALD**—Yes. Thanks for that. So you reckon by the middle of next year?

**Mr Pendleton**—This year, 2009.

**Senator Conroy**—It is this year.

**Senator IAN MACDONALD**—This year. It is, too, yes.

**Senator Conroy**—Time is moving on, Senator Macdonald.

**Senator IAN MACDONALD**—Yes. Finally, I just have some bouquets. Congratulations again on *Heywire*, which is a great program, and you deserve every credit for continuing that. It is great.

**Mr Scott**—And thank you, Senator, for your attendance at the *Heywire* dinner. I understand you have made 11 in a row, and we appreciate that.

**Senator IAN MACDONALD**—It is a great program. The other thing is: thanks for the work you have done in the floods in the north. As usual, local radio, the ABC, has been the conduit when everything else has failed. So could you pass on to your team yet again our thanks for the work they do.

**Mr Scott**—I will pass on your thanks to the team, certainly.

**CHAIR**—Thank you for that, Senator Macdonald. Senators, we are scheduled to go to lunch now. Can I just have an indication of whether there are any further questions about the board appointment process, which is really a departmental issue.

**Senator MINCHIN**—I had a couple of other questions for the ABC.

**CHAIR**—Yes, you have more questions for the ABC. We will recommence with Senator Ludlam after lunch, then, at two o'clock. Thank you.

**Proceedings suspended from 1.00 pm to 2.00 pm**

**CHAIR**—We will resume proceedings with Senator Minchin.

**Senator MINCHIN**—I wanted to ask a couple of questions about the board appointments. Minister, as I understand it, throughout this the government reserves the right to appoint directors other than those who may have applied or indeed been recommended by the panel. Is that the case?

**Senator Conroy**—I think that was the case.

**Senator MINCHIN**—That is certainly my understanding.

**Senator Conroy**—I am fairly sure that is the case.

**Senator MINCHIN**—We understand from your earlier evidence that seven names were forwarded by the panel to the government for each board. Presumably, those seven names are exclusively persons who came through the nomination process, being self-nominated or nominated by others?

**Senator Conroy**—Yes, that is correct.

**Senator MINCHIN**—Are you able to inform us as to whether the government is restricting its consideration of the appointments, in this case the two ABC board members, to the seven names that have come forward?

**Senator Conroy**—We have not made the final decision, but I am anticipating that the nominations that go forward will be from that process.

**Senator MINCHIN**—How did you characterise that?

**Senator Conroy**—What did I say?

**Senator MINCHIN**—You anticipated.

**Senator Conroy**—I would anticipate.

**Senator MINCHIN**—That is not what you call an unconditional guarantee, having spent \$200,000.

**Senator Conroy**—We have not made a final decision. I am not trying to be evasive. My anticipation is that the names that will come forward will be from the names that have come to us from the process.

**Senator MINCHIN**—Without completely ruling out the possibility that the appointments may be of one or two who did not come through the selection process?

**Senator Conroy**—We have said all along that we reserve the right to make a nomination, but at this stage there are some excellent candidates that have made it through the process to the short lists and I do not anticipate that there would be any names added to the list.

**Senator MINCHIN**—You are not ruling out the possibility.

**Senator Conroy**—No. We reserved the right to do that at any or all stages.

**Senator MINCHIN**—I recall in the guidelines you also reserved the right to establish your own criteria, or to supplement the published criteria with additional criteria of your own. Did you do so in this case?

**Senator Conroy**—No.

**Senator MINCHIN**—So it is only the published criteria that will apply?

**Senator Conroy**—Yes.

**Senator MINCHIN**—That is all I had on the appointments.

**CHAIR**—Senator Ludlam, did you wish to continue?

**Senator LUDLAM**—No.

**CHAIR**—Any further questions?

**Dr Pelling**—Senator Birmingham asked about the number of meetings that the group had and I can provide that information now. The selection panel had six formal meetings over the period early November to late December.

**Senator BIRMINGHAM**—Did they include the interviews?

**Dr Pelling**—Yes. They included the initial introductory meeting in November, a second meeting in December and then four meetings at which they held interviews and/or finalised the report.

**Senator BIRMINGHAM**—When was the last meeting of the panel?

**Dr Pelling**—The last formal meeting of the panel was on 23 December.

**Senator BIRMINGHAM**—Was the short list of seven for each of the positions provided to the minister?

**Dr Pelling**—The seven names for each position were provided to the minister.

**Senator BIRMINGHAM**—When?

**Dr Pelling**—The report was delivered to the minister on 19 January.

**Senator BIRMINGHAM**—Thank you.

**CHAIR**—If there are no further questions about the board appointments, we will continue with questions to the ABC. Senator Ludlam.

**Senator LUDLAM**—Can you sketch for us the broad outlines of the commercial partnership between the ABC and HarperCollins for the publication of books?

**Mr Scott**—I can. The ABC underwent a process to look for a publishing and distribution partner for our books business. We went through a formal process and HarperCollins successfully won the right to that business. We believe in the book business and we believe that the ABC has a role in it but that we would benefit from partnering up with a large and experienced publisher to help us in the publishing and distribution parts of the business.

The arrangement that we have with HarperCollins is similar to the arrangements that we have in other parts of the ABC commercial business. In the DVD business we have partnerships with Roadshow and the BBC. With magazines, we are in partnership with Universal, Haymarket and News Magazines. With ABC Music we are in partnership with Universal. The editorial policies, the ABC Act and promotions guidelines that previously existed will apply to this HarperCollins deal. The ABC maintains full editorial control over the titles and the content. We maintain control of the trademark and the ABC Books' brand, but we are tapping into the clear expertise of HarperCollins, being one of the world's largest publishers, in helping us publish books, distribute them and sell them to the benefit of the ABC.

**Senator LUDLAM**—What was the reason for changing from your previous publisher, being Allen & Unwin?

**Mr Scott**—Allen & Unwin had been the distributor of our books. This is a broader agreement than the one that we had with Allen & Unwin. I think Allen & Unwin and other firms were involved in discussions with us around this arrangement. The HarperCollins arrangement involves more of a discussion around the titles that we publish, the authors that we should pursue, the amount of money we should pay for advances and the print runs for the books, a whole range of complexities around the dynamics of the publishing business that go beyond simply taking our books and getting them out into the stores. It is a broader

arrangement than the previous distribution arrangement we had with Allen & Unwin, which was an agreement only for a finite period of time that had come to an end anyway.

**Senator LUDLAM**—What is the period of this agreement?

**Mr Scott**—This is an open-ended agreement. This is a partnership that we have established which is now ongoing with HarperCollins.

**Senator LUDLAM**—How is that reviewed? How will you know whether it is working if it is open-ended?

**Mr Scott**—We will continue to be partners with them in the business. We will continue to look at the performance of our books division over time. What we find on our commercial business, which is the same in retail, and certainly we have found this true in music publishing and DVD, is that we have some contribution to make as far as our content understanding and our expertise in the marketplace. The skills and the crafts involved in industries like book publishing, DVD creation and distribution, or even retail are specialist skills sets that as a public broadcaster we do not necessarily have an abundance of, even though we are pleased that HarperCollins have taken on numbers of our book publishing staff to work with them in this joint arrangement that we have. We believe that we both bring something to this partnership that is beneficial and we will monitor the success of this business over time.

**Senator LUDLAM**—Is there a formal period of review or does this corporation have this contract in perpetuity?

**Mr Scott**—No. This is an ongoing contract, but we will have a series of reporting lines and information that will enable us to review the performance business over time and allow us to make adjustments to the operations of the partnership as we see fit over time.

**Senator LUDLAM**—To what degree are those arrangements being made available to the parliament? For example, are you in a position to release the publishing, distribution and financial contract between ABC Commercial and HarperCollins?

**Mr Scott**—Some of that material is commercial-in-confidence, but I can take questions on notice about the arrangement.

**Senator LUDLAM**—I would appreciate an outline of what material will be available to the parliament and what will be subject to commercial-in-confidence.

**Mr Scott**—I will take that on notice.

**Senator LUDLAM**—How are revenues generated from this venture going to be shared?

**Mr Scott**—Again, I will take that on notice to check our confidentiality deals on that.

**Senator LUDLAM**—Are there any circumstances in which the agreement can be terminated by the ABC?

**Mr Scott**—I will review the contract and come back to you on that.

**Senator LUDLAM**—Do the arrangements that you have with HarperCollins oblige the ABC to promote books or other products?

**Mr Scott**—We have promotional guidelines that have existed on ABC Books and they will continue. Again, I would like to review the terms of the contract and come back to you on notice.

**Senator LUDLAM**—What are the terms of promotion whereby you would be promoting books published by HarperCollins on the ABC website or elsewhere?

**Mr Scott**—The books that are available to be promoted on the ABC are not HarperCollins books; they are ABC books. The only books that we would be promoting are books that are promoted under the ABC Books label.

**Senator LUDLAM**—Are they published and distributed by HarperCollins?

**Mr Scott**—Yes. It is just like we promote ABC music that is produced and distributed by Universal, or we promote magazines that are produced and distributed in partnership with Haymarket or News Magazines.

**Senator LUDLAM**—Are you confident that such promotions, announcements or advertisements of a product that is being distributed by a commercial operator are not in breach of your act that prohibits advertising?

**Mr Scott**—Yes. We have had that legally checked and we believe that we are allowed to promote the products produced by ABC Commercial on air. We have done that for a long period of time and will continue to do that. In my experience, the public is grateful for the opportunity of being able to purchase products linked back to the ABC, to be able to shop in ABC shops and to have that material promoted on air. We have guidelines that exist around that. Those guidelines will apply to ABC books produced under this arrangement, but they do not apply to a range of other products that HarperCollins might produce separate to ABC Books.

**Senator LUDLAM**—I would expect so. Was the legal advice that you mentioned for these arrangements in general, or did you specifically seek some advice around the arrangement with HarperCollins?

**Mr Scott**—Our legal team was involved in the negotiation of the contract with HarperCollins, so that would have been factored into this.

**Senator LUDLAM**—Can you describe the process by which materials are initiated, developed and overseen in their development, and to what degree a project might be initiated by the publisher rather than the ABC?

**Mr Scott**—The editorial decision making around it still lies with the ABC, but there will clearly be good ideas that come from both sides of the partnership. It is a partnership. HarperCollins are experts in this. This is what they do. This is their core business. They will have ideas around good books, just as we will, and there will be a meeting of minds and a good working relationship around this.

**Senator LUDLAM**—What is to prevent HarperCollins producing as ABC books or books under the ABC brand books that it might otherwise have decided to publish under another imprint?

**Mr Scott**—They could do that. Part of our exercising of editorial control would be whether we believe that publication of those books under the ABC imprint is of benefit to the ABC. If they come under the ABC imprint then there is a greater return to the ABC on that. If there are good books that HarperCollins can help us publish to the benefit of the ABC brand then we would welcome that.

**Senator LUDLAM**—You mentioned that some of your staff had gone across. Can you flesh out what it has meant for staffing within ABC Books?

**Mr Scott**—I will have to provide you with more detail on that. What I can tell you is that HarperCollins were involved in interviewing and in talks with a number of staff from ABC Books and they have taken them on to work under this joint venture. Some other staff will have been made redundant under this deal, but I can come back to you with the precise details of that.

**Senator LUDLAM**—I would appreciate that. This might sound a little cheeky, but is there any connection between the ABC board inviting Rupert Murdoch to present the Boyer Lectures and the occasion of handing ABC Books imprints to HarperCollins?

**Mr Scott**—Absolutely not. Quite frankly, I think that is a strange proposition. We ran a full, detailed, independent, rigorous process around this ABC Books transaction, which had a strong probity element to it as well. No members of the ABC board were involved in the decision making process. The outcome was reported to them. They exercised no influence over it. The invitation made to Mr Murdoch to be a Boyer lecturer has no linkage to it in any way, shape or form.

**Senator LUDLAM**—With respect to the crossover of digital broadcasting for the community television and radio sector, I am not sure whether there has been any public discussion on this matter. Are you considering partnership arrangements or any assistance in enabling the community sector to access spectrum or equipment?

**Mr Scott**—The ABC has no formal or even informal relationship with community broadcasters. The question of migration of community broadcasters from the analog to the digital spectrum is not really an issue for the ABC.

**Senator Conroy**—That is a policy matter for the government.

**Senator LUDLAM**—I will direct that to you, Minister. Is that something that is under consideration?

**Senator Conroy**—We have a number of options that we are considering, but at this stage we are not in a position to announce our final decision on it all.

**Senator LUDLAM**—Is some sort of partnership with the ABC one of the options?

**Senator Conroy**—As I said, we are considering a range of options. I am not ruling anything in or out. We will make some announcements later in the year.

**Senator LUDLAM**—There was a question that I put on notice at the last session in October about in-house production of documentary material by the ABC and you have replied that since 2004-05 the ABC has produced around 34 documentary television hours a year in house. Can you tell us how much will be produced in 2008-09?

**Mr Scott**—I will take that on notice. The vast majority, if not all, of our documentaries are now being done in partnership as co-productions. The ABC is still committed to a mix of internal and external production, but that varies according to different genres. Our most successful documentaries in recent years, in terms of audience connection, have been documentaries that we have produced in partnership with Film Australia, which have been very successful. Mr Dalton, the Director of Television, gave a speech last week in which he indicated a very significant increase in the levels of documentaries that we will be showing on ABC Television in the coming year. We are absolutely committed to the documentary genre, but on the question as to whether they have to be done internally we have been very successful working in partnership with the range of documentary and filmmakers in the independent production sector. I can come back to you on the precise numbers.

**Senator LUDLAM**—I would appreciate that. Is there research that you have access to or that you might have commissioned that demonstrates that it is more cost effective for the ABC to outsource production?

**Mr Scott**—Yes. I can talk to that. A lot of the Boston Consulting review that we discussed earlier was to do with internal versus external production. What they suggested to us was that there were a number of major steps that we needed to make to the ABC's television production model in order to make it as efficient and as effective as it should be and to be perhaps at ease as it operates in the independent production sector. A lot of the changes that we are introducing are strategic planning, detailed transfer pricing models, movement to tapering systems, taking advantage of studio automation and the like. They are efforts we are making to make our internal television production as efficient and as effective as it should be. If we cannot do that and we can produce programs in the independent production sector to the standard that we want, then we are wasting taxpayers' money by doing production in house. We want to keep production in house. I believe that there are great values in a mixed model, but we need to ensure that we can do it as efficiently as possible.

**Senator LUDLAM**—What proportion of the news and current affairs within the various models do you do in house?

**Mr Scott**—We do 100 per cent in house.

**Senator LUDLAM**—Why is that?

**Mr Scott**—Quite frankly, we have more reporters locally, nationally and internationally than anyone else. There is not an independent production sector that is delivering news in the same way as it is delivering drama, documentaries and factual entertainment. That is a capability, and we believe as we improve our efficiency that we can do that work as efficiently as anywhere else and to the quality that we want anywhere else. We believe we have unique in-house specialisation around news and current affairs. The question around the genre like drama is that there is a vibrant marketplace out there that we can use to do drama. We can tap into that marketplace of ideas. Of course, by going to the independent production sector we can leverage our money. The money the ABC invests is added to by the independent production sector and other forms of government funding, so we can put far more drama on the screen by using that model. That certainly does not exist for news. I think it is a totally separate model for news from other areas of television.

**Senator LUDLAM**—Is part of the thinking the unique production capabilities that the ABC has developed over time, particularly with regard to current affairs and news? Does the need for integrity and independence of the ABC play a significant part in your thinking?

**Mr Scott**—Yes, but you can achieve the same under a number of different models. When we are commissioning documentaries they are being delivered to the guidelines set down by the ABC in the commissioning process. Our editorial policies and guidelines are achieved. I will give you an example. Andrew Denton has done a number of programs for the ABC. They have been delivered to high standard and specification. Andrew Denton is an independent producer. If Andrew Denton had to be in house, I suspect we may not have been able to put some of those programs to air. But in no way do I think that because he is not full time on the ABC payroll the integrity of that programming has been compromised.

**Senator MINCHIN**—I presume that the ABC places the highest importance upon its impartiality and independence, its objectivity and general experience. Presumably you work very hard to make sure that you are not, and are not seen to be, a propaganda arm of the government of the day. Would that be correct?

**Mr Scott**—It has ever been thus. Fairness, balance and impartiality are important issues to us, as you know.

**Senator MINCHIN**—I wrote to you on 30 October about a matter that does concern me, to which you kindly replied on 4 December. I drew to your attention that the government of the day, in promoting and advancing the political case for its emissions trading scheme, describes it as a carbon pollution reduction scheme. Do you remember that correspondence?

**Mr Scott**—Yes, indeed. In fact, I re-read it yesterday.

**Senator MINCHIN**—I am sorry you had to waste your Sunday on reading my correspondence, but I am very impressed. You are aware that the alternative government of the day rejects entirely the proposition that carbon emissions, CO<sub>2</sub> emissions, can be described as pollution?

**Mr Scott**—Yes.

**Senator MINCHIN**—I was surprised by your letter in which you essentially defend the ABC's use of the descriptor 'carbon dioxide pollution' on the basis of what the BBC, the Canadian Broadcasting Corporation, Fairfax News and others do.

**Mr Scott**—And Fox News.

**Senator MINCHIN**—Some of them are government owned, but none of them is owned by the Australian government and none of them operates in the milieu of Australian politics as such as a wholly owned entity of the Australian government. Is that right? I would also point out to you that this very government, in its Department of the Environment, Water, Heritage and the Arts documentation on air pollutants, the official government position on air pollutants, lists the following as air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particles and sulphur dioxide. Nowhere is there any reference to carbon dioxide as an air pollutant in the official Australian government list of air pollutants. Are you aware of that?

**Mr Scott**—I was not aware of that.



**Senator MINCHIN**—Are you aware also that, as far as I can tell, none of the state environment protection authorities, EPAs, lists carbon dioxide as an air pollutant? They all effectively agree with the Commonwealth department that the relevant air pollutants are the substances I listed before. Are you aware of that?

**Mr Scott**—I am aware—and I think we all acknowledge—that carbon dioxide is a gas that is vital to life, but the question here is in the context of the volume of that carbon dioxide. Firstly, I think it is fair to say that there is not an ABC policy or guideline on how this language should be used in these circumstances. What I pointed out to you is that in the common usage of language we could find numerous examples around the world—I accept they are not all run by the Australian government—of pre-eminent organisations, including *National Geographic*. As you would recall, I cited to you a descriptor used by *National Geographic*. They make a clear point about what regular forms of air pollution are. But then they say that carbon dioxide, a greenhouse gas, is the main pollutant that is warming the earth. They are talking about the levels of carbon dioxide.

I would imagine that, if we went back and looked at the history, this is a phrase that may have been used on the ABC over a period of time as this debate has been going, prior to the election of this government. What we have not done is reclassified how we use language because a certain phrase has been appropriated by the government of the day. I think our test is: do we believe that the use of this phrase in this context is credible? We look to our own guidelines, but we also look to the precedents that are being set by other leading, credible news organisations around the world and other broadcasters specialising in the broadcasting around science. That is what has given us some comfort around this coverage now. But I expect that you take a divergent view. I respect that, but that is how we have got to this point.

**Senator MINCHIN**—I hope you would take proper account of the domestic debate and of your particular position of it being critical that you not be or be seen to be a propaganda arm of the government of the day and that indeed your listeners and viewers receive from the ABC factual information.

**Mr Scott**—Yes.

**Senator MINCHIN**—Even the government itself does not classify CO<sub>2</sub> as a pollutant—

**Senator Conroy**—Are you being propagandist for the government?

**Senator MINCHIN**—Are you directing the ABC, Senator Conroy? Do you mind if I just talk to the ABC?

**Senator Conroy**—I was just asking you whether or not—

**Senator MINCHIN**—Is the ABC not independent? You are now going to tell them—

**Senator Conroy**—I am just asking whether you are accusing Fox News of being a propagandist for the government.

**Senator MINCHIN**—I am talking to the Managing Director of the ABC, the wholly owned public broadcasting corporation, not the head of Fox News. If I want to talk to Fox News, I will talk to Fox News.

**Senator Conroy**—Have you written to Fox News?

**Senator MINCHIN**—I find it rather remarkable that in the Australian media, as a government owned entity, one that should endeavour always not to be seen to be a propaganda arm of the government, you would not be sensitive to that, particularly given, as I said, that the official government position is that CO<sub>2</sub> is not a pollutant. There is any number of eminent scientists around the world who have tackled this and made clear that it is inane to describe carbon dioxide as a pollutant. Whatever you may think of CO<sub>2</sub> emissions and their contribution to global warming, it is a nonsense to describe carbon dioxide as a pollutant. Indeed, it is grossly misleading to the public, whether by you, Fox News, or anybody else—or even worse, frankly, *National Geographic*—to describe it as a pollutant. I would have thought your proud record of ensuring independence and impartiality and sticking to the facts would have ensured that ABC presenters would be scrupulous in not falling into this trap.

**Mr Scott**—I will look at that report that you have highlighted today, but what I have given you is the background to the thinking. We have found records of this phrase being used by broadcasters over the last decade or so.

**Senator MINCHIN**—This goes to my general point, and I do not want to prolong it. But if in general usage a phrase is used completely incorrectly and inconsistently with the facts, I would think the ABC, given its proud record, would want to ensure that the Australian people are presented with the facts and not have facts misrepresented simply because others do so. I just do not find that a very sensible—

**Mr Scott**—Let me look at that figure that you have identified.

**Senator MINCHIN**—I would appreciate that very much.

**Senator BIRMINGHAM**—Mr Scott, for what was ABC broadcaster Stephen Crittenden suspended?

**Mr Scott**—We ran an investigation into that. There were some issues dealing with breaches of editorial policies that we investigated Mr Crittenden for, and they were to do with some broadcasting that went to air that I am sure you are aware of.

**Senator BIRMINGHAM**—What editorial policies were breached? Are you able to point to those?

**Mr Scott**—A misconduct review with a staff member is a confidential matter. We have dealt with that. There was a finding of misconduct against Mr Crittenden. We have agreed not to reveal the terms of that. He is now back at work at the ABC in a different role. That is a mutual undertaking. But let me be clear: the ABC has editorial standards and guidelines. These guidelines are developed by our senior staff. They are signed off by the board. They are the rules that govern the operation of ABC broadcasters. They set a high standard. It is a standard that our broadcasters are meant to follow. If broadcasters breach those guidelines, there are consequences. The range of consequences depends on the seriousness of the breach and whether in fact there had been a pattern of breaching. I do not want to talk about individuals here in this context, but a breach was found and appropriate action was then taken.

**Senator BIRMINGHAM**—Do the guidelines relate in any way to the way in which broadcasters can comment on or criticise decisions of ABC management?

**Mr Scott**—In my experience there has not been great constraint on an open commentary around ABC management in my time at the ABC. But there are appropriate ways of doing things. When contentious matters are being drawn on, there is a process of upward referral. Upward referral is a very important process for us at the ABC. It is drawing on the guidance and the expertise of those who are more senior than you in line management, and that is a significant issue in this consequence, along with others. There are appropriate ways of doing things and there are responsibilities that go with broadcasting, including broadcasting behind an open microphone, that we expect our staff to adhere to.

**Senator BIRMINGHAM**—Does that mean that broadcasters should engage in upward referral before broadcasting comments that may be critical of management decisions?

**Mr Scott**—No. I think there are appropriate ways of dealing with contentious issues. Our journalists do deal with contentious issues. We ask them to exercise judgment. It is a mature and robust environment at the ABC. There are appropriate ways that staff can let views be heard but then there are processes that we need to follow as well by implementing change and change processes, and staff understand that. I am comfortable that we dealt with this issue well in the circumstances and that process has run its course.

**Senator BIRMINGHAM**—You are probably best to take this on notice, but I would appreciate it if you could provide to the committee the details around editorial guidelines and other policies that relate to issues in terms of commentary by broadcasters about management decisions or internal matters and how they are to be handled.

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—What costs were incurred in relation to Mr Crittenden's suspension in the investigation—

**Mr Scott**—We brought in an external consultancy to run some of that work for us. Let me get the details of that for you.

**Senator BIRMINGHAM**—Thank you. Mr Crittenden was provided with representation?

**Mr Scott**—Mr Crittenden provided his own representation.

**Senator BIRMINGHAM**—If you could provide us with details of the relevant costs, that would be appreciated.

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—As to the government's discussion paper *ABC and SBS: Towards a digital future* and the public submission process and so on, what final result can the public expect from this process? Will it involve a final public report from the government? To what end point is it working towards?

**Dr Pelling**—The paper was part of the consultation process that the government has embarked upon in the context of the triennial funding process for the ABC and SBS to be considered in the current budget. Decisions about the outcome of that process will be taken in that context. I cannot speak any further on that.

**Senator BIRMINGHAM**—So the final end point for that process will simply be the triennial funding agreement, not a report or anything that brings together the government's opinions on the various submissions across a range of factors that have been provided?

**Dr Pelling**—There was a public discussion document issued in the first place. We have published all the submissions. They are all on the website. But the final product of that process will be considered in the budget context.

**Senator BIRMINGHAM**—Is this review and reporting process all being conducted internally within the department or have external consultants been engaged?

**Dr Pelling**—The process was conducted entirely within the department. The discussion paper has been released on the department's website and the submissions are being received by the department and are being processed by the department and are being published on the department's website.

**Senator BILYK**—I have a follow-up question on Radio National. Following some of the programming changes that were made, do you have any information on whether the listening numbers went up or down? Are people still listening?

**Mr Scott**—We get eight surveys a year on radio. The first survey was actually due out tomorrow but it has been delayed because of the bushfires and it will be out in about two weeks time. Our experience is that really a year is about a good time to look at audience trends. These surveys bounce up and down depending on sport, climate, school holidays and other trends as well. Sometimes it takes audiences time to find programs. We will be looking at our audience figures closely. We will be looking at them through the flow of the year. We looked at our audience figures closely before these decisions were made also. There is a range of other issues as well. We look at the podcasting numbers. And of course the concerns expressed from some members of the community we will consider also. But all of that will be looked at together in an integrated way in the second half of the year as we look at the programming schedule for 2010.

**Senator BIRMINGHAM**—I know that the process of handling claims of bias—and you touched on some of this with Senator Minchin before—is well established in regard to claims of domestic political bias. Do such processes apply to other considerations of bias, particularly in terms of reportage of foreign affairs and such matters?

**Mr Scott**—Yes. It is all following the identical process. If there were a complaint to do with, say, a broadcast produced by one of our foreign correspondents that was put to air on the ABC, that would be dealt with in the same way as a complaint around a domestic program. I think it is fair to say that quite a bit of our intensive work by Audience and Consumer Affairs is around reports in Australia on events that have taken place internationally, which are often controversial and contentious issues, as I am sure you would understand.

**Senator BIRMINGHAM**—What level of complaints, if any, did the ABC receive in relation to its reporting of the conflict in Gaza recently?

**Mr Scott**—We attract some complaints, as you would expect. I think it is fair to say that the level of complaints was lower. I think from recollection they were lower than as to the dispute between Israel and Lebanon two years ago. As of 18 February we have had over 270

audience contacts. Of those, fewer than 200 were complaints. Of those complaints, around three-quarters related to balance and bias issues. On our latest breakdown, over two-thirds of those bias and balance complaints were from audience members who argued that the ABC's coverage demonstrated pro-Israel bias. It was a challenging theatre to cover. It was difficult for all Western journalists as access to Gaza was restricted in the opening days. But we continue to look at and review our process to analyse these audience complaints. You do get complaints from either side, as those figures indicate. I think seven complaints have been upheld to this point, often to do with factual issues or issues where a statement was made that really should have been attributed to the person who made it but which was appropriated as fact. But I think it is fair to say that the level of complaint and audience reaction against elements of our coverage of the Gaza issue has been muted and significantly quieter than that in respect of our coverage of other major issues over the Middle East over the last decade or so.

**Senator BIRMINGHAM**—What response has there been to the seven complaints that were upheld?

**Mr Scott**—When you say 'response', these are things that we simply put in place. We run clarifications. We put some corrections up on the online stories. There was a reference to Jewish flags rather than Israeli flags. There was a question about whether in fact we should have attributed some statistics back to the Palestinian Central Bureau of Statistics. Often those corrections are placed up on the online site. As I indicated earlier, the whole issue about how we run corrections is something that we are currently reviewing as part of our review into self-regulation.

**Senator BIRMINGHAM**—Have you received any complaints in relation to your coverage of the recent Israeli elections?

**Mr Scott**—At this point I am not aware of that.

**Senator BIRMINGHAM**—Can you take that on notice and advise whether you have?

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—I have had constituent representations regarding concerns about the balance in and selection of expert commentators in that regard, and particularly Mr Rubenstein amongst others. He is not the only one.

**Mr Scott**—I was thinking about the Gaza crisis. We are currently investigating the letter that Mr Rubenstein wrote to me on the Israel elections. I do have that material and our news division will respond to that in due course. I have had many conversations with Mr Rubenstein over the years. He expressed concern to me that he did not think the balance was right on the range of commentators that *Lateline* had put forward. A number of different factors come into play on this. Firstly, who is available and, secondly, who has been on air that day or in recent times. A range of views has to be considered. We will investigate fully his correspondence to me in recent days on that matter.

**Senator BIRMINGHAM**—The concerns put to me do not relate to the use of a particular commentator alone but to what appear to be the absence of alternative points of view.

**Mr Scott**—I think that is fair. Our policies talk about the plurality of viewpoints being represented. We want that to be the case. There sometimes are constraints over a particular program at a particular time, but we will review that and get back to Mr Rubenstein in due course.

**Senator BIRMINGHAM**—Could you also undertake to report back to this committee all of your inquiries in regard to this matter and perhaps if you could take on notice to provide us with the details of the seven upheld complaints and the action that the ABC is taking in regard to those?

**Mr Scott**—Yes.

**Senator BIRMINGHAM**—Thank you.

**CHAIR**—If there are no further questions for the Australian Broadcasting Corporation, I thank Mr Scott and officers of the corporation.

[2.45 pm]

### Special Broadcasting Service Corporation

**CHAIR**—I welcome officers of the Special Broadcasting Service Corporation. Does anybody wish to make an opening statement?

**Mr Brown**—No, thank you.

**CHAIR**—We will go to questions.

**Senator MINCHIN**—Regrettably, these estimates drift away from what they are really meant to do most of the time. It is a trend started by the Labor Party, of course. It so happens that there is an additional estimate here involving you, of some \$15 million by way of a loan that you have secured from the government. Can you inform this committee of the background to seeking that loan, why you need it, what it is for and why it was not dealt with in a budget context? Were you not aware that you had this cash flow problem back at the time of the budget? Our purpose is in fact to decide whether we wish to support this proposition.

**Mr Brown**—I certainly hope you do. The need for a loan is born of two things. Firstly, it is important to understand that SBS is very much a hand-to-mouth proposition. It operates on receiving the funding and spending it almost immediately. It has no reserves and no positive cash flow that accumulates to fund certain projects. We identified about a year ago that we were approaching a period where we would be in a negative cash flow situation. That was created primarily by the fact that in order to obtain significant sports rights, such as the World Cup, where we hold the rights for 2010 and 2014, and the Ashes later this year, we have to pay the rights fees out in years prior to the matching revenue arriving. We would need cash to fund that activity. The reason it has not been so obvious in the past is that for a reasonably significant amount of time SBS has been in receipt of digital transition funding, which has sat on its books and been progressively expended as we have moved into a fully digital environment. The last of those digital funds are disappearing as I speak. I would say that in the previous five or six years the presence of those digital funds obscured the fact that SBS did not and had not built up sufficient cash reserves to prepay for sports rights, and there are one or two supplementary areas such as specific building projects that needed to be undertaken.

We took the view that we could have approached the government for a \$15 million capital injection. Given the limited public resources, our preferred option was to take a loan, repay that over a four-year period and during that period build up the cash reserves necessary to continue operating the business in the way we do.

**Senator MINCHIN**—So, you were not, say, persuaded not to seek a capital injection? It was very much your position that a loan was preferable to a capital injection?

**Mr Brown**—That is correct.

**Senator MINCHIN**—Has the SBS ever had a capital injection?

**Mr Torpy**—We had a capital injection for digital funding.

**Senator MINCHIN**—Was that by way of capital?

**Mr Torpy**—Yes.

**Senator MINCHIN**—Part of this is for digital infrastructure, is it not? The statement says that it is for ‘sporting events rights and to fund infrastructure works related to digital broadcasting’. That is of a capital nature.

**Mr Brown**—That relates specifically to the refurbishment and reconfiguring of our newsroom. It is primarily a building expenditure item. That, in turn, is triggered by the fact that we are on the verge of converting to a server based digital newsroom, which requires a reconfiguration anyhow. We have deferred refurbishment work in that area until such time as we have a complete refit to suit our digital needs. If I understand it correctly, the technology side of that is funded out of the available digital funds. It is the additional accommodation, which is quite substantial, to gut out an entire part of the building and build a digital newsroom there.

