



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE

ESTIMATES

(Additional Estimates)

MONDAY, 8 FEBRUARY 2010

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE ENVIRONMENT, COMMUNICATIONS AND THE ARTS

LEGISLATION COMMITTEE

Monday, 8 February 2010

Members: Senator McEwen (*Chair*), Senators Fisher, Ludlam, Lundy, Troeth and Wortley

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

Senators in attendance: Senators Abetz, Boswell, Bob Brown, Bushby, Cash, Cormann, Eggleston, Fielding, Fisher, Ludlam, Lundy, Ian Macdonald, McEwen, Minchin, Troeth and Wortley

Committee met at 9.08 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
Management and Accountability**

Mr Peter Harris, Secretary

Mr Col Lyons, Deputy Secretary, Infrastructure Group

Mr Andy Townend, Deputy Secretary, Broadcasting and Digital Switchover Group

Mr Abul Rizvi, Deputy Secretary, Digital Economy and Services Group

Outcome 1—Develop a vibrant, sustainable and internationally competitive broadband, broadcasting and communications sector, through policy development, advice and program delivery, which promotes the digital economy for all Australians.

Program 1.1 Infrastructure

Mr Col Lyons, Deputy Secretary, Infrastructure Group

Ms Marianne Cullen, First Assistant Secretary, National Broadband Network Implementation Division

Ms Pip Spence, First Assistant Secretary, Networks Policy and Regulation Division

Mr Brian Kelleher, Assistant Secretary, Regional Backbone Blackspots Branch, National Broadband Network Implementation Division

Mr Mark Heazlett, Assistant Secretary, Implementation Study Branch, National Broadband Network Implementation Division

Mr Rohan Buettel, Assistant Secretary, Networks Regulation Branch, Networks Policy and Regulation Division

Mr Philip Mason, Assistant Secretary, NBN and Fibre Rollout Regulation Branch, Networks Policy and Regulation Division

Mr Brenton Thomas, Assistant Secretary, Spectrum and Wireless Services Branch, National Broadband Network Implementation Division

Program 1.2 Digital Economy and Services

Mr Abul Rizvi, Deputy Secretary, Digital Economy and Services Group

Mr Keith Besgrove, First Assistant Secretary, Digital Economy Services

Mr Simon Bryant, First Assistant Secretary, Australian Broadband Guarantee Branch

Mr Richard Windeyer, First Assistant Secretary, Digital Economy Strategy

Mr Andrew Maurer, Assistant Secretary, Regional and Indigenous Communications Branch

Mr Simon Cordina, Assistant Secretary, Cyber-Safety and Trade Branch

Mr Lachlann Paterson, Assistant Secretary, Content Programs Branch

Mr Andrew Madsen, Acting Assistant Secretary, Digital Economy & Convergence Strategy

Program 1.3 Broadcasting and Digital Switchover

Mr Andy Townend, Deputy Secretary, Broadcasting and Digital Switchover Group

Dr Simon Pelling, First Assistant Secretary, Broadcasting and Digital Switchover

Ms Karen McCormick, Assistant Secretary, Communications and Media

Mr Robert McMahan Assistant Secretary, Household Assistance

Mr Paul Vincent, Assistant Secretary, Digital Switchover Technical Implementation

Ms Ann Campton, Assistant Secretary, Broadcasting and Switchover Policy

Mr Greg Cox, Assistant Secretary, National Community and Radio Broadcasting

Corporate and Business

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

Legal Services

Mr Don Markus, General Counsel, Legal Services Division

Finance

Mr Simon Ash, Chief Financial Officer, Finance and Budgets Division

Australian Broadcasting Corporation

Mr Mark Scott, Managing Director

Mr David Pendleton, Chief Operating Operator

Mr Michael Millett, Director Communications

Australian Communications and Media Authority

Mr Chris Chapman, Chair

Mr Chris Cheah, Member and Acting Deputy Chair

Ms Nerida O'Loughlin, General Manager, Digital Economy Division

Mr Giles Tanner, General Manager, Digital Transmission Division

Mr Brendan Byrne, General Manager, Legal Services Division

Ms Maureen Cahill, General Manager, Communications Infrastructure Division

Ms Dianne Carlos, General Manager, Corporate Services and Coordination Division

Ms Clare O'Reilly, Executive Manager, Legal Services Division

Mr Andrew Kerans, Executive Manager, Spectrum Infrastructure Branch

Ms Jonquil Ritter, Executive Manager, Citizen and Community Branch

Ms Kathleen Silleri, Executive Manager, Content and Consumer Branch
Mr Paul White, Executive Manager, Industry Monitoring Branch
Ms Andree Wright, Executive Manager, Security, Safety and e-Education Branch
Ms Linda Caruso, Executive Manager, Regulatory Future Branch
Mr Vince Humphries, Manager, New Communications Issues and Safeguards
Mr Grant Symons, Executive Manager, Unsolicited Communications Branch
Mr Richard Frazer, Manager, Content Classification
Mr Mark Loney, Executive Manager, Operations Branch
Mr Allan Major, Executive Manager, Infrastructure Regulation Branch

Australian Postal Corporation

Mr Michael McCloskey, Corporate Secretary
Mr Rod McDonald, Group Manager, Corporate Human Resources
Mr Michael Tenace, Group Financial Controller
Mr Stephen Walter, Group Manager, Corporate Public Affairs
Mr Don Newman, Group Manager, National Logistics
Ms Catherine Walsh, Manager, Employee Relations
Ms Christine Corbett, Manager, Strategy, Governance and Major Change
Mr Mark Pollock, Manager, Regulatory Affairs

NBN Co Limited

Mr Mike Quigley, Chief Executive Officer and Executive Chairman

Special Broadcasting Service Corporation

Mr Shaun Brown, Managing Director
Mr Jon Torpy, Chief Financial Officer
Mr Bruce Meagher, Director, Strategy and Communication

CHAIR (Senator McEwen)—I declare open this meeting of Senate Environment, Communications and the Arts Legislation Committee. The Senate has referred to the committee the particulars of proposed additional expenditure for 2009-10 for the Broadband, Communications and the Digital Economy portfolio and 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 set Friday, 26 March 2010 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 this Friday.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance in that regard, the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate in *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

- (a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;
- (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;
- (c) orders that the following operate as an order of continuing effect:
 - (1) If:
 - (a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and
 - (b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.
 - (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
 - (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
 - (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.
 - (5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.
 - (6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.
 - (7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).
 - (8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

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

Senator Conroy—No, I am fine, thanks.

CHAIR—Thank you. I now call officers from Australia Post. Unless there is an opening statement, I will go straight to questions.

Senator IAN MACDONALD—I appreciate Australia Post are here, but could I just indicate to the minister, the department and to the ABC that I intend to pursue later in the day the ABC's deliberate refusal to answer questions. I want the department, the ABC and perhaps the minister to be alerted to the fact that I will be pursuing that later on in the day. Excuse me, Australia Post.

CHAIR—Thank you, Senator Macdonald. Senator Fisher.

Senator FISHER—Thank you for your attendance today. You have a new CEO in Mr Ahmed Fahour. I just want to note his non-attendance here today. He did explain to the committee that he would not be here today. You will do a splendid job, I am sure, but we very much welcome Mr Fahour's commitment to attend these estimates in the future as soon as he has got into the job—though hopefully not saddle sore. We look forward to that and thank you for your attendance today. I will swing to my colleagues.

Senator ABETZ—If I may, just on that very point, ask Australia Post, who does Australia Post think is its most important stakeholder?

Senator Conroy—The public, I am sure.

Mr McCloskey—We have a range of stakeholders, as you would be aware. We have the community, our customers, and because we are a government owned entity we have accountability through to the minister. Our board has accountability to the minister and through the minister to the parliament.

Senator ABETZ—Only through the minister to the parliament?

Mr McCloskey—Yes.

Senator ABETZ—What about through Senate estimates to the parliament?

Mr McCloskey—In that context as well, certainly.

Senator ABETZ—It just seems astounding that the new managing director is so well briefed as to be able to meet with all the other stakeholders of Australia Post, yet he is not briefed enough to meet with the Australian parliament today. I would like to ask—

Senator Conroy—There are a number of assumptions that you have made there, Senator Abetz, some of which may or may not be correct. Let us be clear that Mr Fahour has indicated he is more than willing to come to estimates. He has just completed his first week in the job. He has been getting extensively briefed by the management team at Australia Post. While I think Senator Fisher was quite gracious in acknowledging his willingness to attend, this line of question is, frankly, absurd. He has been in the job five days. He has not had a chance to

get fully briefed on all of the issues within Australia Post so was not in a position to comprehensively answer your questions. To suggest otherwise is just absurd.

Senator ABETZ—Could you please tell the Labor chair at this committee how absurd she was in writing to the managing director on 3 February 2010 in these terms: ‘The committee has discussed this matter and while welcoming your commitment to attend future estimates and recognising that there may be questions that you personally may not be able to answer, the committee would like to express, in the strongest terms possible, its desire for you to appear at its hearing on 8 February 2010.’ That message you just delivered to me, Minister, is also delivered to the Labor chair of this committee?

Senator Conroy—I think Ms Fisher graciously acknowledged that Mr Fahour will be attending in the future, when possible. I think that all that is happening now is you are demonstrating a lack of grace.

Senator ABETZ—So the 3 February letter showed a lack of grace?

Senator Conroy—No, I said your response at the moment shows a lack of grace. I think Senator Fisher showed an appropriate understanding, whereas now you are just trying to make a point that is boring. Mr Fahour—

Senator ABETZ—That is for other people to decide but, when it comes boring, I think you have got the gold medal and I would not seek to compete with you.

Senator Conroy—Mr Fahour has indicated—

Senator ABETZ—Why was it impractical to attend the hearings—

Senator Conroy—I just explained.

Senator ABETZ—at this early stage?

Senator Conroy—I have just explained that.

Senator ABETZ—Why was it impractical? What—no aeroplanes?

Senator Conroy—I have just explained that—

Senator ABETZ—No aeroplanes, no cars to get him here?

Senator Conroy—Mr Fahour is still receiving his briefings from his team. Your earlier assertions about how he had met with all his stakeholders are simply that: assertions. Mr Fahour has been getting briefed and getting across the many, many issues that are now his responsibilities. He has indicated that he will be attending. I actually think that the important point you are making about the attendance is valid. Mr Fahour has said that he will come. Now you are simply engaging in political filibuster.

Senator ABETZ—No, I think you are the one engaging in that.

Senator Conroy—If you have questions for Australia Post—

Senator ABETZ—Can we then explain why Mr Fahour said on 5 February 2010, ‘My pre-arranged induction program includes meetings with “major customers”’. That is why I asked who the most important stakeholder was.

Senator Conroy—No, you said the stakeholders.

Senator ABETZ—Yes, that is right. Customers are not stakeholders anymore? All right.

Senator Conroy—No.

Senator ABETZ—We have learned something from the Labor government.

Senator Conroy—Stakeholders is a much broader—

Senator ABETZ—But can I—

Senator Conroy—Stakeholders is a much broader range of individuals and organisations than customers.

Senator ABETZ—When did Australia Post know that these estimates were going to be on?

Senator Conroy—Unfortunately, Mr Fahour's start date was not based around Senate estimates, Senator Abetz. It may be—

Senator ABETZ—That was not the question. When did Australia Post know the date of these estimates?

Mr McCloskey—At the same time as they were published everywhere.

Senator ABETZ—Which was when?

Senator Conroy—I do not know.

Senator ABETZ—Who in Australia Post organised this induction program to conflict with Senate estimates?

Senator Conroy—Please. He started last week.

Senator ABETZ—And they organised the induction program, knowing full well that there was a Senate estimates hearing.

Senator Conroy—Now you are being ridiculous.

Senator ABETZ—Can we just get an answer to the question and let other people decide whether I am being ridiculous or not. When did Australia Post know?

Senator Conroy—The same date that it was published everywhere else.

Senator ABETZ—Was Australia Post aware of this Senate estimates prior to Mr Fahour's commencement date of 1 February?

Senator Conroy—I am sure it was, given that date would have been prior to the commencement date.

Senator ABETZ—No, do not say I am sure. The officials at the table can actually—

Senator Conroy—I am confident—

Senator ABETZ—I am not even concerned if you are confident; I want to know the fact, because confidence can be misplaced. Mr McCloskey, can you tell us whether Australia Post was aware of the date of these estimates before Mr Fahour's appointment?

Mr McCloskey—Yes, we were.

Senator ABETZ—So who organised his induction program? Who takes responsibility for that?

Senator Conroy—The induction program is normally held after someone starts. It is not a question of—if you are suggesting—

Senator ABETZ—I did not ask that. I asked—

Senator Conroy—If your suggestion is that Mr Fahour should—

Senator ABETZ—who organised—

Senator Conroy—cease all—which is exactly what you are suggesting, Senator Abetz.

Senator ABETZ—No, I am asking who organised it. Who organised it? Mr McCloskey might be able to tell us.

Senator Conroy—I am sure the management team organised it. If your assertion and your implications—

Senator ABETZ—Do not tell us that you are sure; I want to know from the officers who actually did it. Who organised it, Mr McCloskey?

Mr McCloskey—It would have been organised principally by Mr Walter, who is behind me here, in consultation—

Senator ABETZ—Can he advise us whether he knew of the date of Senate estimates at the time of the induction program being organised?

Senator Conroy—Let me be perfectly clear. It is entirely appropriate for the induction to take place at the earliest opportunity. Senate estimates comes around regularly. Mr Fahour has said he will attend. He will—

Senator ABETZ—So do customers. They are available 365 days of the year, but Senate estimates only comes around three times a year. I would have thought estimates might be a bit more important.

Senator Conroy—Senator Abetz, your proposition is absurd.

Senator ABETZ—Can we have an answer please?

Senator Conroy—Your proposition is absurd.

Senator ABETZ—Yes, that is fine. I know you care about the proposition, just get me an answer to the question.

Senator Conroy—It is perfectly reasonable for Mr Fahour to be undergoing his induction processes at the earliest opportunity that he can so that he is able to answer questions of a whole range of people.

Senator ABETZ—Can we just get an answer instead of this twaddle, from you, Minister? Mr Walter, what is the answer.

Senator Conroy—The questions are twaddle, Senator Abetz.

Senator ABETZ—That is for other people to decide. I am entitled to ask these questions and Mr Walter might have an answer, unlike you.

Mr Walter—Yes, the Senate estimates dates were known.

Senator ABETZ—Thank you. So it was a deliberate choice by Australia Post to give priority to other issues and other meetings than Senate estimates?

Senator Conroy—The induction of a CEO is hardly—

Senator ABETZ—That is all I need to know.

Senator Conroy—The induction of the CEO is hardly—

Senator ABETZ—It shows an ongoing contempt by Australia Post for this committee.

Senator Conroy—Please, Senator Abetz, if you have got any serious questions, proceed with them.

Senator ABETZ—You might not think Senate estimates and accountability is serious, but, you know what? We do.

Senator Conroy—You never once in 11½ years insisted that the former CEO attend, never once. So stop with the accountability.

Senator ABETZ—And you never complained about that, Senator Conroy? Of course you did and that is the hypocrisy of you and your government. You had one set of standards in opposition, which you completely junked once you got into government.

Senator Conroy—Mr Fahour has indicated he will be attending when practical.

Senator ABETZ—When practical. Oh thank you very much.