**Senator MINCHIN**—Can you give me a break-up of the \$15 million as between sporting rights, payments and infrastructure works?

**Mr Brown**—I would say that around \$12 million to \$13 million relates to sports rights. Would you agree with that, Mr Torpy?

**Mr Torpy**—Yes.

**Senator MINCHIN**—Are you telling me that there is between \$2 million and \$3 million in capital works that were never contemplated being funded out of your digital funding?

**Mr Brown**—My understanding is that the digital funding was not to be used for building works. It is questionable whether it is strictly a capital building work or a refurbishment that needs to be expensed. Either way it is a call on cash, but it may not be capitalised and depreciated. It may actually be expensed in the year it occurs.

**Senator MINCHIN**—You mentioned bidding for these sporting rights. That is for soccer and cricket, is it?

**Mr Brown**—Yes. We are contracted to the FIFA World Cup in 2010 and 2014, and the Ashes in the UK later this year.

**Senator MINCHIN**—There was no direction from the soccer-loving minister next to you to bid for these rights, was there?

**Mr Brown**—I think the World Cup was secured by the previous government.

**Senator MINCHIN**—At the time you bid for those rights did you have reason to believe you would have the requisite cash flow and something has occurred to change your circumstances, or did you have some sort of understanding that if you bid for these rights you would receive a temporary loan to overcome your cash flow position?

**Mr Brown**—The latter was not the case. We entered into both those arrangements in a standard business approach, which was to business case them and to see whether or not the revenue would cover all or part of the costs. That is the case in our judgment. Obviously, we cannot be absolutely certain, but that was our business case prepared at the time. Cash flow had not been an issue for SBS for many years because of the substantial digital funds that had been introduced. It would be fair to say that was not something that we were particularly aware of. However, the alternative to having a loan would simply be to cut our programming activity to find the cash. Faced with that option, if we were anything other than a Commonwealth government entity, we would simply exercise a line of credit and say, 'One year we're going to be cash negative because the next year we're going to be cash positive,' but that is not available to us. In order to protect the services that we deliver, and particularly the television production budget, which is substantial, we were obliged to consider and in the end decide to pursue a loan, which seemed to us the most appropriate and responsible commercial decision.

**Senator MINCHIN**—Is it correct that when you acquired the rights to the previous Ashes our government funded it with a special appropriation?

**Mr Brown**—That is correct.

**Senator MINCHIN**—A non-refundable loan?

**Mr Brown**—After the event we sought special funding.

**Senator MINCHIN**—That was not by way of a loan.

**Mr Brown**—No, that was a one-off and it fell into the next triennial funding. We all felt that it was recognition of the fact that we had rescued the Ashes from the pay TV environment and brought it to all Australians.

**Senator MINCHIN**—That is to be applauded. In this case did you seek additional funding, not as a loan but as funding for you to be able to broadcast the Ashes next time?

**Mr Brown**—The last time that you are referring to was part of our triennial funding approach, which was in part delivered. It would be right to say that in our triennial funding bids over the years we have consistently asked for support in that area, and this was one small element delivered once.

**Senator MINCHIN**—On this occasion did you seek additional funding or did you only seek a loan?

**Mr Brown**—I cannot go into details of our current triennial funding, but it would be fair to say that sport forms part of that.

**Senator MINCHIN**—Were you in a competition for the Australian rights to the next Ashes or were you the only Australian bidder?



**Mr Brown**—It is hard to know for sure. Every vendor will portray it as an aggressive market with more people interested. Certainly we felt that, given the success of the 2005 Ashes, others might be interested in it. The alternative was that pay TV would make a bid that was so substantial to justify exclusivity, so our bid needed to be of a significant scale to allow the vendor to add the two sums together and say, ‘That’s fine’ versus ‘No, I’m going to sell it to Fox Sports only at a higher figure.’ Even if the free-to-air were not particularly aggressive, and I really do not know for sure on that, certainly we were trying to ensure that it stayed free-to-air.

**Senator MINCHIN**—In cases where public entities acquire rights of this kind at taxpayer expense there are often complaints from competitors. Are you aware of any complaints from either the free or pay TV sector that, having acquired these rights, you are now seeking a loan from the government in order to effectively fund it?

**Mr Brown**—No, there have been no complaints. I would say that we do not see it as effectively funding it, but simply cash-flowing it. The funds for it will come out of the advertising that will be placed around it.

**Senator MINCHIN**—Are you confident with your business case that you will not make a loss?

**Mr Brown**—Our view is that this will not incur a loss and no call, as well, on that part of the appropriation that goes to fund programming, either.

**Senator MINCHIN**—Are the terms of the loan such that you are paying whatever the government pays to borrow money?

**Mr Brown**—I believe the loan is at a rate struck by the department of finance and in accordance with normal procedures. It would seem to us an appropriate rate. It is over a five-year period. It is repaid after the first year in equal instalments.

**Senator MINCHIN**—What is your medium- to long-term plan to ensure that you do not fall into this situation on a regular basis? Clearly you do need some capacity to enable you to sustain cash flow, rather than having to go to the government for a loan every time.

**Mr Brown**—In an ideal world we would wish to have a floating credit line that simply allowed us to ride through a negative and positive cash flow situation, but we do not have that. Our solution is to build up cash reserves from the events that I am talking about and other sources so that we are not exposed to this again.

**Senator MINCHIN**—Would you contemplate seeking a capital/cash injection to give you that effective reserve?

**Mr Brown**—I would not want to rule that out, but that has not been the approach we have taken. You can appreciate that in approaching government we would prefer to prioritise news services, particularly with the digital challenge ahead of us, so we would encourage the government to be responsive to funding the new services that we are committed to undertaking rather than taking up those funds in other ways. As long as we can maintain our business and the commercial side of our business in particular in a way that allows us to do these activities, I think that would be our preferred option.

**Senator Conroy**—There are several precedents for similar loans being extended to SBS. SBS refinanced the remaining \$24 million owing on its Artarmon headquarters with a loan from the 2002-03 budget, and in 1996-97 SBS arranged a loan of \$4.5 million from the budget to complete a staff restructure.

**Senator MINCHIN**—Thank you.

**Senator Conroy**—Project W.

**Senator BIRMINGHAM**—Let us go to Project W. I thank the minister for the prompt. Mr Brown, do you still believe that the clandestine report Project W demonstrates what you have long suspected, that ABC management has long harboured a desire to take over SBS?

**Mr Brown**—I stand by my comments of the day, although I would be prepared to now acknowledge the assurance given by the current management that this is no longer on their agenda. I take that at face value and accept that is indeed the case. It hopefully points to maybe an historical ambition that has been abandoned. I hope that is the case, because my stakeholders, particularly those multicultural communities across Australia, find this sort of issue very disturbing. Whenever it surfaces in this way—and it is something that ticks away in the background—I get a lot of approaches from people saying, ‘What do we need to do to ensure that this course of action is not followed?’ The minister has substantially dealt with that with his assurance that this is not on the agenda.

I think it would have been more appropriate, if this matter was being considered by the ABC board, that the inquiry they undertook in 2007 had been done in an open way, with the active involvement of SBS, rather than in a secret way. I would contrast it to the approach SBS took at the 2020 Summit in May last year, when we put firmly on the agenda one specific element of potential future collaboration and that is in transmission and distribution. Since then we have also provided the department with all the information we have relating to any possible efficiencies. Frankly, I think that is the way to go as well. I am far more satisfied and have greater confidence in an objective analysis of what might be possible than I do in an analysis carried out in secret by one party.

**Senator BIRMINGHAM**—To be perfectly clear, at no time were you consulted, engaged to provide input or SBS asked to provide any sorts of details that helped inform the Boston Consulting Group or indeed anybody else undertaking work for the ABC into their findings about the possible efficiencies and synergies that could be had from greater integration?

**Mr Brown**—That is correct. I was aware of the report at the same time as you were. I am grateful to the committee having levered it out, because otherwise I doubt I would ever have known about it and would never have had the opportunity to point out the glaring failings of the report and the gross inaccuracies, overstatements and simplification that pepper it to a point where any objective review of it would frankly end up with it being consigned to the rubbish bin. It is almost meaningless in terms of its validity. There are some glaring issues.

I can certainly understand the minister’s response when somebody says, ‘There’s \$40 million of savings available.’ You would have to say, ‘Well, that’s worth looking at,’ and you would have to then say, ‘Well, it has to be looked at and can you still maintain the distinctive, independent voice of SBS with those savings?’ That is a fundamental test. But before you even got to that point you would have to say, ‘What is the accuracy of this report?’ One of the

fundamental failings is that it seems to suggest that the entire staff of SBS Sydney, some 500 people, could simply be taken out of Artarmon and placed into Ultimo with full supporting television and radio studios, full accommodation capacity, at no additional cost. If you were presented with that fact it would pose two potential scenarios. Firstly, the ABC is sitting on massive overcapacity that it should have gotten rid of and saved the taxpayer the cost of running that or, secondly, the report is wrong. I think the report is wrong. It would be unimaginable that Ultimo is so empty that it could absorb all of SBS's activities.

There are lesser errors, but they do point to the fact that in my view this report was tailored for a result and not a genuine objective review. For instance, the merging of the two boards into one board is predicted to save \$1.2 million. The total cost of the SBS board is \$300,000. How do you get \$1.2 million out of savings by reducing the expenditure by \$300,000? There are other areas, such as human resources. We have a tiny human resources team. In the report it says that you can save money by doing away with or merging into one the HR policy units. It would be great if SBS could afford a HR policy unit. We do not have any such thing and we have rarely contemplated it.

There are a number of these issues, and what they point to is that either the Boston Consulting Group was determined to please its masters with a report that pointed towards a merger or integration or, secondly, it was so hamstrung by having no access to SBS information other than out-of-date annual reports that it led to entirely false conclusions based on its assumption that SBS is the same as the ABC, both in scale and model, and that is simply not true.

**Senator BIRMINGHAM**—Your passion on this issue comes across loudly and clearly. Did you make representations following the discovery of the clandestine Project W to the minister, the ABC board or to the ABC managing director?

**Mr Brown**—I talked to the minister at the earliest opportunity and on behalf of my stakeholders informed him of my irritation that such an event occurred. He reassured me that this was not on the government's agenda. I accepted that and am comforted by it. I have written to the Minister for Finance and his department pointing out the gross inaccuracies in the report, so there is greater clarity of what was included in it. I did not approach the ABC board, but Mr Scott rang me within a couple of days and assured me, as he has this committee, that this is not something that the ABC wishes to pursue any further.

**Senator BIRMINGHAM**—Minister, did you speak to Mr Scott subsequent to Mr Brown's call presumably early on the morning of 31 January or thereabouts?

**Senator Conroy**—I speak to Mr Scott on a range of occasions. I am just trying to remember whether I spoke to him specifically on this matter. I am sure that it has come up in conversation. I am sure that Mr Brown is more than capable of communicating his views on this, as you have just seen, to Mr Scott, and he does not need my help.

**Senator BIRMINGHAM**—Mr Brown certainly has made his views very clear. I would have thought that you would have wished to have a harmonious relationship between the nation's two public broadcasters, and that given it would seem that Mr Brown was somewhat antagonised—and I say 'antagonised' with good reason—by the secretive way in which things

had been undertaken, you might have counselled or encouraged Mr Scott to ensure that such processes were not done in such a manner in future.

**Senator Conroy**—I can only agree with you, to some degree, that when you start a process in secrecy it can lead to people being a little unhappy. Perhaps if the former minister had told everybody, including this committee, at any stage that she had written to the ABC asking them to find more cuts, this whole process might not have started. Mr Scott was clear that they were responding to a letter from the previous minister when they decided to go down this particular path. I can only agree with you. I think it is fair and reasonable; if you start a process in secret, you can perhaps put people's noses out of joint.

**Senator BIRMINGHAM**—Mr Scott was clear certainly that there was a letter from the former minister. I am not sure we ever got a clear answer as to whether that letter was also provided to SBS at the time or anything else in that regard. Obviously there had been—

**Senator Conroy**—Clearly the minister did not write to the SBS about it.

**Senator BIRMINGHAM**—I do not know whether the minister did or did not. I am not clear on that. I do not know whether Mr Brown wishes to tell us whether the former minister gave him any instructions in those early days that led to the discussions that you have had with the ABC about increased cooperation on transmission and so on that Mr Scott led us to believe had been progressing cooperatively for some time.

**Mr Brown**—We have those discussions with any minister on that basis, and that is probably because the ABC was subject to an efficiency review. My understanding of what Mr Scott said this morning was that the communication from the previous minister flowed from the outcome of the KPMG review. We have had no such review. To be clear on the sequence, the report was commissioned in early 2007. SBS made its proposal on what we believed to be a prudent approach to collaboration that protected both organisations' editorial independence and identity. That was done in May 2008 at 2020 when we identified distribution and transmission collaboration as being the obvious area that did not impact in terms of identity and independence. The amount of money that the two public broadcasters expend on that activity is about \$350 million a year. It is a far more productive area to secure efficiencies than HR policy units, only one of which exists. The benefits from that are likely to take some time to secure, but I do believe they are worth pursuing.

I would like to add that, notwithstanding this issue, the relationship between the ABC and SBS is very positive. We have recently joined together in a joint venture to establish digital radio. That is the model we have been inviting the ABC to consider. In the future, rather than having separate contracting of services in distribution and transmission, wherever possible they should be brought under a single umbrella, achieving economies of scale and other efficiencies. Digital radio provides the example for that, because in that case we have a single entity contracting with the vendor supplier for all of our digital radio needs across both ABC and SBS, which is a single contract.

**Senator BIRMINGHAM**—I respect the opportunities that are there and I am pleased to hear Mr Brown say that they are on track to be delivered cooperatively, hopefully saving both organisations some funds. Is it fair to summarise that you think the Boston Consulting Group report was a waste of money?

**Mr Brown**—That portion related to the merger of SBS and ABC was a total waste of money and is most regrettable in the way it was carried out.

**Senator BIRMINGHAM**—I would like to stay with funding. In regard to the ongoing negotiations with triennial funding agreements, and just to be certain that nothing has changed since we last met in this forum, have you been asked to provide any estimates to the government or the department as to how much it would cost SBS if in-program advertising were to be removed?

**Mr Brown**—No, we have not been asked that question.

**Senator BIRMINGHAM**—Is it your expectation on your current budget planning that in-program advertising will remain?

**Mr Brown**—Yes, that is our expectation. I answered previously that, if we were asked that question, almost all of our advertising revenue would disappear. As I have explained before, the model of between program advertising was demonstrating declining returns. The prognosis was reduced advertising. Having offered advertisers the option of short infrequent breaks in programs, it seems to be most unlikely that they would want to return to SBS on the basis of being in the middle of eight-minute breaks between programs. We have not sought to pursue that path because, again, our preference is not that the government funds us to cover lost revenue from advertising but funds us to provide vital new services to our audiences.

**Senator BIRMINGHAM**—Minister, are you ready and willing to rule out any changes to the arrangements for SBS on in-program advertising, an issue on which you were very passionate at a time when you sat on this side of the table?

**Senator Conroy**—SBS's funding, as you know, is currently subject to budgetary considerations, so I am not in a position to comment at this stage. All will be revealed in mid-May.

**Senator BIRMINGHAM**—That is the answer I had expected, but it is always worth checking. I have no doubt we will revisit this issue in mid or late May, as the case may be. Mr Brown, you heard me pose some questions to Mr Scott regarding allegations of bias in reporting and particularly around Israel, the Gaza conflict and the recent Israeli elections. What processes does SBS have in place to deal with such allegations and what levels of complaints have you received in that regard?

**Mr Brown**—With regard to the levels of complaints, I am not aware of any significant levels that might be drawn to my attention if there was a surge in complaints. That has not been brought to my attention. With regard to process, we introduced I believe back in 2005 an entirely new complaints handling process that applies to allegations of breach of our codes, whether it be allegations of bias, wrong classification or any other alleged failing. The SBS Ombudsman is unrelated to our programming side of the business and sits with a significant degree of independence in judgment on those complaints. We have a complaints committee that she can refer matters to on occasions where she may wish to receive guidance or want to elevate something because it may have some particular implications for future code reviews and so on.

Finally, we have ACMA, which sits in final judgment on the quality of our complaints handling process. I would have to say that in the years that we have introduced that reform it has worked very smoothly and I am not aware of any issues with that process or anybody suggesting that the process is in any way flawed.

**Senator BIRMINGHAM**—Can you take on notice to provide the committee details of the extent of complaints that may have been received in relation to the conflict in Gaza and the recent Israeli elections, and particularly provide details of any complaints that have been upheld in the resulting action that SBS has taken in that regard?

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—I would like to look at a couple of quick examples. The first relates to captions on the SBS news. It has been put to me by a constituent that on 24 November, in looking at issues in Gaza, one interview with somebody carried the caption ‘Jewish squatter’, and yet another interview with a Palestinian carried the caption ‘house owner’. That does not sound to me to be a particularly balanced assessment of such matters in relation to such basic things as captioning. Do you consider that to sound balanced?

**Mr Brown**—I have no knowledge of that at all. I would have to take that on notice.

**Senator BIRMINGHAM**—If you could. I have also had a number of complaints raised with me about George Negus’s interview on *Dateline* with Shimon Peres on 8 February 2009. Mr Negus is alleged to have described the action in Gaza as a David and Goliath type situation. He is alleged to have gone on and, when Mr Peres talked about the use of women and children as human shields, posed the question, ‘Do you really believe that?’, in terms that suggested that he was becoming argumentative with the Israeli President. There have also been a number of other suggestions made to me in that regard. Could you undertake to have a look at the conduct of that interview and complaints that may have been received in relation to it, and advise the committee if it is the belief that that was conducted in an appropriate fashion?

**Mr Brown**—I saw that interview. I hesitate to make any detailed comments in case it is the subject of complaints that will later be brought to our attention, but in general I thought the interview was well handled. It was a classic devil’s advocacy style interview. Shimon Peres is more than capable of holding his own against a provocative style of questioning. There is a temptation for some audiences, particularly if they are aligned to one side of the story that is under scrutiny, to read into questions that it reflects the belief of the interviewer, when of course anyone who has worked in this industry knows that is the interviewer’s job—to put the questions that would be posed by the parties not represented by the subject being interviewed.

It almost invariably is the case in challenging the person being interviewed that you will put points of view that might have been put in this case by, say, a Palestinian questioner. That is an understood and respected role of an interviewer. I do not know whether you saw the interview, but at the end of it you would have felt that the President gave every bit as good as he got and managed to put his position very forcibly. He did so because the questioning was robust and pointed. I certainly will take on notice the question of whether there have been any complaints about that.

**Senator BIRMINGHAM**—I take the points that you have made, but I would appreciate it if you could look into that.

**Mr Brown**—Yes.

**Senator BIRMINGHAM**—Thank you.

**CHAIR**—Are there any questions from senators on this side of the table?

**Senator WORTLEY**—Going back to the issue of the Ashes, when they were last shown did you see a significant increase in the audience viewing and, if so, did that follow through after the Ashes were finished? Did you keep any of that audience?

**Mr Brown**—We did receive an increase in audience. You will remember what an exciting series it was. It was hard to get away from it. There was some what is called ‘halo effect’ in television—that an audience is retained in the later schedule. I thought particularly what I call the late news, which is the earliest of the late news programs—at 9.30 pm it is a very accessible news and one that particularly suits urban professionals who do not get home until after all the early news programs have finished—benefited as I believe the Ashes brought that news to the attention of a number of viewers who previously were not fully aware of it. The audience size for that news program has stayed strong ever since.

Having this sort of tent-pole scheduling, where you get an audience spike for a particular event, for SBS is probably of greater value than for any other network, because operating on a relatively low share of the audience makes it hard for us to communicate to a large number of Australians upcoming programs and events. We would have dearly loved to have had something like the Ashes prior to us running *First Australians*, because that would have allowed us to promote that extraordinary documentary series to a much wider range of Australians than we were able to with our normal schedule. So there is an added advantage to that and it was successful.

**Senator WORTLEY**—In relation to the triennial funding submission, I understand that you have requested a significant increase in funding. I am wondering if you can tell us what that funding would be directed to.

**Mr Brown**—It is easiest for me to portray our triennial funding in broad brush, because I am not allowed to go into detail. In terms of the platforms on which we distribute our services, starting with radio, we have sought additional funds to provide digital radio. That is the completion of the equation that has been commenced with the building of transmitters this year. We acknowledge that the launch of digital radio is a long-term affair so we envisage—and this is really in our document *SBS's Plans for the future*—gradually ramping up digital radio so it eventually can deliver nine additional channels of radio services to expand, both in terms of scale and range, the number of languages that we can service.

In television, we have maintained our position that we want to see more Australian stories told on public broadcasting and on SBS particularly, with the particular multicultural approach that SBS takes in its commissioning. It is a matter of record that we have previously expressed a desire to see an additional 100 hours of Australian production on air. We have pushed for that probably for the last six years so there is nothing surprising in that. We believe there is a significant gap in the amount of Australian production that is currently on air.

Furthermore, we believe that the commercial free-to-air broadcasters are likely to reduce their commitment to that in the face of both economic pressure and also the changing landscape in terms of their economic model and the introduction of more competitors.

We also want to launch, and feel we must launch, SBS2, our second channel, to be a provider of a greater range of multilingual programming; multilingual, subtitled, children's programming for the very first time; and English language tuition, which we believe—and we have been asking for this for many years—is dramatically overdue. We are a wonderful, powerful and efficient deliverer of English language tuition to migrant groups who are struggling to acquire English. In particular, we can cover off the gap that is evident. The evidence we have received from the providers of this service is that women trapped at home with children, unable to get to English language classes, are therefore caught in a loop of being isolated. We can address this by delivering through free-to-air television on a regular recycled basis.

In terms of online, this is the future for all of broadcasting. We have never received a dollar for building our online service; it has been done off the back of efficiencies and scraping of budgets to get something up. I think we have made significant progress this year but that needs to be turned into a properly funded, robust and expansive service to all Australians.

**Senator WORTLEY**—How much revenue did SBS raise from advertising in the last financial year?

**Mr Brown**—Around \$50 million. The budget was for \$47 million in television. We also earn \$2 million or \$3 million dollars out of radio and a smaller amount out of online. Those are gross numbers, so from that is deducted the commission required by agencies and our outsourced supplier of services.

**Senator WORTLEY**—That is an increase. Has it been increasing annually?

**Mr Brown**—Yes. When we introduced advertising in programs we did so on the basis that we would lift our advertising revenue on television by about \$10 million a year and that has proved to be the case.

**Senator WORTLEY**—With the increase in advertising revenue, why is there such a huge increase in the request for government funding?

**Mr Brown**—Firstly, the increase in advertising revenue is not that great and it forms a comparatively small part of our total funding. Secondly, I heard Mr Scott earlier describing the three tranches of his funding bid, and one of them was to make up for underfunding in previous years. That has not been SBS's approach this time. We have, for better or worse, consigned that to history and said that we want to focus totally on the new services that must be delivered. We are poised on the edge of the digital age for broadcasters. Very shortly Freeview will be launched, digital radio is around the corner and online is burgeoning. For a public broadcaster like SBS not to be properly funded into that future is to consign us to a marginalised irrelevancy, and we will resist that.

Going back to the point that you have made, the commercial funds were used for two purposes. Generally, they have allowed us to cover off the underfunding that has occurred over previous years. The indexation for SBS runs at around 2¼ per cent to 2½ per cent per



annum. The labour cost increases have been at a minimum of four per cent. That equation alone tells you that we have needed to find other sources of revenue just to keep our head above water. In addition, the undertaking I made when we put advertising in programs was to use that to lift our level of local production from a parlous position to something approaching acceptable. What we do really is only barely acceptable. The fact that we have got such outstanding documentaries as *First Australians* and dramas like *The Circuit* and *East West 101* and *Carla Cametti* has only been achieved by our extra efforts in commercial activity and by finding funding partners to stay with us through the difficult days, particularly for *First Australians*.

To me, it is absurd that a story as powerful as the Indigenous history of this nation should wait for six years to be told simply because the public broadcaster is not sufficiently funded to tell it. That to me is a nonsense and must be addressed. We have embarked on a new history project called the Multicultural History of Australia and I am determined that there is not a six-year lead-time before that story can be told.

**CHAIR**—Thank you. Are there any further questions for SBS? If not, thank you very much Mr Brown and other officers.

**Mr Brown**—Thank you.

**CHAIR**—I would now like to invite officers of the Australian Communication and Media Authority.

[3.33 pm]

Australian Communications and Media Authority

**CHAIR**—I welcome officers from the Australian Communications and Media Authority. Does anybody wish to make an opening statement?

**Mr Chapman**—No. I will reiterate what I usually say: that we have got a number of general managers from across various disparate parts of the ACMA and that I will direct responses, given the range of the expertise we have.

**CHAIR**—Thank you very much, Mr Chapman. We will go to questions then.

**Senator BIRMINGHAM**—Can I go firstly to the ACMA list of black-listed sites and ascertain where you are up to with regard to the expansion of that list and particularly in relation to agreements with international organisations for the sharing of sites?

**Mr Chapman**—Ms O'Loughlin, who has responsibility for that, will take you through those very questions.

**Ms O'Loughlin**—We have been in discussions with organisations such as the Internet Watch Foundation for some time now to look at where, appropriately, the list of black-listed sites, as they are colloquially termed, could be expanded. It is fair to say at this stage that, while we have access to those URLs and we have struck a very specific agreement with the IWF about our use of those URLs, we want to think carefully through the issues of providing that new IWF information to filter providers under Australian law. There are a number of issues that we are currently thinking through: firstly, how we can be satisfied that those lists on those sites appropriately fit under Australian law as prohibited or potentially prohibited

content; secondly, things such as the security of that list and how that is passed through to filter providers; and, thirdly, how we actually pass that through. So, there are a number of aspects of that that we are currently thinking through.

**Senator BIRMINGHAM**—To start with perhaps you could tell us how many URLs are currently on the ACMA black list.

**Ms O'Loughlin**—We did an update recently. There was a question on notice that looked at the number of sites to the end of November and at that stage there were around about 1,300. We constantly have a look at those because obviously URLs change from time to time. We are constantly reviewing that. My advice is that currently—at the end of January—there are around about 1,100.

**Senator BIRMINGHAM**—Around about 1,100?

**Ms O'Loughlin**—Yes.

**Senator BIRMINGHAM**—What is the nature of those sites? Remind us again what activities and what things are on the black-listed sites. What are the boundaries as to what goes on a black-listed site and what does not?

**Ms O'Loughlin**—As you would be aware, the ACMA has had responsibility for the Online Content Scheme since around about 2000. The provisions under which we operate are set out in the Broadcasting Services Act. Under the Broadcasting Services Act there are criteria that specify what would be prohibited or potentially prohibited content. I will refer to my notes. The following categories of online content are prohibited: any online content that is classified RC or X18+ by the classification board—I will come to what that means in a moment—and content which is classified R18+ and not subject to a restricted access system, or content which is classified MA15+ provided by a mobile premium service provider that is also not subject to a restricted access system.

The majority of the URLs that appear on the site really come to that issue of RC or X18+. For RC, we take as our guidance the National Classification Scheme so that we are consistently applying the classifications which are applied under the National Classification Scheme to publications, DVDs and in an amended form to broadcasting as well. That is set out in the classification act, which is agreed by all states and territories. From that National Classification Scheme we take our guidance as to the way we classify our online content. For example, under the National Classification Code, RC1 says:

(a) describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence revolting or abhorrent phenomena in such a way that they offend against the standards of morality...

That includes such issues as depictions of fetishes and non-consensual sex. RC 1(b) comes to issues of child abuse material or child sexual abuse material. Refused Classification 1(c) comes to promotion, inciting or instruction in matters of crime or violence.

That is the majority of the things that are on our black list. Others are X18+, which is about depictions of actual consensual sexual activity between adults, which we also add to our black list when we find those types of materials online. The other matters are very small in number in terms of R18+ and MA15+.

**Senator BIRMINGHAM**—How many staff does ACMA have dedicated to the assessment and classification of websites and the monitoring and updating of the blacklist?

**Ms O’Loughlin**—It is a shared responsibility in an area which deals with classification issues both in online content and also in broadcasting. There are around about eight people in that area. It is a complaints based system under the Broadcasting Services Act so we respond to and investigate complaints that are put to us.

**Senator BIRMINGHAM**—In the process that you undertake with complaints—it is purely complaints based, as you indicated—is priority given to any particular area of the range of banned material or is it purely first-in, first-served of the complaints that you may receive?

**Ms O’Loughlin**—We do look at child pornography first as priority.

**Senator BIRMINGHAM**—Child pornography first and then there is no other priority given to the other material?

**Ms O’Loughlin**—No. Because the child pornography also deals with a crime that may have been committed at the time, we deal with that as our highest priority.

**Senator BIRMINGHAM**—That is understandable. What level of complaints do you receive?

**Ms O’Loughlin**—I will refer to my notes for that. From 1 July 2008 to 31 December last year we had 603 complaints.

**Senator BIRMINGHAM**—I am assuming overwhelmingly that is about distinct URLs rather than—

**Ms O’Loughlin**—That is right.

**Senator BIRMINGHAM**—Are you able to tell us the number of URLs or are they in fact all distinct URLs?

**Ms O’Loughlin**—I might need to just take some advice on that. I do have some notes here. In the last financial year we had 1,122 complaints. We completed 775 investigations. Obviously sometimes we have complaints that do not lead to an investigation; they may not be relevant under our legislation. There were 452 complaints which identified and located prohibited content. Prohibited content items actioned were 774. That shows you that we might have had multiple URLs subject of the complaint. While we had 452 complaints where we did discover prohibited content, there were 774 items of prohibited content located and, of that, 410 of those were child sexual abuse items which we actioned.

**Senator BIRMINGHAM**—That was 452 out of the 1,122?

**Ms O’Loughlin**—That is right.

**Senator BIRMINGHAM**—Under the current act are you actually able to expand the black list with information that you may get from places such as the Internet Watch Foundation or, given its complaints based mechanism, would it require a change to the act for an expansion of the black list?

**Ms O'Loughlin**—The way that the black list is passed on to filter providers is that it is actually provided through the Internet Industry Association code of practice. Where we have identified potentially prohibited content which is overseas based, under that code of practice we can provide those URLs through to those filter providers. One of the ways that we could potentially pass through the IWF list would be through that mechanism, but that is a matter that we are still considering at the moment. I would say that the IWF list is predominantly child sexual abuse images. We know the IWF. We have worked with the IWF for many years. We know the law under which they operate, and we believe that there is a high level of confidence that anything that is on the IWF list would be potentially prohibited content under Australian law, but we just want to make sure of that before we start passing that list through to filter providers.

**Senator BIRMINGHAM**—Are there any other international bodies that you have struck agreement with at this stage?

**Ms O'Loughlin**—I will ask my colleague Andree Wright to answer that one.

**Ms Wright**—We have also had discussions with the CyberTipline from the National Centre for Missing Children in the United States of America. They also have a list; it is about 100 URLs at any time and it contains the worst of the worst, as they describe it, in terms of child sexual abuse material. They provide their lists only to the police enforcement agency. We have been having discussions with the AFP, and we understand that the National Centre for Missing Children will provide that list to the AFP and then, under a service level agreement with the AFP, we would be able to utilise that. We are in the process of updating our service level agreement with the AFP at this time because we also refer URLs to them for investigation. As Miss O'Loughlin has said, when you look at child sexual abuse each image is a crime scene, so the AFP and its counterpart services want to know about that.

**Senator BIRMINGHAM**—Just so that I am quite clear in terms of the distinction between lists and URLs identified overseas and any that are identified within Australia, is it within the ACMA's power to add Australian generated URLs to the black list without complaints being received?

**Ms O'Loughlin**—The way listing matching works is that if we find prohibited content on a site that is hosted in Australia we can issue a takedown notice directly to that Australian hosted site, so it works slightly differently. Whereas with overseas hosted material we refer those URLs to filter providers to filter them, because obviously we do not have direct access to those overseas providers.

**Senator BIRMINGHAM**—I am just trying to be clear as to the distinction of where the complaints based mechanism fits in versus where the ACMA has the capacity to be proactive. It sounds to me as though, by and large, you have that power to be proactive in regard to all potential illegal content, be it overseas hosted or Australian hosted, regardless of whether it is complaints based.

**Ms O'Loughlin**—I think we would look very carefully. The reason why we are looking specifically at the IWF is that it is an organisation we have worked with for a considerable length of time. It is working in this area of child sexual abuse imagery only. That is something where there is fairly strong international collaboration and agreement. That is why we are

looking at whether or not it is useful in trying to address this issue specifically of child sexual abuse imagery, of working together with those international partners and looking at what lists they have available and whether they are appropriate to look at under our law. But the only area where I think we would be proactive would be around child sexual abuse.

**Senator BIRMINGHAM**—When did you formalise arrangements with the IWF?

**Ms O'Loughlin**—We formalised arrangements with the IWF some months ago; that is the agreement between us and them. They are very strongly concerned, as we are, to keep their lists confidential and to deal with them appropriately, so we have had discussions with them. But as I said we have not started the process of passing through that list to filter providers in Australia at this point in time, because we want to resolve the issues surrounding how that would be most appropriately done.

**Senator BIRMINGHAM**—Aside from these expanded international negotiations with the IWF and other agencies that Ms Wright has identified, is any other preparation being undertaken by the ACMA in regard to the potential mandatory ISP filtering that the government is investigating, that you have been requested to undertake by the government or that you are undertaking of your own accord?

**Ms O'Loughlin**—In regard to the Online Content Scheme itself and the current provisions in the Broadcasting Services Act about prohibited content?

**Senator BIRMINGHAM**—In regard to the government's proposal for a mandatory ISP level filtering regime for clean content filters that the minister has spoken about and that the department is undertaking their testing of, on the presumption that the minister wishes to proceed with this in a timely manner—

**Senator Conroy**—Questions around testing might more appropriately be asked—

**Senator BIRMINGHAM**—I am not going to ask about testing. I am just trying to ascertain if ACMA has started work to look at how you would expand the black list in any way?

**Ms O'Loughlin**—No, we would be awaiting government policy on that area. At this stage, as I said, the measures of prohibited content are clearly spelt out in the Broadcasting Services Act and we would expect that any change to that would require legislative amendment. The classification criteria are laid out in the National Classification Scheme that comes from the Classification Act, which of course would require legislative amendment as well.

#### **Proceedings suspended from 3.50 pm to 4.08 pm**

**CHAIR**—We will resume. Senator Abetz assures us that he only has two quick questions and then we will return to the matter of the blacklist.

**Senator ABETZ**—Can you tell us whether ACMA, in report 1397, which related to the *Lords of the Forest*, said, in effect, that an errata sheet that had been backdated by three months was a timely correction and an appropriate course of action?

**Mr Chapman**—You are really testing my memory. I am happy to be corrected, but I have a feeling that that was a determination by the previous ABA to that effect. ACMA did not make that statement. We did an investigation into a *Four Corners* program, but I do not

believe that what you just read to us is a determination that the ACMA made. I think it was the predecessor ABA body.

**Senator ABETZ**—I am sorry, but how long have you guys been around?

**Mr Chapman**—From 1 July 2005.

**Senator ABETZ**—This matter appeared in May 2004, so it may have crossed jurisdictions. So, if you want to pursue something from the ABA, it is no go any more. You just changed names and then, in that way—

**Mr Chapman**—No. ACMA is the amalgamation of the former Australian Broadcasting Authority and the Australian Communications Authority. We are a different body but we inherited a lot of their decisions and, in the main, we support them. However, there have been occasions where we beg to differ. We are a forward-looking body and we change our mind. I am conscious of that decision and those words and I recall reading at the time that that is not a determination that we were necessarily in agreement with. That is a long-winded way of saying that perhaps I could take that on notice in order to give you a better answer.

**Senator ABETZ**—Yes, please. Please also advise us of your view on backdated errata.

**Ms O'Loughlin**—I think there were also a number of investigations that came to this matter; some of them happened around 2004 and some of them later. We are happy to take it on notice and to provide that information.

**Senator ABETZ**—The proposition has been put to me that ACMA or ABA were of the view that the ABC's erratum, which was then post-dated by three months, was an appropriate and timely course of action. I would have thought backdating an erratum is a highly inappropriate course of action because it misleads the viewer to believe, on the day that it is posted, that something has been corrected already for a period of three months.

**Mr Chapman**—I can recall some correspondence just a couple of months ago to that effect. That is the only reason it is fresh in my mind.

**Senator ABETZ**—I imagine it was from a Mr Johnson, from Tasmania.

**Mr Chapman**—I think that is right.

**Senator ABETZ**—He has briefed me on the matter as well.

**Mr Chapman**—I would be happy to provide a copy of that correspondence as well.

**Senator ABETZ**—Thank you very much. If you can take those other matters on notice, I would be much obliged. I thank my fellow committee members for their indulgence.

**CHAIR**—Thank you, Senator Abetz. We will go now to Senator Ludlum.

**Senator LUDLAM**—I might continue roughly in the same vein. Can you tell us what contribution ACMA is making to the government's trialling of the next stage of internet filters? I understand that we have the department a bit later and we will direct some of these questions to them, but what contributions are being made by ACMA to those trials?

**Mr Chapman**—For all intents and purposes, we are not making any contribution to that trial.

**Senator LUDLAM**—The trial has a couple of phases; one is trialling the existing ACMA blacklist. But there is also a proposition to trial a blacklist of around 10,000 URLs. Are you informing that larger list?

**Ms O'Loughlin**—That is a matter for the government.

**Senator LUDLAM**—The Internet Watch Foundation, I think, were mentioned right at the very beginning and you also expressed some reservations as to just importing that list directly into the sites that you track. Was the IWF involved in the listing of an image on the Wikipedia website that took out the entire site for a substantial fraction of the population of the UK?

**Senator Conroy**—I think you have actually verbalised the officer at the table, Senator Ludlum. That is the first time you have done something like that.

**Senator LUDLAM**—Can you point out how I have done that?

**Senator Conroy**—I think you misrepresented one of her previous answers.

**Senator LUDLAM**—Okay. Let us just take it back to the beginning. You did mention the Internet Watch Foundation right at the beginning.

**Mr Chapman**—Yes.

**Senator LUDLAM**—Let us just break it down into pieces. Are you aware of whether the IWF was responsible for that image being listed?

**Mr Chapman**—I am sorry; I did not hear your question.

**Senator LUDLAM**—An image was listed and it is my understanding that the IWF took Wikipedia down for a period of time in the UK.

**Ms O'Loughlin**—Our advice is that they placed a specific Wikipedia webpage, rather than the entire Wikipedia site, on to the IWF list because they assessed it as a child abuse image. But there were some affected customers of ISPs who could not edit Wikipedia sites because of the interplay of technologies.

**Senator LUDLAM**—That is interesting. Is that one of the reasons for our not importing lists directly from other parts of the world?

**Ms O'Loughlin**—No. I think that was more a technical issue than anything else. Certainly, where images perhaps are put on overseas sites, one of the issues that we want to investigate is the processes, policies and ways that those organisations go about doing that so that we can really understand how that will work in the Australian context.

**Senator LUDLAM**—Over the course of a year or so, the blacklist went from roughly 800 sites to 1,370 or thereabouts in November. I understand that there is a fair bit of churn, so a lot of material that turned up has gone. However, what was the reason for the substantial expansion of that list over that period?

**Ms O'Loughlin**—I think it is probably a combination of things. It is probably an increase in the complaints coming to us and it probably was not washed as rigorously as we have been doing over the last eight or nine months.

**Senator LUDLAM**—What proportion of your complaints or referrals come from members of the public as opposed to law enforcement agencies or specialised agencies?

**Ms Wright**—Almost 100 per cent come from complainants.

**Senator LUDLAM**—I guess you might need to take this on notice: in the year ending 30 June 2008, how many different individuals or organisations initiated the complaints that you received?

**Ms O'Loughlin**—I think we would have to take that on notice.

**Senator LUDLAM**—Yes, if you could.

**Ms O'Loughlin**—You are after individual organisations and—

**Senator LUDLAM**—I would like an idea of whether it is a large or small number of individuals or perhaps organisations that are referring sites.

**Ms Wright**—In overview, I would say that it is a large number, but we will take that on notice.

**Ms O'Loughlin**—Yes, a large number of individuals.

**Senator LUDLAM**—Thank you. How many complaints or investigations were initiated by government departments or agencies other than ACMA?

**Ms O'Loughlin**—I am not aware of any.

**Senator LUDLAM**—So they are mostly coming from the public.

**Ms O'Loughlin**—Yes. We have an online system where, if people identify material on line that is of concern to them, they can complain on line. That is where the majority of our complaints come from.

**Senator LUDLAM**—I put a question on notice in November and the government indicated that a consultative working group is considering a broad range of cybersafety issues and advising government. Does ACMA play any role in that?

**Ms O'Loughlin**—I am a member of that group.

**Senator LUDLAM**—So that group has been established.

**Ms O'Loughlin**—Yes, it has.

**Senator LUDLAM**—Can you tell us a little bit about its terms of reference?

**Ms O'Loughlin**—I think that is probably a matter for the minister in the department.

**Senator LUDLAM**—Okay. Minister?

**Senator Conroy**—What was your question, Senator Ludlum?

**Senator LUDLAM**—I am asking for the terms of reference or anything that you can tell us about the consultative working group.

**Senator Conroy**—I am sure that we have someone from the department who can come to the table and assist with that.

**Mr Rizvi**—The ministry issued a press release with the terms of reference; I think it was about eight to nine months ago. We can provide copies of the terms of reference.

**Senator LUDLAM**—Thank you. Can you tell us what the selection criteria were for the make-up of the membership of that group?



**Mr Rizvi**—The group is made up of a range of stakeholders with an interest in this issue. They include the Internet Industry Association; a number of companies involved in major websites, such as Google and My Space; representatives of major IT companies, such as Microsoft; two representatives of ISPs, one being Telstra and the other a smaller ISP involved in filtering; and the Australian Library Association.

**Senator LUDLAM**—Thank you. What are that group's activities expected to be into the future?

**Mr Rizvi**—The group considers a range of issues, including the kinds of initiatives that individual IT companies are taking in the area of cybersafety. The group has considered presentations from a number of those companies that have taken initiatives in that area. It also looks at the kinds of measures that child protection groups are considering in this space as well as input from the Internet Industry Association. The group has commissioned research into cybersafety and it will be receiving input from a youth advisory group that we are in the process of setting up.

**Senator LUDLAM**—Does the group have a formal line item in the budget?

**Mr Rizvi**—It does not have a formal line item in the budget.

**Senator LUDLAM**—So how are you commissioning research and that sort of thing?

**Mr Rizvi**—As part of the government's cybersafety plan, funding was allocated by the government to undertake research into cybersafety.

**Senator LUDLAM**—So this group is merely deciding on the lines of inquiry in establishing the research.

**Mr Rizvi**—It considered the terms of reference for the literature review.

**Senator Conroy**—Perhaps you could point Senator Ludlum to the website so that he can have a look at it.

**Senator LUDLAM**— Does it have its own web presence?

**Mr Rizvi**—Yes. There is material on our website about the consultative working group and its membership and operations.

**Senator Conroy**—I am sure that Mr Rizvi will correct me if I am wrong but, just for the purpose of information, I do not think it has any direct role in the filtering trial.

**Senator LUDLAM**—No. It sounds as though its agenda is a bit broader.

**Mr Rizvi**—That is correct. It has received presentations from ISPs who have been involved in filtering and it has considered them, but it does not have a direct role in the pilot.

**Senator LUDLAM**—Thank you for your help with that. I will come back to the blacklist and then maybe some of the other senators will have questions. In 2008, how many URLs were added to the blacklist as a result of investigations under the Broadcasting Services Act 1992?

**Ms O'Loughlin**—We might have to take that on notice because there are some pluses and minuses in terms of what goes on and what gets washed out. Are you referring to the calendar year or the financial year?

**Senator LUDLAM**—The calendar year, I suppose, or just whatever records you have perhaps going back over the last year or two. My second question was about the degree of churn and the number that were taken off. If you could provide a breakdown of both sides of the ledger, that would be appreciated.

**Ms O'Loughlin**—Yes.

**Senator LUDLAM**—Are you able to tell us whether any of the URLs relate to prohibited gaming content under the Interactive Gambling Act 2001?

**Ms O'Loughlin**—That is a separate list that we provide. My advice is that, since the commencement of the IGA in 2001, we have had 62 complaints about suspected prohibited internet gambling content. The prohibited internet gambling list contains 25 individual URLs, which relate to 19 separate internet gambling services, all of which have been referred by us to the Australian Federal Police.

**Senator LUDLAM**—But we do not see those; they have not been aggregated into the ACMA blacklist.

**Ms O'Loughlin**—No. We provide those separately.

**Senator LUDLAM**—I will leave my questioning there for the time being. Thank you.

**CHAIR**—We will go to Senator Minchin and then to Senator Lundy.

**Senator MINCHIN**—Thank you, Madam Chair. My attention has been drawn to a complaint made to you about an anti-abortion site. The complaint's reference number, just for the record—I do not expect you to have it—is 2009-0000-09. You replied to that on 21 January this year and indicated that you had examined the site and were satisfied that the content 'is prohibited or potential prohibited content' and were acting accordingly. I am interested in the criteria by which an anti-abortion site would be deemed prohibited.

**Ms O'Loughlin**—I will ask Ms Wright to address that specific point.

**Ms Wright**—I think I am able to assist you by saying that it was a single page. From memory, it was a page that contained no text, just pictures. The pictures were of aborted and dismembered fetuses. The graphic nature of the presentation without any contextualisation of the images meant that the images were judged on their own merits for their impact and their severity. We have kept a careful watching brief on the way the Classification Board has handled those types of images. On a previous occasion, we made a referral to the Classification Board on very similar material and it came back as 'refused classification'. So we juxtaposed the two decisions and judged it on the images.

I think here, today, is a good opportunity to say that the types of information that have run in the media about how the images were banned because they were about anti-abortion played no part in our decision. As I said, there was no contextualisation of that webpage; there were only violent images of real fetuses that had been dismembered.

**Ms O'Loughlin**—Just to pick up on Ms Wright's point there, our decisions were about that particular imagery on that particular URL, not about the entire site.

**Senator MINCHIN**—But are you suggesting in that answer—which I thank you for—that, if there had been text to the effect that 'we oppose abortion for the following reasons, one of

which is that it actually involves dismemberment of foetuses and here is a picture of what happens in an actual abortion,' that may have resulted in the site not being classified as prohibited?

**Ms Wright**—I focused—

**Senator Conroy**—The page on the site.

**Ms Wright**—on the page on the site.

**Senator MINCHIN**—So the text might have been all right but not the image.

**Ms Wright**—In saying that, had there been text, I cannot say what decision we would have come to. If we were in any doubt, we would have referred it to the National Classification Board. But I thought it might assist everybody today if we were able to lay to rest the media's claims that that was refused classification because it took an anti-abortion stance.

**Senator MINCHIN**—Are you able to tell us that you were satisfied that it was actually a picture, an image or whatever of the results of an actual abortion? There is no suggestion that it was doctored or anything like that, is there?

**Ms Wright**—No. We considered that they were actual photographs and images of actual foetuses that were chopped up.

**Senator MINCHIN**—So it was an actual picture of an aborted foetus.

**Ms O'Loughlin**—Dismembered foetuses.

**Senator MINCHIN**—That is what happens, sure. I do not want to get into it too much, but that is in fact what happens, is it not?

**Ms O'Loughlin**—The decision we made was on the image.

**Senator MINCHIN**—So it was not moving footage, a video, as such; it was a still.

**Ms Wright**—In this case, it was four still images.

**Senator MINCHIN**—It was not a video of an actual abortion taking place.

**Ms Wright**—It was four still images.

**Senator MINCHIN**—So it did not display violence per se; it was a picture of the consequence or the after-effect of an abortion.

**Ms Wright**—Yes; and the images were considered to be graphic and to have a high impact.

**Senator MINCHIN**—Are you able to give me a number or some idea of the extent to which the blacklist contains anti-abortion sites with images of this kind? Is this a one-off?

**Ms Wright**—From my knowledge, this was only the second. We could take that on notice.

**Senator MINCHIN**—Yes, I would appreciate knowing that.

**Ms Wright**—I have referred to the two cases that I am aware of.

**Senator MINCHIN**—But certainly, in the future, you would blacklist any anti-abortion site that has such an image.

**Ms O'Loughlin**—I think we would look at the criteria for 'refuse classification' under the Classification Code and our own act and we would assess the images on their merit rather

than look at the type of site it is. The images that come to us are assessed against quite clear classification criteria and that is what we would assess them on.

**Senator MINCHIN**—I note that some of the conservative family groups that support mandating filters are great proponents, of course, of the anti-abortion cause. They might be interested to know that anti-abortion sites can be blacklisted.

**Ms O'Loughlin**—Individual URLs or pages, yes.

**Senator MINCHIN**—I do not mean any criticism by this, because I think it is beyond your control, but there is another issue that I want to raise with you. It has been drawn to my attention that primarily because in answering this complaint by email you obviously referred to the site in question, which is understandable, the complainant, as I understand it, made the address of that site widely available via the publication of your email. Are you concerned that that is a significant flaw in your very worthy and, I think, comprehensive endeavours to ensure that the blacklist itself is not published or made available more widely than is absolutely necessary?

**Ms O'Loughlin**—That is a difficult question. In general, we were disappointed that that was distributed further, but we do not have the capacity to stop a complainant from making their complaint public.

**Senator MINCHIN**—But do you acknowledge that this is potentially a major hole in the security of the contents of the blacklist?

**Ms O'Loughlin**—In many respects, our main concern is the totality of the blacklist. That is something that we are distributing and we can make sure that there are appropriate security provisions in place for it. I think it is difficult for us then to take a step further and require complainants to keep their complaints to themselves. They know the consequences of the listing. We are disappointed by it, but it is difficult for us to do much more than encourage people not to distribute those things much further.

**Senator Conroy**—Just to clarify: this is the existing blacklist under the existing law that was in place for most of the period of the former government. It is the existing blacklist and the existing law that we are having a discussion about.

**Senator MINCHIN**—Yes, I accept that, Minister. I also accept that, if there is a loophole here, it has existed for some time, but perhaps it is just now being exploited. So is not an offence in any way, under any law or regulation, for anybody to publish a site, a page or whatever it is that has been blacklisted as a result of a complaint made.

**Ms O'Loughlin**—Certainly, under the Criminal Code, there are provisions about the determination of such material and we look at those things very carefully. We have not done that to date.

**Senator MINCHIN**—So you have not referred this matter to any other authority?

**Ms O'Loughlin**—Not at this stage, no.

**Senator MINCHIN**—‘Not at this stage’. Does that mean you still have the matter under consideration?

**Ms O'Loughlin**—No, we do not at this moment. But we have not had many of these situations and we have not referred them on as a matter of course. It is something that we could investigate, yes.

**Senator BERNARDI**—Just to follow up on this point, although not specifically about that site, have there been other sites that have featured broken and dismembered bodies that you have listed on the blacklist? I ask that because I am a motorcycle rider and lots of sites show the consequences of motorcycle accidents as a deterrent. Have you chosen any of those for TAC sites?

**Ms O'Loughlin**—Again I take it back to the National Classification Scheme, which is quite specific about how we classify things like 'refuse classification'. It would really be a judgement call from my classifiers or the Classification Board in looking at the context of those images and how they fit under that scheme. I am happy to take it on notice, but I think generally it really depends on the individual case of what we are looking at at the time and how it fits under the National Classification Scheme.

**Senator BERNARDI**—You are not saying that, no, you have not blacklisted any of those sites; your answer is that you do not know whether you have. Is that correct?

**Ms O'Loughlin**—I am not aware of them. If you are asking specifically regarding educational material and that sort of thing, we would have to take that on notice.

**Senator BERNARDI**—What I am referring to specifically—because I recollect seeing it myself—are the quite horrific images of the consequences of motor vehicle accidents that feature broken and dismembered bodies of adults. I would ask you to take it on notice to provide that information.

**Ms O'Loughlin**—Yes, we certainly can do that.

**Senator BERNARDI**—I have one other question regarding the blacklist. The minister has referred on a number of occasions to illegal content. You have talked about what is restricted content and about the classifications and things of that nature. Any number of illegal websites or websites with illegal content, which is not limited to visual content, are out there. I am referring to illegal MP3 download sites and things like that. Do you blacklist any of those?

**Ms O'Loughlin**—We concentrate on the requirements under the Broadcasting Services Act around prohibited content. As I have described previously, they are 'refuse classification', X18+ and R18+ with an RAS. They are our main focus of attention. It is a complex area because, under state and territory laws, different types of material may be considered illegal. But ACMA's major focus with what we are charged with is to look at the online content scheme.

**Senator BERNARDI**—Thank you. Perhaps I will refer this to the minister: what do you describe as illegal content, Minister?

**Senator Conroy**—I think there is a very straightforward legal definition for it. In terms of the mandatory ISP filtering that we have been talking about, I would argue that there is a very strong case for blocking RC or 'refuse classification' material that includes child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act. I understand that we are all engaged in

significant public debate around the inclusion of other categories. This is a decision that has not yet been determined and it will be determined, as we have always said, following the live pilot trial to give us advice—

**Senator BERNARDI**—But surely—

**Senator Conroy**—if I can just finish—about what is technically feasible. So, as we have said consistently, the RC illegal material under the classification act, not under other arguments that others have put forward, will be included. But no other decision has been made and it will be determined on the basis of the trial.

**Senator BERNARDI**—But, Minister, you have referred repeatedly to illegal content and you have given a description of what you describe as illegal, but illegal exists in a far wider range than that. Can you tell me whether you will or will not be blocking MP3 download sites, because that is actually theft under the law?

**Senator Conroy**—The discussion of ‘illegal’, as Ms O’Loughlin has said, has been revolving around the broadcasting classification act. We have made it perfectly clear that this is linked to the Broadcasting Services Act classifications; it is not around anything else. Anyone who has attempted to suggest that other content will be blocked under any Labor plan is just misrepresenting our policy.

**Senator BERNARDI**—But, Minister, you said earlier in your answer that what is illegal is a matter of law.

**Senator Conroy**—I have just explained twice—

**Senator BERNARDI**—But are you telling me that stealing songs is not illegal?

**Senator Conroy**—No. What I have said is that our filtering is and has only ever been aimed at material under the Broadcasting Services Act classifications, the Censorship Board classifications. So it is quite clear what material we are referring to and there has been a wide and legitimate debate around this matter. But, as I have said, in terms of mandatory ISP filtering, we believe that there is an overwhelming case for blocking with ‘refuse classification’ or ‘illegal’. There might be a slight legal grey area in how you use those two words but, just so that we are completely clear, they include child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act. What else is possible to be blocked will be, as yet, determined by the results of the trial.

**Senator LUNDY**—Perhaps I can make a helpful suggestion here. The area of law that Senator Bernardi is referring to relates to digital copyright and intellectual property issues and is handled in a different portfolio; it would be for the Legal and Constitutional Affairs Committee to pursue the question of the legality of the content of file sharing, which is obviously what you are advocating.

**Senator BERNARDI**—No, not actually file sharing. Thank you. I am not sure whether you are trying to help the minister or me, but I appreciate it.

**Senator LUNDY**—Not at all. I am trying to help you because I was there when these laws were put in place and I understand the context of the debate and the law that was argued at the time; you obviously lack that.

**Senator BERNARDI**—I do. I am just exploring this because—

**Senator LUNDY**—I was trying to be helpful.

**Senator BERNARDI**—it is an area where I think there is a lot of detail. Minister, let me create an image: there is a video that has not received classification in Australia that you could download off the internet, but would be deemed illegal content because it has not been classified in Australia and it would be blocked. Is that correct?

**Ms O'Loughlin**—Under the Broadcasting Services Act, it is prohibited or potentially prohibited and, therefore, we can make a call on whether the material, if it were classified in Australia, would be prohibited. That is a call that ACMA can make.

**Senator Conroy**—In which case it would head off a classification process. They can look at it and go, 'Well, that's child pornography and, even though it's not classified, we're blocking it.'

**Senator BERNARDI**—We accept that, bearing in mind what Senator Lundy has said as well. Then you have a video that is available for download illegally that has not been classified, but you may give it a pass. It would still be available, even though it is an illegal download.

**Senator Conroy**—As I have said, our blacklist is linked directly to the Broadcasting Services Act. We are not blocking material on the basis that it is being illegally downloaded in an intellectual property sense. We are talking about material, as I have said, specifically revolving around those categories I have just read them out and I am happy to read them out again, but I am sure that you do not want me to do that.

**Senator BERNARDI**—No, I do not want you to do that.

**Senator Conroy**—As I have said, whether we will consider other items will be determined by the live trial. We have said that consistently. We have said that we do not see there being any reason not to have a trial. There are conflicting expert claims about the capacity to block and filter or not block and filter. The trial is designed to assess competing claims around progress that has been made in technology in the last few years. The previous government, to its credit, engaged in a trial that came back with the much claimed figures of the 87 per cent; it also came back with, I think, a three per cent figure. So there was a range of filters and it came back with a range of results, and we are doing exactly the same.

**Senator BERNARDI**—I am sure that we will go through these issues at future estimates. Thank you, Chair.

**Senator LUNDY**—Speaking of that, I am feeling a bit of *deja vu* myself because I would like you to just go through the issue of the blacklist and why it is not made public. I do recall asking the same questions, I have to say, of the previous government when these laws were being discussed and debated, but I think it is important to make it clear.

**Ms O'Loughlin**—The Administrative Appeals Tribunal in 2002 looked at considering an application, under the FOI Act, to access the blacklist. It came to the view that it would have a substantial adverse effect on the proper and efficient administration of the regulatory scheme for online content and that the disclosure of such information, on balance, would not be in the public interest. In that regard, the parliament subsequently amended the FOI Act in 2003. The

reasoning was that in the offline environment, if a book or a film is refused classification under the same classification scheme or is assigned a restricted classification, the distribution of that book, DVD or publication is effectively banned or restricted so that distribution cannot happen. You may be able to publish the title of the book, but effectively it is not really going to be able to be obtained. However, if you are publishing the title or an internet address of online material, that material actually still exists and would potentially allow a person to locate, view, download and pass it on. That was the reasoning of the AAT.

From our point of view, we also believe that, as the list is compiled mainly of URLs relating to online material depicting child sexual abuse images, publication of the list would obviously provide a ready source of new material for adults who have a sexual interest in children and would continue that abuse. So, as I mentioned earlier, the blacklist itself is based on what is in the Broadcasting Services Act and defined under the classification act, whereas the list itself is not made public for those reasons.

**Senator LUNDY**—Thank you for that. I know that there is ongoing debate, as there always has been, about the concept of the contents of that list being formed by a group and I guess that criticsers of the policy feel that would relate to their personal view. Can you go through ACMA's processes as to what checks and balances are in place to make sure that is not the case?

**Ms O'Loughlin**—As I have said, I very much think that our taking the national classification scheme and requirements under that very clearly and publicly describes what type of images are refused classification or fit under those other criteria. We have trained classifiers on staff who can make those assessments, but we often also refer material straight to the Classification Board so that we can actually test with them whether our reasoning is correct. So, by taking that very public criteria around the various classifications, we think we can give people comfort that it is related to the images we are seeing on line rather than the website itself and that there are readily available criteria as to what we need to look at. Ms Wright, do you want to add anything?

**Ms Wright**—Yes. I can add that we provide overview reports in our annual report. As you may recall, Senator, every six months those overview profiles of the number of investigations that we have done and the breakdown—whether it was RC, child pornography, X and so on—are tabled in parliament. If we look at one of those six-month reports, there is a lot of information on what we do regarding our investigations there. We are also aware that the act provides additional checks and balances for Australian hosted material. Under the act, if the material is likely to be prohibited, we must refer it to the Classification Board. If they classify it, the results go to the complainant and to the Australian host; either party can appeal to the Classification Review Board and, beyond that, they can seek judicial review.

With overseas content where it is not referred, we have had cases where we or an ISP has been contacted by the owner of a site to say, 'Is there a particular reason why my content has been blocked?' In no case has it related to our list; nevertheless, we have had people check with us. We have been able to advise them that the content was not listed by us. But, had it been listed by us and they were of a different view, we would then refer it to the Classification Board for future decision, if we had not already done so. Then, in turn, it could be returned to the Classification Review Board and then again go on to judicial review.



**Senator LUNDY**—Is political content banned?

**Ms Wright**—Political content does not mesh in any way with the National Classification Code. The National Classification Code looks at individual elements of violence, sex, coarse language and child sexual abuse; it does not cover political speech. We are not like China.

**Senator LUNDY**—Minister, I note that you have said the government believes that ISP filtering is not a silver bullet solution. What else is the government doing to address the issue of cybersafety?

**Senator Conroy**—Senator Ludlum partially touched on this when he asked about other parts of our plan. In the 2008-09 budget, the government committed \$125.8 million over four years to its cybersafety plan. The cybersafety plan includes: funding of \$49 million, which will see 91 new AFP officers going into its child protection operations team for the detection and investigation of online child sex exploitation; \$11.3 million for the Commonwealth DPP to help deal with increased activity resulting from the work of the AFP; \$9.9 million to ACMA to implement a range of education and outreach activities; \$4.3 million to develop a new cybersafety website with comprehensive up-to-date and age-appropriate cybersafety education material and to improve the online helpline to provide a quick and easy way for children to report online incidents that cause them concern.

That plan also includes a consultative working group, which met three times last year, to consider a broad range of cybersafety issues and provide advice to government to ensure properly targeted policy initiatives. That group includes industry representatives, child protection groups and government officials. A subgroup was formed to look specifically at the issue of cyberbullying; it met towards the end of last year and it is due to meet again in coming weeks. It also includes \$3.9 million that will go towards a youth advisory group and a secure online forum for young people to have a voice and to provide advice to government on how cybersafety issues affect them and what they think should be done to address the issues. In addition, an amount of \$2.3 million is going towards research into the changing digital environment to identify issues and target future policy and funding.

Today I announced that a major review of Australian and international research on cybersafety will be undertaken by the Edith Cowan University's Child Health Promotion Research Centre; it is to be overseen by Donna Cross. It will explore views on the consequences of these risks and what technical and behavioural measures can be used by children, parents and teachers in helping to reduce those risks. So, despite there continually being allegations that the government believes there is a silver bullet solution in any form of filtering, in actual fact we have a comprehensive package that covers policing, the legal backup to policing and educational material for children, parents and teachers, and we are interacting directly with youth to get their opinions on a whole raft of issues.

**Senator LUNDY**—I am particularly interested in the educational and outreach elements of that program. You mentioned the research project that was announced today, but perhaps I could get ACMA to describe the progress they are making in these important areas of cybersafety.

**Mr Chapman**—Thank you for that. I would like ACMA to have the opportunity to talk about that because the work that we have been putting in over the last several years is really

starting to pay dividends and we are considerably leveraging up our education and professional development program. A number of initiatives are underway and the feedback that we are getting from the education departments, teachers and schools has been nothing short of extraordinarily positive. With respect to the specifics, maybe Ms O'Loughlin can take us through them.

**Ms O'Loughlin**—One of the key activities that we have been undertaking in terms of outreach has been our internet safety awareness presentations. So far over the last 12 to 18 months almost 30,000 people have attended our presentations. We have also taken on two additional trainers who have been engaged to deliver presentations in 2009. Secondly, we have developed a professional development program specifically for teachers. That looks at giving teachers some tools specifically around things like cyberbullying and identity management so that they are very well informed of some of the issues that they and their students will face and to provide teachers with some ready-made tools. That professional development program commenced being rolled out in the last couple of months. We are also developing a new education portal, which we have called Cybersafety Gateway, which will also allow quick links through to our cybersafety education resources. Again, this is for teachers.

We are really embedding our material into schools across the country, both with our presentations but also by using the technology itself to get the information out there. We are currently also developing a cybersafety website and, along with that, an online help facility for children. We expect that to be up and running in the next few months. We think that will also be a welcome addition to the suite of material that we provide on cybersafety matters. In the 2008-09 year to date, we have distributed about 400,000 copies of brochures on cybersafety to families and schools around Australia. We have also developed a manual of cybersafety material for library staff and users, and we have distributed around 100,000 copies of that across Australia. So there is a broad suite of activities that we have been undertaking. Do you want to mention anything else, Andree?

**Ms Wright**—Our libraries program, which Ms O'Loughlin just referred to, is a world first. We met with Insafe, who coordinate all the educational activities in Europe, and they have realised that is a gap for them—none of those countries provide that material. So they asked for a copy of our pack and they will now be rolling out a similar program. We are also ramping up an online live game that we play with upper primary school aged children that is called Cybersmart Detectives. In the 2007-08 calendar year, we were able to play that game live with 81 schools. This year we will be rolling it out to 300 schools. On Safer Internet Day, which was 10 days ago, we played that game live with 10 schools. We are also developing a cyberbullying module for that game. The value of that game is that there is a live control room of experts in the cybersafety education area which draws on our colleagues from industry and NGOs. There is a scenario that feeds out clues to school children who play in teams online. They ask questions, which in turn drives the scenario further. From the questionnaires that we give to the children, we know that this is something that does change behaviour.