Senator Conroy—Yes, if he is overseas, it will be impractical for him to attend.

Senator ABETZ—Here we go. Here come the excuses for next time.

CHAIR—Senator and the minister, one at a time. I am mindful how difficult this is for Hansard to record. Can we get to a question and answer format, please?

Senator FISHER—Mr Fahour actually, Minister, did indicate he would attend next estimates and it is on that basis that—

Senator Conroy—I was not suggesting for a moment that he would not.

Senator FISHER—the committee chose to write to him in the terms written.

Senator Conroy—International events sometimes are out of the control of Mr Fahour and he may have to be somewhere else. But I am sure he will be here.

Senator FISHER—The next estimates is not necessarily the same as whenever possible.

Senator Conroy—I am sure he will be here at the next estimates.

Senator FISHER—So am I.

CHAIR—Are there any further questions on this topic?

Senator TROETH—Not on this topic. I have got some questions for Australia Post though concerning Post Logistics.

CHAIR—Thank you, Senator Troeth.

Senator TROETH—What were Post Logistics business losses in 2008-09 including those of Australia Post's subsidiary business Post Logistics Australasia?

Mr Tenace—The results for the 2008-09 year were losses in the order of \$50 million.

Senator TROETH—Can you give us a reason why PLA performed so poorly?

Mr Tenace—This is the combined group of logistics.

Senator TROETH—Yes.

Mr Tenace—The key reasons there were surrounding the global economic crisis, the impact that that had on their revenues and the resultant impact on their evaluation of the value of the assets as at 30 June.

Senator TROETH—Who made the business decisions that led to the results? I gather there is a board in charge of that group? Did they make decisions without taking into account what those results might be?

Mr Tenace—There is no specific board in control of Post Logistics. The business is made up of the PLA entity, which does have a board, and the Post Logistics group, into which the activities undertaken within the Australia Post business are consolidated. They do not have a board, that is just part of normal operations for Australia Post.

Senator TROETH—It would have been both the board and the general management of Australia Post who were in charge of those activities?

Mr Tenace—The general management of the Australia Post, Post Logistics group.

Senator TROETH—Has Australia Post ever terminated staff or arbitrarily changed the terms and conditions of employees to recover business losses?

Mr McDonald—No, it has not for that reason, Senator. It has terminated people for reasons of performance or inappropriate conduct.

Senator TROETH—I gather then that an arbitrary decision was made to cap 2008-09 individual performance bonuses for Post Logistics staff at five per cent despite a legal obligation on the business to honour the terms and conditions of employment for these staff as outlined in their employment contracts?

Mr McDonald—There is a performance bonus arrangement for managerial staff.

Senator TROETH—Yes.

Mr McDonald—That does not say that there has to be a certain maximum payment. It is a payment within a percentage of up to 10 per cent or 15 per cent. The decision taken was having regard to the overall performance. The performance bonuses that flowed were at a certain level.

Senator TROETH—As a result of the losses that were incurred?

Mr McDonald—As a result of the overall performance of that business unit.

Senator TROETH—Who made that decision?

Mr McDonald—The general manager of Post Logistics.

Senator TROETH—Could you tell me who sits on the PLA board?

Mr Tenace—My understanding is the board members were Mr Graeme John, who was on the board at that point in time.

Senator TROETH—Yes.

Mr Tenace—Mr Peter Meehan and Mr Alex Ceselli.

Senator TROETH—Those are remunerated positions, I gather?

Mr McDonald—Yes, they are.

Senator TROETH—Yes.

Mr Tenace—Not in terms of directors' fees.

Senator TROETH—No, but they undertake those as part of what?

Mr Tenace—Part of their normal management duties.

Senator TROETH—So did the five per cent cap extend to members of the PLA board?

Mr McDonald—The members of the PLA board, depending on who they were, would have had a range of responsibilities. As Mr Tenace advised, one of those was the then managing director, Graeme John, who has obviously got a whole range of other responsibilities. The decisions had regard to the overall performance and what roles they played.

Senator TROETH—What I am asking is, were they also subject to the cap of the performance bonus?

Mr McDonald—I will need to take that on notice and come back to you with what the actual outcomes were.

Senator TROETH—Yes, if you would. How many formal grievances have you received from staff who were either terminated or who had their terms and conditions of employment eroded to cover those business losses?

Mr McDonald—Again, I would need to take that on notice. There were certainly two concerns raised in relation to the quantum of performance bonus, by two individuals, both of which were responded to by the general manager of that entity.

Senator TROETH—So they are being responded to?

Mr McDonald—They have been responded to, Senator.

Senator TROETH—They have been?

Mr McDonald—Yes, they have.

Senator TROETH—Or it is in process?

Mr McDonald—No, they were responded to a little while ago.

Senator TROETH—Thank you, that is all.

Senator ABETZ—I have a number of questions. In question No. 62, from last time, I asked:

Will the next Managing Director of Australia Post be directed to attend Senate Estimates hearings by either the Board or the Minister?

I was given this very helpful answer:

The new Managing Director will be made fully aware of the Committee's expectations that he/she attend Senate estimates hearings.

That of course is a classic non-answer, and I ask again now, given that you have had notice of this, has either the board or the minister directed the managing director to attend Senate estimates hearings?

Senator Conroy—Certainly, I can indicate on my behalf, given you are asking a question about me, the answer is no.

Senator ABETZ—Thank you. Has the board directed him?

Senator Conroy—I am not sure that anyone here can answer for the board.

Senator ABETZ—In that case can it be taken on notice, yet again, and can I actually have an answer this time to the question as to whether the board has directed the managing director to attend Senate estimates?

Mr McCloskey—Senator, I think actually I can answer that.

Senator ABETZ—All right, thank you.

Mr McCloskey—There has been no such direction from the board to the managing director.

Senator ABETZ—Thank you for that. Can somebody explain to me, because it seems very easy that the answer was there both in the minister's head and Mr McCloskey's head, why could I not be provided with that information in question No. 62 when I asked about that?

Senator Conroy—Senator, your answer is completely accurate and to the point.

Senator ABETZ—No, because I asked about the board and the minister directing the managing director and I was told the new managing director will be made fully aware of the committee's expectations. That is completely different to the expectation of the minister or the board, which might actually direct him to attend. We now have the answer on the record for both. The answer is no.

Senator Conroy—It is clear the answer is no.

Senator ABETZ—Which indicates the sort of priority both the minister and the board give in relation to the managing director's appearance.

Senator Conroy—If you have a question other than commentary—

Senator ABETZ—Can I move on to the next issue? Can I just invite you, Australia Post and the minister, next time I ask a direct question, just give a direct answer and it will make it quicker for everybody. Can I move on to the situation of the Federal Court's reserved decision in relating to the monitoring of a mail box in New South Wales? Are you aware of the case I am talking about? The Federal Court has reserved its decision in a dispute over Australia Post's use of surveillance equipment to monitor worker performance. I understand the New South Wales Labor government helpfully intervened against Australia Post on this one, saying that New South Wales laws applied. What was the situation here, just briefly?

Ms Walsh—Yes, we are aware of that case. The case has a history which involved allegations by the CEPU in relation to individual members about, in two cases, disciplinary action and in one case dismissal of an employee following use of data from our CyberLock system that we use to access depot boxes. The union was alleging that we were in breach of the New South Wales Workplace Surveillance Act. Australia Post was of the view that, firstly, it had not breached that act and, secondly, it was subject to Commonwealth laws in relation to that matter.

Senator ABETZ—What was the issue that Australia Post was concerned about, because I assume you do not have the electronic monitoring of every street side collection mail box in the country?

Ms Walsh—No, we do not, Senator.

Senator ABETZ—No, so why did you put this particular one under surveillance?

Ms Walsh—My understanding is that theft was the primary issue.

Senator ABETZ—Because of theft issues, and the New South Wales Labor government intervened to try to stop Australia Post from finding that out. Thank you very much for that. Can I move on to another industrial matter and that is an issue with Fair Work Australia? I understand Australia Post is appealing a number of decisions granting the CEPU applications for a protected action ballot?

Ms Walsh—That matter has now been resolved, Senator. The ballot was actually successfully run by the CEPU in November and December of 2009, and that ballot did get up and industrial action did occur.

Senator ABETZ—Despite the fact that workers were asked to approve an indefinite number of stoppages of work varying in length from one to 24 hours?

Ms Walsh—That is correct, Senator.

Senator ABETZ—That is the new Fair Work Australia. Thank you for that. Can I be told how much did the Christmas strike cost Australia Post? When was the last Christmas strike at Australia Post? Let us start with that one, when was the last Christmas strike?

Ms Walsh—The last Christmas strike at Australia Post was in 1989.

Senator ABETZ—1989, and then the next one comes along, just surprisingly, under some new legislation in 2009. Can we be told the cost of that to Australia Post?

Senator Conroy—Yes, so from 1989 to 2006, when that legislation you were describing was not there, what happened?

Senator ABETZ—There were no Christmas strikes.

Senator Conroy—For all that period before Work Choices was introduced, that is correct.

Senator ABETZ—That is right, which just goes to show how far the clock has been turned back, Senator Conroy, and you guys do not seem to understand.

Senator Conroy—That is absurd.

Senator ABETZ—You turned it back pre-Hawke, pre-Hawke and Keating.

Senator Conroy—Could you draw a longer bow if you tried?

Senator ABETZ—Can I ask the cost of the Christmas strike? I know that as the responsible minister you would not want to hear the cost, but I am interested. What is the cost and how are we going to make up the loss of profit and consumer confidence?

Ms Walsh—Senator, if I could take that question on notice. We do not have a total cost for the strike, but what I can say is that Australia Post did manage very well through that strike process.

Senator ABETZ—Sorry?

Ms Walsh—Australia Post did manage the Christmas mail.

Senator ABETZ—Because a lot of workers thought that it was the wrong thing to do, as I understand it, and a lot of workers in fact did come in to assist Australia Post. Is that correct?

Ms Walsh—We did have a large number of our workforce turn up for work during that period.

Senator ABETZ—Yes, despite the call for a strike?

Ms Walsh—Yes.

Senator ABETZ—Do you have an indicative cost of the strike? You tell me at this stage you do not have a total cost. I appreciate that, but you must have, at this stage, an indicative cost?

Mr Newman—The cost in cash value, as Ms Walsh said, we probably need to take that on notice.

Senator ABETZ—All right.

Mr Newman—But to give you an indication, the mail to network financial performance for December came in very close to the budget review figure that was expected. However, having said that, we have had a history of overperformance in terms of our budget performance in terms of cost reduction and that certainly did put some strain on our cost reduction exercises through that period. Part of the additional people we had working were made up of pre-existing management and administrative people who went to the workplace and helped out, so that tended to offset the cost a little bit. An indication is that it would be in the order of \$1 million; I would expect that that would have been the impact. I point out again that we actually achieved a reasonably satisfactory budget outcome for December.

Senator ABETZ—I daresay your budget may have been based on the global financial crisis and a few other things and of course we know that before Christmas things did pick up again. That budget, I would suggest to you, may have been a very conservative document at the time it was written and the realities somewhat overtook it. If you can give me a figure in rough terms, a million dollars, thank you for that.

Can I ask you about the Australian Privacy Foundation; I understand you may have had a complaint from them about a mail redirection order for 12 months? They were initially advised that it would cost \$68 and now it is \$408. Their assertion is that it seems that Australia Post does not cater for community not-for-profit organisations. As I understand it, an individual who seeks to redirect their mail pays \$68; is that right?

Mr McCloskey—For a 12 months period that sounds about right, Senator.

Senator ABETZ—Whereas for a business it is \$408?

Mr McCloskey—There is a different rate for businesses and I am sure that would be correct.

Senator ABETZ—If those figures are correct—and I am just quoting from the Australian Privacy Foundation's email to me—then in those circumstances has Australia Post considered a varying rate for not-for-profit organisations, especially one that I am told does not have much mail for Australia Post to attend to?

Mr McCloskey—Senator, I am not familiar with the particular complaint, which I would need to take on notice.

Senator ABETZ—Can you take it on notice and just consider whether Australia Post might view a differential charge for not-for-profit organisations?

Mr McCloskey—I will take it on notice, Senator.

Senator ABETZ—Thank you. I understand parcel measuring is an area where Australia Post potentially could earn more income. Is that accepted, if we were to measure the parcels exactly?

Ms Corbett—Yes that is referred to as cubing of parcels.

Senator ABETZ—Cubing of parcels—thank you very much. I understand there is a New South Wales business that has got a very good gadget to do exactly that for you. Is anybody in Australia Post aware of that?

Ms Corbett—Yes.

Senator ABETZ—What are we doing to assist Australia Post and the manufacturer?

Ms Corbett—I am not aware of the exact question that you are asking in terms of what we are doing to assist.

Senator ABETZ—You are aware of this possibility of cubing the parcels—

Ms Corbett—Yes.

Senator ABETZ—with an electronic gadget. I hope I do not do it an injustice by calling it that.

Ms Corbett—We also cube parcels at the retail counter.

Senator ABETZ—With a tape measure?

Ms Corbett—Yes, with a tape measure.

Senator ABETZ—Which is very slow and tedious.

Ms Corbett—That is right.

Senator ABETZ—When you have got a line of customers, the officers, not surprisingly, often take a guess. Usually, I suggest to you, they make a guess to undercharge rather than overcharge. I have been given anecdotal evidence that you may go to the post office with

exactly the same box and exactly the same goods and you will be charged various amounts on various days, depending on the length of the queue.

Senator Conroy—I am not sure if you can ask the officers to comment on what may be reasonable speculation, Senator Abetz.

Senator ABETZ—I would anticipate that Australia Post may be aware of this if they have been speaking to their staff about these matters. This cube calculator by Hardware Products Limited, which I understand has been shown to you, would be able to provide you with an exact—

Senator Conroy—Are we doing ads now?

Senator ABETZ—Sorry?

Senator Conroy—Are we doing ads for companies now? What is your question?

Senator ABETZ—Why don't you go back to your laptop? Ms Corbett and I were having a very good discussion.

Senator Conroy—What is your question?

Senator ABETZ—Thank you. If you do not interrupt, you might actually hear it—if you are actually interested. Ms Corbett, are you aware of the Hardware Products product?

Ms Corbett—No, I am not aware of that product in particular. I am aware that at our Sydney parcel facility we cube parcels at the counter for our retail consumers and at our parcel facilities—

Senator ABETZ—With a tape measure?

Ms Corbett—With a tape measure and criteria so they know how to apply those measures. At our bulk facilities for our bulk mail customers, you can appreciate that there is obviously a much larger volume, and we try to automate that process.

Senator ABETZ—On the counter you would be able to use this product—I think it is called a 'CubeCalc'. A design has been put forward to Australia Post for consideration. Are you aware of that?

Ms Corbett—I am not aware of that, no.

Senator ABETZ—Could you take it on notice, because it seems that this is a very innovative product which will provide justice—

Senator Conroy—You are doing ads.

Senator ABETZ—No, it will provide justice to Australia Post consumers and make the task for your workers a lot easier because they will have the size and the amount to be charged determined electronically very quickly.

Ms Corbett—I will have to take it on notice.

Senator ABETZ—Yes, I would commend that to you. In relation to the November 2009 case of the unfair contract, Gregory Cartaar—I think his name was—was paid \$72,450. Are you aware of that case?

Ms Walsh—Yes.

Senator ABETZ—What have we done to ensure that situation does not arise again—or are we appealing the decision?

Ms Walsh—No, we are not appealing that decision.

Mr Newman—Since that case we have firmed up some of our internal administrative processes. In particular, the main change has been to absolutely clarify, on the assignment of a contract, conditions that a potential contractor could expect to operate on. I think at the core of the problem was a misunderstanding about the rights of a contractor taking over from another contractor. Now we have a discussion and a general briefing of the potential incoming assignee. We now get them to sign in writing to indicate that they have had all of the details explained to them and we believe that that in the main will prevent that from happening again in the future.

Senator ABETZ—So we will not be asking questions about similar cases at future estimates?

Mr Newman—I certainly hope not.

Senator ABETZ—Thank you for that. Let us go back to our new managing director, Mr Fahour—is that right?

Mr McCloskey—Yes, Mr Fahour.

Senator ABETZ—He is employed under a contract?

Mr McCloskey—He is employed under a contract.

Senator ABETZ—What is the length of the contract—how long?

Mr McCloskey—To my knowledge it is not term specific; he will serve at the pleasure of the board.

Senator ABETZ—Right. Are there any performance targets in his contract?

Mr McCloskey—The board will have set a series of performance targets for him.

Senator ABETZ—So he got the job before performance targets were set. So the board is satisfied that this is a man that can perform to, at this stage, unknown performance indicators? Didn't we have those performance indicators set to match the person with what was desired by the board?

Mr McCloskey—The broad performance expectations would have been set. I am not sure that the specific measures have yet been determined by the board, but they will be happening.

Senator ABETZ—Can you tell us when—and take that on notice—those performance indicators will be set and also whether those performance indicators and performance targets will be made publicly known?

Mr McCloskey—If I could take that on notice.

Senator ABETZ—Thank you. Moving to Queensland, when the fuel subsidy in Queensland was removed, did Australia Post automatically increase the fuel component of all Queensland contracts?

Mr Newman—The fuel subsidy has not been entirely removed. If I could just go back and go through that journey, originally under the terms of the contract a contractor was entitled to a fuel price adjustment when the price went up a total of 10 per cent. When the fuel price suddenly increased in these past years, as we discussed here before, we took the decision to reduce that to seven per cent. That resulted in very large payments being made to contractors through that very difficult period. After that there was another spike in the price of fuel and we then reduced that threshold down to five per cent, meaning that when the price of fuel moved five per cent they were entitled to a review. At the same time we had some other types of contractors called non-specified contracts who do not have those clauses in their contract and we made a series of one-off payments to them to also compensate them for the price of fuel.

I think it was in January last year, when the price of fuel dropped dramatically, that we initiated the Australia Post review, which we have always been entitled to but had never done before. I think the price of fuel dropped 30 per cent in a very short period of time. So we did initiate that review, and I think it was last February when those adjustments were made. At the same time, we have increased the threshold to seven per cent—not to 10 per cent; it is back to the seven per cent which was equivalent to the first reduction, and that is still an ongoing figure that we operate to.

Senator ABETZ—So Australia Post can do that unilaterally, deciding when you are going to review, from five per cent to seven per cent to 10 per cent?

Mr Newman—No, what it says is that both parties have a right to apply for a fuel adjustment. Because predominantly the price of fuel goes up, that is normally initiated by the contractor, but Australia Post has an equal right to review the price in dropping fuel. It just so happens—

Senator ABETZ—Of course. I am just wondering about the percentage figure. Who determines that percentage?

Mr Newman—We were trying to at least try and match or stay ahead of what the general market was.

Senator ABETZ—Yes, but who determines the five, seven or 10 per cent?

Mr Newman—I beg your pardon. That is made at an executive level in Australia Post.

Senator ABETZ—In Australia Post?

Mr Newman—Yes.

Senator ABETZ—In relation to fuel subsidy in Queensland specifically—

Mr Newman—On Queensland specifically, I can just speak in general terms. The contractors in Queensland would have had their fuel review—as I said, I think it was in January or February last year—at the same time as the rest of Australia. I guess the short answer to that is that Queensland would have been involved like everyone else.

Senator ABETZ—But there was a specific fuel subsidy in Queensland.

Mr Newman—We are talking about something different. You are talking about the fuel subsidy—

Senator ABETZ—In Queensland, which was removed by the state government.

Mr Newman—I see.

Senator ABETZ—I thought we were at cross-purposes. Do you have any information on that?

Mr Newman—Not about the impact of the state government removal of the fuel subsidy.

Senator ABETZ—In that case, could you take on notice to let us know what happened.

Mr Newman—Yes. Sorry, I thought you were talking about the fuel surcharges that we paid to help contractors.

Senator ABETZ—These things sometimes happen. I get a bit upset when I get obtuse answers to very direct questions on notice, but that is not the case with your answer.

Mr Newman—I will provide that information. To clarify, you are asking about the effect on contractors of the removal by the government of the fuel subsidy that applied to Queensland.

Senator ABETZ—Yes, thank you. I understand that you guys might be going into the gambling business. Is that right? TAB agencies and—

Mr McCloskey—No, Australia Post is not going into the gambling industry.

Senator ABETZ—Is Australia Post transacting any business for TABs anywhere in Australia?

Mr McCloskey—I think perhaps what you are thinking of is that Australia Post has an agreement that is part of its Bank@Post service with Tabcorp to allow Tabcorp customers to top up their accounts, deposit to their account or withdraw from their account.

Ms Corbett—It is an extension of our agency agreement. All our Tabcorp account holders are able to deposit, withdraw and get account balances.

Senator ABETZ—What if you had licensed post office or agent who had a conscience problem with that? What would Australia Post do? Require them to take the money for the TAB?

Ms Corbett—Yes, we would.

Senator ABETZ—So there would be no conscience objection or faith based refusal allowed?

Ms Corbett—No, because it is actually an extension of Bank@Post, our current agency agreements. It purely is with regard to depositing money into and withdrawing money from an account. There is no gambling activity happening with that transaction.

Senator ABETZ—But it would be a fair bet, if I can use that term, that people that want to put money into a TAB account might actually want to use that for the purposes of gambling. It is a bit of a neat distinction, with respect, that you are trying to make. Have you had any complaints from any licensed post office owners or agents about this?

Ms Corbett—We have had a representation from POAAL, which is the organisation that represents some licensees.

Senator ABETZ—There is no way of dealing with this?

Ms Corbett—Yes, we have responded to that. The query came up in November.

Senator ABETZ—But you have responded by basically dismissing it as not being—

Ms Corbett—Yes. We deem the transaction is appropriate to our business and our lines of business and is an acceptable transaction which we expect all our agents and all our staff to do.

Senator ABETZ—If somebody has been in the Australia Post business for a while and they have a problem with this extension, is there no exemption for them?

Ms Corbett—There is no exemption as a general rule. We have not actually received an individual complaint, but certainly we have had a representation care of POAAL. As I said, our position is that it is an extension of our agency business. We have actually transacted relatively low volumes through that agency agreement. It is purely a deposit, withdrawal and account balance agreement, which is in line with our other Bank@Post agreements.

Senator ABETZ—Are you seeking to get involved in any gambling-related businesses other than Tabcorp?

Ms Corbett—Not to my knowledge.

CHAIR—Senator Abetz, I do not mean to interrupt you but other senators want to ask questions. Are you close to winding up?

Senator ABETZ—I will ask one last one then. It is a follow-up to question on notice 72. I asked about who looks after the LPOs. Part of the answer I was given was:

On average, Network Managers are responsible for approximately 100 LPOs.

Can you give us the highest number of LPOs that one network manager might be responsible for?

Ms Corbett—I can take that on notice. There is a broad range.

Senator ABETZ—So an average figure may not necessarily indicate the problems that some LPOs might face, because a network manager has a much larger number than 100 to look after.

Ms Corbett—Certainly. With regard to our licensed post offices, a network manager is responsible for a geographic territory and the number of LPOs can vary within that territory. In addition to that number there is also support given to licensees. Each of the individual state offices also has an area dedicated to assisting and managing licensed post offices. There is also an area at a national level that is dedicated to looking at licensing issues. In addition, through our shared services area, some of those areas and our post logistics area also look after areas. It is not just one person looking after 100 LPOs. That is actually the face-to-face contact that a licensed post office may have, but there is a support mechanism for more of the centralised functions in addition.

Senator ABETZ—Can you give us the total picture? If there is a network manager that might look after 200 LPOs—

Ms Corbett—They do not look after as many as 200.

Senator ABETZ—If the average is 100, it stands to reason there might be some with more than 100 to look after.

Ms Corbett—Yes.

Senator ABETZ—What sorts of support mechanisms are in place for those network managers?

Ms Corbett—Certainly we can get those for you.

Senator ABETZ—Thank you.

Senator LUDLAM—I have one set of questions around regulation of how advertising material is delivered. I gather it is regulated by state and territory governments. Can you just sketch for us Australia Post's obligations around delivering junk mail and advertising material? Is it regulated separately by each of the states and territories?

Mr McCloskey—A part of our business does deliver unaddressed mail. We have very active competitors in that area. Our share of the market is around eight per cent. I am not sure that it is individually regulated unless you are getting at whether you need to be able to observe if somebody puts up a 'no junk mail' or 'no unaddressed mail' sticker. That may be something that is regulated differently across the states. I am not aware of any other regulation in relation to that type of mail.

Senator LUDLAM—What I am interested in knowing is how 'no junk mail' stickers on letterboxes are regulated. That is done by states and territories, so does Australia Post have slightly different obligations in different places?

Mr McCloskey—Yes, I am sure that is the case. As a matter of policy and practice we observe 'no junk mail' signs, so we will not deliver to where there is a 'no junk mail' sign other than if it is a piece of mail that is considered to be in the community interest. If it is from local council or politicians, we will deliver it.

Senator LUDLAM—I am holding up a yellow envelope produced by Horizon Media. What is the relationship between Horizon Media and Australia Post?

Ms Corbett—Horizon Media is one of our customers based in New South Wales.

Senator LUDLAM—This is postage paid Australia, so technically does this count as addressed mail or unaddressed mail?

Ms Corbett—That is unaddressed mail.

Senator LUDLAM—Would you normally deliver this to a letterbox with a 'no junk mail' sticker on it? The reason I am waving it around is because it is being delivered to addresses with 'no junk mail' signs.

Mr McCloskey—Under our policy that sort of mail should not be delivered to a 'no junk mail' box.

Senator LUDLAM—It has 17 pieces of—I have written 'crap' in my notes; I do not know if that is unparliamentary or not—junk mail in a reply paid envelope, and the only reason it is coming to my letterbox is that it is being delivered. Is there a rogue postie out there somewhere? Is it absolutely policy not to deliver this kind of mail?

Mr McCloskey—It is absolutely policy. If it is drawn to our attention that unaddressed mail is being delivered contrary to our policy, obviously we will approach the postie or contractor concerned to ensure that it does not happen in the future and that they fully understand what their obligations are.

Senator LUDLAM—Okay. I will tell this constituent to contact you directly and you can track down the rogue postie. I have no other questions.

Senator FIELDING—I want to come back to the issue about Australia Post using computerised letterboxes to spy on its workers. How long has that practice been going on for?

Ms Walsh—My understanding is that the CyberLock system in question here has been in use for approximately two years, and only relates to those green depot boxes not the normal postboxes.

Senator FIELDING—What led to the start of that spying on those letterboxes?

Ms Walsh—We obviously do not consider it spying. It was put in place to prevent theft from those depot boxes in the first instance.

Senator FIELDING—Who in Australia Post is responsible for authorising that sort of surveillance?

Ms Walsh—When data is available to us that demonstrates that employees have been claiming payments that they were not entitled to, we will use that data to ensure appropriate action is taken. Action was taken in this case which was acted on. There were then further references by our independent board of reference where employees can appeal, and the CEPU has now done this with respect to the breaches under the Workplace Surveillance Act.

Senator FIELDING—Who is the person in Australia Post responsible for authorising that surveillance?

Ms Walsh—My understanding is that the CyberLock system is in use in New South Wales only at this stage. I would have to take that on notice to find out who at the New South Wales level made that decision.

Senator FIELDING—Just to make it clear, these are the computerised letterboxes which you have called green boxes?

Ms Walsh—The green boxes are the depot boxes.

Senator FIELDING—You are saying that you need to find out who in Australia Post is responsible for authorising this surveillance? Are you going to take that on notice?

Ms Walsh—If I could take that on notice. As I said, it is a New South Wales system. I would have to take on notice who made that decision at that local level.

Senator FIELDING—Would it not have been someone in Australia Post who authorised it?

Ms Walsh—It would have been someone in Australia Post New South Wales, yes.

Senator FIELDING—Thank you. Was it checked off with the in-house legal department before giving approval to set up this type of surveillance?

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

Senator FIELDING—What is your role? Are you from legal?

Ms Walsh—No.

Senator FIELDING—Is there no-one here from legal?

Ms Walsh—No. My title is Manager, Employee Relations.

Senator FIELDING—Is there a view that this practice was a breach of the state surveillance laws?

Ms Walsh—It is Australia Post's view that there was no breach of the state workplace surveillance laws. In addition, we are of the view that those laws do not apply to us given that we are a Commonwealth entity and covered by Commonwealth laws that operate in this specific area.

Senator FIELDING—That is still in dispute at the moment?

Ms Walsh—Correct. That is before the Federal Court. Justice Buchanan reserved his decision in relation to where the matter should be properly heard on Friday of last week.

Senator FIELDING—Okay, I will not go into that further because it is still pending. What action has been taken against the person? Are you going to wait for that pending judgment before you work out what happens next within Australia Post?

Ms Walsh—Yes. I think it is appropriate that we wait for the appropriate court outcome and decision on that matter.

Senator FIELDING—How much does this computerised surveillance cost?

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

Senator FIELDING—Will you take that on notice then?

Ms Walsh—Yes, we will take that on notice.

Senator FIELDING—I would like to know the cost per box and then the total cost. I would like to get that today if I could.

Ms Walsh—Yes.

Senator FIELDING—I am trying to get a handle on this surveillance by Australia Post to see whether it is extraordinary or different to what other companies do. Some other employees who have had covert surveillance. The surveillance case concerning Rebecca Obst, in late October 2006, ran for two years.

Ms Walsh—Could you repeat that name?

Senator FIELDING—Rebecca Obst. There was some more surveillance of Ishwari Munswamy in October and November 2008, and the Chapman case in October 2007. I would like to know what the total cost is to Australia Post each year of this sort of surveillance.

Ms Walsh—I am not aware of any of those cases. I will take that on notice and endeavour to get those questions responded to.

Senator FIELDING—Thank you.

Senator FISHER—I have some questions about the Koroit Post Office. Can someone help me with that?

Ms Corbett—Yes.

Senator FISHER—This matter has been raised with me by the Liberal candidate for the seat of Wannan, Dan Tehan. He highlighted the plight of the operators of that post office, Kevin and Francis Lee. What are the current contractual arrangements provided on behalf of Australia Post in Koroit and for what period does the existing contract apply?

Ms Corbett—Koroit Post Office was converted to a licensed post office in 1995. At that time, Kevin Lee became the licensee and has an LPO, licensed post office, agreement with us. The LPO agreements run for an indefinite term. That is the agreement they have in place with us.