We are also in the process—I think it will be in April—of releasing an Australian customised version of an international award-winning anticiberbullying program. We piloted

that program recently in a Sydney based school and asked the children for feedback on it. It is interesting, in that they came back and said to us—I think I can quote one of the children here—‘Before we just thought, “Oh yeah, you know, it happens, it’s just a light sort of thing.” But we got kind of emotional and sad because you saw this person who’s trying to relate to you because you’re a young person. You saw how his life got ruined just because people started a kind of a joke, and it showed us the impact on the boy’s life.’ So we are doing a lot of work with children to develop our programs and we are involving them in our presentations. Some of those comments will be filmed and included in our DVD pack.

**Senator LUNDY**—I am pleased to hear that because I think that end-user education is going to be a critical feature of any effective cybersafety policy.

**Ms O’Loughlin**—I would just add that we are also trying to work with the education sector and other non-government organisations to make sure that we are not duplicating but enhancing the resources provided by many others.

**Senator LUNDY**—Obviously, a key target group is parents. What are your strategies for helping to educate parents? Whether it is cyberbullying or anything else, quite often it happens when the kids are using the computer at home and, if the parents are not across strategies to either protect or supervise their children, it is still going to happen. Can you describe those sorts of strategies?

**Ms O’Loughlin**—The two that come particularly to that point are the distribution of the material that we do on request to families and, significantly, the outreach program that conducts talks at schools to parents, teachers and children collectively. That is where we get the strongest feedback from parents. That face-to-face discussion is done in a positive way and is about the positive aspects of the internet, but parents also find what their children could be exposed to online quite surprising and it gives them a very strong information base to take home.

**Ms Wright**—In addition, our libraries pack is a family pack and it is designed for families to use together. We find that it is not necessarily educating parents or children separately but getting them to interact that is very powerful.

**Senator LUNDY**—I think it might be good for the committee to get copies of the pack, if that is possible. Please take that on notice. You have mentioned identity management. It is quite a difficult concept, I think, for adults and children alike to understand just how vulnerable their identities can be. What specific elements of the package that you are promoting across all these areas focus on the question of identity management and related privacy issues?

**Ms O’Loughlin**—I think, in general, in our information provision we are trying to provide the broadest sense of the various issues that people may face online, both adults and children. Not only does it focus on the issues that we discussed earlier around prohibited content but it also expands that into how young people in particular and also adults protect their identity when they go online in terms of security, whether it is financial or personal security. So we have included that. For example, there is a component in our professional development for teachers around the issue of how you deal with identity theft. So it focuses on not just discovering material that might be of concern online but also how you protect yourself when

you go online through things like social networking sites. I might ask Andree to talk about some of the home office work and social networking, which also relate to that a bit.

**Ms Wright**—Yes. We were privileged to be part of a basically UK but also international stakeholders group that looked at social networking issues and worked with industry to come up with a best practice guide for what would be effective in this way. We have been able to pick up the lessons learned from that group, to carry them through for our professional development program for teachers and to incorporate them in lesson plans, interactive games and teaching guides.

**Ms O’Loughlin**—The good thing about the outreach program is that it is a two-way process. We are obviously out there providing information, but a lot of the information we are providing is informed by the feedback we get from parents, teachers and children when we are actually doing those outreach programs. So it is a valuable feedback loop for us regarding the material that we currently have about where the gaps are and what sorts of messages we need to use to get to people effectively.

**Senator LUNDY**—Just going back to the issue of cyberbullying and the whole gamut of cybersafety, kids still use mobile phones for cyberbullying. That is part of the picture. How do the policies that you are describing relate to mobile phone texting as being one of the ways in which cyberbullying can occur? Do they cover that as well? Is there a demarcation on the different forms of communication with respect to this policy?

**Ms O’Loughlin**—No. The ACMA’s ambit also covers mobile phone technology, so I think we are looking more generally at what technologies are being used—

**Senator LUNDY**—So, in other words, it is not technology specific.

**Ms O’Loughlin**—No. It is really getting those messages out to kids about how they are using technology and what the particular issues are that they might need to face across all of the technologies they are using.

**Senator LUNDY**—In terms of the range of funded initiatives that the minister went through, obviously they all have start dates and progress is being made. I might get you to take on notice some of that programming so that I can see how the education and outreach strategies in particular proceed and are implemented by ACMA.

**Ms O’Loughlin**—We can certainly take that on notice.

**Senator LUNDY**—That is all have on that specific issue. I do have other questions for ACMA, Chair.

**CHAIR**—I think Senator Birmingham has some questions on this particular issue.

**Senator BIRMINGHAM**—I have a couple of quick, related questions. Thank you for the liberty, Chair. Firstly, in relation to the study that you have announced today, Minister, can you tell us initially how much the consultancy is worth?

**Senator Conroy**—We will get that information for you.

**Senator BIRMINGHAM**—Also, what time line is it to be completed within? Thank you. I would have saved these questions for the department, but as we have gone there—

**Senator Conroy**—Yes, we are jumping around. I am relaxed about it, if the other senators are also relaxed about it.

**Mr Rizvi**—The budget for the study is \$97,700. We are expecting a first draft in April and a final draft in May.

**Senator BIRMINGHAM**—Minister, are you or the department aware that, in March of last year, the then Western Australian government—but I assume that it is continuing—announced a \$400,000 study into cyberbullying that is to be headed by Donna Cross from Edith Cowan University?

**Senator Conroy**—Then I am sure that she will be well qualified to meet the criteria of our tender.

**Senator BIRMINGHAM**—I am sure she is well qualified in that sense; nonetheless, were you aware of that study commissioned by the Western Australian government or department?

**Senator Conroy**—I will have to seek advice from the officer.

**Mr Rizvi**—We were aware of that study. The terms of reference of the study that we are undertaking are not solely in relation to cyberbullying; they refer to a much broader literature review of cybersafety issues.

**Senator BIRMINGHAM**—So the department's opinion is that there was no opportunity to particularly leverage off or talk to the Western Australian government about cooperation of research in that regard.

**Mr Rizvi**—In terms of undertaking the literature review, we would certainly expect Professor Cross to look at the full range of literature that is available and obviously she would have access to her own work done in this space, which is quite considerable.

**Senator BIRMINGHAM**—In relation to a different matter, which is Labor's plan for cybersafety from the 2007 election—which we seem to have gone through in some detail just previously—I am curious to know at what stage the Joint Parliamentary Standing Committee on cybersafety issues might be.

**Senator Conroy**—If I could only descend into the cone of silence at this moment! We hope to have it established in the next few weeks of parliamentary sittings.

**Senator BIRMINGHAM**—There is obviously an in-joke between Senator Lundy and the minister and others that we would love to share.

**Senator Conroy**—We hope to have it established very soon, in the next few weeks.

**Senator BIRMINGHAM**—So the government remains committed to that part of their election promise.

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

**Senator BIRMINGHAM**—Thank you, Minister.

**Senator LUNDY**—I will let you know about the joke later, Senator Birmingham. It relates to a previous parliament.

**Senator BIRMINGHAM**—Thank you, Senator Lundy. I have other questions on ISP filtering, but it might be better if I tie them in elsewhere.

**Senator Conroy**—You might wait for the department, yes.

**Senator FIELDING**—I wonder whether the department would tell us—

**Senator Conroy**—No, the department are not at the table—

**Senator FIELDING**—Not the department, sorry, just policy. What advice—

**Senator Conroy**—It is in ACMA, which got distracted into other issues. I am happy to bring someone to the table if it would assist you.

**Senator FIELDING**—It is on the cyberbullying issue that I really wanted to cover off from there. What sort of research has come through that has been done specifically in that area? If you could tell me just generally first what research has been done for cyberbullying?

**Senator Conroy**—I am not sure if you were in the room when I announced that we have just commissioned a report—

**Senator FIELDING**—I understand what has just been announced, but it has been around for a while. So that is all. I am just trying to—

**Senator Conroy**—I also outlined part of the government's program consultative working group which met three times last year to consider a broad range of cybersafety issues and provide advice to government to ensure properly targeted policy initiatives. A subgroup was formed to specifically look at the issue of cyberbullying. This group met towards the end of last year and is due to meet again in coming weeks. The sum of \$3.9 million of our cybersafety package is towards a youth advisory group and a secure online forum for young people to have a voice and to provide advice to government on how cybersafety issues affect them and what they think should be done to address the issues. I think Mr Rizvi should be able to assist further.

**Mr Rizvi**—I think the minister has touched on the three main areas of work that we are doing in this space. The first is we are working in particular with the department of education in terms of research in this area. In addition to the research mentioned by Senator Birmingham, the Commonwealth department of education has also commissioned extensive research in the cyberbullying area.

The second dimension of work we have been doing in this space is the development of this youth advisory group which consists of 15 schools around Australia each of which are selecting 25 children to participate in this group. I think the input that we will get from those children on cyberbullying issues will be very valuable because we will be getting it directly from the children rather than solely from researchers and professionals in this field.

As the minister mentioned, the third dimension is the cyberbullying subcommittee that we have set up. The interesting thing about this subcommittee is that it brings together for the first time state and Commonwealth officials involved in education matters with many of the key industry players. They are two groups of stakeholders who really have not interacted much on this issue yet they are in a position to perhaps do quite a bit in terms of progressing this matter. We are quite hopeful that the subcommittee in conjunction with the youth advisory group will also assist government in taking this matter forward.

**Senator FIELDING**—We have heard some of that before but what research do you currently have—not what you are going to do? What research do you currently have? Have you done any in the past and what have you actually got your hands on?

**Mr Rizvi**—The key piece of research that we now have is that undertaken or commissioned by the Commonwealth department of education specifically on cyberbullying, and that was done by Professor Donna Cross. I would need to check where that research is up to in terms of its availability.

**Senator FIELDING**—Given that there are reports out that there are epidemic proportions of cyberbullying going on I am just trying to work out what the current action plan is based on. It seems to me that the action plan is that there is an education process going on, which I think is a good move. Then there is also a plan to do more research, which is also a good move. But, given that this has been around for a while and there have been calls for toughening the laws up in this area for example, is that something that you are looking at?

**Mr Rizvi**—I am sorry?

**Senator FIELDING**—There have been calls to toughen the laws in regard to cyberbullying. Have you looked at toughening the laws up at all?

**Senator Conroy**—We have been very conscious of cyberbullying and that is why we released a policy prior to the last election on these matters and have been implementing it as we go. I do not always believe everything that I read in the newspapers, particularly from some individuals. But I think Ms O’Loughlin outlined before, perhaps before you were in the room, a whole range of initiatives we are actually doing on the ground to combat it. I might just get her to quickly review them again for you. These are programs in schools on the ground with teachers, parents and kids.

**Senator FIELDING**—You are, I suppose, new at the job but the policy area has been around for years and this issue has been around for a while. I am just trying to work out what is actually going on. There have been calls to toughen the laws, for example. Has that been looked at before?

**Ms O’Loughlin**—I think in terms of how it is handled under the law would be a matter for the police rather than us. I can only talk about what we have been doing in regard to our education programs. Cyberbullying has been an issue domestically and internationally. There is an enormous amount of research that has been going on which we tap into in regard to developing programs and policies. It is also something that the Commonwealth, state and territory education departments are very tuned into. Much of the focus of their work has been ensuring that cyberbullying as an extension of bullying is accommodated for and dealt with effectively in the school environment. I can focus on what we are doing, which is making sure that that we are tapped into those international concerns and international research around cyberbullying, which vary a little from country to country—they have different dynamics to them—that we are using that to inform our programs that we are developing which go out to parents and teachers and schools, and that we are also for example working with organisations internationally like the UK Childnet program to get some of their cyberbullying programs and import them into Australian schools, remodified and reworked for the Australian environment,

so that we can do those quickly and effectively and to get the best of the international programs that we can tap into for the Australian environment.

**Senator FIELDING**—If you were to summarise the action plan for cyberbullying, again there is the education part which is quite useful.

**Ms O'Loughlin**—Yes.

**Senator FIELDING**—You have got a couple of research projects going. You have also got a couple of bodies or groups that are looking at the issue and making recommendations. As far as checking what other countries are actually doing, again I have not heard anyone mention the laws. There have been calls around different parts of the world for laws to be strengthened. I know it may not be your area, but it seems odd to me that you are dealing with cyberbullying and not maybe looking at whether any recommendations are coming from this area into toughening up the laws at all.

**Mr Rizvi**—There are laws at the moment regarding the use of a carriage service in a threatening, menacing manner. However, I think looking at most of the research in this space very little of it recommends a law enforcement tool as the best way of going down this path. The bulk of the research seems to focus on education as the way to go forward.

**Senator FIELDING**—If I were able to show you some other laws that have been changed in regards to cyberbullying that they seem to think may actually help—

**Senator Conroy**—We have got a very open mind.

**Senator FIELDING**—I will raise that issue elsewhere. Other countries are doing things other than just education. I am not saying we should not do education—

**Senator Conroy**—We are always happy to learn from other jurisdictions.

**Senator IAN MACDONALD**—I think I let the department know through the committee about a couple of existing black spot problems with the analog TV. This is as we go towards digital TV. In a place called Rainforest Estate, which is a substantial suburb in Cairns, and in another beautiful tourism destination, on the Whitsunday Coast in Queensland, a place called Mount Julian, people are not just concerned about what might happen when digital TV comes but they are even having problems getting analog TV. Did I give notice of these two particular areas?

**Mr Chapman**—I think we are poorly prepared to deal with your concerns. Mr Tanner, who is the general manager responsible for inputs, is more than happy to take you through some of the specifics of what you want to raise.

**Senator IAN MACDONALD**—Thank you. We will go to it.

**Mr Tanner**—In fact, I do not have much specific information on Rainforest Estate in Cairns, unfortunately. We did see the article in the local paper. I am advised that Mount Julian is described by engineers as an unserved area. That is an area with very weak or no analog signal. Let us start with the Whitsundays, because I have got up-to-date information on that. The Whitsundays are all in the regional Queensland licence area. There are several broadcast facilities there which are transmitting in both analog and digital. They are at Proserpine, Airlie Beach and Shute Harbour. There are also a couple of black spot services. I understand they



are at Dingo Beach and Jubilee Pocket. That refers to analog-only services that were provided in the last five or six years under a policy of the previous government.

There are a number of what have been described to me as unserved areas, which include the Mount Julian area. The reason I am parsing it out in this way is that there is an obligation on broadcasters to provide digital coverage wherever they currently provide analog coverage. It is pursuant to that obligation that broadcasters are transmitting in digital at Proserpine, Airlie Beach and Shute Harbour. There is no similar obligation on broadcasters to match analog coverage with digital in black spot areas. Those were provided through federal funding typically to local government or other self-help agencies. Similarly there is no obligation at present on broadcasters to provide services where they currently do not provide an analog service. That issue of what to do with black spot fixes and in other areas of poor reception is an issue of policy which the government is still working on. ACMA has no advice to you except perhaps to take the issue up with the Digital Switchover Taskforce. That is the situation with Mount Julian. Unfortunately I am not briefed on Rainforest Estate—

**Senator IAN MACDONALD**—I am told by a constituent that there are problems at Mount Julian, Dingo Beach, Gloucester, Jubilee Pocket, Strathdickie, Conway Beach and Wilson's Beach, and even Proserpine itself has intermittent analog reception problems. As well there are problems at Airlie Beach, Cannonvale and Shute Harbour. My advice to them is, 'Tough, see the television channel and see if they will do something about it.'

**Mr Tanner**—Certainly not. I understand that the whole region is fairly hilly so there are likely to be different issues at different sites. There are probably some people who are watching Mackay television across the water, for example. There are all sorts of solutions which people are going to be implementing. The critical thing is that where the broadcasters are providing analog television they are expected to provide digital television, too, and if there are—

**Senator IAN MACDONALD**—That is one issue.

**Mr Tanner**—That is one issue and that is an issue which we take a considerable interest in. If you are aware of people who have analog television from a broadcaster site but do not yet have digital, that would be of interest to us.

**Senator IAN MACDONALD**—Are you telling me if they have analog you will guarantee digital?

**Mr Tanner**—If they have analog from one of the broadcaster sites which are at Proserpine, Airlie Beach and Shute Harbour, yes. If they are served by a black spot service or are in an area of signal deficiency then that is an issue of government policy which is still under consideration, so ACMA does not have any advice for you but the government may very well.

**Senator IAN MACDONALD**—I should be asking the department and the minister about that. Rather than hanging around, the ball has nicely been passed to you, Minister, because it is not an ACMA problem, but what is the government going to do with the previous government's black spot program?

**Mr Tanner**—If I may add a bit more, there are one or two other things people can do as well under current rules, but I do not want to get in the way of the digital switch-over.

**Senator IAN MACDONALD**—I am just talking now about analog. Although we are one of the first to go, it is still a couple of years away. These people in this area are finding difficulty in getting analog, so I repeat my question. Do I just tell them, ‘Well, tough. That is bad luck about your analog’? Or is that what you are saying the government is looking at? I think you are saying that there was a program to deal with black spots by giving money to local government or other groups—

**Mr Tanner**—There are actually two programs. I suppose we are really coming to the end of the further rolling out and extension of analog because the system will soon be shut down. The broadcasters provide their legacy analog services. In some communities where there was no analog the government has in recent years rolled out black spot solutions, which are analog only solutions generally provided by local government or self-help. For people who are unable to receive any signal at all there is an option of receiving satellite services which would be the ABC, SBS and the remote area—Imparja and Triple Q services—probably in that area.

**Senator IAN MACDONALD**—They could then get Sydney television in Proserpine, which is great for the local community! The local community is Mackay based.

**Mr Tanner**—No, these are not Sydney services. In the Whitsundays they would be the central and north-eastern and remote services—

**Senator IAN MACDONALD**—They would be effectively Northern Territory programs, which are not of a great deal of interest in Proserpine, I can tell you.

**Mr Tanner**—Let us forget about digitisation for a moment. What I am spelling out to you is what the options are of people who are not able to receive analog television who want to receive analog television—

**Senator IAN MACDONALD**—That is what I am asking—

**Mr Tanner**—I am saying that the broadcasters have been providing services. Those who are not able to receive those—

**Senator IAN MACDONALD**—I am telling you that they are not getting it, so what can they do for the next two years?

**Mr Tanner**—The immediate option for anyone who cannot receive an adequate analog signal is to apply for out-of-area permission for the two commercial remote central and north-eastern services, the Imparja service and the Triple Q service, and for the ABC and SBS by satellite. That is an option which is available now. Otherwise there certainly is a policy development process around black spots and signal weak transmission which the department and the government are working on, but that is not for ACMA to tell you about. That is the immediate option if they are not able to source an adequate analog or digital signal.

**Senator IAN MACDONALD**—The other two channels you talk about are still a good service but they are effectively Central Australian, which does not have a great deal of relevance to the Whitsunday tourism coast, I can tell you. Minister, can you tell me—or should I leave this for the department—where you are at with the policy initiatives in these areas?

**Senator Conroy**—I am sure we will get a comprehensive briefing. I would probably say if you want to raise it then we can get the switch-over task force to join in the conversation and that will probably help.

**Senator IAN MACDONALD**—I interrupted you at analog. You were going to go on to digital.

**Mr Tanner**—No, I have nothing else to add except that there should be digital services wherever there are analog broadcaster provided services already in the area. My answer for Cairns is that I will have to take that on notice because as to that particular community I have not got any specific advice for you. But my general advice would hold. If anyone in Rainforest Estate has adequate analog service from the broadcaster they should be able to receive the digital signal as well. If not, we would be quite interested in that. If they do not receive an analog service, then the options are as I have set out.

**Senator IAN MACDONALD**—If they are not getting an analog service now you are saying to me there is no government guarantee that they will get the new digital service when it comes, or is that a policy matter?

**Senator Conroy**—That is a policy matter that you should raise with the department.

**Senator IAN MACDONALD**—I thought I did indicate through the secretary—perhaps I am wrong—that I would be asking questions about Rainforest Estate.

**Mr Tanner**—I was aware of the newspaper report.

**Senator IAN MACDONALD**—Let me tell you quickly about it. It is a significant part of Cairns. When I say it is a new suburb, it has been going for 10 years or so now. It relates to a service related to telephones which Telstra were providing but also helping with television, which has just recently been cut off, for any number of commercial reasons, I guess, by Telstra. I understand that the group have been to the local federal MP about the issue—

**Senator Conroy**—The senator has written to me on that matter twice.

**Senator IAN MACDONALD**—Yes, but we do not seem to have achieved anything.

**Senator Conroy**—We are working on the problem. We accept it is a problem. It is not a problem that is the fault of the individuals involved. We are looking to see what policy solutions there are. It also does fit in to a degree with the digital switch-over, but we are investigating what options are available at the moment.

**Senator IAN MACDONALD**—Can you elaborate on that? What options are we looking at?

**Senator Conroy**—I said, ‘We are investigating what options’; I did not say that we had a solution.

**Senator IAN MACDONALD**—I understand that Telstra have very recently done something that will improve the services but it is obviously going to be a problem in the digital switch-over. Is it a fact that if they have to rely on satellite services that they will not get the Cairns services but get what is effectively a Northern Territory service?

**Senator Conroy**—That is probably a question again to put to the Digital Switchover Taskforce. They are investigating all of these issues. They will be able to give you an update

on where they are at in terms of satellite provision. I am sure you saw the release revolving around Mildura. We are investigating satellite options. We are in extensive discussions with both metro and regional broadcasters about what options are available using satellite service. Satellite service has the ultimate solution of not requiring individual towers to be built around every single area, so it has advantages. It has potential downsides. That is why we have to work with the regional broadcasters to see if we can overcome them. But I am sure Mr Townend will be able to give you a much more comprehensive answer than I have just given you because he has actually been to those meetings in the last few weeks.

**Senator IAN MACDONALD**—A lot of constituents share my view that there are these problems that they believe, as I do, will be exacerbated by the switchover and they are peeved that we in the north are going to have to switch over two years before Brisbane does. We understand that Brisbane has been put back because there were problems with the reception in the switch-off timetable.

**Senator Conroy**—No. You can ask Mr Townend what was the thinking behind the timetable. It was worked through and agreed with the actual broadcasters. The concerns that you identify are legitimate. Mr Townend will be able to give an update on where we are at after discussions with the regional broadcasters. They are not resolved yet, but the intention is to ensure that people continue to receive their localised news services as well as localised advertising. That is the policy intent. We are working with the broadcasters to see if that is possible using an alternative satellite delivery system. That is why we are going through a pilot in Mildura and we are testing that. As I said, Mr Townend has been attending the meetings with the broadcasters. We have been meeting with them regularly and I am sure he will be able to give you a more comprehensive update than I have just given.

**Senator IAN MACDONALD**—I accept that the television stations cannot always beam to every house unless it is a condition of their licences. Is it a condition of their licences?

**Senator Conroy**—I would have to get Mr Townend in—

**Senator IAN MACDONALD**—He is shaking his head, so I take it that is no.

**Senator Conroy**—Mr Tanner was shaking his head, not Mr Townend. I do not think it is, but I think Mr Tanner is agreeing with me.

**Mr Tanner**—There is no obligation to serve everybody in the licence area. There is an obligation on commercial broadcasters to provide a service, but it is not an obligation to provide a service to everybody within their markets.

**Senator IAN MACDONALD**—That brings me to my point. Perhaps that is fair for a commercial business, but it then becomes a matter of government policy—that is, a program of specialised funding for black spots, or whatever you call them, to do it. You were saying before, Mr Tanner, that the minister and the department would be able to tell me about where they are at with this policy development later on. Will you get back to me on the Rainforest Estate?

**Mr Chapman**—We will. For the record, we did receive that request. I apologise. We do not have that information together today, but we will respond to it. I just wanted it noted that the system had worked from your end.

**Senator IAN MACDONALD**—Thanks for that. My constituents at Rainforest Estate are curious in that this was allegedly nothing to do with the government but was a Telstra matter. Yet they have referred me to what is called a deed of surrender between a person called Stephen David Collins and Telstra Corporation Ltd. It was relating to the developer putting in a little block of land where this facility was, I think. But it is prepared by the Australian Government Solicitor, which then makes them suspicious that it is in fact a government activity rather than a private arrangement between the developer and Telstra. Could you let me know whether, in looking at this, there was a government involvement or it was purely a thing between Telstra and the developer. If it was not a government development, why was the AGS involved unless the AGS was simply hiring out their services as a solicitor to a private company? I know that is possible but would find it unusual.

**Mr Chapman**—We will certainly do that. To the extent that we can tease those things out for you, we will.

**Senator IAN MACDONALD**—There is another issue in relation to Tully Gorge on Jarrah Creek near Tully. I did not give you notice about that, but I wonder if your assessments could include that locality as well.

**Mr Tanner**—We can take that on notice.

**Senator LUNDY**—I have some questions about the Do Not Call Register. Who are the worst offenders for breaching the Do Not Call Register?

**Mr Chapman**—This is probably a classic application of the Pareto principle—that 80 per cent of our complaints come from 20 per cent of participants. It is not quite as skewed as that. In our telemarketing investigations area in particular we have put together a terrific team that has really developed some momentum in there and we are having a number of ‘wins’. I might ask Ms Cahill, who is the acting general manager responsible for our convergence activities, of which this is a classic example of convergence at work, to take you through some of those.

**Ms Cahill**—You asked a question in relation to who are the worst offenders. Based on our statistics over 55 per cent of complaints where the consumer has been able to identify the caller refer to telecommunications service providers. That is actually double the next two highest. The next highest are holiday promotions, around 23 per cent, and the call centre industry generally, at 11 per cent.

**Senator LUNDY**—Telecommunications service providers—so telcos are the worst offenders?

**Ms Cahill**—Primarily. That is what the statistics have been saying to date.

**Senator LUNDY**—How ironic. It is not really.

**Ms Cahill**—As Mr Chapman indicated in the opening, though, we have been working very hard with this sector of the industry to achieve a compliant industry. To that aim we have provided significant education and awareness material and we also have been using our full range of enforcement powers to provide a climate for enforcement and compliance within this industry sector.

**Senator LUNDY**—You would think that, of all the sectors, they would be the most clued up on what the actual regulations were, wouldn't you? I am sorry, that is a bit of editorial comment. How many infringement notices have been issued?

**Ms Cahill**—To date we have issued five infringement notices. Two have been paid and they have been publicised. One was to a telecommunications company and one to a lifestyle company. It is not an admission of guilt when a company pays an infringement notice; it is merely that we have made an allegation and, in seeking to end the matter and enter into a compliant relationship, they will pay the infringement notice. Our view is not to publish unless there has actually been a payment made.

**Senator LUNDY**—Have you accepted enforceable undertakings from any of these companies with respect to that process?

**Ms Cahill**—ACMA has entered into enforceable undertakings with five companies and two individuals who were principals of the company that now does not trade. Details of the nature of the enforceable undertakings and those who have signed up to enforceable undertakings are available on our website. The five companies involved to date are People Telecom, Dodo Australia, Astron Communications, Freedom Escapes and Lifestyle Dynamics. Enforceable undertakings—

**Senator LUNDY**—Consumers be warned. Sorry, you were going to say?

**Ms Cahill**—I was just going to say the nature of enforceable undertakings can go to matters of requiring those companies who have signed to undertake training for their staff, provide more rigorous auditing and to report to ACMA on how they have progressed. One of the key issues we picked up is basically the failure of record keeping practices and that has been included in our enforceable undertakings as has recognition of the monitoring of calls. One of the issues in relation to contraventions by telecommunications services in particular has been the complexity of relationships between sellers, wholesalers and the call service centres. We have put a lot of effort into ensuring that our telecommunications people are aware that, regardless of whether they have contracted through three or four parties, they are ultimately responsible for ensuring compliance with the Do Not Call Register of all those people in the supply chain of delivering their service and product. We have had some success. In the quarterly reports from the July to December 2008 quarter we have seen a reduction of about 50 per cent in the complaints to the Do Not Call Register related to telecommunications. So I think our strategies are actually having some impact.

**Senator LUNDY**—How many formal warnings have been issued?

**Ms Cahill**—We have issued formal warnings to four companies: Global Telelinks, Ezycall, m8 Telecom and People Telecom.

**Senator LUNDY**—Going back to your point about the reduction in complaints around telecommunications companies, by focusing your education campaign to improve compliance you have seen a statistical reduction in the number of complaints?

**Ms Cahill**—Again, one of the issues is that generally we would see a high level of compliance with industry trying to come to terms with the Do Not Call Register requirements. About 70 per cent of the total complaints received by ACMA since the introduction of the Do

Not Call Register can actually be sheeted home, based on our analysis, to only five per cent of businesses. It is a disproportionate amount, so if we focus our education on where we are going to get the biggest impact for the consumer we will actually starting to see that rolling through.

**Senator LUNDY**—Thank you for that. Regarding overseas call centres that may not be as familiar with the laws here as call centres based in Australia, what sort of advice or support do you offer businesses contemplating acquiring the services of an overseas call centre?

**Ms Cahill**—We provide advice to any Australian company about the need to ensure that their contracts have the appropriate advice and guidance. We issue *Making the Right Call*, a publication aimed directly at industry, in relation to ensuring that they have the appropriate information in place to ensure that their on-sellers or contracted third parties are aware of the requirements of the Do Not Call Register. We also will be providing our best practice guide, which we are hoping to get out in the first quarter of this calendar year. We will also go into the issues of responsibility regardless of how far you are from the first interaction with customers. Certainly, that is what we plan to put through.

**Senator LUNDY**—That is all I have. Thank you. That is very good news.

**Senator MINCHIN**—I want to ask a question quickly, in the time left, because presumably we are seeking to finish with ACMA by 6.00 pm. Regarding the issue of in-flight telephony, I understand there has been some change to an existing regulation regarding mobile phone jamming in flight. Is that correct?

**Mr Chapman**—Let me start with the basic outline of what have been the developments over the last 18 months. ACMA has, following consultation with a variety of stakeholders, moved to allow the importation of equipment into aeroplanes that may, if the airlines chose to implement the service, facilitate that service. The reason I am going back a step is that it is often misunderstood that the ACMA is, for example, mandating it or leading it, but we simply provided a facility of machinery to allow the importation of equipment so that it could be included in aeroplanes at vital, critical time periods. While it is currently a prohibited input, with respect to some of the phone jamming equipment that sits within the equipment, the answer to that question is, yes.

We then need to decide upon subsequent licence conditions but, over and above that, the airlines themselves—even if it came to pass that they were fully cleared by us, by the Attorney-General's Department and by the Civil Aviation Authority—would need to ultimately make up their own mind, on the assumption that all those hurdles were passed, as to whether they would implement the service and on what terms they would provide it: whether they would provide it with respect to data only and/or voice. At the moment they have not provided any services, particularly in the trials that were undertaken to allow us to get to this point. They were data only.

**Senator MINCHIN**—Just remind me what the current state of play is. Is it entirely a matter for the airlines themselves as to whether people can use mobile phones in flight or is that in fact regulated?

**Mr Chapman**—I will hand over to Mr Tanner and Mr Cheah, because they could give you a more specific answer.

**Mr Tanner**—The particular technologies to enable telephone use in flight make use of a number of devices, but one of them is a small transmitter which has the effect of blocking external communication with cells on the ground. That type of device, until recently, fell foul of our blanket prohibition on jammers of mobile telephone services. ACMA is responsible for that prohibition, and in fact ACMA has made an amendment to that prohibition which permits, as the chairman has explained, the importation of such devices. Their use, though, would not be possible within Australian airspace without a licence, and that is the next step that we have not yet taken. Once again, ACMA is the responsible licensing authority because we are responsible for the licensing scheme for radio communications transmitters, including mobile phones and also, potentially, receivers.

The stage we are at is that we have made a decision that makes an exception to the blanket prohibition on jammers to permit the devices to come in, but we have not made a licence category or a licensing decision that would enable them to be used in any particular circumstance. There are some issues about when and where they might be used that would have to be resolved at that licensing stage. I am expecting to be in a position to go to my authority with some proposals that we might want to publicly consult or consult with industry on later in this first quarter of the year. That is as much as I can report. So, yes—ACMA is the gatekeeper in terms of the radio communications aspect of the proposals.

**Senator MINCHIN**—It is clear, technically, is it, that you would need to fit these jamming devices to aircraft to enable in-flight telephony?

**Mr Tanner**—No. This is one way of enabling in-flight telephony and, in fact, mobile phones can communicate with base stations on the ground. That is something which has always been illegal in an Australian context.