Senator FISHER—When were the operators, Kevin and Francis Lee, first made aware that there was a possibility that Australia Post might reconsider relocating sorting and delivery arrangements?

Ms Corbett—When they actually took on that license.

Senator FISHER—In 1995?

Ms Corbett—In 1995. There was actually a specific clause written into the agreement in 1995 that actually stated: ‘Where economies of delivery can be achieved, specifically the alteration of a roadside mail service, the change shall be introduced following the 90-day provision under clause 34(d)’, and clause 34(d) allows for removal of a service from an LPO. It was always a possibility when it was done.

Senator FISHER—A possibility in the fine print.

Ms Corbett—A possibility that was specified in the agreement. Not all agreements have that. That was a specific clause that was put in.

Senator FISHER—Do you know whether that clause was drawn to their attention specifically? I presume they signed the agreement, but was that clause and the meaning of it specifically drawn to their attention?

Ms Corbett—There is actually another clause in the LPO agreement which states that the licensee has read in full the terms of the agreement and understands that.

Senator FISHER—Of course.

Ms Corbett—To be honest, I was not a party to the transaction in 1995, so I could not confirm—

Senator FISHER—How long was the document that they signed?

Ms Corbett—From memory, on average the documents have a number of pages. They are not a document of a few pages.

Senator FISHER—Yes, pretty lengthy?

Ms Corbett—Yes, they are a pretty lengthy document.

Senator FISHER—In the detail, where often the devil is. Is the committee able to be provided with a copy of the clause to which you have referred?

Ms Corbett—Certainly.

Senator FISHER—Not right now, but today? That would be good.

Ms Corbett—Yes.

Senator FISHER—As soon as you can. Would it be a fair guesstimate to suggest that the sorting and distribution contract was worth around \$30,000 to that business?

Ms Corbett—Yes, that is right.

Senator FISHER—What is the main motivation for the removal of those functions from Koroit, and is there scope for a review of the decision?

Ms Corbett—This has actually been ongoing. I suppose it has come to our attention because back in 2008 the licensee looked to assign their licence. Australia Post is not a party to that transaction, so we were actually advised that they wished to sell their licence, and when that happens we issue a new disclosure statement to a prospective incoming licensee. That then means that we actually look to see if anything is likely to materially change that operation, because obviously under the franchising code of conduct we need to advise a prospective licensee if anything is planned. We went to our mail and network colleagues, and at that stage the delivery centre at Warrnambool was in the very early stages of planning. So there was no building secured, there was no lease, but it was in the early stages of planning. Therefore, we advised the Lees of that potential development.

Senator FISHER—That was in 1999 when they notified you—

Ms Corbett—Sorry, it was not. It was actually in 2008 when they went to assign the licence. So in 1995 they took over the licence, and in 2008 they advised us that they wanted to assign the licence. As a result of that action, we then did some investigations and found that Warrnambool Delivery Centre was a possibility.

Senator FISHER—What form did your advice to the Lees take at that time—verbal or written?

Ms Corbett—Written. We actually did a number of things at that time. We advised them by phone and then we followed up with a letter as well.

Senator FISHER—Can you provide the committee with a copy of that letter please?

Ms Corbett—Yes. I do not have that on me today. It happened on 8 October 2008.

Senator FISHER—Thank you. So, according to Australia Post, there was a clause in the agreement signed by the Lees in 1995 to the effect that relocation may be considered?

Ms Corbett—Yes.

Senator FISHER—When they informed Australia Post of potential reassignment of the lease in 2008, Australia Post indicated that Warrnambool was to some degree under consideration, is that correct?

Ms Corbett—That is right.

Senator FISHER—Minister, you wrote to Denis Napthine, opposition member for the relevant area, on 25 November last year, saying that no decision had been taken in relation to relocation of contract activities for Koroit. But I am informed that on 27 October 2009, basically the month before you wrote to Mr Napthine, Mr Lee received a letter from Australia Post confirming that all contract operations currently performed at Koroit would be moved to Warrnambool. Is that right—Australia Post wrote to Mr Lee at the end of October 2009 confirming that the contract operations at his post office in Koroit would be moved to Warrnambool?

Ms Corbett—It was in 2008 when all the discussions happened, and we have been in ongoing discussions with the licensees since that time with regard to the removal of the contractors from Koroit Post Office. We have been seeking mediation with the licensee to come to an understanding—

Senator FISHER—When did Australia Post first tell the Lees that the game was over, that Warrnambool was actually happening?

Senator Conroy—Do you have a copy of that letter, Senator?

Senator FISHER—Unfortunately I do not.

Ms Corbett—I will take on notice the exact date. As I said, it was in planning for a considerable time, so I will take on notice exactly when we formally advised them.

Senator FISHER—Thank you, but it would nonetheless seem if Australia Post's letter did not go in October, and the minister wrote to Denis Napthine in November of the same year saying no decision had been made, then, Minister, I am informed—and I do not have a copy of the letter—that in a letter to Dan Tehan, the Liberal candidate for the seat, of 20 January, undersigned by your advisor, Andrew Lanigan, your office accepted the inaccuracy of the advice you had provided earlier and blamed it on an unavoidable delay in the dispatch process. Can you explain what you meant by that?

Senator Conroy—I will have to seek advice from my office on that. I will have to take it on notice.

Senator FISHER—You might have decentralised your outbox or something. Thank you. The Lees say that without the operation of the sorting and distribution aspects of their business, they lack the revenue to continue operating Koroit as a stand-alone business. Are you aware of that claim from the Lees?

Ms Corbett—Yes, I am aware of it.

Senator FISHER—I thought you might be. In your letter to Mr Napthine, Minister, I understand that you indicated that Australia Post advised that the Koroit Post Office would remain a viable business with or without the delivery functions in question. Upon what would that advice have been based?

Senator Conroy—I am sure on advice from Australia Post.

Ms Corbett—Yes, advice from us. We look at the level of business payments at Koroit. It actually still puts Koroit, even with the removal of the delivery service, in the top sort of 50 per cent of licensees in Victoria in terms of payment. Based on our running of an extensive

LPO network throughout the country, we would certainly deem Koroit is very much a viable outlet with or without the contractors based in the building.

Senator FISHER—So essentially you disagree with the Lees' assessment of their business, do you?

Ms Corbett—Yes.

Senator FISHER—Are you aware that the Lees had a buyer for their business and the sale presumably fell through when the buyer learned—

Ms Corbett—Yes, we are. That is what prompted the investigation into finding out the early stages of Warrnambool delivery centre.

Senator FISHER—Is settlement compensation possible for the Lees? I understand there have been discussions?

Ms Corbett—Yes. We have actually been trying to enter into discussion with the Lees since late 2008. Again, under the terms, we are actually able to offer compensation to the Lees for the removal of that delivery service. As I said, we have been attempting to enter into mediation discussion with the Lees to go through that with them.

Senator FISHER—So Australia Post is presumably accepting there has been some damage to the business, but you do not accept that it is not viable without it, is that right?

Ms Corbett—Yes, that is right. Under our LPO management manual, we actually are able to compensate the Lees for 12 months for the removal of that service.

Senator FISHER—Thank you. Are there any other post offices around the country facing a similar predicament with the decentralisation of the sorting arrangements?

Ms Corbett—It has happened a number of times over the last decade. We have done a lot of centralisation of our delivery centres. The normal turn of events is that when it is brought to our attention and we think there will be an adverse impact on payment to any licensees, we advise them as soon as it comes to our attention, and we then work with them to compensate them for the removal of that service at an appropriate time.

Senator FISHER—Are you able to provide the committee on notice with an indication of who, what and where in that respect?

Ms Corbett—On notice, certainly. I do not have those details to hand.

Senator FISHER—Thank you. Turning to the country network interchange between Bendigo-Seymour, Bendigo-Ballarat and Ballarat-Geelong, I understand they have been cancelled?

Ms Corbett—That is not a question I am familiar with, but it may be for mail network.

Mr Newman—I understand you are talking about changes to the mail distribution network in Victoria?

Senator FISHER—These are the services that I understand guarantee next day delivery to certain rural and regional centres for adjoining countries and towns. I am told it is called the country network interchange.

Ms Walsh—I might be able to shed some light on that issue. My understanding was that during the industrial action that occurred prior to Christmas, we made some changed arrangements to those deliveries during that time.

Senator FISHER—Permanent?

Ms Walsh—No. It did continue after Christmas while we continued to deal with the mail, but they have now been put back in place.

Senator FISHER—Thank you very much. My final question, following on from Senator Abetz' question as to whether Australia Post will gamble on gambling: will Australia Post bank on banking? Is there a prospect that Australia Post will offer broader banking services such as loans and savings accounts? Has that been considered?

Mr McCloskey—Australia Post has no plans to become a bank of that sort.

Senator FISHER—So you have not done any scoping plans?

Mr McCloskey—There has been media speculation about it but, no, we have no plans to move in that direction.

Senator FISHER—Particularly given your CEO's past background as a banker, one might have thought he may be a bit interested—but we will ask him about that next time, more likely than not. Thank you.

CHAIR—Are there any further questions for Australia Post?

Senator WORTLEY—My questions relate to questions asked at previous budget estimates in relation to the Mercedes vans. How many Mercedes vans do you actually have operating? Are they all in operation or are there some that are still in waiting?

Mr Newman—I did not bring that information with me, but the acquisition of vans is a multiyear contract, so new ones are arriving all the time. I do not actually have that exact number.

Senator WORTLEY—What is the expected number, or do you not have that either?

Mr Newman—No.

Senator WORTLEY—Could you take that on notice, please?

Mr Newman—I certainly will.

Senator WORTLEY—I understand that Australia Post expert, Dr Rechnitzer, in his report on the vans at pages 64 and 65, identified that there was a moderate risk of a collision when reversing out of an angle park in the vans?

Ms Walsh—If I could just highlight to the committee the fact that this matter obviously has been the subject of an investigation by Comcare, and it has also been the subject of an appeal review through Fair Work Australia. We are still awaiting the final decision from Fair Work Australia in relation to this matter. Certainly, the expert evidence given by Australia Post expert Dr Rechnitzer was put forward through that court process but, given that decision has been reserved, I think it is appropriate that we wait to see the final decision before we act on what might come out of that decision.

Senator WORTLEY—Was the Comcare decision handed down?

Ms Walsh—In the Comcare decision, they issued an improvement notice. Australia Post initially sought to appeal that but following further discussions with both the CEPU and Comcare, we came to a resolution about how that improvement notice would be implemented. It is Australia Post's view that that improvement notice has been acted on now.

Senator WORTLEY—In the improvement notice, was it that there was a real risk?

Ms Walsh—The improvement notice was around the appropriate training that was to be given to drivers and the timing of that training, as I understand it. It also related to the assessment of individual rounds to ensure that those risks associated with those individual rounds were properly carried out. But on the basis that we did that, the vans would be appropriate to drive, and at no stage has it been deemed that those vans were not safe to drive.

Senator WORTLEY—Did that mean that there were to be vans used in certain rounds and perhaps that they were not suitable for other rounds?

Ms Walsh—That may well be the outcome, but each of those rounds needs to be properly assessed at the time. There has certainly been no decision at this stage to remove the use of the vans from any rounds.

Senator WORTLEY—During the Fair Work hearing, was it the case that you conceded that drivers did have to reverse blind into oncoming traffic when they were reversing out of angle parking?

Ms Walsh—I would have to take that on notice as to individual statements that were made during the hearing. I was not present at the actual hearing, but I can take that on notice.

Senator WORTLEY—Is it correct that about 10 per cent of 15,900 stops each day involve angle parking?

Ms Walsh—Again, if that specific issue was raised at the hearing, I would have to take it on notice. I would simply reiterate the fact that they would have been points that were raised at the hearing, and we are awaiting the decision out of that.

Senator WORTLEY—Has a costing been done as to how much it would actually cost to put rear windows in the vans?

Ms Walsh—Again I would have to take that on notice. It is not information that we have here today.

Senator WORTLEY—Given that the decision has not yet been handed down, are there any drivers being forced to drive the new vans?

Ms Walsh—Drivers are required to use the vans as they are available in the workplace when they attend for work. It is not necessarily the case that we will have vans that drivers can pick and choose from. They will need to use the vans that are available, and at some sites it will only be the Mercedes vans.

Senator WORTLEY—Is it your view that the vans cause no risk whatsoever to drivers or to the public in that they do not have the side windows and that Australia Post drivers have raised those issues as an occupational health and safety concern, plus a public safety concern?

Ms Walsh—It is Australia Post's position, and indeed the position of the authorities that have reviewed this. At no stage has there been a direction that the vans are unsafe to drive and

that they need to be removed from operation. On that basis, they are safe to drive, both for members of our workforce and members of the public.

Senator WORTLEY—Thank you. I would just like to move to questions asked in relation to the industrial action that took place. Is Australia Post in the process of responding to complaints from CEPU members in Queensland, New South Wales and Victoria in relation to the action taken by Australia Post following industrial action taken by its workers?

Ms Walsh—There have been a number of claims made by both the union and individuals relating to activity during the industrial action. I take it you are referring to the adverse action claims as they are called?

Senator WORTLEY—Yes. Could you provide a little bit of information about that?

Ms Walsh—Certainly. There have been a number of claims made by the CEPU and individual employees about issues that arose during the strike action in relation to the rostering of some shifts and the provision of overtime and the like, and some unfortunate allegations where people said that they had possibly missed out on overtime or shifts as a result of taking protected industrial action.

Australia Post acknowledges that the industrial action taken was protected and therefore lawful, and specific instructions were provided to managers, both at the national and state level, around the fact that it is unlawful to discriminate against any employee who takes part in protected industrial action. We sought to ensure that no such action did happen. As you will be aware, Australia Post has one of the busiest shift work and overtime operations, particularly around the Christmas period. Unfortunately, in a handful of cases managers allocated overtime based on wrong information or on the basis that someone may have taken industrial action. Where that has been brought to our attention, we have been working with the union to identify them and to ensure that those people are properly compensated or those issues are resolved. So we certainly understand our obligations in relation to those issues.

Senator WORTLEY—And that includes allegations that, where industrial action had been taken, the postie concerned had to return to the post office with undelivered letters and then hand them over to someone else who was on the overtime roster?

Ms Walsh—It is certainly our position that it goes to the integrity of the mail. While we acknowledge that someone is able to take industrial action—that is their right when it is protected action—we do require the mail to be returned to our facilities, either to secure it or to ensure that if someone else is working they may be able to deliver it.

Senator WORTLEY—I am talking about following the industrial action. When the workers had returned to work and the hours of their usual shift had finished, they were not given additional overtime in a very busy time of the year to deliver the post but had to return to the office and then hand it over to someone who had not participated in industrial action, who was then given the opportunity for overtime.

Ms Walsh—Can I ask where that occurred—if you have that information?

Senator WORTLEY—Are they part of the complaints that have been listed with Australia Post?

Ms Walsh—Please bear with me for one moment.

Senator WORTLEY—Perhaps while you are doing that I can give you a little bit more information. Is it true that seven-day shift employees who engaged in protected industrial action on 16 December at Sydney West Letter Facility in Strathfield and Sydney parcel facilities were informed on 18 December that they would not be required to perform rostered work at overtime rates on Sunday, 20 December for engaging in protected industrial action? I understand that their shifts were filled by employees who did not participate in industrial action.