**Senator MINCHIN**—What exactly is illegal?

**Mr Tanner**—Using telephones in aircraft.

**Senator MINCHIN**—That is actually illegal, is it? It is not just a matter of the airlines—

**Mr Tanner**—I might take that question on notice about the exact status, because that is not an ACMA rule.

**Senator MINCHIN**—I am not—and I do not know whether anybody else in the community is—clear as to what the current state of the law is. That is what I was trying to get at. Is there a legislative prohibition on the use of mobile phones? If I use my mobile phone on a plane, am I liable to be prosecuted under the law or am I simply breaching some sort of implied or written contract with the airline conveying me?

**Mr Tanner**—You will not be prosecuted by us. I would have to take your question on notice. I am not aware that you are breaking one of our laws by doing that.

**Senator IAN MACDONALD**—I think you might be prosecuted by fellow passengers who do not want everyone talking on the phone at the same time!

**Senator MINCHIN**—Minister, this is a matter, presumably, ultimately of policy—is it not?



**Mr Tanner**—There are several stakeholders in this. There are issues of aviation safety policy, there are issues of security and there are issues of radio communications. We are responsible for the radio communications part of the equation, the Attorney-General's Department is responsible for the security part, and the aviation authority is responsible for the aviation safety part. Any proposal for changed rules with regard to use of phones on aircraft has to pass muster with all of those.

**Senator MINCHIN**—What has prompted you to apparently change some regulation?

**Mr Tanner**—What has prompted us is that there has been interest in bringing into Australia this particular system to facilitate communication with aircraft using the pico cell jammer.

**Senator MINCHIN**—A technological advance, I think you might say.

**Mr Tanner**—It is a technological and market advance that a number of airlines and service providers internationally are keen to explore.

**Mr Chapman**—Several years ago, airlines and/or suppliers of the equipment subject to the discussion approached the ACMA to see how we could facilitate the introduction of this equipment into aeroplanes. At that stage Australia was, as I understand it, at the leading edge of the introduction of this equipment. We have progressed, from the ACMA perspective, to allow the importation of the equipment into the aeroplanes.

As Mr Tanner explained, the next hurdle for us internally is the conditions, if any, upon which we licence the use of that equipment, and there are issues with respect to legal interception, with respect to Civil Aviation Authority safety that are to be dealt with by Attorney-General's, CASA and other bodies. Since then Australia has not been in the vanguard of this initiative anymore. There are applications emerging as I understand it overseas, in Europe in particular, where this sort of equipment is being offered as a service. To answer your question, about 18 months ago we were approached to facilitate and we have done that, but there are a number of other steps that we require before it becomes a reality as a commercial service.

**Senator MINCHIN**—I am in Senator Macdonald's camp. I cannot think of anything worse than allowing everybody on an aircraft to use their mobile phone all at once. Ultimately has there got to be some public policy decision on this or are we heading in the direction that it is basically the airlines that decide whether they are going to, as a matter of competitive market forces, be an airline that offers this service or does not?

**Senator Conroy**—It is hard to legislate good taste.

**Senator MINCHIN**—That is very true.

**Mr Tanner**—To date, I guess, ACMA has been taking its primary role as being to facilitate telecommunications where that is safe and appropriate. Two airlines are known to be interested in introducing this service in Australia, and I understand that both of those airlines—Qantas and V Australia—have publicly announced that the service offerings would be limited to SMS and GPRS services, not voice.

**Senator MINCHIN**—The other interesting issue is the extent to which—let us say we head down that path even to the extent of SMS—there is the capacity to ensure that all mobile

phone users can continue to use their own supplier/carrier. Or is this all going to be just an issue of jamming?

**Mr Tanner**—That will certainly be an issue for terrestrial use of the services. Remember that there are two potential contexts for this. It could be used on domestic routes or routes within Australia, and it could be used as you are leaving the Australian territorial sea on an overseas flight. There are certainly issues about the appropriateness of authorising this service as opposed to the services that people subscribe to here, and I think those issues would be considered at the licensing stage. They have been raised by carriers and we would be looking at those as we establish regulatory licensing arrangements.

**Senator MINCHIN**—That would be a significant issue for the industry.

**Mr Tanner**—That is right.

**Senator MINCHIN**—Is there some sort of formal working group or something that brings all the agencies together in the industry?

**Mr Tanner**—Nothing quite so formal. Sorry, it is formal, but what you are likely to see is some sort of public consultation paper on the issues. But as I say, this is not something I have had the opportunity to canvass with my authorities, so I am likely to go too far.

**Mr Rizvi**—We already have had one public consultation process in terms of the amendment to removing the jammer prohibition, which was stage 1, as Mr Tanner has said before. There would be another second public consultation process, were we to proceed, even on our own point of view from the radio issues. As Mr Tanner has also pointed out before, there are a couple of other parties involved, including CASA and others, who would also have an interest in this. Presuming if CASA thought there were any aviation security issues they would have their own processes for thinking about that. We would certainly have our own public consultation process for phase 2 were we to think about licensing the transmitter devices to the pico cells.

**Mr Tanner**—I think it is fair to say that the issue you have raised about the implications for local carrier arrangements is one that has been raised during the first round of consultation. It is one that we considered should be looked at as part of this second round where we look at licensing and regulatory arrangements. It certainly is an issue and we will be looking at it.

**Senator MINCHIN**—Going back to the start of the conversation in terms of these jammers, did you issue a new regulation?

**Mr Tanner**—We actually made a variation of a legislative instrument. I have the detail here.

**Senator MINCHIN**—Is that variation disallowable?

**Mr Tanner**—Yes, it should have been. Mobile Phone Jammer Prohibition Amendment Declaration—we approved that on 18 December 2008. It finished on 21 January 2009. I am not sure what its current status is in terms of tabling, but I expect that that would be a disallowable instrument.

**Senator MINCHIN**—If enough senators were concerned about the potential for in-flight telephony, they could move to disallow this legislative instrument, could they?

**Senator Conroy**—Entirely self-interestedly.

**Senator IAN MACDONALD**—After declaring an interest. Just before Senator Minchin goes on, you are talking about you are permitting in jamming allowance. Is the idea that the airlines would buy the jamming allowance to stop people using their phones? I cannot understand what the jamming device is.

**Mr Tanner**—A jamming device is not a fair description of it. The trouble is we have a very broad prohibition on jamming devices for jamming mobile telecommunications. There is a device which certain of these proprietary systems use that basically compels the phones on the aircraft to connect with a local internal base station inside the aircraft rather than connect with base stations on the ground.

**Senator IAN MACDONALD**—I see.

**Mr Tanner**—That happens to fall within the wide definition of a jamming device in our prohibition. Whether or not it is fairly characterised as a jammer is another question, but it fell within our legal test for a jamming device, which is why in order even to allow the importation of the devices other than for a trial we had to make this amendment to the jamming determination.

**Senator IAN MACDONALD**—It is a rerouting device rather than a jamming device.

**Mr Tanner**—It is a communications facilitation device on one reading, although as Senator Minchin has said, it does have the effect of rerouting devices away perhaps from the cells of the carrier that they are using.

**Senator MINCHIN**—That is right across the industry.

**Mr Tanner**—If it was used within Australia.

**Senator IAN MACDONALD**—While you were talking about making mobile phone calls available, using a jamming device to do it just seems incongruous as a matter of English.

**Mr Tanner**—That is an artefact of law.

**Senator MINCHIN**—It could be used to direct all calls to one designated carrier in Australia. That is where the industry has a vital interest.

**Mr Tanner**—Yes. We have acknowledged that issue to the department.

**CHAIR**—There being no further questions for the ACMA, I thank officers for appearing before the committee today. We will now suspend proceedings until 7.00 pm.

**Proceedings suspended from 5.57 pm to 7.02 pm**

**CHAIR**—I welcome officers of the department in relation to Output 1.1. Does anybody wish to make an opening statement?

**Senator Conroy**—We thought we would respond to Senator Macdonald's questions, but unfortunately he is not here. I am not sure whether there is any point in responding to them now.

**Ms Scott**—At least they will get on the record. There were some questions earlier on in the evening about analog black spots and Mr Townend would be able to answer those questions.

**Mr Townend**—The questions that were asked focused on two particular areas, being the Cairns Rainforest Estate and also various other areas, including Mount Julian, near the Whitsundays. As discussed earlier, the broadcaster's obligations are to provide a digital service in those areas where an analog service is already provided and there are plans to roll out digital in those areas. The areas that Senator Macdonald referred to were primarily areas where there are analog signal deficiencies and not just digital signal deficiencies. In the particular circumstances of the Cairns Rainforest Estate, they have a solution in place at the moment to provide analog television to viewers, a service which is about to be turned off. There is no longer a government scheme to provide black spot solutions for analog signal deficiencies, but there is a great deal of work that has been done recently on how black spots might be fixed in a digital environment. I will talk about that in a moment. In relation to Mount Julian, that is an area where there are severe analog reception problems, never mind digital reception problems, and I will touch on that in a moment.

The Cairns Rainforest Estate is a particular area where a MATV system has been provided by Telstra. This is a systems provided basically by cable to take a signal and retransmit it to a number of homes in that area. Telstra has said to us that the technology that is supporting that particular solution has reached the end of its life, that it is no longer supported by the manufacturer of the technology and that they would have severe problems in obtaining spares in the event of a breakdown. They also advised us that they have never levied any of the users of that service with any charges and that the costs of maintaining that service since 1994 have been significant. We understand that they are planning to switch off that service imminently and there has been some discussion about that. Through the minister we have also had a certain amount of correspondence with Mr Turnour, who has been making representations.

When that service is actually switched off by Telstra, assuming that is what they do, one of the options that people in that area will have is to apply to receive the satellite service provided by Imparja as an out of area service. I will just give a few details about that service. The service is provided for the remote, central and eastern Australian licence area, and carried on that satellite are ABC and SBS services, which are provided on the satellite on a state basis. Imparja is based in Alice Springs and carries Channel 9 programming, with some locally produced news and other content. Also, Seven Central, provided by Southern Cross, carries Channel 7 programming, which is centred on remote Queensland. In terms of how people obtain access to that site, they would need to apply to Imparja. They would need a declaration from an installer that no other service is available to them for the licensed services in that area, and they would apply using a form provided by the ACMA. After that, assuming that everything went through, the applicant would be notified and a set-top box and a smart card would be enabled and a satellite dish would be provided to those particular people.

In relation to where the government goes from here, a little while ago various measures were announced to manage the switchover in Mildura, which you will probably recall will take place in the first half of 2010. In that area a pilot satellite service will be deployed that will provide access to people who cannot receive analog now but also to those who are reliant on the analog self-help transmitter at Underbool. Underbool is an area where there are

approximately 89 homes with just over 200 people. They are currently receiving their analog service from a self-help transmitter, which is maintained by the local council. That will be switched off at the digital switchover and a satellite service will be available to those particular people. They will be able to obtain a satellite box and dish and receive local television services. They will receive all of the services provided by the national broadcasters, ABC1, ABC2, ABC HD, SBS, SBS World News and SBS HD, together with the commercial services in standard definition from WIN, Prime and the Channel 10 service.

For those who are reliant on the self-help transmitter at Underbool, the government will provide a subsidy of \$300 to help towards the cost of the satellite equipment, recognising that the satellite equipment and the installation will be somewhat more expensive than the terrestrial solution. Just as importantly, though, there are other people in the Mildura area who are struggling right now to receive an analog signal in a very similar way to the situation that Senator Macdonald referred to earlier when he was talking about areas in the Whitsundays where there are people who have problems getting analog now.

Just a few weeks ago I was in Ouyen at the time that these measures were announced. Ouyen is a small community just along the road from Underbool. People there have erected towers, sometimes as high as 20 or 30 metres high, in order to pull in an analog signal, and even then they are struggling. Those people in a digital environment will be able to access the satellite and will have access to the range of services that I mentioned. Community leaders and spokespeople who we spoke to when we were in Ouyen were very pleased that such a satellite service would be available, because it would be much more reliable than the service they are currently receiving. In fact, some of the installers we spoke to commented also that many of these very tall antenna systems that are installed are actually quite dangerous because, if there are any issues with them after they have been installed, there is a severe temptation by some people to actually climb these masts, which raises all sorts of occupational safety issues. Technically they should be using a cherry picker vehicle to repair these installations, but quite often people will try to climb them, which raises all sorts of issues. The satellite service has many benefits.

That is what is happening in Mildura, but it is a similar situation to that which Senator Macdonald raised. The government is preparing a discussion paper that will canvass issues surrounding this satellite proposal for signal deficiencies, and we have been having a number of meetings with the metropolitan, regional and remote broadcasters over the last few weeks discussing how the satellite service might be deployed on a broader scale to address some of these issues. Primary in that have been two factors. One is obviously about the costs of such a service and the other is about the service that would be available, particularly thinking about how local news and local advertising could continue to be available in a satellite environment. Those discussions are live and continuing and, as I say, we are preparing a discussion paper at the moment that we plan to issue in March.

**CHAIR**—Thank you. If there are no other opening statements we will go to questions.

**Senator BIRMINGHAM**—On behalf of Senator Macdonald, I thank you for the follow-up and I will attempt to draw his attention to the additional information that you have provided. We were talking about black spot issues. This may partly be in your area and may partly fall to others who handle the analog black spot program, as it was. I would like to get

an update on the Yarra shire council area and, in particular, the status of the north and south Kalorama TV black spot solutions. Can you tell us what has happened with those? At the last estimates hearing we went through some of the projects that had been completed, some that had been abandoned and a couple that were still under discussion and negotiation, and these were in the latter category.

**Dr Pelling**—As I told the committee last time, \$600,000 was made available in the budget to assist with providing a solution to the Kalorama black spot. The council had looked at a range of options in the past, including whether there were terrestrial retransmission solutions or satellite direct-to-home solutions. It eventually concluded that a cabling solution was the most appropriate. It was made clear to the council that the funding would be provided on the basis that any shortfall in the costs of installing that solution were made up by the council. Since then we have been in negotiations with the council about whether it is prepared to meet the costs of the shortfall in terms of the installation of the equipment and the ongoing maintenance of that site. Those negotiations are close to a conclusion. They have been delayed by the fact that there was a new council due to council elections towards the end of last year, and that was one of the areas that were affected in some way by the bushfires. I am not sure how that has affected the council, but it has brought some delays in its response. When the council is in a position to respond, it will give us its final word as to whether it is prepared to go ahead on that basis or not.

**Senator BIRMINGHAM**—When would the build program for the cable in this area have to be completed by?

**Dr Pelling**—The funding is available this financial year, so the project would have to be completed and the money paid with an invoice sent to us to accrue this year.

**Senator BIRMINGHAM**—Given that there has been no commitment from council to government as yet that they definitely can meet the shortfall, if there is a shortfall, and one assumes they have not entered into any contractual arrangements with anybody, do you think that it is feasible for them to achieve this project by 30 June?

**Dr Pelling**—That is a real consideration that we would have to take into account in reaching a final decision on this.

**Senator BIRMINGHAM**—Is there any willingness from the government to consider an extension of time in some way, shape or form, with possibly some carryover of funds from this program?

**Senator Conroy**—You would have to put that to the Department of Finance and Deregulation.

**Senator BIRMINGHAM**—The Department of Finance and Deregulation does not usually offer these things. As you well know, you have to ask for them.

**Dr Pelling**—That is exactly right. The funding was provided this financial year. Whether anything further was done in relation to that site would be a matter for the government to consider.

**Senator BIRMINGHAM**—Could this type of cable solution alternatively be delivered as part of the NBN, for example? Is there some way of considering a means to jointly service this area?

**Dr Pelling**—The solution being proposed, as I understand it, was a cable that potentially could have been used for other purposes, although our interest is obviously only in funding the television part of the solution. I cannot comment on the NBN process, but when you have a cable of that type—for example, TransACT's cables in the ACT, which can potentially be used for data type services, just as, indeed, any digital service can be provided over a broadband service were it to be in the area—there is the potential for television services to be delivered in that way. I do not know whether any thought has been given to that as a particular solution in this area.

**Senator BIRMINGHAM**—How much money was originally allocated to this program?

**Ms Scott**—I can start to answer that question and then Dr Pelling can join in. The alternative technical solutions program commenced in 2002-03. Prior to 30 June 2008 the ATS program financed 10 solutions for 15 black spots, at a total cost of \$4.617 million. The program is scheduled to be closed at the end of this financial year.

**Dr Pelling**—This is the last project being considered under that.

**Senator BIRMINGHAM**—Ms Scott just gave me an expenditure amount. My question was about an allocation.

**Ms Scott**—We can tell you the coordinating bodies and the black spots for each location. We have some details on individual allocations. Is that what you are after?

**Senator BIRMINGHAM**—No, I am after the lump sum. How much was allocated in the budget line for this program?

**Dr Pelling**—For the black spots altogether or for the Kalorama program?

**Senator BIRMINGHAM**—For the black spots program altogether.

**Dr Pelling**—That is the figure that Ms Scott gave you. That was \$4.617 million.

**Senator BIRMINGHAM**—Is that how much was allocated?

**Dr Pelling**—Prior to 30 June 2008 a figure of \$5.3 million had been approved since the inception of the ATS program to implement solutions, but the amount for the 10 solutions for 15 black spots was \$4.617 million.

**Dr Pelling**—Can we take that question on notice in order to get the original funding allocation?

**Senator BIRMINGHAM**—I am trying to ascertain whether all the program money has been spent. If the \$600,000 is taken up by the shire, will it all have been spent or will there in fact be some additional surplus that has not been expended in the terms of the project as set out?

**Dr Pelling**—No, the only funding remaining under that program is the funding of \$600,000 still available for the Kalorama project. All of the rest was either spent or returned to the budget.

**Senator BIRMINGHAM**—For the other projects abandoned along the way the funding has been returned to budget?

**Dr Pelling**—Yes. Historically a number of solutions were funded, but other solutions did not go ahead for various reasons. A decision was made some time ago to wind up the program, and the final project being dealt with was the Kalorama project, where \$600,000 was retained, which is the limit of the funding available.

**Senator BIRMINGHAM**—How was the \$600,000 set for that program?

**Dr Pelling**—The cap for individual projects under the program was \$300,000. Kalorama actually comprises a north and a south component. There are two lots of \$300,000 technically available. So \$600,000 was consistent with the cap in the original guidelines of the program.

**Senator BIRMINGHAM**—Is the department undertaking any ongoing work in a proactive sense with the council to try to achieve a result, or is it very much all in the council's hands to say whether they can do it and have the cash to do it by 30 June or that is it?

**Dr Pelling**—Fundamentally, the offer has been made to the council, and the council proposed this solution as their preferred solution. The ball, so to speak, is in their court. The funding is available for this project and if the council were not able to meet the balance of the costs and were to decide on that basis to pull out of the project then the project would not go ahead. If they were able, then the project would go ahead.

**Senator BIRMINGHAM**—If the project does not go ahead, where does that leave the residents of that area in relation to the digital switchover?

**Dr Pelling**—Essentially, the way in which black spots will be dealt with defaults to the kind of process that Mr Townend was talking about. We started off with an analog black spots program. Then the alternative technical solutions program followed that over a number of years to provide solutions in a small number of sites that could not be served by the analog program. This is the end of that process and subsequently issues relating to black spots will be dealt with as part of the digital switchover process.

**Senator BIRMINGHAM**—You probably will not be able to comment on a specific example, but I cite circumstances such as where a region has been unable to receive an analog signal and despite best endeavours it seems that potentially government and council have not been able to find a way to address that problem which, given the technical solution, would have addressed any digital problems as well. You spoke of the satellite type option for Mildura. Are there other means by which they can expect to receive services in the future?

**Mr Townend**—The only decision currently made with that satellite service is the Mildura pilot. As I mentioned earlier, we are proposing to issue a discussion paper in March that will canvass these satellites across the nation, including exactly these sorts of circumstances, and we are currently discussing how that might work with the broadcasters. Were a satellite solution to be adopted on a broader scale, it could potentially provide a very practical solution for these particular homes. For the time being there is still the opportunity of accessing the Imparja satellite service, which I referred to earlier, which would not provide the most relevant local programming, but would at least provide a television service. In the longer term



we are still continuing to explore the options. The satellite option is one that I have mentioned, but I would repeat that the only approved funding for that is currently for Mildura. We are exploring how that might be rolled out in the discussion paper.

**Dr Pelling**—I would point out that the Kalorama project was offered DTH under that system as one of the options, but the council chose not to pursue that. I believe they were concerned that some people were not capable of receiving a satellite signal due to the local topography.

**Mr Townend**—They were also concerned with two other things. One was the relative cost of the satellite proposal back in 2005, which was arguably much more expensive than it could be in the future. The technology has changed and the boxes have become more of a commodity and so on. Also, they were concerned about the availability of local content. The type of solution that we are piloting in Mildura and the discussions that we are having with the broadcasters right now are aimed at exploring to what extent a satellite solution could be a viable alternative for delivering local content to others, including these kinds of people.

**Senator BIRMINGHAM**—How much does the satellite solution in the Mildura trial cost the consumer?

**Mr Townend**—We have estimated that it is approximately \$660 per household to obtain a dish, a box and have the equipment installed.

**Senator BIRMINGHAM**—Are these households that are currently accessing a free-to-air analog signal?

**Mr Townend**—The households in Underbool are accessing a free-to-air signal that is provided by the self-help transmitter. There is \$300 per household available to offset additional costs of converting via the satellite.

**Senator BIRMINGHAM**—At present are they accessing the analog signal?

**Mr Townend**—At present they are accessing an analog signal.

**Senator BIRMINGHAM**—At no direct cost to themselves?

**Mr Townend**—Other than the equipment that they install to receive that, but of course were they to transition to digital terrestrially they would have an equipment cost to convert. The intention of the \$300 subsidy is to recognise that the satellite solution is likely to be more expensive than a terrestrial solution would be because it involves installing the dish, the satellite box and so on.

**Senator Conroy**—Through the council process to create the self-help transmitter they have already made a collective contribution. This was to avoid there being a double whammy, if you like. Having already paid for it, it then gets turned off, and then they would have to pay again. We are recognising that they have actually taken steps and contributed to receiving the signal previously, and that is why there is a subsidy for people who are receiving from the self-help transmitters and not just universally across the Mildura area.

**Senator BIRMINGHAM**—I understand, and I am sure the \$300 subsidy is welcome. I am not so sure that the \$660 bill is welcome.

**Senator Conroy**—I also travelled to Mildura for the announcement and met with a range of community groups and organisations, which was organised by this very handsome gentleman in the photo. The one that I am talking about is the one without the glasses. I would say that the reaction to the \$660 from the pensioner groups that John organised and others that were there was, ‘We don’t care. If this means we can get decent TV, we don’t mind’, that is, to get the full range of services that we were talking about. I invite you to talk to the people on the margin and the fringes now about the quality of service and the consistency of service that they get. Then say that this is a possible alternative. Generally, most would come back with feedback. Given the poor quality people are currently getting, they see this is a jump into the 21st century.

**Senator BIRMINGHAM**—I know that you have work for a certain report to be done in the near future, which I am sure you are both looking forward to producing, but in the identification of black spots within the Mildura area, which may exist in this first digital switch-off, how well do you think you are proceeding? Obviously, the only way we will ever know for sure is at the end when the signal gets flicked and people hit the phones complaining. Are you confident of having near 100 per cent coverage in addressing those black spot issues before we get on to individual household switchovers?

**Mr Townend**—The ACMA have conducted testing in the area. Many of the signal deficient areas are along the Mallee track, which is the Mallee Highway. You have Ouyen, Underbool and a number of other smaller communities along there. They are really on the fringes of terrestrial reception. Many of the people in that area either have no analog reception now or they struggle to receive analog. All of those households would, of course, be able to receive access to satellite service, so the satellite service we are proposing to launch in Mildura will actually address all of those black spot areas. That is one of the benefits of it.

**Senator Conroy**—It is a paradigm shift. It is not about where we are going to build a new tower or whether we are going to make it taller.

**Senator BIRMINGHAM**—Will those households who are not within a self-help retransmitter facility be paying the full \$1,000?

**Mr Townend**—Yes. I would say that when I visited Ouyen, which is a very small community, many of the houses have these transmitter towers on top. They really are 20 or 30 metres high, in many cases they are still not receiving all the services and even the services they are receiving have extremely poor reception. We met with a number of local community representatives and they all welcomed the fact that there would be a satellite service available, because it would give them a much more reliable service. It would be safer for some of the reasons I mentioned earlier. They actually welcomed it. In some cases many of those homes have already spent thousands of dollars trying to access the analog service and, having failed to do so, are perfectly prepared to make an additional investment to be able to receive a service that is much more robust, reliable and properly supported by the broadcasters.

**Senator BIRMINGHAM**—What is the cost to the Commonwealth for the trial of this satellite service?

**Mr Townend**—I would prefer not to give that information, if only because we are currently engaged in negotiations, which could compromise our position.

**Senator Conroy**—I am happy to talk about it down the track.

**Senator IAN MACDONALD**—Who are the negotiations with?

**Mr Townend**—The negotiations are primarily with the satellite provider, but also set-top box manufacturers and other parts of the cost chamber, principally in satellite capacity.

**Senator BIRMINGHAM**—It is hard to know in terms of respecting the negotiations and the sensitivities at present, but obviously this would be an ongoing cost to transmit the signal via satellite and it is the expectation that it would be an ongoing cost met by the Commonwealth?

**Senator Conroy**—That is a policy decision that has not been made at this point. At this stage we have committed to paying 100 per cent.

**Mr Townend**—We are paying 100 per cent for one year.

**Senator Conroy**—It is a pilot to see whether it will work feasibly and then we will need to make a policy decision. It could be that the costs are so prohibitive that no-one is interested in going down this path in the future. There is a whole range of genuine solutions on the table. We have the satellite paper that Mr Townend mentioned that we will be putting out and there are a lot of technical issues that we have to work our way through. If all of that was worked through there would be a serious paradigm shift with a jump into the 21st century where we would resolve all of these issues that Senator Macdonald and others have referred to. They would be potentially solved.

**Senator BIRMINGHAM**—I can certainly see the potential for it, if we can provide local television services to every region via satellite such that they can select their own local service.

**Senator Conroy**—There are technological challenges and cost challenges to delivering what you have described and that is why we are having the discussion. Mr Townend and I have had a number of meetings, particularly with the regional broadcasters, and we are working our way through all of those technical and costing issues.

**Senator IAN MACDONALD**—Can I ask the question that I asked before?

**Senator Conroy**—We gave an update for you.

**Senator IAN MACDONALD**—I heard most of it on the monitor. What power do you have over the television stations? Is it part of their licence or is it just the government being nice in chatting with these people and hoping you can talk them into it?

**Senator Conroy**—There is no mandatory requirement to provide a service to every person in the licence area. This goes back to legislation where there was no technological capacity to actually provide a service to everybody in the licence footprint. Technology has improved and we have moved on. The towers get taller and signals get stronger.

**Senator IAN MACDONALD**—My real point is whether it is just the goodwill of the government and the TV stations talking about fixing the problem?

**Senator Conroy**—There is a whole range of challenges that we are working on.

**Senator IAN MACDONALD**—I know, but it is a carrot approach, not a stick. You cannot say, 'Do this or else.' It is just out of the goodness of the TV stations' hearts that they are working with you to try to get a solution. Is that right?

**Senator Conroy**—This resolves a number of ongoing issues. Most TV stations would like to reach more people. This is a way for them to reach more people and increase their advertising revenue base. There are incentives for the regional broadcasters to be involved as well.

**Senator IAN MACDONALD**—I would like to follow up a couple of questions on the same issue. Thank you for mentioning the Rainforest Estate. This is dependent on the Mildura trial. When will you know the results of the Mildura trial? When will the people of the Rainforest Estate perhaps have a solution?

**Mr Townend**—When the people in the rainforest and other areas will have a decision is entirely dependent on government considerations. Specifically in relation to Mildura, the switchover will take place in the first six months of next year and we are actively engaged at the moment in planning with the broadcasters for the launch of that satellite service. We are also going to be publishing a discussion paper canvassing the way in which the satellite option might be applicable across Australia.

**Senator IAN MACDONALD**—Are you saying that if it works there then it could work elsewhere?

**Mr Townend**—Yes.

**Senator IAN MACDONALD**—Is this for digital only in the next couple of years?

**Mr Townend**—In relation to analog the service available would be the Imparja service. I have already given details of what that service is and how it is accessible.

**Senator IAN MACDONALD**—That is the Imparja service?

**Mr Townend**—Yes.

**Senator Conroy**—We are talking about a specific solution that could apply if it was possible today. You went through all of that. I think the question you were asking was a little different from that or perhaps I misunderstood your question.

**Senator IAN MACDONALD**—I am saying that is available for analog for the next two years.

**Senator Conroy**—At the moment there is a simulcast between the HD channel and the main channel. There is starting to be a divergence in content. The digital signals would be available off the satellite.

**Mr Townend**—I would like to go back to the Imparja service. Perhaps I can outline again the Imparja service?

**Senator IAN MACDONALD**—I do not want to waste everyone else's time.

**Mr Townend**—The important thing is that it does have Channel 9 and Channel 7 programming that is relevant to regional Queensland.

**Senator IAN MACDONALD**—Does it have an amalgam of Channels 7 and 9?

**Mr Townend**—Imparja provides some Channel 9 programming.

**Senator Conroy**—The other ones are combined.

**Mr Townend**—The satellite service that is being proposed in Mildura, though, is offering local news and local advertising. The discussion paper that we are currently working on and the discussions that we are having with broadcasters are looking at how we could offer a similar satellite service across the whole of Australia providing localised news and advertising in those existing areas where that is what people get in analog. The benefit of the satellite service, were that to be the way we go, is that not only would that provide a solution for people who are currently reliant on self-help services; it would also provide a solution to people who currently potentially cannot get analog at all. It would be the first time they get any television.

**Senator Conroy**—Other than Imparja.

**Mr Townend**—Yes, other than Imparja.

**Senator IAN MACDONALD**—Finally, would that mean that those of us who do not live in Sydney would be able to get the channel that runs Parliament House?

**Mr Townend**—A-PAC.

**Senator Conroy**—No, that is a Pay TV channel at the moment.

**Senator IAN MACDONALD**—I understand that it is not in Sydney. It is free-to-air in Sydney.

**Senator Conroy**—They are running that on the mobile TV ACMA trial.

**Dr Pelling**—It is the digital 44 trial, which is their so-called data casting trial in Sydney.

**Senator IAN MACDONALD**—We can get it up in Townsville, but we pay for it. I understand if you live in Sydney you get it free-to-air.

**Senator BIRMINGHAM**—In their correspondence to me their aim is for it to be free-to-air across Australia. I am just not sure how that is being achieved.

**Senator Conroy**—We will have to take that on notice to give you the exact facts.

**Senator IAN MACDONALD**—We do not want to have people in Townsville paying to watch this riveting television drama.

**Senator Conroy**—Especially if they are watching right now. Paying the salary and then paying to watch is probably more than a koala could bear.

**Senator IAN MACDONALD**—If you lived in Sydney you could get it free-to-air. I just want to remind people that there are other places besides Sydney.

**Senator Conroy**—I am advised that it is not yet on the data casting trial, but they have applied and ACMA have not yet decided.

**Senator IAN MACDONALD**—So it is not available in Sydney?

**Senator Conroy**—ACMA have not yet decided whether to include it in the trial.

**Senator IAN MACDONALD**—Why did I issue a press release criticising you for doing that if it has not yet started?

**Senator Conroy**—That is the advice that I have been given. Perhaps they put out a press release saying that they were applying for the trial.

**Senator IAN MACDONALD**—That is interesting.

**Senator Conroy**—If we have misled you there we will happily come back and correct it as fast as we can.

**Senator IAN MACDONALD**—In talking about the Rainforest Estate, does the same that applies to Mildura apply to the Rainforest Estate and the Whitsundays as well?

**Mr Townend**—In any of those areas where there is currently an analog service but no digital service the satellite solution that we have described in Mildura could be a potential way of delivering digital television, together with localisation. No decision has been taken on that, but we are engaged in lengthy discussions with the broadcasters about what that might look like, some of the costing issues, some of the technical issues, and we will be publishing a discussion paper that addresses all of that.

**Senator IAN MACDONALD**—When will the discussion paper be?

**Mr Townend**—The discussion paper is due to be published in March.

**Senator IAN MACDONALD**—Thank you.

**Senator BIRMINGHAM**—I would like to go back to the self-help services. How many such services are there across Australia?

**Mr Townend**—There are 698 sites for which there are self-help transmissions.

**Senator BIRMINGHAM**—Can you provide an estimate of the number of households in those sites?

**Mr Townend**—Approximately 155,000 households are served by those sites.

**Senator BIRMINGHAM**—Obviously if the satellite service was to work, they would potentially be receiving a partial government subsidy should the same model be carried across all other regions and rolled out elsewhere.

**Senator Conroy**—You can speculate on that, but I could not possibly.

**Senator BIRMINGHAM**—I am not speculating. I am extrapolating in this instance. I assume there would be many hundreds of thousands of households in areas that have marginal coverage at present.