Ms Walsh—As I said, I am aware of that case, and I would just reinforce that Australia Post is well aware of its obligations in respect of this matter, and certainly we wish to remedy any of these events and act upon them. That matter has been lodged with Fair Work Australia by the CEPU and we are working with the CEPU and have had meetings with them to try to get behind the facts of that case and ensure that there are proposals to ensure that that does not happen again and that those employees are dealt with appropriately and fairly.

Senator WORTLEY—Also, on the weekend of 19 and 20 December, there was no industrial action or notified strike action but the workers who had participated previously were told that they could not do overtime on that weekend. Did that in fact result in mail not being processed or the hold-up of mail being processed?

Ms Walsh—Again, I would have to take specific details about mail not being processed. Certainly before the Christmas process we are doing everything we can to get the mail through—as we are at any time of the year—but, particularly given the pressures at Australia Post, we would not be doing anything that compromised mail being put through the system and delivered on time. With respect to overtime arrangements, certainly what Australia Post did during that period was ensure that there were sufficient resources around to deal with the large volume of mail that was going through, as we always do during that Christmas period. There may not have been the volume of overtime that people may have expected, but that was not as a result of the industrial action per se. It impacted probably all employees, and it was a matter of us having to have the appropriate level of resourcing needed to get the mail through as quickly as possible for the public.

Senator WORTLEY—I would like to turn now to the Western Shore Delivery Centre in Tasmania. I understand that there were some concerns there that team leaders were spoken to regarding industrial action and that they were actually questioned about taking industrial action.

Ms Walsh—I do not have any information about specific allegations in Tasmania. If you do have any information, I would be happy to take that on notice and follow those up. I am not aware of them.

Senator WORTLEY—I believe they were called re-education sessions or something along that line, but I am happy for you to take it on notice.

Ms Walsh—I am not aware of those allegations. They have not been made to my office or indicated to or filed with Fair Work Australia as some of these other matters have been. I am happy to take that on notice.

Senator WORTLEY—It is fair to say that Australia Post agrees that when people take protected industrial action there are no ramifications whatsoever for workers as a result of taking that industrial action?

Ms Walsh—Correct. I wish to state again that we put out circulars to all of our managers, both at national level and state level, to ensure that people were aware that there was to be no discrimination or adverse action against our employees for taking protected action.

Senator WORTLEY—Thank you.

CHAIR—If there are no further questions for Australia Post, thank you very much to the officers for appearing before us this morning. We appreciate your assistance.

Senator Conroy—This is Mr McCloskey's last Senate estimates, as he is retiring before the next ones come around. I know he has been a faithful attender over many years, so I am sure the committee will join me in wishing Mr McCloskey all the best.

CHAIR—Thank you very much, Mr McCloskey, for putting up with us.

Mr McCloskey—Thank you.

Proceedings suspended from 10.35 am to 10.54 am

Australian Broadcasting Corporation

CHAIR—We will resume proceedings. I welcome officers of the Australian Broadcasting Corporation. Thank you for your attendance. Mr Scott, did you wish to make any opening comments before we go to questions?

Mr Scott—Yes, thank you, Senator. The ABC appreciates the opportunity to briefly address the committee on matters relevant to its work since we last appeared here in October. Over the intervening months, the ABC has launched its new children's channel, ABC3, and announced plans for a new 24/7 news channel to air later this year. Just last week, the ABC pressed the button on its revamp of ABC local websites, making it easier for audiences in 54 rural and regional locations to connect with their own communities and with local radio stations. As senators will be aware, we celebrated Heywire in Canberra for the 12th very successful year just last week. Last week we also launched the very exciting ABC Open Project which is aimed at bridging the digital divide by helping people outside capital cities share stories and ideas. One of the core features of ABC Open is its employment potential. We are about to embark on a search for producers with the talent and energy to work in regional Australia to equip local communities with digital skills. Everyone will benefit from the ability of Australians everywhere to tell their stories in audio, video, photos and text.

The intent here is not to boast about the ABC's achievements but to emphasise how seriously we take our role in 21st century Australia, using the opportunities created by new technology and our funding to fulfil our charter obligations—to innovate, to inform, to educate, to entertain. At a time when media around the world is struggling with structural and cyclical changes, the ABC is mindful of its wider obligations. We are creating new jobs through both ABC Open and the news channel.

The ABC remains forever conscious of the need as it expands into new areas, new channels and new platforms to adhere to the basics, to maintain its status as one of Australia's most

trusted and admired brands. To that end, I would like to take the opportunity to place on the public record my thanks and appreciation to two production teams responsible recently for remarkable broadcasting. First, we had three crews on the ground in Haiti immediately after the earthquake, documenting that terrible story in most difficult circumstances. Their coverage was distinguished. Last night we broadcast the documentary *Inside the Firestorm*, produced by the ABC in association with the independent production sector. It told extraordinary stories of ordinary people caught up in catastrophic events. It was remarkable television. I expect we will show it on television again, and also it will be available for people to see on iView. I want to thank particularly the people who told their stories to make that such compelling television. Thank you, Senator.

CHAIR—Thank you very much, Mr Scott. We will go to questions. Senator Cormann.

Senator CORMANN—Have you made a decision in relation to ABC TV coverage of the Hopman Cup in 2011 and beyond?

Mr Scott—No. A final decision has not been made.

Senator CORMANN—When are you planning to make the final decision on this occasion?

Mr Scott—I expect a final decision needs to come shortly. We are aware that those people involved in running the tournament are keen for an answer on that. We are looking at our involvement with that tournament but also our commitment around television sport. As you would be aware, this summer approximately 250 hours of tennis is broadcast on free-to-air television during the months of December and January in Australia, apart from the Hopman Cup. So there is extensive coverage of tennis on free-to-air television. There is also more coverage of tennis on pay TV, so we need to look at our very extensive commitment in resourcing terms for the Hopman Cup and look in terms of other sporting opportunities as well.

Senator CORMANN—What you have just said—that you are aware of the needs for those running the tournament to know what it is going on and to have some decisions—is pretty well in line with what you said exactly 12 months ago when you said, ‘We are aware of the need for those who run the tournament to have some certainty around this so we are giving it’—

Mr Scott—Yes.

Senator CORMANN—Then you made a decision three or four months later to extend it by one year.

Mr Scott—Yes, that is right.

Senator CORMANN—So you have not really given them any certainty.

Mr Scott—What I said last year was true. What I am saying today is true. We are aware of their desire for that. We are considering our future commitment to the tournament—that I appreciate we have broadcast for a long time now. We will make our decision. But we will make our decision in terms of our charter, in terms of our responsibility to deliver the right content mix for our audiences. They are the criteria that we will be using.

Senator CORMANN—How would you describe the most recent Hopman Cup event, the one that happened in January 2010, from the ABC's point of view? Could you take me through ratings, format and all that?

Mr Scott—I will be able to give you on notice some detailed ratings figures if you like. I think it is fair to say that the Hopman Cup is not a high-rating television event by any stretch of the imagination. The timing of the final changed this year, I believe that had some effect on the ratings; but still, it does not attract a large audience. Why doesn't it attract a large audience? I think there is a lot of tennis on free-to-air television. And there is a lot of tennis that is being played that week. There is a major tennis event that is being played in Queensland at the same time as the Hopman Cup that draws significantly more media attention and, I believe, television coverage as well. Of course, there are other tournaments. I think the Brisbane international is being played at the same time as the Hopman Cup, and that is attracting 40 hours plus of coverage on Channel 7. So there is competition for audiences around these tournaments. There are other tournaments. There is a tournament the week after the Hopman Cup in Hobart that does not attract any television coverage at all. So it is a complex, dense market, and the ratings for the Hopman Cup are not high.

Senator CORMANN—It sounds to me as if the head office in Sydney has already made a decision about this event that is taking place in Perth.

Mr Scott—No, Senator, but I know you are a man of consistency; therefore, in my preparation for today I anticipated that you may want to raise the Hopman Cup issue as you have in the past.

Senator CORMANN—I am sure you have.

Mr Scott—What I just want to say to you is that this is a complex issue. I appreciate that, as a senator for Western Australia, you are keen to keep television coverage of a tennis tournament in Western Australia. But the ABC's responsibility with finite resources is to look at where the priority of our investment must come. One of the things I need to indicate to you, in weighing up where our investment in sporting coverage must come, is that our bias has been to those sports that do not attract significant television coverage, particularly free-to-air coverage. So, as Senator Lundy is aware, we have made investment in sports that are high participation sports but sports that do not attract a lot of coverage, like women's basketball and women's soccer. When we weigh up the relative priority of the investment in the Hopman Cup in terms of time and resources, we are mindful of the fact that, on free-to-air television in December and January, there are 250 hours of television that are being broadcast. So I am just laying those facts down for you, as we weigh up our final decision making around this.

Senator CORMANN—The word on the street in Perth—and that includes among ABC staff—is that the ABC has shifted quite a lot of the previously Perth based local production out of Perth and over to the east. Can you shed some light on this for us?

Mr Scott—Yes, I am happy to talk about our commitment to Perth. We are filming the *Can we help?* series in Perth at the moment. Some 21 hours of *Can we help?* will come out of Western Australia. There will be another five hours of *Gardening Australia* that comes out of Western Australia. We are in discussions with ScreenWest and the Children's Television Foundation about another program that is being done there. Over the years there have been a

number of different programs that we have developed in Western Australia, some at the ABC studios, some that are filmed in Western Australia. On Christmas Eve, the carol service from St George's Cathedral in Perth was broadcast around the country. You will be aware of significant coverage of local sport, such as the WAFL which takes place in Western Australia. We have this good ongoing relationship with ScreenWest. ScreenWest have been partners with us. We have worked with them in a series of co-productions.

Senator CORMANN—Why would local ABC staff be making comment that the commitment of the ABC to local production in Perth is significantly going down at the expense of shifting things to Sydney and other places on the eastern seaboard?

Mr Scott—Our charter says that we are to reflect the nation to the nation. We do not simply do that by what we are filming within our studios but what we are filming across the state. What I am saying to you is there is a significant level of production that is happening in Western Australia, and we have plans in a partnership with ScreenWest for more work to happen there. With the increased drama funding that has come through in the recent budget, we can expect more drama to be created around the country. From time to time programs do get moved, and they get moved from one state to another, or a program will stop in one state and start in another. That is to be expected. But our charter is to reflect the nation to the nation. We do that by doing production around the country. That is what we are continuing to do.

Senator CORMANN—So you reject the assertion that the percentage of locally produced ABC programming out of Perth has been going down over the past two years?

Mr Scott—ScreenWest is the Western Australian government's local industry organisation. I am happy to arrange a briefing for you with ScreenWest and our Director of Television, Kim Dalton, to talk about our commitment and our ongoing commitment to production in Western Australia. I can talk to you now about the projects that we have funded over these few years. The movie *Bran Nue Dae*, which is currently in the cinemas, which is performing very well at the box office, has had a significant funding injection to make that film happen by the ABC. It was filmed in Western Australia in partnership with ScreenWest. A range of other documentaries are being filmed in partnership with the independent production fund there. The one thing I would say is when I travel around the country, of course, every state wants us to increase the level of production that is taking place in their state. We try to balance this as best we can. We are committed to a production model that is a combination of internal and external production. We are sympathetic to the views that say we should do as much as we can in as many places as we can, and we are trying to manage that effectively.

Senator CORMANN—Everything that you have said is very interesting, but none of it gives me an indication as to whether you have reduced or increased your commitment to local production in Perth. The indications I have been given by people in Perth is that local production has been going down. In the interests of time, I will just put a few questions for you perhaps to take on notice. Over the past two years, how many programs that used to be locally produced in Perth now no longer are? How many new programs that have come on stream, so to speak, have been locally produced in Perth over the past two years, and how many are you planning moving forward? I would like to get an indication of how, over the last two or three years, the percentage of ABC programs produced locally in Perth has developed?

Mr Scott—We will get back to you on that.

Senator LUNDY—To pick up on Mr Scott's point about the ABC's investment in women's sport, I know we have had this discussion, but I would like Mr Scott to outline the nature of that commitment and what we can look forward to going forward, and also are there any particular highlights you would like to draw to the attention of the committee?

Mr Scott—Yes, thanks very much, Senator. We are trying to focus our finite resources on coverage of sporting events that we believe should have audience interest but do not have the marketing dollars behind them that attract the big money, particularly from commercial television. There has been a very significant change over the last 30 years or so. The cricket, the rugby, the AFL, the Commonwealth Games, the Olympic Games—they all used to be on the ABC. Now there is a commercial market for those. The audience receives them, and we are focusing on those sports that do not get that coverage. In coming weeks we are broadcasting two major events. On 27 February, the preliminary final of the WNBL will be followed by the Matildas playing Thailand, and then the following week the WNBL grand final followed by the Matildas against North Korea, and we will be broadcasting those on ABC television. We have a new arrangement with Basketball Australia around the WNBL. The 2009-10 season is currently under way, as you would be aware, and we are showing Saturday afternoon games on ABC1. The second season of the women's football league, as you would be aware, finished in December, but the third season will be on shortly. We are also the rights holder for the Asian Women's Cup. We are planning coverage of all Australian matches and the finals on ABC television, including the pool matches that the Matildas have to play. Interestingly, I think Channel 10 is now the rights holder for the Women's Australian Golf Open—which we have shown in previous years—in 2010, so it will be finding an audience but not on the ABC. I think that is a satisfactory outcome for the tournament and for audiences.

Senator LUNDY—So that is a good example of a tournament that the ABC did cover that has now gone to a commercial station?

Mr Scott—Yes, we are happy to create the market. I think there is a significant debate that the minister is well involved in around antisiphoning and what should be available on free-to-air television. Going back to the example that I was speaking about with the senator from Western Australia, when we started broadcasting the Hopman Cup, there were five television channels available in Australia. Now there are five sporting channels available in Australia, one on free-to-air TV, four on pay TV, and there is just far more choice available for audiences.

So, with the money that we have available, we think it is important to focus on those sports that have a high participation rate and that have not attracted significant television coverage, and women's sport has been an area. Also, regional sport is where our focus is, and it is also around events like the Paralympics, for which we have received international recognition.

Senator LUNDY—With regard to the WNBL, are you able to give an insight into how those events rate on ABC Sport as compared to events like the Hopman Cup?

Mr Scott—I will have to take that on notice and come back to you on that. I do not have the detailed rating figures. Again, I think that with all the sporting events that we cover we

would not expect large audiences for them, and that is not why we are pursuing them. An interesting element around the Hopman Cup is that that is a sport that does attract big audiences on television. Certainly the Australian Open does, but the ABC's Hopman Cup coverage attracts nothing like those audiences. But I can give you a breakdown on notice.

Senator LUNDY—I would also be interested in, I guess, a snapshot as to the ratings of the other major women's sports events that you cover.

Mr Scott—Yes.

Senator LUNDY—I should say I do have an involvement as independent chair of Canberra United. I think it is important that I declare that interest. That said, I certainly would like to know how the women's national league is performing on ABC.

Mr Scott—Sure. The other thing I will add is that the ABC's commitment to sport does not just extend to television, of course. We have the broadest and most comprehensive coverage of sport on radio, and our ABC Grandstand site, we think, is the pre-eminent general sporting site in the country. It is on radio and online that we can also give the proper attention to women's sport. It is extensively covered by our broadcasters, and of course we have a number of ABC women who front that coverage for us on radio. So, on radio and online, it also provides us with an important opportunity to give women's sport the focus that it does not get elsewhere. The women's cricket team has had good coverage on ABC radio, including radio coverage of some of its events.

Senator LUNDY—I think it is a fair comment to say that, if it were not for the ABC's commitment, Australians would know far less about what is going on with women's sport. I congratulate the ABC for its ongoing commitment to women's sport.

Mr Scott—Thank you, Senator.

Senator IAN MACDONALD—As I indicated earlier, I want to follow the refusal of the ABC to answer questions of the Senate. Before doing that, can I give the bouquet. Thank you again for the work you do in regional and remote Australia. Your services are excellent. You mentioned Heywire in your opening—again, a great initiative that helps regional kids. I always qualify my bouquet by saying: if only your Sydney based political commentary were as good as what you do in the rural areas, it would be a fantastic organisation.

That brings me to the question of Kerry O'Brien's salary. As you know, I raised Kerry O'Brien as the example because there is a Kerry O'Brien who is a senator, and everybody in Australia knows exactly what salary he gets, what TA he gets and what entitlements and extras he gets. The other Kerry O'Brien, who is also paid from the same source—that is, the taxpayer—we do not know anything about. Mr Scott, I have your answer to the question; I also have a letter from you to the committee in which you indicate that, for reasons of confidentiality, you are not going to answer. I want to point out to you, if you have not already been alerted, that there is an advice from the Deputy Clerk of the Senate going back to precedents of the Senate where Geraldine Doogue's salary was inquired about back in 1986. The Senate has been quite determined in its advice in relation to that matter to acknowledge that nothing will be withheld from the Australian public through the Senate estimates committee.

In fact, the ABC gave a commitment at the time—I am not quite sure how long commitments of the ABC continue—that never again would it refuse to answer questions of the Senate. I appreciate that this is a matter of questioning by Senate committees, but I want to give you the opportunity to indicate now that you will actually abide by the request of this Senate committee for information on taxpayers' funds and request that you proceed in the way which the Senate has already determined in dealing with these matters.

Mr Scott—Thank you for your question, Senator. I do recall the answer on notice that I gave and the correspondence back to the chairman of the committee. I will just make a few comments in response to your statement. The ABC has a number of accountabilities, and I appreciate our accountability to this parliament, of course, and I have always been happy to appear before this Senate committee. We have an accountability to, of course, our governance model. I report to the board, of which I am a member, but I am accountable to that board, and of course we report to the parliament in our annual report each year. Our annual report provides significant detail about remuneration levels in the organisation, including references to the remuneration of board members and of the executive team.

I would add to that—and I think this is important in this context—by saying we operate a mixed media model in Australia. We are not like the UK, where the BBC is really a very dominant media force. We are not like the US, where public broadcasting is quite weak. Here, for more than 75 years, public broadcasting and private sector media organisations have operated side by side. That means we have a charter obligation to provide a comprehensive media service, but it is a media service that does operate in competition with the commercial sector. I am sure there would be great interest to many of us in the salaries of many people who work in the press gallery who report on what happens in parliament. We would probably all be interested to know what Laurie Oakes earned, or Paul Kelly, Mark Riley, Hugh Riminton or David Spears—or what Ray Martin earned when he was reporting on parliament—but we do not, and we rightly do not. Their companies report on remunerations of their executive, but we do not know what the particular talent earns, and that is in the main because that talent operates in a highly competitive environment for that talent.

The question we have had to resolve is: by putting this material, the salary of ABC executives, on the public record, are we putting the ABC at a competitive disadvantage to other media organisations that we are chartered to operate with side by side—and we are meant to be a comprehensive broadcaster? There are numerous examples of where we are in competition for similar talent. That is why over 77 years the ABC has not revealed publicly, I understand, the salaries of our talent. However, if the members of the Senate are concerned that the accountabilities are in place to the board, which is appointed by the government, around executive remuneration, there is detail on executive remuneration in the annual report, and I am accountable to the board for the salary levels in the organisation. I can tell you that the overwhelming experience of the ABC is to lose good talent to the commercial sector because we do not pay as much. So there is no sense that, at the ABC, we are in the circumstance that the BBC has found itself in with executive talent in recent years.

Senator, you referred to discussions that took place in this place in the mid-1980s, but my understanding was that the committee that was looking at that issue was meeting in camera and that that material was not publicly available. Frankly, my concern is not that you know

what our talent earns; my concern is that that material be widely put into circulation, particularly as far as the competitive environment that the ABC is in goes.

Senator IAN MACDONALD—Perhaps we can curtail this. You said you are worried about losing talent; I think some of the talent you would be well rid of. I doubt that even commercial operations, which are not known for their independence, would have such talent. Some of your talent is just so biased. Some of my colleagues might talk about interviews on climate change and how Mr Rudd and Ms Wong are treated so softly by various interviewers, one of whom just happens to be Kerry O'Brien, whereas the absolute bias in the way the ABC dealt with Christopher Monckton was just incredible, whether you agree with him or not. I cannot imagine any news organisation wanting to engage people that are so partisan.

Mr Scott—I will be happy to engage on that issue if there are specific questions that emerge on that.

Senator IAN MACDONALD—I am sure others will. Let me curtail this. Would you give an undertaking to appear before this committee in another form, as the references committee, which I understand—and the secretary will correct me if I am wrong—can take evidence in camera? I can only speak for myself, but I would be very keen for you to accept the offer to do that. Then we can work out just how the ABC spends taxpayers' money. I do not want to go through the whole of this advice given to me, but part of the advice of the committee who looked into at the time said:

This aspect of statutory authority accountability should be made clear at the time an authority—
that is, the ABC—

enters into negotiations for any type of contract and should be made clear in the terms of contracts entered into ...

It goes on to quite clearly say that being taxpayers' money, the taxpayers or at least their representatives have the right to understand in case there is something untoward in the payment of—

Mr Scott—I am happy to brief you and to provide details on notice on how we come to decisions around remuneration. If you are concerned about accountability, there are mechanisms in place with the board, to which I am accountable for such decisions. The board has asked questions, although not on the specific issue that you are raising. The controversy over how much the BBC was paying some of its talent—millions and millions of pounds a year—emerged shortly after I arrived at the ABC. I looked at the range of the executive talent that we have, our high profile on-air talent. I briefed the board and discussed with the board the parameters that we had made, and I talked with them about the processes for approval of that—

Senator IAN MACDONALD—Where is this getting us?

Mr Scott—If part of your concern is around good process and accountability, then that mechanism is well established under the Australian Broadcasting Corporation Act 1983 with the power that is vested in the board of the ABC by the parliament.

Senator IAN MACDONALD—Whilst I trust you explicitly, others may not, and others may not trust members of the board to properly assess these things. We want to make sure

about what is being paid to on-air announcers, some of whom seem to have a particular slant one way or the other, although not necessarily the particular person we are discussing. That is why the Senate wants to assure itself that everything is above board. All the arguments you are using were raised in relation to Geraldine Doogue, who was then compering *The 7.30 Report*, but the Senate insisted at the time to do it. You and I do not really need to have a public debate on this and I am sure my colleagues would not be keen for me to take up too much more time on this, but can you give me an assurance that, should the references committee call you to give evidence on last year's annual report, you will in camera—providing the committee agrees to accept it in camera—give evidence about the contracts of this particular announcer and perhaps other announcers?

Senator Conroy—I understand that this committee can go in camera.

Senator IAN MACDONALD—I do not think this committee can.

CHAIR—It cannot for estimates, but this committee can reconvene in another way. It is actually appropriate for the legislation committee to take evidence in camera about issues to do with budget matters, rather than the references committee. I may have misled you earlier about that, Senator Macdonald. One way or the other the committee could do it.

Senator IAN MACDONALD—The report on annual reports would go to the references committee. As you rightly said a minute ago, Mr Scott, this committee in its references form can take evidence.

Senator Conroy—Is there an issue with this committee reconvening in a different form?

Senator IAN MACDONALD—I do not care.

Senator Conroy—I appreciate you do not actually mind which of the processes it is.

Senator IAN MACDONALD—I do not care which it is. It is a matter for the committee, of which I confess I am not a formal member; I am a participating member in accordance with the Senate. It is up to this committee. I do not really care which one does it. I am interested in the accountability. If I can get an assurance from Mr Scott that, were he called, he would give evidence on these subjects—

Mr Scott—The precise process is not clear here. I am happy to correspond with the chairman of the committee around a process. If I am called to give evidence before a Senate committee around these matters, I certainly will appear.

Senator IAN MACDONALD—You are appearing now but you are not giving us any information!

Mr Scott—I appreciate that.

Senator IAN MACDONALD—We want you to undertake to appear and give information in camera, should you so request.

Mr Scott—My main concern, as I have said to you, is around confidentiality. I just would need to seek advice on the nature of that committee and the terms of reference of that committee. You will understand that. I am happy to cooperate as best I can.

Senator IAN MACDONALD—As I said jokingly to you privately, this is not just an academic argument. The Senate does have some powers. We are not here just for people to come along and say: ‘We’ll answer this one. We won’t answer that one.’

Mr Scott—I understand that.

Senator IAN MACDONALD—It is not really your choice.

Mr Scott—I understand that.

Senator Conroy—I think we are moving slowly towards a potential solution.

Mr Scott—All I am saying is I would like to seek advice. I am familiar with this committee and its operations. I am not familiar with the other committees. This is the only committee I have appeared before, but I am happy to get advice on that. If that process is not to your satisfaction I am sure we will pursue this at our next meeting.

Senator IAN MACDONALD—I will not take it further now, Madam Chair, except to say the following. We could get to this stage at the next estimates, and then it becomes a serious question of who has primacy in this country: the Parliament of Australia or a government agency. We are perhaps delaying the argument on that, but I assume you are not going to answer now. You have indicated that, so I cannot really take it further, rather than to see that the dungeons are properly swept out. I will leave it there and seek the committee’s indulgence at a later meeting to call the ABC to report on the annual report and then go into this. We might just be delaying this argument by a month or two, but let us do that.

Mr Scott—Thank you.

Senator IAN MACDONALD—Thanks.

Senator ABETZ—Following on from that, when these high-paid, high-profile presenters go out into the community MCing functions and being guest speakers at dinners, are they able under their contract with the ABC to charge for that service?

Mr Scott—Some of them would, yes.

Senator ABETZ—Some of them would or could?

Mr Scott—I suspect both.

Senator ABETZ—So they could and actually do.

Mr Scott—Yes.

Senator ABETZ—Are you able to tell us which ones, or does that fall into the same category?

Mr Scott—Let me take that on notice. I am not across that.

Senator ABETZ—Take that on notice. I do not want to delay too much. Last estimates I asked question on notice No. 88, ‘Topic: On-air corrections’. Thank you for the detail of that. I notice the issues are summarised below in that answer. I was told, for example, that on the ABC Classic FM program *New Music Up Late* on 30 May 2006 there was a ‘lack of attribution of a composition’, a heinous offence, and the ABC made an on-air apology and correction. Over the page, there was a complaint that a report about a protest meeting of the Bega Valley Shire tourist industry stated:

... an incorrect location of the meeting. A clarification was issued during the following week's program. There are really major issues here—lack of attribution and accidental misstatement of where a meeting was held. They were all done on air, but when the state of Israel is accused of committing war crimes, your answer No. 87 says:

The investigation was finalised on 22 May 2009, and the correction was made as an editor's note on that day.

Accusing a nation-state of war crimes in comparison to lack of attribution of a musical piece on Classic FM gives me some idea of the value judgments being made in the ABC. Does it or not?

Mr Scott—No, I would not say so, Senator.

Senator ABETZ—All right. Why not? Tell me why I am wrong.

Mr Scott—I think the local radio station put some material to air that they then, under their own operation, corrected, as did Classic FM. The matter that you talked about that was raised at the October estimates in question on notice 87 was to do with the issue with the school. Is that correct?

Senator ABETZ—That is right.

Mr Scott—I think we covered this last time in some level of detail. The shelling occurred in January. The story ran everywhere and continued to run that it was Israeli tank fire on the school. Then there was a UN retraction. We carried that story of the retraction.

Senator ABETZ—But how often?

Mr Scott—We carried it in our news online.

Senator ABETZ—Yes, online but—

Mr Scott—We carried it on *The World Today*, our national current affairs program, and then we made—

Senator ABETZ—You have a number of national current affairs programs, like *AM* and *PM*, which have a much greater audience than *The World Today*.

Mr Scott—We carried it on a national current affairs program, Senator.

Senator ABETZ—With a very low listening audience.

Mr Scott—We made a mistake in May. I absolutely accept that in May we made a mistake by, I think, a reporter incorrectly referencing previous files about the original UN claim.

Senator ABETZ—That is right.

Mr Scott—Then we made an editor's note that appeared on our online site that clarified that the shelling in all the facilities took place outside and not inside the school, and we published the summary of the upheld complaint against us. Senator, if you go back to the original story that was run around the world, as you are aware, when that became clear we broadcast that. We ran a story online, repeated it on one program and then amended our record accordingly.

Senator ABETZ—Would you accept that the story got out to a larger end audience than the retraction or clarification?

Mr Scott—I think that is likely, Senator, yes.

Senator ABETZ—Would you agree that the ABC Classic FM correction went out basically to the same audience that listened to the nonattribution?

Mr Scott—I think that circumstance is—

Senator ABETZ—And the same with the Bega tourist industry location?

Mr Scott—They are two minor examples, Senator.

Senator ABETZ—So here we go. We had the heinous offence of nonattribution for a classical piece of music, and we made sure that the same audience got to hear the apology. Similarly, with the Bega tourist meeting when the location was wrong we made sure that the same audience got to hear the correction. But if I might say, with respect—and I might have my values out of kilter here—asserting a war crime against a nation-state, in my value judgment at least, rates somewhat higher, somewhat more seriously, yet the ABC did not see the need to ensure that the correction got the same coverage to the same audience that originally heard that heinously false allegation. That is the summary of the situation.

Mr Scott—Yes, I cannot argue with that.

Senator ABETZ—So you agree with the summary. If you agree with that summary, can you see that it leaves a lot of Australians concerned that the ABC would not adopt a similar approach to what it did with ABC Classic FM and Bega ABC to make sure that the same listening audience was disabused of the misinformation that it heard?

Mr Scott—Yes, I understand that criticism, Senator.

Senator ABETZ—What are we doing about this in the future to ensure that these things do not happen again?

Mr Scott—I appreciate that. This morning we have 65 live microphones broadcasting ABC content around the country; we are broadcasting Australia Network into 44 countries and Radio Australia across the region as well. At no time before this Senate committee have I suggested that our programs are flawless and that our follow-up is always flawless. This is a significant issue for us, Senator. We are reviewing our editorial policies in the first six months of this year; we have reviewed our self-regulation mechanisms as well. I do not want us to be reluctant in setting the record straight when that is the right and the appropriate thing to do, nor do I think we should be reluctant about running on-air corrections from time to time. We have and we do. I have asked at times for that to happen. We will be reviewing our corrections policy in light of our self-regulation, a review that has happened, a review of our editorial policies, and those matters will be considered by the ABC board.

Senator ABETZ—If lack of attribution is worthy of an on-air apology, surely allegations of war crimes by a nation-state are similarly worthy, in the ABC mindset. Can I tell you that in my mindset they are a lot more worthy than non-attribution of a Classic FM piece. I hope I have made my point clear and I look forward to the ABC changing its policies in relation to on-air apologies.