**Mr Townend**—If such a service were available then it is reasonable to assume that.

**Senator BIRMINGHAM**—In terms of some of the other technical problems being faced by the digital switchover, in answers to questions on notice you indicated that a research tender had been let for the Sydney based company—I am sorry to say to Senator Macdonald—Australian Digital Testing to undertake a review of mast or communal antenna systems in 600 buildings in Canberra, Sydney, Melbourne, Perth and the Gold Coast—

**Ms Scott**—Which question?

**Senator BIRMINGHAM**—Question on notice 21. What is the timing for the completion of that review?

**Mr Townend**—The work in Canberra has actually been completed in the field. Work is now taking place in Sydney and we are expecting to get a report on both Canberra and Sydney during April. The work itself is planned to be completed by the end of this year. The actual full work is due to be completed by the end of this year.

**Senator BIRMINGHAM**—The terms of the study are that you get rolling reports in a sense and the study requires Australian Digital Testing to test alternatives and solutions. This is not just an identifying-the-problem research; it is trying-to-find-the-solutions research, I trust?

**Mr Townend**—Yes, the intention is to come not only to an understanding of the problems but also some case studies as to what the potential solutions might be. We can then use those to promulgate that information to people who are wrestling with that particular problem and say, 'Here is not only the problem you face but here are some ways in which you can solve it and here is the range of costs that might be relevant.' And, as I say, the first field work is being done in Canberra and it is now rolling out in Sydney and we will be receiving a report during April.

**Senator BIRMINGHAM**—Is similar testing occurring in regard to, I guess, the impact of environmental hazards, dust and wind and those sorts of things, and whether they have any direct impact on the strength of the digital signal in areas?

**Mr Townend**—I am not aware of any particular problems in relation to some of the matters you have mentioned there. Have you got something in particular in mind?

**Senator BIRMINGHAM**—They are purely concerns that have been raised with me or suggested to me. I cannot claim any technical expertise to be able to validate those concerns, which is why I am asking you.

**Mr Townend**—The ACMA are conducting a series of tests across the country on signal deficiency issues. I am not aware of any particular environmental issues in terms of dust, wind and so on. But the ACMA are conducting a series of tests which are helping inform the development of our policy for—

**Senator Conroy**—We can take that on notice and get you any further information.

**Senator BIRMINGHAM**—Could you provide details of the types of testing that the ACMA are looking at, the issues that they are considering and the time lines for them to report back as well? Noting the early stages of switch-off in some regions and obviously getting responses by the end of this year is good but then it leaves limited opportunity for some other regions to be able to adjust.

**Mr Townend**—We can take that on notice and come back to you with the details of what the ACMA are carrying out.

**Senator BIRMINGHAM**—This may be the report that you have been referring to in question on notice 41. It talks of the review of the duration of the simulcast period. It says, 'A report on the review will be provided to the minister in early 2009 for approval.' That is just in the bottom block of the table on that page. Given a switch-off timetable has been released, I am curious as to why there is a review being undertaken on the duration of the simulcast period and what this review is.

**Mr Townend**—I would like to just consult with a colleague if I may because I think it is actually related to this?

**Senator BIRMINGHAM**—Certainly.

**Dr Pelling**—The report referred to there was actually a report of a statutory review which was undertaken around about 2006 and the review was of the duration of the simulcast period. This was during the period of the previous government. Because of the process of developing the timetable for switchover and the lead-up to that, and the implementation of the Digital Switchover Taskforce and all that sort of stuff, the report was never finalised. But even though the government has changed there is still a technical requirement for the report to be provided to the parliament within 15 sitting days of it being completed. My understanding of that is that the report technically has to be completed now that the whole process of determining the timetable has been finished and provided to the parliament. It is a response to a technical requirement that existed from a review which actually took place a long time ago and the inputs of that review would have been fed into the subsequent inputs and discussions.

**Senator BIRMINGHAM**—Is this report being prepared inside the department?

**Dr Pelling**—That is my understanding, yes.

**Senator BIRMINGHAM**—Given that it sounds as though the document in question is of little direct relevance at present—

**Dr Pelling**—That is correct—

**Senator BIRMINGHAM**—that is not saying that we do not have some highly paid consultants out there finalising an irrelevant report?

**Dr Pelling**—It was superseded a while ago as a result of the processes which have now taken place, but I understand there is still a technical requirement that a report has to be provided to the parliament because it was a statutory review.

**Senator BIRMINGHAM**—I hope that Senator Minchin when it is duly tabled in early 2009 will know the answer.

**Dr Pelling**—For the purposes of the answer to the question on notice it is still a current review which is technically still current.

**Senator BIRMINGHAM**—How goes the tick or the logo?

**Mr Townend**—The logo is progressing very well. At the end of March we will be holding the Get Ready for Digital TV conference at which we will be launching the campaign to promulgate that logo and advise the public. We have three logos. In fact I can actually table something. The secretary has made me aware that we are planning to announce the label at the conference so perhaps I should not do that.

**Senator Conroy**—Perhaps we should not table it.

**Mr Townend**—My apologies.

**Senator Conroy**—Getting a little bit carried away there.

**Mr Townend**—I was a little bit carried away and I have been pulled up, quite appropriately. We have three labels—



**Senator BIRMINGHAM**—Three labels, indeed. We got three labels out of you.

**Senator Conroy**—Somebody decided that we would have standard definition and high definition.

**Mr Townend**—Labels have been developed. They are going down very well with the supply chain and they will be launched at the end of March at the Get Ready for Digital TV conference.

**Senator BIRMINGHAM**—Get Ready for Digital TV conference?

**Mr Townend**—Correct.

**Senator BIRMINGHAM**—This is a conference being hosted by your good self?

**Mr Townend**—It is being hosted by the government and there is participation from virtually all the stakeholders—the national broadcasters, the regional broadcasters, the commercial broadcasters, metropolitans, a number of international speakers and other industry stakeholders and consumer groups. It is an opportunity to take a look at the whole digital TV environment and where it is going and also to launch the labels.

**Senator BIRMINGHAM**—We can look forward to seeing the labels and being able to question you on the promotional campaign after—

**Mr Townend**—After 30 and 31 March.

**Senator BIRMINGHAM**—Is the shadow minister being invited?

**Mr Townend**—I am sure it is in the post.

**Senator Conroy**—I do not remember receiving any invitations in my previous capacity. By that I am not suggesting Senator Coonan was doing anything untoward.

**Senator BIRMINGHAM**—I am just trying to look after Senator Minchin's interests.

**Senator Conroy**—Look, the stability alliance, it is coming together already. You South Australians! It is one big love-in in South Australia. It is sort of like the car—

**Senator MINCHIN**—Is that a joke?

**Senator Conroy**—I offered a copy of the stability pack out of Victoria earlier but there were no takers.

**Senator LUDLAM**—I am presuming I will get an invite as well. This is probably going to sound a little bit abstract. Just going back to the satellite issues that you raised right at the very beginning, can you tell us what digital compression format the services are delivered in?

**Mr Townend**—The satellite service that we are contemplating would be MPEG4.

**Senator LUDLAM**—You actually knew that without referring to anything; thank you. Are you able to tell us what satellite services are envisaged to be delivered?

**Mr Townend**—Not at present because that would be a matter for—

**Senator LUDLAM**—The civilised thing to do.

**Mr Townend**—It is a live issue.

**Senator LUDLAM**—The new satellite services will have a trial of a year. If after a year or whatever period of time you decide that it is too expensive and the trial is not continued, what do you do with people who have signed up and are using that equipment?

**Mr Townend**—That would depend on both the discussions that we are having with broadcasters and other decisions the government may need to make. At the moment the pilot is funded to provide the service for 12 months, 100 per cent.

**Senator LUDLAM**—But we are potentially leaving a bit of the population stranded there if it does not work out so well. There will be a certain amount of investment—

**Senator Conroy**—They are literally stranded at the moment. They are building a 90-foot tower on top of their 60-foot tower.

**Senator LUDLAM**—I will go to the help scheme that you are offering the people of Mildura. I am referring here to a degree to a press release—

**Senator Conroy**—What is that you are asking about?

**Senator LUDLAM**—dated 29 January. Do you have any idea how many people's homes you think will fall within the—

**Senator Conroy**—Three thousand.

**Mr Townend**—This is 3,062 homes.

**Senator LUDLAM**—Can you tell us how the average figure of \$300 per home was set?

**Mr Townend**—I think we just need to clarify which assistance program we are talking about.

**Senator LUDLAM**—This is the help scheme—unless there are a couple running—

**Senator Conroy**—Yes, there are two help schemes.

**Senator LUDLAM**—Okay, let us start there.

**Mr Townend**—The assistance scheme that refers to the 3,062 homes is the scheme provided to people—I will just check.

**Senator Conroy**—The maximum goes to disabilities and carers and they are paying to give them a HD set-top box, installing it and, if they need cabling or antennas, installing that. It is a full, free service.

**Senator LUDLAM**—Is there an upper limit to how much you would spend on each of those?

**Senator Conroy**—It is a full, free service.

**Mr Townend**—We are providing the service.

**Senator LUDLAM**—Is there an overall budget for that role?

**Mr Townend**—That also is subject to—

**Senator Conroy**—We are negotiating with a number of commercial providers for both the set-top boxes and the actual antenna installation—all of that as well. I appreciate you are taking this in good spirit. We are actually engaged in negotiations with them.

**Senator LUDLAM**—That is okay. This is the first area the switchover is carrying. Is it envisaged that those populations would be assisted in similar measure around the country?

**Senator Conroy**—We have made no policy decision along those lines. You can feel free to extrapolate, as did Senator Birmingham, but we could not confirm any of these details simply because a policy decision has not been made. This is a pilot program to give us some guidance.

**Senator LUDLAM**—As to the second assistance scheme, that is \$300 per person or per home for people who just need—

**Senator Conroy**—It is for those who are currently getting access via the self-help transmitters yet to be set up. We have estimated I think there are about six—

**Mr Townend**—There are 89 homes.

**Senator Conroy**—There are 89 homes and it is about \$50 or \$60 for a satellite dish?

**Mr Townend**—That is right.

**Senator Conroy**—It is just under half, around \$300, as a recognition of the fact that they have already made a contribution towards the cost of the self-help transmitter through their council rates or any other more direct mechanisms that they may have met or been engaged in.

**Senator LUDLAM**—Has there been any modelling done as to what the cost would be if it were rolled out around the country along similar lines?

**Senator Conroy**—We would not want to speculate.

**Senator LUDLAM**—Is that a no—that there has been speculation or modelling done at a government level?

**Senator Conroy**—We are actively considering a range of options at the moment but if you were feeling particularly energetic you could probably ask some of the other departments how many people fall into those four categories I mentioned and then work from there.

**Senator LUDLAM**—There is no anticipated total cost of the digital rollout for the whole country?

**Senator Conroy**—We have not made a policy decision on that yet.

**Senator LUDLAM**—It will all depend on those policy decisions. Some of this ground has probably been covered so forgive me if that is the case and we can move on a bit faster. Of the black spot quarterly reports to parliament, the first one is due in about five weeks or thereabouts?

**Mr Townend**—It is due the first sitting day after 1 April. I think it is probably 12 May.

**Senator LUDLAM**—Can you tell us—

**Senator Conroy**—Budget day.

**Senator LUDLAM**—Okay, so that will not get much of a run. To what extent is that research based on computer modelling and to what extent is it based on field work?

**Mr Townend**—I do not know the answer to that exactly. It is based on ACMA work. Most of the work is actually ACMA work. I would need to check in terms of—

**Senator Conroy**—We are happy to take that on notice.

**Senator LUDLAM**—If possible. There are a couple here so, just tell us if this is all outside your area and I will put the lot on notice. In fact, I might just put that tranche on notice if that is not something that you are working on. Lastly, I go to digital tracker reports concerning digital uptake and contract amounts in September of last year.

**Mr Townend**—Yes.

**Senator LUDLAM**—When will the first reports from Mildura and the four SA related local market areas be available?

**Mr Townend**—The digital track is actually underway right now. We are conducting it across the whole country. The first phase is the first quarter, so the quarter ended 31 March. We will have surveyed all of the areas across eastern Australia, including the ones you have mentioned. Newspoll are required to provide a full report to us by no later than 31 May and I would be expecting us to have a report somewhat earlier than that, so some time between the end of March and the end of May. We will then publish a report every three months.

**Senator LUDLAM**—If this is too much detail you can put it on notice as well, but can you tell us how many homes the tracker will survey in Mildura, the Eyre Peninsula, Broken Hill, the Riverlands and Mount Gambier?

**Mr Townend**—We are actually testing 300 homes in every switchover area. The intention is to have a statistically significant sample for each area each quarter, and we will also have statistically significant information for social demographic groups across the nation but not by each area.

**Senator LUDLAM**—That is fine. But you are picking representational groups out of each?

**Mr Townend**—Correct.

**Senator LUDLAM**—There is an ACMA survey released on 17 February which pointed out a couple of things. Some seven per cent of homes surveyed on the phone thought they had an analog TV when in fact they already had digital. Five per cent said they did not have subscription TV when they did. What kind of margins of error are you incorporating in your surveys?

**Mr Townend**—We are certainly addressing all those. I cannot give you the exact degrees of confidence but we have crafted the survey to deliberately address those particular issues so that when we actually publish a figure that tells us the actual conversion it is designed to overcome some of those particular problems you have raised. We carried out quite a bit of testing of the model prior to the first sample in a pilot, so we are confident that when we publish the results we will have a greater degree of confidence than previously on those particular issues.

**Senator MINCHIN**—Can I suggest in the limited time left to us that we have a bit of a chat about the National Broadband Network?

**Senator Conroy**—We certainly can. I might make a statement.

**Senator MINCHIN**—You would like to make a statement?

**Senator Conroy**—If we are moving into that area.

**Senator MINCHIN**—Lovely. We are all ears. You have finally realised you should confess all.

**Senator BIRMINGHAM**—It is eight o'clock at night. It would be a good time of day to run away from the NBN and ditch the whole process.

**Senator Conroy**—You guys have got to stop believing your own press releases.

**Senator NASH**—You could always stop again a couple of days later.

**Senator Conroy**—You had a 13-year inquiry and got nowhere. Given that Senator Minchin indicated he would like to discuss the NBN, before we proceed to questions on the National Broadband Network I would like to make a statement about the process. The panel of experts has now completed its evaluation of the proposals that met the minimum content and format requirements and conditions for participation. I have received the panel's report and I am considering it. Until a decision is made and announced the process remains live and I and the department remain constrained by the probity and confidentiality of the requirements of the request for proposals process.

I am aware that a number of media statements were made after the closing date for proposals and there has been media speculation as to the detail and content of the proposals and possible outcomes from the process. It is not appropriate that I or my department provide commentary on the process. Discussion of the contents of proposals, release of information relating to the evaluation and the evaluation methodology or speculation on possible outcomes from the process prior to a public announcement could be misconstrued and could undermine the integrity of the process. It is of critical importance in a process like this that integrity and confidentiality are maintained to ensure the 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 request for proposals clearly sets out under criterion one the government's objectives for the National Broadband Network and the other criteria against which proposals were evaluated. The request for proposals is available for all interested parties to read.

**Senator MINCHIN**—Thank you for your restatement of the reasons why you do not wish to tell us anything and why your pledge to have a transparent, open process was just so many words. Perhaps you could nevertheless indicate to the committee where we go from here. You did indicate in the Senate that it was your desire, objective—

**Senator Conroy**—Ambition, I think we called it.

**Senator MINCHIN**—'Ambition' I think was the word; thank you. I am not sure whether you said it was your ambition to 'sign a contract' or 'indicate a preferred tenderer' but I think you said it was your ambition to indicate the outcome of the process in March. Is that still your ambition?

**Senator Conroy**—It is certainly still our ambition.

**Senator MINCHIN**—Are you able to provide further specificity to that ambition? Is it your ambition that you would announce a preferred tenderer?

**Senator Conroy**—I am not sure I can be any more definitive than I have been so far. I am happy to take that on notice and see if there is any further information I can give you after getting some legal advice.

**Senator MINCHIN**—I appreciate that. At this stage you would only go so far as to say your ambition is to have an outcome that you can announce in March, without getting more specific about what that outcome might be?

**Senator Conroy**—I think you are trying to craft certain words into my mouth.

**Senator MINCHIN**—How would you choose to—

**Senator Conroy**—Our ambition has always been—

**Senator MINCHIN**—Enlighten us in terms of the nature of your ambition.

**Senator Conroy**—Like you, I am just trying to remember the exact phrase I used in the parliament. I have not got it handy, so I do not want to be inconsistent with what I said previously. I might just get some information and come back to you on that shortly.

**Senator MINCHIN**—Nevertheless, once the cabinet has completed its consideration of the panel's report and there is some form of outcome, it would be reasonable for the public and the Senate, this committee, to presume there would need to be a period of negotiation before a final contract could be entered into?

**Senator Conroy**—Now you are asking me to speculate on the decision. We have not taken that decision yet, so I cannot really assist you. It is a speculative question.

**Senator MINCHIN**—What are you able to say in relation to the question of the requisite legislation that would be required to give effect to a policy to build an NBN?

**Senator Conroy**—The question implies an assumption on a particular outcome from one bidder or another, which is why I have not been able to really answer you directly previously. Because it actually assumes a particular outcome, I cannot really give a preference or an indication—because no decision has been made and it is still the subject of ongoing discussions. The proposal you make makes an assumption that I am unable to confirm.

**Senator MINCHIN**—Can you indicate what your current ambition is with respect to the start of construction, given that you have in the past indicated what are now a series of moving deadlines for the start of construction? Could you indicate your current ambition with respect to that particular milestone?

**Senator Conroy**—That would go to the heart of potential commercial negotiations, so I am sure you would understand that I am not really in a position to reveal that at this stage. Without trying to be evasive, it is even more sensitive at this point than it has been previously, which is why I am probably being even less helpful now than I have been previously.

**Senator MINCHIN**—Even less helpful?

**Senator Conroy**—You may find that hard to believe.

**Senator MINCHIN**—I am pleased that you are honest enough to use that form of words. I thank you for it, although I wondered whether it was possible to be less helpful. But you have indicated tonight it is. Thank you for that. Could I then invite you to indicate to this committee that the government stands by its clear election undertakings—that is, that it will deliver a fibre-to-the-node network to 98 per cent of Australian businesses and households with the minimum speed of 12 megabits per second over a five-year construction period with a total contribution by equity of up to \$4.7 billion? That was your clear policy platform—

**Senator Conroy**—To borrow the Prime Minister's words in parliament at the last sitting when he was asked a question, I think by Mr Dawson: 'We will deliver on our election commitment in full.'

**Senator MINCHIN**—You say it is a restatement that effectively you will not sign a contract that does not meet those clear election policy commitments.

**Senator Conroy**—I stand by what the Prime Minister has said and what I have said now. You can describe it any way you like.

**Senator MINCHIN**—You may seek to hide from answering this question, but it is well known to all that all but one of the bidders that were actually considered are formally seeking protection from overbuild, as it is described—or, effectively, a statutory monopoly. As a matter of policy can you indicate whether the government would or would not rule out introducing legislation to prevent an overbuild?

**Senator Conroy**—As I said, you have asked me to speculate on one of a number of possible outcomes and I am not in a position to speculate on an outcome because we have not actually made a decision.

**Senator MINCHIN**—You are not able to give this committee advice as to whether you would rule out legislation to prevent overbuild in relation to the—

**Senator Conroy**—Mr Lyons might want to repeat the section of the RFP. I know you are all very familiar with it, but it has been a while since we have heard it. Is Mr Mason here? He is particularly well versed in this document. Would you like us to go through the relevant section?

**Senator MINCHIN**—If you think it will help answer my question. I am pleased to see Mr Mason is about as familiar with the RFP as I am.

**Mr Mason**—Amongst other things in relation to the RFP process, proponents were able to put forward requests for regulatory change. Perhaps the most relevant part of the RFP is section 1.5.38, which relates to the nature, scope and impact of legislative and/or regulatory changes necessary to facilitate the proposal. Proponents were asked to detail:

... any proposed legislative or other regulatory changes (including any period of regulatory review) necessary to facilitate their Proposals. Proponents should also clearly indicate what assurances, if any, in addition to legislative or other regulatory changes, they may be seeking from the Commonwealth in relation to their Proposals.

1.5.39 Proponents should note that, to the extent that legislative and/or regulatory changes are required in relation to the development and operation of the NBN, these changes will be limited to those necessary to directly facilitate investment in the NBN, and will not jeopardise the Commonwealth's

other objectives including open access to the NBN and the achievement of interception, security and emergency call service objectives. Legislative and regulatory changes should also be consistent with Australia's international obligations. Information on the regulatory obligations of carriers and carriage service providers is available at <http://www.acma.gov.au>.

**Senator MINCHIN**—Thank you. Minister, that confirms, does it not, that neither as a matter of election policy nor in your RFP were you prepared to rule out the possibility of this being a monopoly piece of infrastructure?

**Senator Conroy**—I am trying to put the two questions you have asked together. There are some other sections in the RFP that would be relevant to the question that you have asked. Mr Mason has a couple of relevant sections.

**Senator BIRMINGHAM**—Mr Mason, perhaps this is a question that you could answer from the appropriate clause by reading on from the last section, being 1.5.41:

The Commonwealth will publish regulatory changes proposed by the successful proponent which have been agreed by the Commonwealth.

Minister, will the publication of those regulatory changes occur at the time that a successful proponent is announced?

**Senator Conroy**—That presupposes that a particular outcome has won. As Senator Minchin has indicated, it is rumoured to be one bid; it does not require regulatory changes.

**Senator MINCHIN**—It does not require protection from overbuilding.

**Senator Conroy**—No, I said that all but one seek protection from overbuild.

**Senator BIRMINGHAM**—Should any regulatory changes be required or proposed by the successful proponent and agreed by the Commonwealth, will the Commonwealth comply in accordance with 1.5.41 of your RFP—

**Senator Conroy**—We will comply with the RFP.

**Senator BIRMINGHAM**—Will those changes be made known at the time of the announcement?

**Senator Conroy**—We will comply with the RFP requirement. But now you are asking me to speculate, and the answer implies a particular outcome. I am not prepared to engage in speculation on one of the potential outcomes.

**Senator MINCHIN**—Mr Mason, can you have enlighten us on this issue?

**Mr Mason**—There are a large number of provisions in the RFP relating to the promotion of competition. One of the objectives is the promotion of competition. For example, in clause 1.3 the Commonwealth's objectives for the NBN are set out. Amongst these is objective 8, which relates to the continuing promotion of the long-term interests of end users.

**Senator MINCHIN**—Is there anything in the RFP that makes it clear that the Commonwealth will not legislate to prevent overbuild?

**Mr Mason**—The RFP asks proponents to put forward proposals for legislative change—



**Senator MINCHIN**—I turn to something that is now outside the process, and that is the exclusion from the process of the largest telco in the country and the current operator of the existing broadband network, which is Telstra. Was that decision made by the panel itself?

**Senator Conroy**—Yes.

**Senator MINCHIN**—It was not made by the government, you or anybody else?

**Senator Conroy**—No.

**Senator MINCHIN**—That decision was made by the panel?

**Ms Scott**—The panel considered the matter and made a recommendation to the Commonwealth. The Commonwealth took the decision.

**Senator MINCHIN**—The panel did not take it?

**Ms Scott**—The panel made a decision about the recommendation.

**Senator MINCHIN**—It decided to recommend it?

**Ms Scott**—It decided to recommend Telstra's exclusion on the basis that it did not meet the conditions for participation as set out in the RFP.

**Senator MINCHIN**—Who actually was the decision maker?

**Ms Scott**—The decision maker was the Commonwealth.

**Senator MINCHIN**—For the purposes of this exercise who exactly was the Commonwealth? Was it the minister, the Prime Minister, the cabinet or you as the head of the department?

**Senator BIRMINGHAM**—It is hard to tell whether there were many decision makers or no decision makers.

**Ms Scott**—In this case I represented the Commonwealth.

**Senator MINCHIN**—So, you were the decision maker?

**Ms Scott**—I was the person who took the ultimate decision.

**Senator MINCHIN**—We were advised by the minister that there were five separate sets of legal advice that went to this matter. Are you able to indicate from whom those advices came?

**Ms Scott**—I will call to the table general counsel. Certainly we took advice from the Solicitor-General. We had advice from our legal advisers, Corrs.

**Mr Markus**—As the secretary said, legal advice was received from the Solicitor-General, Stephen Gageler SC; John Sackar QC of the Sydney bar; Corrs Chambers Westgarth; the Australian Government Solicitor and the department's internal legal advisers.

**Senator MINCHIN**—That is a lot of legal advice. Corrs and the AGS are the two contracted legal advisers for the process. Is their contract to advise the panel and the department?

**Mr Markus**—Their contract is to provide legal services to the Commonwealth. The Commonwealth is performing functions—

**Senator MINCHIN**—Would it include for this purpose the panel itself?

**Mr Markus**—The panel receives advice from the department, so the legal advice is provided to the Commonwealth, and the panel had access to that legal advice. They were performing functions in the service of the Commonwealth.

**Senator MINCHIN**—We have heard that the panel itself made the recommendation to the secretary that Telstra be excluded.

**Mr Markus**—Yes.

**Senator MINCHIN**—They must have based that recommendation on legal advice.

**Mr Markus**—Yes, they had available the legal advice.

**Senator MINCHIN**—Did they seek the legal advice in the first place through the department as to whether Telstra's submission complied with the RFP so as to be admissible?

**Mr Markus**—The panel was aware that legal advice was being sought by the department. The department requested the legal advice and the legal advice was provided to the panel.

**Senator MINCHIN**—The initiation of the seeking of the advice was not by the panel but by the department itself?

**Ms Scott**—There was quite considerable discussion amongst the panel of this issue and certainly our advisers, Corrs, were present at those discussions and participated in those discussions, as did AGS. There was a view that within the panel we should also seek further advice on this matter. While the department did the arranging and the implementation, it was very much a within-panel view that further advice should also be sought given the types of issues confronting the panel.

**Senator MINCHIN**—Was advice sought in relation to each bid as to its acceptability?

**Ms Scott**—Part of the bid process was that it had to go through a series of stages that would examine whether the proposals met the condition of participation as set out in the RFP.

**Senator MINCHIN**—Were Corrs the source of that advice in relation to the initial vetting of every submission?

**Mr Markus**—The Australian Government Solicitor, in their role as probity adviser, performed that function.

**Ms Scott**—And also Corrs.

**Senator MINCHIN**—In relation to each one?

**Ms Scott**—Yes.

**Senator MINCHIN**—Presumably they both concluded that all but Telstra were acceptable?

**Mr Markus**—That all but Telstra met the conditions of participation.

**Senator MINCHIN**—And their grounds for exclusion was this issue of the small business plan?

**Ms Scott**—It did not meet the minimum mandatory requirements as set out in the request for proposal.

**Senator MINCHIN**—To meet a requirement to submit a small business involvement plan?

**Ms Scott**—That is right.

**Senator MINCHIN**—Was the advice clear that the small business plan had to be lodged at exactly the same time—that is, to the second or the minute of the day, as the submission itself?

**Ms Scott**—I would like to pause a little bit here because, as you know, there are precedents about going into questions of legal advice and so on.

**Senator Conroy**—We are trying to be helpful.

**Senator MINCHIN**—Yes, you are. I appreciate that.

**Senator Conroy**—When I was last in a press conference I described it as there being five sets of government advice and then five other companies who all sought legal advice on what complying with the minimum requirements were. None of them agreed with Telstra's interpretation. Out of all of those sets of legal advice no-one else agreed with Telstra's interpretation. I am aware that Telstra subsequently put this forward as their proposition. I think Bob Baxt did an op-ed piece in the *Fin* to try to support their position.

**Senator MINCHIN**—I am just wanting to clarify that it was clear in your legal advice that the Telstra argument that the submission of their small business plan some few days after was insufficient to overcome the hurdle identified?

**Ms Scott**—Yes, the advice we received was conclusive that Telstra had not met the minimum mandatory requirement as required in the RFP.

**Senator MINCHIN**—Just to backtrack a bit for the sake of the argument, having got the joint advice from Corrs and the AGS, did you or the department then seek additional legal advice?

**Ms Scott**—I will just repeat my earlier answer. There was discussion within the panel. The panel's view was that it would be prudent to get further advice on this matter, which we did. The advice was conclusive and the panel proceeded on the basis of the very conclusive advice it received.

**Senator MINCHIN**—Could you just remind me of the three additional sets of advice?

**Mr Markus**—It was the department's internal legal advisers, which is essentially me.

**Senator Conroy**—He is being modest. It is a huge department.

**Mr Markus**—I take responsibility for the department's internal advice, and then both Corrs and the AGS looked separately at the issue.

**Senator MINCHIN**—I am saying on top of Corrs and the AGS.

**Mr Markus**—Mr John Sackar QC was engaged through Corrs, and the Solicitor-General was also briefed through Corrs in consultation with the Attorney-General's Department.

**Senator MINCHIN**—Were their conclusions the same for the purposes of this exercise?

**Ms Scott**—Yes.

**Mr Markus**—Yes.

**Senator MINCHIN**—Minister, you made much of the pragmatism of the government and the flexibility that it was bringing to this process. It does seem rather extraordinary that, as I said before, the biggest show in town and the company that everybody thought would have to play some part in the NBN, the most logical builder of the NBN, was excluded on what amounts to a technicality. Do you accept that description?

**Senator Conroy**—You have called it a number of things. We do not consider that the minimum requirements were a technicality. We received extensive legal advice. Ms Scott's word was 'conclusive'. To have allowed Telstra to participate would potentially have opened the Commonwealth to legal action from one of the other parties who had successfully met the minimum requirements. Fundamentally, we reject your assertion that this was a technical failure. There were three minimum requirements clearly set out. Most people would not consider them to be especially onerous to qualify to lodge a document. Mr Markus, signing part A?

**Mr Markus**—Signing a declaration.

**Senator Conroy**—Yes, signing a part A declaration, or schedule A, a small business plan, and that it is written in English—pretty straight forward.

**Senator MINCHIN**—Did you seek your own advice as to whether you, as the minister, had any discretion to enable Telstra to be considered?

**Senator Conroy**—I suspect you were sarcastically making the comment earlier that the RFP is a very flexible document.

**Senator MINCHIN**—I think I was quoting you.

**Senator Conroy**—Certainly the minister has much discretion in many parts of it. This is one area where following consultations and discussions there was no discretion.

**Senator MINCHIN**—Ms Scott, did you advise the minister? Could you relate to us, to the extent you can, at what point the minister became aware that there were five sets of legal advice telling you that you had to exclude Telstra? That must have really made his day.

**Ms Scott**—Under the process the panel had an arrangement to keep the minister abreast of developments, whilst still ensuring that the panel was undertaking a deliberative process. The minister was aware of this issue. It was actually in the public domain pretty quickly. I would have to check dates, but clearly there were issues and questions regarding the suitability of Telstra's proposal as almost all of it had been publicly released and it was 12 pages long.

**Senator Conroy**—I think they released it on the Stock Exchange and Telstra websites.

**Ms Scott**—As you would recall, there was much speculation in the media about whether this proposal was likely to pass muster or not.

**Senator Conroy**—I think Senator Minchin in fact called for it to be excluded at one point before he then decided that it was a technicality issue and that it be included.

**Senator MINCHIN**—I was just playing devil's advocate, daring you to do so.

**Ms Scott**—Certainly in line with the arrangement we had, we kept the minister informed about this process of seeking advice. When the panel had made the decision I informed the minister of the recommendation.

**Senator MINCHIN**—Of the recommendation to you?

**Ms Scott**—The fact that I would be proceeding with the—

**Senator MINCHIN**—Are you saying that you informed him of your decision?

**Ms Scott**—I informed him of the panel's position and of my decision.

**Senator Conroy**—If I could just go back to your devil's advocate role, Senator Minchin, on 26 November you stated: 'I think that's a very interesting legal question that would require legal examination of the RFP documentation. As I said before, I suspect that others who have lodged non-complying proposals will be arguing with the force of the law at their hand that the government should not and cannot properly'—I suspect there are some typos in the transcript—'enter into negotiations with Telstra. Telstra may have a contrary advice. It's a matter for the lawyers to determine.' I also suspect that when you said 'non-complying' you meant 'complying'. Subsequently, after the expert panel took legal advice, Senator Minchin suggested:

... the trivial reason dreamed up by the expert panel of the Commonwealth for Telstra's exclusion was quite remarkable.

I thought you played the devil's advocate role very well there.

**Senator MINCHIN**—Yes, I thought so, too. You responded at that time by saying: 'Don't worry. We've got such a flexible RFP. It's under control. We can accept almost anything we want to.'