Talking of apologies and matters of that nature, can I take you back to question No. 89 regarding *Lords of the Forests*. It just will not go away.

Mr Scott—Certainly, Senator.

Senator ABETZ—I asked:

What action, if any, was taken by the ABC to discipline the person who backdated the correction on the website by three months to make it look like a timely correction?

After all this time we are finally told:

The ABC has investigated this matter and it appears that the person who entered the correction on the program website made a simple data entry error.

Mr Scott—Yes.

Senator ABETZ—How does that fit? How do you know that? How can you assert that when you go on to say:

The ABC has no record of who made the entry.

You do not know who did it, so how on earth can you tell us that it was a simple data entry? You have no basis to assert that, have you?

Mr Scott—Senator, the error, as I understand it—and this program went to air six years ago—

Senator ABETZ—Yes, I know that, and we still have not been getting the full answers. That is why we are still asking questions.

Mr Scott—The error when it was put up was dated with the date the program went to air, not the date that the error was listed. When we had a complaint about it and reviewed it we changed the date. We replied to the ABA in November 2004 that the date that we were now putting up was our best estimate of when the website was done. That was April 2004.

Senator ABETZ—With respect, Mr Scott—

Mr Scott—Some months after the program went to air was the first time we acknowledged the inaccuracies in response to their complaints.

Senator ABETZ—I know all the history. I am specifically concentrating on this answer in which you assert—

Mr Scott—It is a reasonable assumption, Senator.

Senator ABETZ—When you do not know the person who did it, so you could not interview the person?

Mr Scott—Yes.

Senator ABETZ—You do not know what was on their mind. It may have been malicious; it may have been deliberate, just as much as it may have been a simple data entry error.

Mr Scott—Yes.

Senator ABETZ—Both are as open as each other.

Mr Scott—I accept that—

Senator ABETZ—Do you accept that?

Mr Scott—This perhaps could have been more precisely worded, Senator.

Senator ABETZ—Like how? Would you like to give more precision now or do you have to take it on notice yet again so the program will have been seven years old before we get some direct answers to the questions?

Mr Scott—We can say that we have no record of who made the entry. We can also say that the date—

Senator ABETZ—And, therefore, you do not know what was in the mind of that person.

Mr Scott—Senator, I am trying to reframe it for you as you ask so we do not have to kick this further along the clock. But can I say, Senator, that we can say that we have no record of who made the entry; we can say that whilst we know the error was posted well after the date the program went to air—the program went to air on the evening of 16 February—

Senator ABETZ—We know all that.

Mr Scott—The date that was put up was 16 February. We know that that consumer affairs were not even in a process of acknowledging that for some time on. So we are—

Senator ABETZ—But the average punter, not knowing all that background history that you and I do, sees the website story that has the correction made on the very same day. This looks like a very proactive ABC, willing to correct its errors immediately, whereas the truth is, of course, completely different. This just happens to be a data entry that puts the ABC in a particularly good light.

Mr Scott—Let me—

Senator ABETZ—I think we are agreed, if I can curtail this, that just as much as it was likely to be a simple data entry error, it is just as likely that somebody may have done this deliberately because we do not know who did it.

Mr Scott—Senator, I would say in summary from my perspective that we do not know who did it; we do know that on the *Lords of the Forests* program we attempted as best we could to have the correct date put up once we were aware that it was the wrong date; there were findings against the ABC on that program; we ran an on-air statement on that and we pointed to the full report that is available on the site.

Senator ABETZ—But not in line with the recommendation that it be done with another forestry story.

Mr Scott—But, Senator—

Senator ABETZ—But we do not go there. We have canvassed those deficiencies.

Mr Scott—we were trying to be quick. Can I take you up on that, Senator. If we had decided to wait then it would have been months and months and months before *Four Corners* did another forestry story. You have previously said to me that the timeliness of corrections is a priority to you. That finding came down. I think in the next *Four Corners* program that went to air we ran that statement. Now, Senator, you can say to me that we should have delayed that correction and that statement for some months.

Senator ABETZ—You could have done it twice and shown good faith. Would that have hurt?

Mr Scott—That is not what you said, Senator. You were suggesting that we should have delayed that correction. We were assiduous about putting it to air as quickly as *Four Corners* again went to air, Senator, and I think that was a sound decision.

Senator ABETZ—Can I ask you about the procedure. Can any Joe Bloggs in the ABC log on and make entries and corrections on the website?

Mr Scott—I am not aware of the precise processes, but we—

Senator ABETZ—Well, surely not anybody. To correct something you must have a certain procedure to go through. I would be very concerned if online corrections could be made on the website without a trail as to who actually made that correction.

Mr Scott—I think it is an old system now, too, Senator.

Senator ABETZ—Sorry?

Mr Scott—I believe that the system has now changed from the system.

Senator ABETZ—I am sure it has, but even in those days who had authority to make those online corrections? Surely not everybody?

Mr Scott—No, it would not have been everybody.

Senator ABETZ—All right. Will you take on notice: who had the authority to make the online correction and, if you can tell us, from which studio or office of the ABC the online correction was made?

Mr Scott—I will take that on notice, Senator, but this is now six years on and I—

Senator ABETZ—Do you know why? Because the ABC continually refuses to answer and obfuscates. That is the only reason we have been canvassing this now for six years.

CHAIR—Senator Abetz, do you have many more?

Senator ABETZ—Yes, I do. I want to move on to—

CHAIR—Six senators want to ask questions of the ABC.

Senator ABETZ—question No. 90 in relation to Mr Brissenden. In your written answer you tell me in the second paragraph:

The ABC's investigation found that his—

that is, Mr Brissenden's—

actions arose from a complex and disputed set of circumstances and that he had made an editorial judgment in a professional and appropriate manner in consultation with senior editors.

So it is professional and appropriate to brandish around a falsely dated document claiming that it was written on the date?

Mr Scott—No, Senator. That reference, I think, goes to the story that went to air. A lot of the discussion was about the original program. The date on that document was wrong, and the date on that document was then corrected on that program and well into the public record.

Senator ABETZ—Did it tell us the actual date or did it just tell us that the date was wrong? If you do not know, can you take that on notice for me, please.

Mr Scott—Sure.

Senator ABETZ—Can I ask whether *Media Watch* ever ran a segment on this particular report?

Mr Scott—Yes, it did. That is in the answer.

Senator ABETZ—You told us that *Media Watch* covered the issue of the dilemmas faced by reporters and media companies.

Mr Scott—Yes.

Senator ABETZ—Can you confirm that this specific issue was raised by—

Mr Scott—Around the date.

Senator ABETZ—*Media Watch*?

Mr Scott—I can check that.

Senator ABETZ—If you can take that on notice. Did the ABC look at the fact that Mr Brissenden falsely claimed that the note was his own when, in fact, it was a collective note prepared by someone else?

Mr Scott—Senator, again, I think has been well canvassed.

Senator ABETZ—No, it has not to my satisfaction, with great respect.

Mr Scott—Okay.

Senator ABETZ—When we get obtuse or vague answers, unfortunately it just excites us to drill down even further.

Mr Scott—Senator, we have discussed this here at length, and I am happy to continue discussing it if that is what you wish. Mr Brissenden had his copy of a note that had been—my recollection is, Senator, and, again, it is some years on now—

Senator ABETZ—Can you take it on notice so that we get it absolutely clear, please—

Mr Scott—I am happy to do so.

Senator ABETZ—so that we are not relying on recollections. Can I ask in relation to *The Chaser's War on Everything* program, does The Chaser get ABC management approval in advance of its planned—what—activity?

Mr Scott—Yes.

Senator ABETZ—Let us use a neutral term.

Mr Scott—Yes, Senator.

Senator ABETZ—They do?

Mr Scott—Yes.

Senator ABETZ—Does the ABC acknowledge that in giving approval to The Chaser program they, in fact, require a number of private organisations to incur quite substantial costs in providing security for functions to ensure that The Chaser cannot get in?

Mr Scott—The only reference that I recall to this being raised was in correspondence from Mr Gerard Henderson of the Sydney Institute.

Senator ABETZ—Yes.

Mr Scott—I am not aware of any other examples. I see you have a copy of its magazine there.

Senator ABETZ—Yes.

Mr Scott—That is the only example that has come to my mind. Mr Henderson was unhappy at the appearance of The Chaser at one of his events, I think.

Senator ABETZ—Does that mean in your mind that ABC management from time to time has condoned what is ultimately a trespass on private property because they are uninvited, not entitled to be in the place, but they gatecrash? Would that be tantamount to trespass?

Mr Scott—Senator, I am happy to take that on notice. My understanding—and I might be wrong in this—is that the series that Mr Henderson was referring to was back in 2007. My understanding is that The Chaser can turn up to events that the public turn up to and that when they have been asked to leave they have left. I think Mr Henderson was particularly upset at questions that were asked at the end of the presentation of one of his guest speakers. I can take that on notice for you, Senator. I should say that there is no planning for another Chaser series at the moment.

Senator ABETZ—Can I then quickly take you to QON 138 from last time, if I have got that right.

Mr Scott—What was that one on? I will just check my notes.

Senator ABETZ—I am just trying to check that up for myself. Was that the bush—rather than delay, I will pass over that.

CHAIR—Is that all from you, Senator Abetz?

Senator ABETZ—I might want to come back, if I may.

CHAIR—Sure. Senator Ludlam?

Senator LUDLAM—Thanks. Welcome back. I just have a couple of questions about the 24/7 TV news channel that you announced a short while ago. Do you want to give the committee a general overview as to the scope of that announcement and then I might drill down to some specifics?

Mr Scott—Yes, sure. We were delighted to announce in late January that this year we will be launching Australia's first free-to-air 24-hour news channel. We think this is great news for the taxpayers; a great return on their investment in ABC news and public affairs. And it is great news for free television, that you will be able to access a 24-hour news channel without having to sign up on a contract to pay TV. In delivering the service we are taking advantage of the large investment taxpayers have already made in the Australian broadcaster, with eight

state and territory newsrooms, six local radio newsrooms, regional newsrooms and 12 international bureaus, and the opportunities provided by new technology and digital technology to create the channel and deliver this content 24 hours a day, seven days a week. The content will allow us to cover breaking news on a continuous basis, it will feature regular news updates, and also we will be able to showcase and highlight great ABC content that is happening on other platforms or that is being broadcast at other times. For example, a major interview by Fran Kelly on Radio National *Breakfast* will be able to be broadcast live on the news channel as well as parliamentary question time, the National Press Club and other events like that as well.

Senator LUDLAM—Presumably this fits already within the scope of your existing budget. It was not a budget night announcement, as the kids channel was.

Mr Scott—It absolutely fits within our charter.

Senator LUDLAM—No, I have no argument with that at all.

Mr Scott—There were some suggestions that it did not, but it absolutely fit within our charter to inform the Australian people and to use innovative broadcasting techniques. We have made, as we have discussed at this committee in recent years, some significant savings in our news operation and our television production model by taking advantage of new technology. We have been able to take resources from the back end of our television production and invest them in the new news channel. That is how we are funding it. It will not operate on the budget of some of the big worldwide news channels, but the major cost in delivering a news channel, of course, is having reporters on the ground, which we already have.

Senator LUDLAM—Which you have got.

Mr Scott—We have found the money for the content. As you would be aware if you looked at the announcement, we are using our high-definition spectrum to deliver this. Under the spectrum that is currently available to the ABC we can effectively deliver three standard definition channels and one HD channel, which we are required to provide. I am not sure that the HD spectrum is the ideal spectrum for a news channel in the long term, but we will have discussions with government around spectrum allocation, particularly with the switch off of analogue. So we are using our existing spectrum and content resources to get this channel up and underway. I think it is going to be very well received by the Australian public. I think it is going to be a boon in the take-up of digital television, which is clearly a priority as we move through to 2013. It has been very well received not just by the ABC audience but, as was commented in the paper today, by other free-to-air channels as well.

Senator LUDLAM—Just to be clear, I was really pleased to see that announcement. I was a bit surprised that it did not come at the time of the last budget, but it is great that it is happening. Can you give us an idea of your budget? I take it that it is not additional expenditure?

Mr Scott—We are still reading that through, and I am not in a position to brief you on that at this time. The reason we had to make the announcement in January was that we needed to do some recruitment for the channel. Advertisements that are running now for the new positions come on top of the advertisements we ran at the end of last year for our continuous

news centre, which will form a core of the new news channel as well. We are still working through the final budget.

I must say, we do not give out budgets, certainly not in our annual report, of different divisional or channel breakdown. We do not release the budget of 702 Sydney, or 774 or Classic FM, but we are making the investment that is necessary for this channel to go to air, and we are not taking resources away from anywhere else in the ABC to deliver that channel.

Senator LUDLAM—That seems a bit counterintuitive. In a sense, you have already said you have drawn resources down or you have made savings elsewhere.

Mr Scott—Yes, we have saved in our news production. It was the case that under old technology you needed significantly more people in control rooms or newsrooms putting the news to air than you need now with automated technology. Our automated technology has generated some comment. We moved forward a generation of technology that requires fewer people. So we are actually taking those staffing positions and will be reinvesting that in our content creators for the new channel.

There was a report in the *Courier Mail* on Saturday that said that we were not recruiting for this channel. That is clearly untrue. We said on the day we announced it we were recruiting. The advertisements have been running in newspapers for the new channel, so we clearly are resourcing it. But we have identified the pool of funds that we are resourcing it from, and that is from the changes we have made to our production model in recent years.

Senator LUDLAM—Can you give us an idea of the additional staffing that the unit will require?

Mr Scott—We advertised for 10 positions at the end of last year. We have eight new positions that we have advertised now, and that is the first instalment on the channel. There will be more positions to come after that and, finally, that will depend on the final programming mix we come down with.

Senator LUDLAM—Presumably you are recruiting people from within the ABC or within existing units to staff it as well?

Mr Scott—No, that is external. That is a net increase in our staffing level. We are delighted to be a major news organisation that is recruiting at the moment.

Senator LUDLAM—There is not a lot of that going on.

Senator Conroy—I saw a quote this morning saying you are planning world domination. Are you planning world domination, Mr Scott? Who said that? Was that you, Senator Cash?

Mr Scott—We certainly were not going to leave the office, unless there has been a change of plans. I think it is significant that in this changing media landscape we are focusing on delivering in those areas that we believe we invest in best because of our resourcing at the moment, our history, our capacity and capability, and our audience expectation. I think a news channel absolutely meets that. We have been in the news business now for 75-plus years. We have an outstanding reputation. We have the ability to deliver this service, and that is what we will do. We think it will be successful, and it has been very well received.

Senator LUDLAM—You have mentioned before: just as far as the spectrum goes, is it going to be a high-definition only broadcast? Will people with standard definition TV sets be able to receive it?

Mr Scott—No, at this point. You will need an HD set to receive it. We had a few different options. One was to take a service that we were currently delivering. We have to deliver a certain amount of content on HD. Another option was to take a service that we are currently delivering like ABC2 and move that to HD, which would have meant that some people getting ABC2 today would not have been able to see it. We have been quite clear and upfront that you will need an HD set to receive this. Not everyone has an HD set.

Senator Conroy—Or a set-top box.