**Senator Conroy**—In my responses I was very careful what I said.

**Senator MINCHIN**—You discovered that it did not quite have the discretion or the flexibility you—

**Senator Conroy**—I was not quite as fast and loose as you were playing both sides of the street that day.

**Senator MINCHIN**—Thank you for detailing the process by which this most extraordinary outcome has been reached.

**CHAIR**—We have half an hour left. Senator Ludlam has a couple of questions on broadband and also some questions on internet filtering. Can we wind up your questions shortly?

**Senator MINCHIN**—Yes. Minister, will you rule out reopening negotiations with Telstra with respect to its capacity or willingness to build the National Broadband Network?

**Senator Conroy**—Telstra have been excluded from the RFP process.

**Senator MINCHIN**—That was not my question.

**Senator Conroy**—Telstra have been excluded from the RFP process.

**Senator MINCHIN**—Will you rule out any further negotiations with Telstra with respect to building the NBN?

**Senator Conroy**—You then seek to draw from me an implication on the outcome of the RFP process.

**Senator MINCHIN**—So you will not rule it out?

**Senator Conroy**—I am not prepared to engage in the sort of speculation on both sides of the street that you have been engaged in, as I have just read out.

**Senator MINCHIN**—That is my job in opposition. I followed in your worthy footsteps, Senator Conroy, as the opposition.

**Senator Conroy**—You manage to argue both sides of an argument exceptionally well.

**Senator MINCHIN**—I have had a nasty teacher in you, Senator Conroy. So, you will not rule out reopening negotiations with Telstra?

**Senator Conroy**—That question—

**Senator MINCHIN**—No, you have not.

**Senator Conroy**—That question presupposes a—

**Senator MINCHIN**—You will not rule it out. Thank you, Madam Chair. I will defer to somebody else.

**Senator Conroy**—Do not seek to verbal me. You are better than that. You are seeking to impute an outcome with that question. I am not prepared to engage in that speculation.

**Senator MINCHIN**—Thank you.

**CHAIR**—Senator Ludlam.

**Senator LUDLAM**—I have a couple of questions about a broadband program that originated with the previous government, the Kimberley Broadband Solutions Project. I will have to take your advice as to what degree you can advise us on a program that was initiated by the previous government, so pull me up when you need to. This is a program that originated in April 2005. The Commonwealth provided \$1.3 million from the Coordinated Communications Infrastructure Fund to the WA government to allow towns in the Kimberley to receive better broadband. Is that a program you are familiar with?

**Mr Bryant**—Yes, that is correct.

**Senator LUDLAM**—Firstly, I would like confirmation that the \$1.3 million was awarded to a project that was later known as the Kimberley Broadband Solutions Project?

**Mr Bryant**—That is correct.

**Senator LUDLAM**—Can you tell us what the requirements are for monitoring outcomes of CCIF funded projects to ensure the money is well spent?

**Mr Bryant**—I can tell you that when the 16 sites that constituted the project were completed and were ready and commissioned for use there was a technical audit undertaken by the department which confirmed that the deliverables required in the funding agreement were in fact in place.

**Senator LUDLAM**—Is there any requirement for regular or ongoing monitoring of these projects?

**Mr Bryant**—In short, not from the Commonwealth perspective. Ongoing management and viability of this infrastructure and service is now a matter for the Western Australian

government, which, as you probably are aware, was a co-partner in the project. The service provided as well is being supported by government contracts.

**Senator LUDLAM**—It is still a Commonwealth funding provision, so you have just handed the funds to the Western Australian government and you provide no further oversight of whether it is spent in the manner intended?

**Mr Bryant**—It would be best to take that on notice. We should really go back to the contract and check the exact nature of it. That is my understanding.

**Senator LUDLAM**—It probably goes further than you were suggesting. I would appreciate any information you can provide to us on oversight that the Commonwealth maintains over money spent under that program. Which agency was or is responsible for monitoring the outcomes of the Kimberley Broadband Solutions Project?

**Mr Bryant**—Do you mean a state agency?

**Senator LUDLAM**—Is there no further Commonwealth involvement at all? Should I just refer all of these questions to the Western Australian government?

**Mr Bryant**—That is the understanding I have given you, but again we will take that on notice and check.

**Senator LUDLAM**—I appreciate that. I certainly will not waste your time if the Commonwealth has no further involvement, but it is not my understanding that there would be no further oversight. This might be required to go on notice as well. Does the department retain a copy of the project deed signed by the WA government for the Kimberley Broadband Solutions Project?

**Mr Bryant**—That would undoubtedly be the case.

**Senator LUDLAM**—That you do retain a copy?

**Mr Bryant**—I think so.

**Senator LUDLAM**—Is that something that you would be able to provide for the committee?

**Mr Bryant**—The deed itself?

**Senator LUDLAM**—Yes.

**Mr Bryant**—I will take that on notice.

**Senator LUDLAM**—I am not sure how far we are going to get with this. Are you familiar with some of the recent controversy that this program has attracted and that many of the communities that were meant to be served by these funds have not been aware that the broadband provision exists and that, in many cases, it does not?

**Mr Bryant**—Yes, I am familiar with that.

**Senator LUDLAM**—Is that something that you have been actively engaged in?

**Mr Bryant**—Actively engaged in monitoring. As I have indicated, the oversight of that project has passed to the Western Australian government.

**Senator LUDLAM**—You are monitoring it. Presumably you are just watching the press clippings, but no action has been taken at a Commonwealth level?

**Mr Bryant**—Except to the extent that communities and residents in those areas would be eligible for support under the Australian Broadband Guarantee program. Clearly we have an interest in those.

**Senator LUDLAM**—But not in terms of the original provision of those funds?

**Mr Bryant**—As I said, it is my understanding that we do not have the capacity to effect that.

**Ms Scott**—The department does not have a regional network. It is not unusual for us to enter into partnership arrangements with state and territory governments and for us and the states to contribute funds or cash in kind and for them to take responsibility for the ongoing oversight of the program. We effectively provided infrastructure to allow the service to exist, and the ongoing responsibility and viability for this infrastructure is a matter for the WA government.

**Senator LUDLAM**—In that case—and this is my last one on this subject—there was a discussion paper produced by the National Office for the Information Economy about the CCI Fund which recommended that there be regular and ongoing monitoring of each CCIF funded project to ensure compliance with milestones outlined in project funding deeds. Are you familiar with that report?

**Mr Bryant**—No, I am not familiar with that report.

**Senator LUDLAM**—Can you provide for the committee an official response from the Commonwealth government as to whether that recommendation is formally—

**Mr Bryant**—I will take that on notice and provide you with information about that particular report.

**Senator LUDLAM**—I would appreciate that.

**CHAIR**—Thank you. Senator Nash.

**Senator NASH**—I have a technical question to start with. Can you explain to the committee what subloop unbundling is?

**Ms Scott**—We have someone who can explain that in English.

**Senator Conroy**—I do not know whether we have enough time, and I am not exaggerating.

**Mr Mason**—Subloop unbundling, in simple terms, relates to the ability of an access seeker to obtain access to the copper line basically from the pillar out in the suburbs and that copper line then goes to the person's house.

**Senator NASH**—That was not nearly as hard as you thought it would be. Thank you. I do understand the sensitivities, particularly now that Telstra is out of the tendering process. It obviously stands to reason that whoever is successful will potentially need to be able to get access to that particular piece of infrastructure. Could you outline for the committee whether that is an appropriate option for access for those current tenderers?



**Senator Conroy**—That would presuppose the outcome of the tender process.

**Senator NASH**—No, I do not think it would. Obviously Telstra, as the provider of that particular bit of infrastructure, is not in the process, so it is going to have to be an alternative provider. Whoever is the successful tenderer will need to have access to that particular piece of infrastructure. I am just trying to ascertain what options are available for the successful tenderer.

**Senator Conroy**—You have unfortunately made an assumption about what is in the bids, which I am not in a position to speculate on.

**Senator MINCHIN**—You have just reaffirmed that your policy commitment is to a fibre-to-the-node network. What we are talking about here is the node to the home. The issue remains whoever builds that fibre-to-the-node—

**Senator Conroy**—There is an inherent assumption in your question.

**Senator NASH**—Yes, there is. There is an assumption, because you have stated it is a fibre-to-the-node. Unless there is some new arrangement—

**Senator Conroy**—I repeat—

**Senator NASH**—Just one second.

**Senator Conroy**—No, I repeat: you are making a number of assumptions that we are not able to speculate on.

**Senator NASH**—You are talking about a fibre-to-the-node process. Unless you are going to allow a fibre-to-the-premises arrangement then whoever is the successful tenderer will need access from that node to home. That is what you said; it is a fibre-to-the-node arrangement. I am just trying to ascertain what the options are for the successful tenderer to access that particular piece of infrastructure which they are going to need under your NBN.

**Senator Conroy**—We will take that on notice.

**Senator NASH**—Is there nobody here in the department?

**Senator Conroy**—I said we will take it on notice. That is a different answer.

**Senator NASH**—I understand your statement at the beginning of this, but I would not have thought that a technical question such as that would come under the preclusions you put forward.

**Senator Conroy**—It is not a technical question. It is a regulatory question and we will take it on notice.

**Senator NASH**—I would have thought that you would have jumped at the chance to actually answer some of the ones that you could that were not ruled out by what you started with, but obviously not.

**Senator Conroy**—It is not actually a technical question.

**Senator NASH**—Has subloop unbundling been done anywhere else in the world?

**Mr Mason**—There are examples of subloop unbundling overseas. For example, in New Zealand they are looking at doing subloop unbundling. I am not sure if it has been implemented yet, but it is being looked at and is part of some people's regulatory approaches.

**Senator Conroy**—We can have a look and come back to you on that.

**Senator NASH**—That would be interesting, because Telstra indicated late last year that it had never been attempted anywhere else in the world. If you have different advice from Telstra it would be very useful if you could provide it to the committee. I would like to ask about the infrastructure, which I think is outside where we are. In the light of the fact that we can now obviously spend hundreds of billions of dollars at will, was there any consideration given by the government either on their own or as a PPP to building an infrastructure-only arrangement or, to put it simply, to building a broadband superhighway, if you like, with just the infrastructure itself?

**Senator Conroy**—We are committed to the RFP process. We have set out the terms under which we are conducting the RFP and we stand by those.

**Senator NASH**—There was never any consideration given to that?

**Senator Conroy**—We stand by the process that we are engaged in currently and we are going through the process.

**Senator NASH**—As we are not getting anywhere with any of that we might move on to cows.

**Senator Conroy**—We have been here before.

**Senator BIRMINGHAM**—Like pink rocks.

**Senator NASH**—I am doing cows and pink rocks today. I raised a question at previous estimates about the quick cells.

**Senator Conroy**—Yes, Mount Stromlo.

**Senator NASH**—Absolutely, the Molonglo observatory. Apparently they have got a bid in for the billion-dollar global astronomy project and there is some issue with the crossover of the portable cell. I understand the Prime Minister was quite involved in terms of pitching for the bid for the local astronomy project, but there is a crossover. I am simply trying to understand some more detail around what the crossover is and if there is any resolution.

**Senator Conroy**—ACMA helped us with that last time.

**Senator NASH**—That is in ACMA; that is not a departmental matter. From recollection, last time nobody knew anything about it. I am happy for you to take it on notice.

**Senator Conroy**—I think you are being slightly unkind.

**Ms Scott**—Was this a portable facility at one stage?

**Senator NASH**—Yes. It still is a portable facility.

**Senator Conroy**—With the bushfires in Canberra, it would have been a portable facility.

**Senator NASH**—There is a portable facility near Queanbeyan.

**Senator Conroy**—There was potential interference.

**Senator NASH**—You are exactly right. The point is that it still exists. I am happy for you to take it on notice and speak to ACMA.

**Senator Conroy**—I am more than happy to take the substance of your question on notice and, if it is this department, we will get it back to you, and if it is ACMA we will come back to you with their answer. You got me on the big billion-dollar projects interfering with it.

**Senator NASH**—It is; not that we would all believe everything that we read in the media.

**Senator Conroy**—Definitely not.

**Senator NASH**—I would like to look at the issue of future-proofing regional areas more broadly, rather than just broadband. I understand the minister's answers that he has given in the past. Now that the government has taken the \$2 billion that was put in place for the Communications Fund, which was set up to future-proof regional Australia, given that there was no requirement in the RFP for it to be a roll-in rather than a rollout—which the minister has answered questions on before—then what certainty or guarantee do regional areas have that it is not going to be years and years before they see any of that rollout?

**Senator Conroy**—There are a number of projects we have been engaged in involving telecommunication services. The first is the Glasson review, which I know you are very familiar with. We are due to table our response to Glasson very shortly. As I am sure you would acknowledge, Mr Glasson did an incredibly good job cataloguing the poor state of telecommunication services across regional Australia that we have inherited. We are required by 5 March to respond to the Glasson report. We have got the National Broadband Network, which obviously features heavily in regional telecommunication services, and we have also got the ABG of \$270-odd million.

**Senator NASH**—I think you might have misunderstood my question, so I will make it a bit clearer for you. With the \$2 billion that was taken away, obviously the interest from that is to go to regional areas. That \$2 billion has been removed, but there was no requirement within the NBN—just looking at the NBN for the moment—for it to start in regional areas. Quite simply, the money was removed away from a targeted regional program, and yet the program that it is going into is not required to start rolling out in regional areas. I am wondering, particularly around broadband, if there could be years and years of time lag for those areas.

**Senator Conroy**—I appreciate you have a political interest in trying to run that line.

**Senator NASH**—I am not running a line. I am asking genuine questions for genuine people.

**Senator Conroy**—The press release tomorrow will say, 'Government refuses to commit to services.'

**Senator NASH**—You try this line every time.

**Senator Conroy**—No, I am anticipating it. That issue goes to the heart of potential negotiations. We have not said that we will start in the Melbourne CBD, though the way you describe the question asserts that. That is very much something at the forefront of our consideration, as well as resolving the NBN process.

**Senator NASH**—Just finally on the Glasson review, as you raised it, you are right in that there was a very comprehensive amount of work done there and obviously the interest from that \$2 billion is going towards that. What if we have another Glasson review or something similar in another three years? Where is the money going to come from to fund anything that regional Australia might need at that point, when they are falling behind urban areas because you have taken away the bucket of funding that would actually go to that?

**Senator Conroy**—I am sure you have heard me say this before, but it would take 40-odd years to spend the interest on the \$2 billion to match Labor's combined NBN, ABG and Glasson report. We are prepared to very simply point out that we are spending significantly more on regional rural telecommunications than you ever contemplated. That is not fair—you did contemplate it. The National Party think tank, the Page foundation, did recommend a significant boost, and as we start rolling out the NBN project you will again look to your coalition colleagues and say, 'Why wouldn't you listen?'

**Senator NASH**—Thank you.

**CHAIR**—We only have a few minutes left. We will go to Senator Birmingham and then back to Senator Ludlam.

**Senator BIRMINGHAM**—I would like to go back to the NBN. I will give you the opportunity to quickly rule out inserting into the NBN contract or conditions any of the ACTU's apparent nine key conditions that they are shopping around to members of the Labor caucus.

**Senator Conroy**—It would be manifestly unfair for any bidder to be inserting new clauses into the NBN process at this stage.

**Senator MINCHIN**—Have you seen this document?

**Senator Conroy**—I am sure my office and my department have possibly received it. It would be manifestly unfair for us to start amending the NBN at this stage.

**Senator BIRMINGHAM**—We will take that as almost an assurance. At least you are saying that it would be manifestly unfair.

**Senator Conroy**—It would be manifestly unfair to have allowed Telstra to have continued in the process.

**Senator BIRMINGHAM**—On that front, can you confirm whether it is possible or not under the RFP for changes to the structure of bid teams to occur, so for other parties to be brought in or for separate bidders to merge their proposals?

**Ms King**—Could you just repeat the question?

**Senator BIRMINGHAM**—Is it technically possible under the RFP for bidders to merge their proposal or for new parties to be brought in to an existing bid?

**Ms King**—I would need to take that on notice. The proposals have been lodged by proponents, and the proponents were required to meet certain prequalification requirements in May last year. Any further discussion is a matter of speculating on the outcome.

**Senator BIRMINGHAM**—What negotiation is possible with proponents at present?

**Ms King**—The RFP provides for negotiations, but to go into any detail is speculating on possible government decisions.

**Ms Scott**—We have indicated previously the quite reasonable constraints we are under because of the probity arrangements and where we are up to with the process. I do not think I would feel comfortable with Ms King answering questions about issues that could go either to hypothetical arrangements or to legal issues. I am happy to take the question on notice and give it a considered view, but I would have to say at this stage that it is going into areas where reasonable concerns about probity would arise.

**Senator BIRMINGHAM**—Assuming the process runs to the time line that the minister still hopes for, questions on notice are not terribly useful for us this time around. But I will defer to Senator Ludlam.

**Senator LUDLAM**—I would like to raise a couple of questions.

**Senator Conroy**—Is this still on broadband?

**Senator LUDLAM**—No, this is on net filtering.

**Senator Conroy**—What time are we moving to the department of the environment?

**CHAIR**—We will go to the tea break at nine o'clock and then at 9.15 we will resume with the arts.

**Senator LUDLAM**—The trial that was meant to start before Christmas was delayed for a period of some weeks. Can you identify the reasons why the initiation of the trial was delayed?

**Mr Rizvi**—The applications to participate in the live pilot closed on 8 December. We received 16 applications proposing a number of different filtering technologies and approaches. The applications are a mixture of large and small ISPs providing a variety of different services across the country. The filtering technologies proposed range from fairly simple black list filtering through to more sophisticated filtering using commercial products from various filter vendors.

Prior to Christmas, all of the applications we received were assessed both by ourselves and by our technical advisers, that is Enex TestLab. As a result of that assessment process, we identified a number of questions that needed to be clarified with each of those applicants. All of those questions were put to the ISPs before Christmas. We had anticipated that we would be able to resolve those issues with those ISPs that already provide a filtered service to their subscribers and that would enable us to commence testing relatively quickly. In the event, even with those ISPs, some further issues needed to be resolved before we could finalise the deed of agreement. Those deeds were finalised during January, and the minister announced the first six ISPs with whom deeds had been signed. Testing with one of the six ISPs has now commenced and is proceeding. The other ISPs with whom we have signed deeds of agreement are progressively obtaining the filtering hardware needed to install filtering into their systems and to enable the testing to begin.

We are continuing to negotiate deeds of agreement or arrangements with a number of the other applicants, including a range of larger and medium sized ISPs. Once those processes have been completed, we will be submitting those for the minister's consideration and, subject

to the outcome of that consideration, additional ISPs may join the pilot. At this stage we expect the bulk of the testing to take place during the period March to May and we believe we are on track to report on the pilot around the middle of the year.

**Senator LUDLAM**—That has answered a couple of the questions that I had. The ISPs that you have started up with are an interesting assortment. They are mainly commercial service providers that are providing internet access to enterprises.

**Senator Conroy**—Could I—

**Senator LUDLAM**—I have not asked the question yet. I am just establishing whether or not that is the case.

**Senator Conroy**—There is one very major ISP that is in there. People have made disparaging comments about the size, but iPrimus are not small—they are in the top five.

**Senator LUDLAM**—I stand corrected. In terms of their customer base, it is enterprises that they are selling services to; they are not really a retailer to mums and dads.

**Senator Conroy**—I do not think they would agree with your interpretation.

**Mr Rizvi**—In the expression of interest document we issued, we sought applications from a wide variety of ISPs. We were looking for variety. In the 16 applications that we received, that variety is there. It happens to be the case that we were able to resolve issues with the smaller ISPs more quickly than with the larger ISPs, but that is not to indicate that we favour the smaller over the larger; it is simply that we were able to resolve the issues with the others. As I said, the discussions with a number of larger ISPs are proceeding very positively and we hope to conclude those discussions with them in the next few weeks in time for testing to begin within the period that I described.

**Senator LUDLAM**—Are you able to tell us whether iiNet is in that list of ISPs that you are in negotiations with?

**Mr Rizvi**—iiNet has declared itself to be an applicant for the pilot and on that basis I can say yes, they are one of the applicants.

**Senator LUDLAM**—Is there a reason why they were not included in the first pass and why they are not up and running?

**Mr Rizvi**—I am sorry?

**Senator LUDLAM**—Is there a reason why that ISP was not included in the first set of ISPs that are up and running?

**Mr Rizvi**—It is simply because we have not concluded the discussions with them. We had a teleconference with them on 12 February, which was a very positive discussion with iiNet. Right through this last week we have been exchanging emails on various issues and those discussions, as I said, are proceeding well.

**Senator LUDLAM**—Can we just move to the form of filtering that you have been trialling. You will be trialling different filtering systems for the different ISPs, but essentially you are establishing mandatory blocking of the existing ACMA blacklist plus an expanded list of around 10,000 sites?

**Mr Rizvi**—I think there are a couple of different questions in there, Senator.

**Senator Conroy**—Some of them you conflated together.

**Senator LUDLAM**—I am happy if you want to expand them out for me; that is fine.

**Mr Rizvi**—For all of the ISPs we will test with them the filtering of the blacklist on its own.

**Senator LUDLAM**—The existing list supplied by ACMA?

**Mr Rizvi**—The existing list that you were discussing earlier; that is correct. In addition where ISPs have proposed other filtering functionalities, we will test those as well. A number of the applicants that have signed deeds are proposing to install additional functionalities and we will test those additional functionalities where they have been proposed.

The issue of the 10,000 arises because there was discussion amongst some participants in the industry that a blacklist of 10,000 URLs may be a tipping point in terms of network performance. We have decided to test that proposition. We will test that proposition in a closed network arrangement using a hypothetical test list. The Enex Testlab with whom we work have a number of such lists. The actual content of the 10,000 list is neither here nor there; it is simply to test whether 10,000 is going to have any particular impact as has been suggested by some. It is certainly not to suggest that we expect for some reason that the ACMA blacklist may grow to 10,000; it is merely a reference to a possible tipping point by one of the participants in the industry.

**Senator LUDLAM**—When you say the list itself is neither here nor there, they are not actually real websites; they are just dummy URLs set up?

**Mr Rizvi**—They are lists of test websites or URLs that Enex Testlab has used for many years for its testing. It has done this sort of work for a long time.

**Senator Conroy**—I mentioned earlier today that Enex are actually the company that produced the famous 87 per cent figure. They have got a respected track record of telling it as it is.

**Senator LUDLAM**—You are then going further and evaluating dynamic filtering?

**Mr Rizvi**—Some of the proponents that we have agreed with in the context of the pilot are proposing to trial dynamic filtering in that context and, depending on the functionalities that that will put forward, we will be testing that as well, yes.

**Senator LUDLAM**—Regarding the customers who are taking part—not the ISPs who volunteered themselves but the customers who are taking part—what are they being told in terms of their participation in the scheme?

**Mr Rizvi**—We are discussing with each participating ISP how their customers will be contacted about participation. They will be invited to participate. They will be advised of the nature of their participation and the nature of the filtering. They will be informed, where filtering beyond a basic blacklist is to be involved, that we would be seeking their participation in a survey about their user experience with that filtering.

**Senator LUDLAM**—And you would presumably be logging that experience at the other end as well, at the ISP level?

**Mr Rizvi**—Certainly Enex Testlab will, in effect, act like a customer and receive a filtered and a non-filtered service and it will be able to test those two filtered services for a range of criteria.

**Senator LUDLAM**—The trials that were conducted last year were essentially sandbox trials in a fairly controlled environment and now we are dealing with real people and real ISPs. In terms of your reporting, you said you hope that will occur around mid-year. How much of that is likely to be commercial-in-confidence or otherwise precluded from being released to the public, given that you are dealing with commercial operators?

**Mr Rizvi**—In the discussions we have had with the ISPs, we have indicated that the outcomes of the trial in respect of each ISP will be shared with that ISP to ensure that we have agreement on what the outcomes have been. That will then be included in a report to the minister. That report will de-identify the participating ISPs. However, we have indicated to the ISPs that are participating with us that, if they wish to reveal who they are within that report, that is their prerogative.

**Senator LUDLAM**—So there will be a process of knocking some of the names off the test results, but otherwise you plan to publish in full the results of the trials?

**Mr Rizvi**—That would be our intention unless there is something that the ISP advises is commercial-in-confidence, in which case we will consider their request.

**Senator LUDLAM**—But you are establishing that framework now presumably rather than as it comes close to time to report?

**Mr Rizvi**—We have had discussions on that matter until now. One of the issues that the ISPs have expressed concern about is that, for example, the nature of their customer base not be revealed and those sorts of issues, so we would respect their requests in terms of commercial-in-confidence matters. But, at this stage, beyond that they have not requested anything.

**CHAIR**—Are you finished, Senator Ludlum? We were supposed to have a tea break at 9 pm.

**Senator LUDLAM**—I am sorry, I am eating into our coffee break. Can we finish at 9.10 pm?

**Mr Rizvi**—I wanted to make a small clarification about an earlier question you asked me concerning the consultative working group. You asked me about funding for the consultative working group.

**Senator LUDLAM**—We are really short of time; can we come back to that? I will take that on notice, if that is okay. I just want to find out the trials that are currently underway and that you are expanding with the other ISPs. Will that consume the entire budget? How far through the budget for the net filtering will this take you?

**Mr Rizvi**—We anticipate that we will be able to accommodate the ISPs with whom we are having discussions at the moment from within the allocation that we have for the pilot.

**Senator LUDLAM**—Subsequent to the conclusion of trial, what happens then? How much is left of the budget?



**Mr Rizvi**—That will depend on how much expenditure takes place. At the moment the bulk of the funding for ISP filtering is allocated in the 2009-10 and 2010-11 years, not this financial year.

**Senator LUDLAM**—Minister, maybe you can help me out with that. How much are you anticipating will be expended in this trial and how much does that leave the department or your office for pursuing networking?

**Mr Rizvi**—I might just walk through—

**Senator LUDLAM**—Do you want to provide that to the committee?

**Senator Conroy**—We can provide it on notice.

**Senator LUDLAM**—If you can provide that to us, that would be much appreciated.

**CHAIR**—Mr Rizvi, you wanted to revisit some evidence you gave earlier in the evening.

**Mr Rizvi**—Senator Ludlum asked me a question about funding for the consultative working group. I interpreted that question to relate to remuneration or payment to the members of the group, and I indicated there was no money for that.

**Senator LUDLAM**—Or whether there was a separate budget line item for that.

**Mr Rizvi**—There is an allocation of \$200,000 per annum to the department for the secretariat of the working group.

**Senator LUDLAM**—Does that include research that they might commission?

**Mr Rizvi**—No, that is separate from research.

**Senator LUDLAM**—Thanks.

**Senator Conroy**—If you have any other questions you wanted to put on notice—

**Senator LUDLAM**—I certainly will. I thank the committee for its indulgence.

**CHAIR**—The committee has now concluded its examination of the Broadband, Communications and the Digital Economy portfolio. After the break the committee will commence examination of the Environment, Water, Heritage and the Arts portfolio, calling officers in relation to the outcome 4, Arts. Thank you, Ms Scott, and officers of the department.

**Proceedings suspended from 9.10 pm to 9.22 pm**

**ENVIRONMENT, WATER, HERITAGE AND THE ARTS PORTFOLIO****In Attendance**

Senator Jan McLucas, Parliamentary Secretary to the Minister for Health and Ageing

**Department of the Environment, Water, Heritage and the Arts****Executive**

Mr Gerard Early, Acting Secretary  
Mr Malcolm Forbes, Acting Deputy Secretary  
Dr James Horne, Deputy Secretary  
Mr Mark Tucker, Deputy Secretary  
Mr Malcolm Thompson, Acting Deputy Secretary

**Arts and Culture 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

**Australia Council**

Ms Kathy Keele, Chief Executive Officer  
Mr Tony Grybowski, Executive Director, Arts Organisations  
Ms Robin Cowdrey, Executive Director, Corporate Resources

**Corporate Strategies Division**

Mr Peter Woods, Acting First Assistant Secretary  
Mr Aaron Hughes, Acting Assistant Secretary, Financial Management Branch

**Culture Division**

Ms Sally Bassar, First Assistant Secretary  
Dr Stephen Arnott, Assistant Secretary, Film and Creative Industries  
Mr Kim Allen, Assistant Secretary, Collections Branch  
Mr Paul Salmond, Acting Assistant Secretary, Literature and Indigenous Culture Branch

**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, Heritage Strategy

**National Portrait Gallery**

Mr Andrew Sayers, Director

**Policy Coordination Division**

Mr Sean Sullivan, Acting First Assistant Secretary, Portfolio Policy and Advice Branch  
Mr Peter Webb, Director, Budget Strategies Section

**Screen Australia**

Dr Ruth Harley, Chief Executive Officer  
Mr Ross Pearson, Chief Financial Officer  
Ms Fiona Cameron, Director, Strategy and Operations

**CHAIR**—Thanks, everybody. We will get started. We commence the examination of the Environment, Water, Heritage and the Arts portfolio in accordance with the agenda. The

committee has fixed Thursday, 9 April 2009 as the date for the return of answers to questions taken on notice. Senators are reminded that written questions on notice should be provided to the secretariat by close of business next Monday. 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 will 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 of the claim.

I welcome Senator the Hon. Jan McLucas, Parliamentary Secretary to the Minister for Health and Ageing, representing the Minister for the Environment, Heritage and the Arts and portfolio officers. Minister, do you wish to make an opening statement?

**Senator McLucas**—No, thank you, Chair.

[9.25 pm]

#### **Australia Council**

**Senator BIRMINGHAM**—I might start off just on the efficiency dividend. Has the Australia Council implemented the one-off efficiency dividend of two per cent?

**Ms Keele**—Yes, we have.

**Senator BIRMINGHAM**—What savings have been achieved as a result of that for the Australia Council?

**Ms Keele**—Do you mean the quantum?

**Senator BIRMINGHAM**—Yes, the quantum first, thanks, Ms Keele.

**Ms Keele**—For 2008-09, that is \$1,400,000. For 2009-10, we think it will be \$1,382,000.

**Senator BIRMINGHAM**—Do these figures come off programs as well as administrative costs?

**Ms Keele**—In the case of 2008-09, those came all off the administrative costs.

**Senator BIRMINGHAM**—How was that achieved?

**Ms Keele**—It was achieved through a number of programs. We went through a business process review where we looked at our administrative set-up in our organisation and worked with PWC to look at how efficient we were. With the help of project teams made up of staff, PWC and us we made a series of recommendations about how we could improve our implementation. We are in the process of implementing those right now. I mentioned this at the last Senate estimates. They have to do with everything from how grants are administered to how we travel to how we carry out research in the organisation. So they are quite wide ranging across the organisation and helped us to achieve these efficiency dividends.

**Senator BIRMINGHAM**—In terms of the administration of grants that you mentioned there, is there an impact on the council's work in assessing the benefit of grants and the results and outcomes from grants?

**Ms Keele**—Actually it turns out that working with this business process review allowed us to look at how we do the whole process of administering grants, from receiving the application to assessing the application to acquitting the application. We were able to look at the full process and make recommendations along the lines of how we use our IT, how we receive things and log them. I guess the answer to your question is: with the current levels of volume, we actually think we are going to be able improve our administration. If volumes were to increase any more, we would have trouble. If we took on more programs, we would have to look at how much administration we have. But we are targeting to keep the same level of administration, the ratio of administration to grants that go out the door, about the same into the next year.

**Senator BIRMINGHAM**—Obviously you have succeeded in 2008-09 in reducing that ratio of administration to grants, if all of the efficiency dividend has come off the administration side. What are your expectations in 2009-10?

**Ms Keele**—It is a one-off two per cent efficiency dividend, so we are not going to have to take any more off. We just continue with the same operational level that we have.

**Senator BIRMINGHAM**—The same operational level will save you the estimated \$1.38 million in 2009-10?

**Ms Keele**—Yes.

**Senator BIRMINGHAM**—How many grants has the Australia Council provided over the course of the current financial year? Indeed, if you are able to give us the final figure for the previous financial year that would be good as well.

**Ms Keele**—I can give you the numbers for the previous financial year, which are part of our annual report. I can tell you that we funded 1,736 grants and projects. I do not know if that is an answer to your question.

**Senator BIRMINGHAM**—Are details of all of those grants on your website?

**Ms Keele**—Yes, I think they are. I would have to check to be sure if all of them were on there, but our website holds the information of the organisations that we fund. In a separate book from our annual report, you will see that all the grants that were given are outlined and detailed. That would mean that it was on our website as well.

**Senator BIRMINGHAM**—Are you able to provide to the committee, ideally in written form—so if you have published a book then that is ideal—an exact list of grants for 2007-08? Could you outline the recipient, the title of the project and, in particular, a relatively clear description of what the project was?

**Ms Keele**—Yes, it is our grant book that we put out, so I will follow up on that.

**Senator BIRMINGHAM**—Thank you. What has the impact of the efficiency dividend been on staffing numbers?

**Ms Keele**—Last year, 2008-09, our staffing went from about 150 down to 122, I believe are the numbers. A large part of those were contracts that were not continued or they were in their finishing stages, 13 of those were excess employees, and the rest of them left the organisation and were not replaced or they were contracts that were not continued.

**Senator BIRMINGHAM**—I note that the council is undertaking consultation on the draft Indigenous art code of conduct.

**Ms Keele**—Yes.

**Senator BIRMINGHAM**—Could you just give me a little bit of background as to the development of that draft please?

**Ms Keele**—The Senate made a recommendation and I think fully a third of the recommendations had to do with the development of a draft code of conduct for Indigenous commercial visual arts. It had been in development in the industry already. But, when it came out that they really wanted to have a code of conduct that was a voluntary code that dealt with the mischief that was identified, the Australia Council, through the CMC direction, took that on in partnership with the department to develop a code of conduct that actually dealt with the specific mischief that was there across the value chain of the commercial visual arts sector, so that we could have a code of conduct that people could sign up to and be part of to help alleviate the pressure that was out there.

**Senator BIRMINGHAM**—Does the council operate similar codes of conduct in other sector?

**Ms Keele**—We are not operating the code of conduct; we are developing a code of conduct.

**Senator BIRMINGHAM**—Okay, has the council developed similar codes of conduct for other sectors?

**Ms Keele**—I have had two years there—not in my time. I would have to take it on notice to find out if they have ever done that before, unless the department would know.

**Ms Bean**—Not to my knowledge.

**Senator BIRMINGHAM**—So as far as anybody knows, this is a new and different initiative or project for the Australia Council to manage in its development stage?

**Ms Keele**—But a very natural one, given the relationship the council has, especially through the Indigenous and Aboriginal Torres Strait Islander board, with the sector.

**Senator BIRMINGHAM**—Is there proposed to be in the code of conduct a complaints mechanism? Obviously being a voluntary code I expect there will not be a clear enforcement mechanism per se, but is there a complaints mechanism in operation?

**Ms Keele**—That is currently being developed, yes.

**Senator BIRMINGHAM**—Where is it proposed that the complaints mechanism be situated or managed from?

**Ms Bean**—That has not actually been decided yet. The normal practice with industry codes of conduct made under the umbrella of the ACCC is that it will be an industry managed code. It is not entirely clear whether the industry is sufficiently mature in an organisational sense to be able to manage that within itself. We are considering options for government support for that for a transition period of a couple of years—two or three years, or something like that. The minister has not actually decided which way to go yet.

**Senator BIRMINGHAM**—The industry in this regard is defined as—?

**Ms Bean**—The industry can encompass potentially everything from an Indigenous art centre in remote Australia through to a large commercial gallery in Sydney and Melbourne, so it is the entire value chain right through production to the ultimate sale end.

**Senator BIRMINGHAM**—At this stage there is not a clear or well-established and clear industry association or other body?

**Ms Bean**—That is correct. There is the Australian Commercial Galleries Association, for example, and there is groupings of Indigenous art centres—for example, Desert in the central desert area—but there is not an organisation that covers the entire scope of the industry.

**Senator BIRMINGHAM**—Ms Keele, you mentioned CMC direction in your answer before. Are they consultants who have been engaged to assist with the process?

**Ms Keele**—Sorry, could you repeat that.

**Senator BIRMINGHAM**—I think you mentioned CMC direction when you were talking about those involved in the development of the code of conduct.

**Ms Keele**—CMC is very interested and endorsed the need for this code of conduct, and they have been involved. The ministers have agreed that the council, in partnership with the department, were to develop this with the industry. Is that what you mean?

**Senator BIRMINGHAM**—Sorry, excuse my ignorance: who is CMC?

**Ms Keele**—The Cultural Ministers Council, I apologise.

**Senator BIRMINGHAM**—The Cultural Ministers Council, thank you. Is the process for the development of the code all being managed within the Australia Council?

**Ms Keele**—As I say, in partnership with the department, yes.

**Senator BIRMINGHAM**—But you have not engaged external consultants or others to manage the process?

**Ms Keele**—We have worked with trade practices and we have worked with the ACCC to get advice on things. We have a facilitator that we have used when big groups gather. So to that extent, yes.

**Senator BIRMINGHAM**—It has not been outsourced in that sense?

**Ms Keele**—We have not outsourced it

**Senator BIRMINGHAM**—So you have consulted widely?

**Ms Keele**—Yes, definitely.

**Senator BIRMINGHAM**—In terms of engagement with Indigenous groups and peoples, what process has been put in place through the development of the code for their engagement and involvement?

**Ms Keele**—We have an advisory group; I am just looking for the exact name that we used. There has been an advisory group of industry people, including Indigenous, from across the country. As Lynn mentioned, we have people like Ananguku Arts involved, Desert, people from the Kimberly—people from across Australia actually representing the Indigenous side of things—in this full industry group comprising commercial galleries, public galleries, artists themselves, and people who are part of the art centres. It is quite a wide grouping in which the Indigenous groups are represented quite widely. I think there are 40 different people on this advisory group.

**Senator BIRMINGHAM**—I note the period for consultation on the draft coding ends I think about 20 March or thereabouts, when is the target for finalisation?

**Ms Keele**—We are waiting to see what we get back in the way of submissions and input. We do not actually have a final date but we are all very anxious to get it out just as soon as we can. The submissions for this phase close on 20 March. We will need to consider what we do after that, whether we have an education phase or whether we go for more input. We will decide that when we see what the submittals are, but we are very much hopeful that we will try to get this out no later than the middle of the year. Again, that is not anything we have finalised yet.

**Senator BIRMINGHAM**—In regards to your grant programs, if I can skip back there, across the different genres of the arts and therefore different programs that you operate, how has the balance between those shifted, if at all, between 2007-08 and 2008-09? Has increased focus been given to music over dance or is there any difference?

**Ms Keele**—No, the ratios stay the same from year to year. They have in my time stayed the same.

**Senator BIRMINGHAM**—And that is a board decision?

**Ms Keele**—The board approves the budget.

**Senator BIRMINGHAM**—And there are no plans at present to change those ratios going into the next year?

**Ms Keele**—We are going through a process of looking at our strategic planning process and making sure that that does give us a fair amount of robustness to making those decisions.

We do not have any particular plans at the moment but we are putting into council a strategic planning process that would give us more information about that.

**Senator BIRMINGHAM**—At what stage is the strategic planning process at?

**Ms Keele**—Each of the art form directors—theatre, dance, music—are in the process right now of developing a strategic view of their sector. We are working within council to take a look at how healthy the sector is, what its specific needs are, who all the players are, what the value chain is and then looking at it in a systemic way to make some of those deductions about whether they are funded enough. Then we will have to make a decision about how we work with our budget in council and work with the minister and the department about what we are finding out, basically. We have done this for many years. It has gone on for many years, but we are just looking at it in a different way at the moment.

**Senator BIRMINGHAM**—Is the end process for this strategic review a new corporate strategy for the council?

**Ms Keele**—It is not a strategy; it is a process. It is a process of planning which helps us to look together across the sector in an organised way to see where the strengths and weaknesses are and what the opportunities are, and where the threats are. We are looking at it not just for the next year but rolling out 18 months and out through the next five years. It is pretty important, especially in an environment like this.

**Senator BIRMINGHAM**—With respect to board appointments to the council, have new board appointments been made this financial year?

**Ms Keele**—Since we last came to Senate estimates, seven board appointments have been made.

**Senator BIRMINGHAM**—Can you detail what they are? Ms Bean looks like she might be looking them up.

**Ms Bean**—I do not think there have been any to the actual council this financial year that I can see.

**Ms Keele**—I do not think there have been any to the council, but there have been seven to the various artform boards.

**Senator BIRMINGHAM**—Okay. I am happy for you to take it on notice and provide the seven appointments to the various other artform boards.

**Ms Bean**—Certainly.

**Senator BIRMINGHAM**—Perhaps you could also indicate who the retiring member or members were in those instances, if there were any. In regards to the council, when are board vacancies due?

**Ms Bean**—They tend just to roll through. A couple are due in the middle of the year. One is imminent; Dr Chris Sarra's term expires on 8 March. He is the chair of the ATSLA board and member of council. Barbara Black's appointment expires on 2 April. She is the community interest representative. Then we go down to June when the appointments of the Chair, Mr Strong, and Mr Gersh, the Deputy Chair, expire on 30 June. The appointment of the chair of the literature board, Dr Imre Salusinszky, expires on 23 June. Finally, Ms Dominique



Fisher's appointment as chair of the dance board expires on 8 August. So there are few coming through this year on the council.

**Senator BIRMINGHAM**—So we have a lot of turnover of the board of the council.

**Ms Bean**—There are six or seven artform boards that also have about seven or eight members, and they roll through as well.

**Senator BIRMINGHAM**—Indeed. Of those you spoke of, are they all cabinet or ministerial appointments or are some of them representational appointments?

**Ms Bean**—I think the chairman is appointed by the Governor-General; the others are ministerial appointments.

**Senator BIRMINGHAM**—Okay, so all of the others are ministerial appointments?

**Ms Bean**—Yes.

**Senator BIRMINGHAM**—Forgive me for this, but we have had Senator Conroy here all day talking about ABC and SBS board appointment processes and so on: is there any particular process that the government follows or that is set down for the appointment of Australia Council board members?

**Ms Bean**—There is quite a robust process within the council for bringing forward nominations which incorporates material that is in the Australia Council Act. The council has a nominations and governance committee which considers all the appointments. It also has a register where people can express interest—

**Ms Keele**—Or nominate others.

**Ms Bean**—Or nominate other people. They have quite a detailed matrix, if you like, of skills required for a particular board. So within music it might be what kind of music, it might be geographic distribution, it might be gender balance, it might be—

**Ms Keele**—Diversity.

**Ms Bean**—Yes, diversity; are there any others? I think there is a number of them.

**Ms Keele**—There are quite a few.

**Ms Bean**—So there is quite a complicated skill matrix. Then names are put to the minister, normally more than one for each vacancy, with a recommendation as to why a particular person is favoured as the first choice.

**Senator BIRMINGHAM**—Is the minister required under the act to select from those names?

**Ms Bean**—No, the minister can choose whoever he wants.

**Senator BIRMINGHAM**—Okay, so at the end it is still ministerial discretion. Is the minister required to publicly table reasons or publicly advise that he has chosen someone other than the council's recommendations?

**Ms Bean**—No.

**Senator BIRMINGHAM**—Thank you.

**Senator TROETH**—I wonder if the panel that I am about to mention associated with the Australia Council. Is Creative Australia one of those boards associated with the Australia Council?

**Ms Bean**—Are you referring to the group drawn together by the minister?

**Senator TROETH**—It is a 10-member panel established by Minister Garrett to advise the government on creative arts policies and issues.

**Ms Bean**—No, that is nothing to do with the Australia Council, except that the Chair is a member.

**Senator TROETH**—Is it appropriate to ask about that particular body now?

**Ms Bean**—That really would be a question for the department.

**Senator TROETH**—That is fine, I will wait until then.

**CHAIR**—Are there any further questions for the Australia Council? If not, thank you very much for appearing before the committee tonight.

[9.50 pm]

#### Screen Australia

**CHAIR**—Thank you very much, officers of Screen Australia. We will now go to general questions.

**Senator BIRMINGHAM**—Welcome, Dr Harley. This is your first appearance, isn't it?

**Dr Harley**—Yes.

**Senator BIRMINGHAM**—Given the relatively new nature of Screen Australia and this being your first appearance—my understanding is that the interim chief executive was developing the business model and strategic plan for the organisation in its early stages. Could you advise where that is at, please?

**Dr Harley**—Yes, that is correct. We have completed the first stage of our planning process which is related to our production and development activities. Now we are working on the second phase of developing the new organisation. That involves the marketing, research, finance, legal and operations aspects of our business.

**Senator BIRMINGHAM**—When was the first phase was completed?

**Dr Harley**—It was completed in time to start working on 1 January. Having said that, there are still some staff appointments pending.

**Senator BIRMINGHAM**—How many appointments are still to be made?

**Ms Cameron**—Less than half a dozen in stage 1.

**Senator BIRMINGHAM**—How many staff does Screen Australia have at present?

**Dr Harley**—We have 155.

**Senator BIRMINGHAM**—Those relevant to stage 1 are?

**Dr Harley**—I would have to count.

**Senator BIRMINGHAM**—That is fine.

**Dr Harley**—I would say it is about 50.

**Senator BIRMINGHAM**—Thank you. In terms of stage 2, does this involve significant further growth in the size of the organisation?

**Dr Harley**—It does not involve growth in the size of the organisation, so we are 155 full-time equivalents now, and we think that we will end up at around 130 by 30 June.

**Senator BIRMINGHAM**—The starting date and operation from 1 January has proceeded relatively smoothly from an industry perspective?

**Dr Harley**—Yes, I think it has.

**Senator BIRMINGHAM**—The feedback has been positive and the process for grants and business relationships has proceeded well?

**Dr Harley**—The feedback has not been negative, which is a good start. Yes, I think it is correct to say that grant applications have proceeded smoothly.

**Senator BIRMINGHAM**—How has Screen Australia managed the previous programs of your original bodies? Are there programs from those bodies and grants and ongoing relations that continue in those areas?

**Dr Harley**—Yes, there are. The programs of the previous agencies formally concluded on 31 December, but there is some aspect of business as usual in the new suite of programs. So there is some continuity.

**Senator BIRMINGHAM**—In terms of the aims of Screen Australia and particularly production aims for this year, what are the targets that Screen Australia is working towards?

**Dr Harley**—The big overall target is to spend the production budget of about \$60 million on films, television dramas and documentaries, and we are on target to meet that.

**Senator BIRMINGHAM**—I assume that a large portion of that needs to be committed up front; what proportion has been committed to date?

**Dr Harley**—All but \$10 million.

**Senator BIRMINGHAM**—It sounds like you are reasonably well on target to commit your \$60 million if you have committed \$50 million.

**Dr Harley**—Yes.

**Senator BIRMINGHAM**—This is for the financial year or calendar year?

**Dr Harley**—Financial year.

**Senator BIRMINGHAM**—What are the measureables or the outcomes against that investment in terms of what Screen Australia is looking for from those productions?

**Dr Harley**—We are obviously looking for a spread of types of product across feature film, television drama, children's television, documentary, including the national documentary program which we committed to continuing with, so we are looking for a spread of product across those categories.

**Senator BIRMINGHAM**—Are the relationships that you enter into in those production agreements grants? Where do commercial returns come into that, if at all?

**Dr Harley**—Most of them are investments. In fact, I think they are all investments at the moment.

**Senator BIRMINGHAM**—Are they are investments on an equal equity basis with others? What is the nature of the return arrangement?

**Dr Harley**—It varies too much to generalise. Feature films may have half a dozen, maybe more, parties involved in them, and it does depend on the deal. Documentaries can be simpler, but an international documentary will also have a number of parties.

**Senator BIRMINGHAM**—I assume that Screen Australia still receives some commercial return from the investments of its predecessors?

**Dr Harley**—Yes.

**Senator BIRMINGHAM**—Are those commercial returns meeting budget or not meeting budget?

**Dr Harley**—Yes, they are.

**Senator BIRMINGHAM**—Are there particular products that have exceeded expectations or particular investments that have failed to meet expectations?

**Dr Harley**—I do not know the answer to that question. Do you, Ross?

**Mr Pearson**—There is no generality to the returns. The returns occur across the whole suite of television programs, features and documentaries, and each deal is so unique in terms of the profile of returns and when the returns activate that it really is too difficult to generalise.

**Senator BIRMINGHAM**—I assume in each instance you budget for some return, and I realise as with any sort of budgeting, but particularly in this instance where some of them will be driven by popularity and other factors, there is an unknown element to those budgets.

**Mr Pearson**—There is a significant unknown element. The process is replete with uncertainty. The budgeting is done at two levels. An estimate of returns is done when the project is considered for funding, and then there is an overall return on an organisational basis for which we budget.

**Senator BIRMINGHAM**—How many productions did the predecessor to Screen Australia support through investments in the previous financial year?

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

**Senator BIRMINGHAM**—How many productions is the target to support this financial year out of the \$60 million?

**Dr Harley**—I am advised that it is 90 productions.

**Senator BIRMINGHAM**—Perhaps if you could take that on notice. Could you give us the—

**Dr Harley**—Prior agencies? Yes, I am sorry, we do not know—

**Senator BIRMINGHAM**—the prior. That is fine, but also the breakdown across genres for those 90 targets—

**Dr Harley**—Of those we know that 25 of the 90 are feature films.

**Senator BIRMINGHAM**—So 25 of the 90 are feature films, and the rest are then documentaries and children's programming and—

**Dr Harley**—Adult drama for television.

**Senator BIRMINGHAM**—If you could provide some of the breakdown. I am assuming obviously if \$50 million of the \$60 million has been committed, then much of it rather than being targets is in fact actuals at this stage?

**Dr Harley**—Correct.

**Senator BIRMINGHAM**—The previous government made some changes to the investment regime around feature films. What impact in the industry does that appear to be having?

**Dr Harley**—The producer offset?

**Senator BIRMINGHAM**—Yes.

**Dr Harley**—So far we are optimistic that the offset will achieve the results that it was set up to achieve. There are some difficulties with it, but fundamentally it seems to be working.

**Senator BIRMINGHAM**—So at this stage it appears as though it will achieve the increased investment that was sought?

**Dr Harley**—Yes.

**Senator BIRMINGHAM**—What are the problems that you cite?

**Dr Harley**—There are two problems in particular. Firstly, attracting cash flow, particularly for low budget projects such as documentaries. The transactions are too small for banks and private equity to want to be engaged with. Secondly, a lot of the industry is concerned about the fact that it is a 30 June year end rather than a year end that relates to the conclusion of any specific project.

**Senator BIRMINGHAM**—Have those concerns, particularly the latter one, been raised with government?

**Dr Harley**—Yes.

**Senator BIRMINGHAM**—Has there been any indication from Treasury or others of a willingness to look at any amendments in those areas?

**Dr Harley**—Our minister has indicated a willingness to enter into a discussion. I do not know what the view of Treasury is.

**Senator BIRMINGHAM**—Minister Garrett has agreed to at least enter into a discussion and presumably consider making proposals or suggestions in the budget process?

**Dr Harley**—I would not be certain that he was making suggestions within the budget process. I do not know that.

**Senator BIRMINGHAM**—Minister Garrett has agreed to enter into discussions with industry or within government?

**Dr Harley**—Within government.

**Senator BIRMINGHAM**—Okay. Has Screen Australia noticed any immediate impact on production from the current financial situation?

**Dr Harley**—I think we are beginning to notice it. We have had some indications that the finance that might have been available on two particular feature films may no longer be available. As I said, we will meet our targets this year but I think we are beginning to notice the effect of the economic downturn in the rest of the world on which feature films in particular are dependant.

**Senator BIRMINGHAM**—And that particularly relates to finance availability in terms of co-investors or finance availability in terms of the ability to secure finance and debt?

**Dr Harley**—It is co-investors. It is banks which are the debt part. There are fewer sales agents operating around the world market and they tend to have less money available, and there are fewer distributors and they tend to have less money available. So that affects the ability of all parties to contribute.

**Senator BIRMINGHAM**—A broader question: is there a concern in the feature film market and elsewhere about the copyright protection of films and is that having an impact on the ongoing investment and return from such films in terms of the accessibility of productions in the digital age?

**Dr Harley**—Do you mean piracy?

**Senator BIRMINGHAM**—Yes, amongst others.

**Dr Harley**—Yes, there is enormous concern about it and there are different schools of thought about the effect that it has. I am aware of some views which do suggest there is a significant commercial impact and I am aware of others that regard it as a marketing opportunity, so perhaps it depends on different types of films.

**Senator BIRMINGHAM**—Does Screen Australia provide advice or assistance to your investment partners or indeed any producers about ways or means that they might minimise the risk of piracy?

**Dr Harley**—I do not know the answer to that, I will see if my colleagues do. We have no specific advice on that subject.

**Mr Pearson**—Senator, the producers are urged to seek their own advice in relation to those sorts of matters.

**Senator BIRMINGHAM**—What is the largest grant or investment that Screen Australia will make, for example, this year being the first year?

**Dr Harley**—In an individual project?

**Senator BIRMINGHAM**—In an individual project.

**Mr Pearson**—In the order of \$4 million.

**Senator BIRMINGHAM**—And at that level is that a board decision to make that investment?

**Dr Harley**—Yes.

**Senator BIRMINGHAM**—At what level does an investment in a project become a board decision or with 90 projects do they all churn through the board in one shape or form?

**Dr Harley**—Over a million dollars.

**Senator BIRMINGHAM**—How many of the 90 are over a million dollars?

**Dr Harley**—About 40.

**Senator BIRMINGHAM**—Dr Harley and colleagues, thank you. I think that is all that I need to pursue with you. I appreciate your time, especially on the Oscars day, and I am sure that, as you are a new agency, we will have lots to pursue in future estimates from the work that you are undertaking.

**CHAIR**—Thank you, there are no further questions for Screen Australia. Dr Harley, in particular, you survived your first estimates; we look forward to seeing you back.

[10.06 pm]

**CHAIR**—We will now move to Output 4.1. Senator Troeth, would you like to start off?

**Senator TROETH**—Yes, thank you, Madam Chair. I would like to ask some questions about a 10-member panel called Creative Australia established by Minister Garrett to advise the government on creative arts policies and issues. Firstly, did the department have involvement in the establishment of that particular panel?

**Mr Tucker**—The panel actually has 12 members in place. The selection for the panel was made by the minister. We provided a number of suggestions to the minister but in the end he decided who he would like on his advisory panel.

**Senator TROETH**—How long has it been operating?

**Mr Tucker**—It had its first meeting on Friday.

**Senator TROETH**—This last Friday?

**Mr Tucker**—That is correct.

**Senator TROETH**—How often is it proposed that the panel will meet?

**Mr Tucker**—It has not been proposed. As you probably know, the members are quite busy people so it has been left on a 'as needs' basis. I think there is a desire to maybe meet again in the next four to six weeks. It has not been set as any regular type of meeting arrangements; it is to deal with the issues as they come up at the time.

**Senator TROETH**—There is an agenda provided for the panel when it meets so that they know what they are going to discuss, I presume?

**Mr Tucker**—Yes, there was at this meeting.

**Senator TROETH**—The department put forward some names and the minister had other names to suggest for this panel? So it was a mixture of selection methods?

**Mr Tucker**—It is the minister's advisory group. We were asked for some advice and some of the types of people that we thought would be useful and we put up some names, but the minister was able to take advice from other quarters and came up with what he believed was the best group to give him the advice he was seeking.

**Senator TROETH**—I see. Is it possible to confirm the membership of the panel?

**Mr Tucker**—Yes.

**Senator TROETH**—Would you be able to provide that to the committee?

**Mr Tucker**—We certainly can provide that. As I said, the group met on Friday and there was a very short report of that meeting put on our website today because they only finished late on Friday afternoon. That report on our website does include the membership as well.

**Senator TROETH**—If possible could there be a short background CV of each of the members?

**Mr Tucker**—Certainly a background and the organisation can be provided to the committee.

**Senator TROETH**—Good, that would be helpful. Obviously with a committee like this meeting there would be travel and ancillary expenses incurred by them, so who is responsible for those expenses when they meet with the minister?

**Mr Tucker**—Part of the history from this committee is back in the 2020 Summit. There were a number of issues that came up in the 2020 Summit that the minister and a number of the committee members believed were worthy of further exploration. You may recall that in the 2020 Summit participants paid their own costs and that is also the arrangement with this committee.

**Senator TROETH**—I see. The meetings will be on an as needs basis. Does the panel have a particular mission statement or goals and objectives?

**Mr Tucker**—The minister has asked them for advice in three particular areas. As I said, it came very much from the 2020 Summit where there was a creative stream. From memory there were about 90 recommendations, there might have been a few more or a few less. In looking at those recommendations, most of them could be grouped under three major headings, which is what the minister has asked the group to give him advice upon. One is cultural policy, the second one is increasing private sector support for the arts, and the third one is looking at ways to better assist artists in their chosen profession.

**Senator TROETH**—Thank you. The second area I would like to ask questions about is the Australian National Academy of Music. Is it suitable to ask questions on that here?

**Mr Tucker**—Yes.

**Senator TROETH**—I am a Senator for Victoria and I know quite well the area where the academy has been operating. You might like to give me a brief rundown of present and future arrangements for the academy, given that it has been given a new lease of life.

**Mr Tucker**—Yes we can do that. Mr Taylor will come up to talk through the details, Senator. In terms of where the academy currently is at, it has put in place arrangements for the coming year. It has 55 students coming on board. It is an exciting time. They have got one of their performances on this evening, to which we were invited but obviously we are here with the committee. We have had some very good interactions with the staff the new board has put in place. The minister and the university put out a press release I think it was last week—

**Senator TROETH**—Could the committee have a copy of that?



**Mr Tucker**—Certainly—with the new board members. In talking to the staff of the academy and the board members, I can say that they are looking forward to a full and exciting year. Mark, may want to say a bit more about some of the arrangements that are in place.

**Mr Taylor**—What Mike said is completely correct. There are 55 students currently, and I understand that the academy has conducted national auditions recently concerning a number of others. They have got a very full program this year. There is a great sense of excitement in the academy at the moment. They are looking forward to a good new year.

**Senator TROETH**—Good. How many staff are there?

**Mr Taylor**—Currently there are three or four full-time staff, but they are in the process of determining that exact number at the moment. There has obviously been a lot happening in the first part of the year.

**Senator TROETH**—My understanding is that they are to stay in their present premises at South Melbourne Town Hall for the rest of this year.

**Mr Taylor**—That is correct.

**Senator TROETH**—Then they are move to premises which will be provided by the University of Melbourne—is that correct?

**Mr Taylor**—Not yet. There is a longer term plan which involves the academy working together with the University of Melbourne towards the development of a new Melbourne School of Music in the Southbank Centre, but I think that is a number of years away. In the immediate future it is expected that the academy will be located at the South Melbourne Town Hall.

**Senator TROETH**—For the foreseeable future?

**Mr Taylor**—For the foreseeable future, yes.

**Senator TROETH**—You might need to refresh my memory on this but the hall is still owned by the Port Philip council—is that correct?

**Mr Taylor**—That is correct, yes.

**Senator TROETH**—Does the academy, under the new arrangements, pay rent or a lease to them?

**Mr Taylor**—Not at the moment. They have an existing lease which was prearranged when the academy was established in 1995. That is an ongoing lease which lasted for, I think, 17 years or so. That lease is currently in place, so there is no requirement for them to pay additional rent. However, if they were to secure further premises, which they are thinking about, there would need to be a commercial consideration at that point.

**Senator TROETH**—When you say ‘further premises’, do you mean at that same site?

**Mr Taylor**—Yes, at the same place.

**Mr Tucker**—May I add to that. I presume you know the building and the side entrance there.

**Senator TROETH**—Yes I do.

**Mr Tucker**—They are quite keen to open up the front entrance in terms of access to the academy, and that obviously involves discussions with the owners of the building and also the Victorian government. They are very keen and may have already begun some of those discussions. It sounded like quite a sensible proposal that they were thinking of.

**Senator TROETH**—It is also a fact that some community groups still occupy another part of the hall. Is there any thought of the academy also taking over that part of the hall?

**Mr Taylor**—At the moment we are unaware of what is happening, although I do understand that the academy is in discussions with the local council and is considering options at the moment; nothing is fixed.

**Senator TROETH**—I see. So, their future premises will possibly be at the new recital hall—is that what you said?

**Mr Taylor**—Not at the recital hall. I think there is a plan to construct a new Melbourne conservatorium of music in that Southbank precinct area.

**Senator TROETH**—In that Southbank precinct possibly under the redevelopment by the Victorian—

**Mr Taylor**—I think that is right. As you would be aware, that is still a number of years off I would have thought.

**Senator TROETH**—Yes, I would think so. There was no thought of them going into present premises owned by the University of Melbourne?

**Mr Taylor**—There was at one stage a thought that that might be the case when we were looking at the future of the academy. With further discussion with them in terms of the available space at the university and some their plans, I think for that to have been achieved, it meant the university may have had to move out some of its existing activities there. While that may have been able to be accommodated, I think the best solution in the end from all the parties concerned was for them to stay in their existing premises.

**Senator TROETH**—All right. How is the academy maintained financially? Do students pay fees?

**Mr Taylor**—No, Senator.

**Senator TROETH**—Is it by government maintenance?

**Mr Taylor**—Principally yes. Currently approximately 90-odd percent of the academy's entire income in any given year comes from the government. In 2008-09 we will be providing approximately \$3 million to the academy.

**Senator TROETH**—And that pays facilities, student expenses and staff salaries?

**Mr Taylor**—Yes, that is right.

**Senator TROETH**—Thank you for that. I might leave it there but that is an ongoing interest of mine so I expect I will be pursuing it.

**Senator BIRMINGHAM**—Can I ask questions about a project called Disability in the Arts, Disadvantage in the Arts Australia, funded I think through the federal Regional Arts Fund? Does that fall within the department's area?

**Ms Bean**—That would be within my responsibilities.

**Senator BIRMINGHAM**—Excellent; it is good, Ms Bean, that we are on the right track. I understand this is a program funded, as I said, through the federal Regional Arts Fund, operating in Bunbury. As I said, it is called Disability in the Arts, Disadvantage in the Arts and it supports 150 disabled people in their activities. The program is funded until the end of 2008, as I am advised, and they are awaiting some funding decisions from government. Are you aware of this issue at all?

**Ms Bean**—I am not aware of that specific project. I will just check to see if we know where it is at. The responsibility for administration of the Regional Arts Fund is delegated to the various regional arts organisations around the country. So that one is in WA so it would be Country Arts WA. We have recently finalised the funding agreement with Country Arts WA, so the money is flowing to that organisation, and we are not aware of any particular issues. Certainly if there is a problem I would be happy to talk to Country Arts WA to sort it out.

**Senator BIRMINGHAM**—Perhaps you could take it on notice to look into the program to which I have referred to see whether there is ongoing funding support for it and, if so, how much and over what time frame, in general. The Regional Arts Fund, as you said, is administered locally by local arts bodies. Is there a specific component of that that is dedicated to supporting disability ventures?

**Ms Bean**—Not specifically. I should say that the Regional Arts Fund is generally about project funding rather than organisational funding, so there must be some project element to it. Beyond that I do not know. There is not a specific disability category or bucket but we certainly encourage the regional arts organisations to fund a wide diversity of projects and different types of groups.

**Senator BIRMINGHAM**—Perhaps you could take that on notice. Also, if perhaps they are seeking funding through the wrong area, maybe you could at least suggest alternate programs that might be available for such an organisation.

**Ms Bean**—Certainly; I will have a look into it.

**Senator BIRMINGHAM**—Thank you. The department funds, as I understand it, the Australian Youth Orchestra.

**Ms Bean**—Yes.

**Senator BIRMINGHAM**—When is their funding up for renewal?

**Ms Bean**—Some of their funding is ongoing and some of it, I think, lapses at the end of this financial year.

**Senator BIRMINGHAM**—Some of it was a special grant over a couple of years or so provided under the previous government—is that correct?

**Ms Bean**—Yes, it was a decision to give them a particular amount of money. I cannot remember whether it was on a three-year or four-year basis and that lapses at the end of this year.

**Senator BIRMINGHAM**—So they have got a core funding element that would reasonably be expected to be ongoing. Are you aware offhand, or can any of the officers tell us, of how much the additional funding is?

**Ms Bean**—No, I do not have that figure with me. I think it was under a million dollars.

**Senator BIRMINGHAM**—I suspect that is still a sizeable sum for the Australian Youth Orchestra?

**Ms Bean**—I am advised, Senator, that it is in the order of \$500,000 to \$600,000. It in fact comes up in 2010-2011.

**Senator BIRMINGHAM**—In 2010-2011?

**Ms Bean**—I will confirm that because you get bits and pieces of money going in and you can lose track sometimes.

**Senator BIRMINGHAM**—If you could confirm the last year in which they will receive that additional funding that would be appreciated. Can I say, having visited them when they held their national music camp in Adelaide during January, I was most impressed and would hope that their funding base will continue into the future. That is all from me.

**CHAIR**—Thank you. Are there any further questions? Thank you very much to the officers of the department for appearing before the committee this evening; we appreciate it very much. There being no further questions, the committee has now concluded today's program. The committee's examination of the Environment, Water, Heritage and the Arts portfolio will continue tomorrow morning at 9.00 am.

**Committee adjourned at 10.24 pm**