Mr Scott—Or an HD set-top box. But the reality is that the overwhelming majority of sets and set-top boxes now on the market are HD. The standard Freeview specification is for HD.

Senator LUDLAM—That is in terms of what is in the shops now, but what about the installed base in the country?

Mr Scott—We think that about 80 per cent of those who have digital capacity can receive HD now, and that that percentage will increase every day with the further rollout of digital television.

Senator LUDLAM—Sorry, 80 per cent of those with digital capacity will have HD?

Mr Scott—Have HD now.

Senator LUDLAM—So what is the total proportion of Australian households?

Mr Scott—I think at this point it is getting close to 50 per cent of the public who will be able to see the channel now. I anticipate that that will grow to 90 per cent-plus by the time of analog switch-off. Then our question will be whether, in fact, the HD channel is the best channel for the news channel and whether there are other spectrum opportunities available. We will also be streaming this channel online, so people with high-speed broadband will be able to watch it, and I expect there will be other delivery mechanisms for it as well, possibly including mobile phones.

Senator LUDLAM—At the point where the viewer has no choice at all you are expecting about 90 per cent?

Mr Scott—I would have thought 90 per cent-plus, Senator. If we are at 80 per cent at halfway there, and the new people migrating to digital television are effectively all migrating to HD. We think it will be a very high penetration. But, finally, we would like it to be 100 per cent, and we will just have to work through. I think one of the debates that we will have here, and one of the things that we are all watching closely—I know the commercial free-to-air channels are watching it closely—is whether HD does become the standard and whether by the time we get to 2014 or 2015 the HD channel is the main channel. We do not know the answer to that yet, but we will have a good sense of it as we closely monitor the numbers in coming years.

Senator LUDLAM—Without stepping on the minister's toes, what can you tell us about the state of negotiations over spectrum allocation?

Mr Scott—I think he has had more negotiations with the commercial free-to-air and others than us. That is clearly a matter for government policy. There is a digital dividend there. The government has announced some intentions. If there is more spectrum available, I am sure we can put it to good use.

Senator LUDLAM—Presumably you would be making a strong submission in that light. Has that submission been made or are you in negotiations?

Mr Scott—There are ongoing discussions and there are opportunities for written submissions to be made as well, but they are not complete at this point.

Senator LUDLAM—All right. Lastly, I wanted to finish up with a couple of questions about ABC International. Again, you made an announcement a couple of months ago about additional resources to those services that you provide. Can you just give us a quick rundown of the scope of that announcement?

Mr Scott—It was not an announcement, Senator; it was a speech that I gave that simply pointed out that other G20 countries are spending significant amounts of money on increasing their capacity as international broadcasters as an arm of their soft diplomacy. I just pointed out that in our own backyard, in the Asia-Pacific region, we have seen a significant expansion of the role of public broadcasters from France, Germany and Japan. Even last week the BBC announced an expansion of its Asia-Pacific service and that Australia—and this is an historical fact—has not traditionally spent as much at all. In fact, our current expenditure of \$35 million really has us at the low end of the G20. What we were saying was that even a doubling of the current investment in international broadcasting would allow us to create an integrated radio and television brand, well marketed with good distribution and upgraded content, and that as part of the suite of diplomatic offerings that are available to the government, investment in public broadcasting and international broadcasting should be considered, as has been considered by G20 governments around the world.

Senator LUDLAM—Is the \$35-million figure for radio and television currently?

Mr Scott—That is right.

Senator LUDLAM—So you are proposing a doubling as a round number for?

Mr Scott—I just gave that as an example. The BBC is spending \$900 million. We are not proposing that. We have never suggested that. The Japanese public broadcaster is spending \$200 million. What we just put on the table is an example of how we could significantly expand the reach of, say, Australia Network by having increasing funding available.

Let me give you an example. Australia Network currently has something like 600 different contractual relationships with distributors. If, for example, we are going to significantly expand our coverage to India, we will have to purchase that distribution by contractual deals with direct-to-home satellite providers. That is where additional money will go: to purchase the distribution you need to get into the homes you want, to be able to upgrade your content and then to be able to market it properly.

One of the things we have said is that globally the strongest brands in international broadcasting are integrated brands like the BBC and CNN and that we need to consider whether we need to bring the Radio Australia brand and the Australia Network brand closer

together and be able to deliver content, just as the ABC does domestically on radio, on television, online and on mobile as part of a seamless brand.

Senator LUDLAM—My final question on ABC International is around the broadcasting agreement, which I understand is negotiated via DFAT?

Mr Scott—Yes, we deliver it for DFAT on a five-year contractual basis.

Senator LUDLAM—My understanding is that that contract lapses mid-2011 and there is an option to roll it over for a further five years?

Mr Scott—Yes.

Senator LUDLAM—Are you able to give us any update? I will ask the officers from DFAT later this week.

Mr Scott—I think it is really a question for DFAT. We are still waiting for some of those processes to formally commence. The first process is a review of how the ABC has performed under its existing contract. I have said publicly a couple of things. Being an international broadcaster reflecting Australia to the world is part of the ABC charter. We have been in this business for 70 years with Radio Australia, and we have delivered television services in recent years, including taking up the television service when a commercial network could not viably deliver it. So it is absolutely part of what we do. There are good ways of being accountable to the taxpayers and to the parliament that do not necessarily include going out to tender. The BBC does not go out to tender to deliver its international service or its domestic service. There are some disadvantages in arguing long-term sporting rights, satellite rights and the 600 contracts where we have to deal with distributors when instability can come up around a tender basis. But, of course, if we are asked to go to tender we will put in a robust bid based on the success of our network and the capacity to be underpinned by the infrastructure of the ABC here in Australia.

Senator LUDLAM—Thanks for that. I just have a couple more questions. Did the ABC hold an event in China last year in relation to its involvement in Australia Network?

Mr Scott—Yes, we did. We celebrated the fact that the ABC had run a continuous bureau in China for 35 years. We believe that it is the longest serving bureau of any Western country. The ABC was in China early. We have had continuous coverage. Some of our most distinguished foreign correspondents have reported there. I went up to China with the chairman, and we commemorated those years of continuous service.

Senator LUDLAM—When was that meeting held?

Mr Scott—I would have to check the precise date of it, Senator.

Senator LUDLAM—Roughly, just the time of year.

Mr Scott—September, I am told.

Senator LUDLAM—Did any senior Chinese government officials or representatives attend that?

Mr Scott—They did, but really our main reason for the visit was for us to continue our meetings with senior officials of the Chinese government. I have now made a number of visits to China, and senior Chinese officials have visited Australia. We are attempting to negotiate

landing rights for Australia Network into China, which would give us far greater access into that country. The Chinese government restricts landing rights for Western broadcasters. Last time there was a request for interest for the opportunity to be a broadcaster more than 30 Western broadcasters provided. The advice that I have received from my counterpart who is head of the Korean Broadcasting Service, who gained access, was the need continually to hold meetings and to discuss the nature of our service with Chinese officials, and we have taken advantage of every opportunity we could do so. That was a significant reason for the chairman's and my visit to China last September, and I expect that some time this year we will visit China again to further our case.

Senator LUDLAM—Were there any issues raised in those discussions relating to the kind of content that the Chinese would like to see broadcast on Australia Network or on the ABC?

Mr Scott—Let me talk generally. A lot of those discussions were about whether there are joint venture company productions that we can do. I think there were some discussions around some children's animation programming, travel programming and maybe some food programming as well, so we are looking at that. I must say in my meetings with Chinese officials that they are not reluctant to provide a critique, I suppose, of programming that they are aware of.

Often, can I say, it is cast more generally, not specifically about ABC programming but concerns they have about coverage in the West. I always reinforce to them the independence and integrity of the ABC as a public broadcaster, that we operate under our charter, that at times we may be criticised for our coverage, but our policy states that all principal relevant viewpoints need to be heard. I imagine those senators present who have been involved in diplomatic discussions are well aware of this kind of process—a frank and cordial exchange of views—and that is what has happened.

Senator LUDLAM—So they keep it general? But occasionally there must be specific examples of kinds of content that they do not want to see broadcast on Australia Network?

Mr Scott—No.

Senator LUDLAM—Can you recall any—

Mr Scott—No, that is not correct, Senator. What they express is their concern that all the viewpoints are put to air, and that is not that dissimilar to conversations we have had here. The principal relevant viewpoints around contentious issues are aired. But they certainly do not go through critiquing Australia Network programming. They are speaking more generally about Western coverage of issues like Tibet rather than a specific critique of the ABC.

Senator LUDLAM—Last week the *Australian's* Rowan Callick ran a story about China's foreign relations in which he asserted that the ABC was running essentially pro-Chinese military propaganda in the form of historical documentaries that were produced by a company founded by a senior Chinese official. I am just wondering how the ABC came to purchase those documentaries.

Mr Scott—I would have to take that on notice, Senator. I am not aware of that.

Senator LUDLAM—Are you aware of the article that ran?

Mr Scott—Now you mention it, I am, but I will have to read that article and come back to you on notice.

Senator LUDLAM—I would greatly appreciate that. Has the ABC run anything by way of drama or documentaries that have been critical of China since that Australia Network event in China?

Mr Scott—Senator, the main focus of our discussion has been around news coverage, and I imagine we have continued to run news coverage, all of which would not have been to the favour of the Chinese government. That is not our criterion in exercising news value, Senator.

Senator LUDLAM—What about documentary or current affairs type programming?

Mr Scott—I would have to take that on notice, Senator.

Senator LUDLAM—So there are two there on notice.

Mr Scott—Yes.

Senator LUDLAM—I might just throw to Senator Brown because I know time is reasonably short.

CHAIR—I assume Senator Brown is going to ask some questions that Senator Ludlam would otherwise have asked.

Senator LUDLAM—They are possibly just related.

CHAIR—Is it about the same issue, Senator Brown?

Senator BOB BROWN—Yes, it is.

CHAIR—We will go to Senator Brown and then we will go to Senator Bushby.

Senator BOB BROWN—I understand that the ABC has purchased the documentary about the Uygur issue in Xinjiang called *The 10 Conditions of Love*.

Mr Scott—I think that might be right, Senator. I think I recall that, yes.

Senator BOB BROWN—A good while ago. I also understand it may have been due for showing in December. What happened?

Mr Scott—I would have to take that on notice, Senator. We have literally dozens and dozens of documentaries that we have purchased that we show over a period of time, and I do not have any specific detail on that documentary at hand.

Senator BOB BROWN—Have there been any representations by Chinese officials to the ABC on any occasion about that documentary?

Mr Scott—Not about us showing it, Senator, that I can recall.

Senator BOB BROWN—Would you check on that—

Mr Scott—Yes, I will.

Senator BOB BROWN—and report back to the committee for me? Do you know when it will be shown?

Mr Scott—No, I do not, Senator.

Senator BOB BROWN—Would you check on that and report back to the committee?

Mr Scott—Yes.

Senator BOB BROWN—Because you are aware that China extensively—

Mr Scott—I was aware of the controversy of it at the time that it was shown at the film festival, of course, Senator.

Senator BOB BROWN—And opposition by the Chinese authorities—

Mr Scott—Yes.

Senator BOB BROWN—to the showing of that film? Thank you. I would be keen to hear back about whether there was any dialogue at the meeting that Senator Ludlam has spoken of or any other approach from the Chinese authorities or anybody about the showing of that film.

Mr Scott—Senator, in my recollection it has not been raised with me. The discussion was about the film in general rather than the ABC showing it or any plans for the ABC to show it and if the film has been scheduled. We have a backlog of documentaries which will be shown in the coming time, and I am not sure whether a date has been scheduled for that yet, but if it has, I will let you know what it is.

Senator BOB BROWN—Yes, and the delay in showing it. I would be interested.

Mr Scott—Senator, the one thing I would say is that my understanding is that sometimes some of these things have a long lead time in going to air. It depends on gaps in the schedule and on other documentaries that are lined up ready to go. Some of these things are planned long in advance. I will come back to you with detail on that.

Senator BOB BROWN—Finally, just on that, does the play of current affairs which heightens interest in such issues as the plight of the Uygurs after a big uprising last year not play into the schedule?

Mr Scott—It might, Senator. It depends. As I said before you arrived, last night we showed, I think, an extraordinary documentary on ABC television, *Inside the Firestorm*.

Senator BOB BROWN—Yes, I saw quite a bit of it.

Mr Scott—We scheduled that for the anniversary of the bushfires. I am not sure when it was ready and complete, but that was an appropriate time, and it was pegged accordingly. Sometimes news events can be a trigger, but sometimes these things are locked into the schedule a long time in advance. But I will come back to you with details on this issue.

Senator BOB BROWN—Thank you.

Mr Scott—Thank you.

Senator BUSHBY—Thank you to the officers from the ABC. On the morning of 11 November 2009 on the Andy Muirhead *Breakfast* program on 936 ABC Hobart, Andy previewed his upcoming guest, a Mr Rod Quantock, at approximately 6.55 am and then interviewed him for approximately four minutes at around 7.15 am.

Mr Scott—Yes.

Senator BUSHBY—On several occasions Mr Muirhead made it clear that Mr Quantock was in town to do a show which was a Greens fundraiser.

Mr Scott—Yes.

Senator BUSHBY—In addition, he advised that the show was on the following Friday and Saturday nights and advised listeners that if they needed further information they should ring his producer. Mr Muirhead also specifically mentioned that the events were Greens fundraisers. I understand that the Liberal Party state director in Tasmania, Jonathan Hawkes, wrote to the ABC on the issue. I would like to inquire what action has been taken on the matter to make sure that your presenters know the requirements of the ABC's charter and editorial policies.

Mr Scott—I believe, Senator, that was a breach of our editorial policies, and I can come back to you on notice with further detail on that interview.

Senator ABETZ—Was it publicly aired that this was a breach and an apology made like the non-attribution on ABC FM?

Mr Scott—Senator, breaches are not always corrections. We have standards and guidelines that we set down, but it is not necessarily automatic that that is something that needs to be corrected in the public arena. This is a failure of our own internal code. There was probably nothing factually inaccurate, for example, that was said, but it is not appropriate that it was said.

Senator BUSHBY—Thank you for that. I appreciate you taking on notice what action was taken. Last Tuesday, 2 February, your presenter Tim Cox on his morning show on 936 ABC Hobart mentioned a play which was being put on by the current Andy Muirhead *Breakfast* show producer Craig Wellington. He is the producer of the play, called *Keating! The Musical*. It was promoted on the Tim Cox show. This play is being performed specifically as a fundraiser and it is also being performed at the Theatre Royal generally, but the play itself, as produced by Craig Wellington, is being performed specifically as a Julia Gillard fundraiser for state candidate Lisa Singh in the coming weeks, and state ALP candidate David O'Byrne is also holding a fundraiser around that play.

Mr Scott—Let me understand this. This has not been raised with me previously. Are you saying, Senator, that there is a musical in town which at different times different groups are going to use as a fundraiser or a charity event?

Senator BUSHBY—That is part of it. David O'Byrne's fundraiser is not so much the problem. It is also specifically being put on as part of a gala dinner for a Julia Gillard function, not at the venue where it is generally being performed but at a specifically different—

Mr Scott—I can come to that specifically. I would just say that we have broadcast *Keating! The Musical* live on ABC2.

Senator ABETZ—That is not the issue.

Mr Scott—All I am saying is that a promotion of a musical that has toured the country, is now in Hobart and is on air—

Senator ABETZ—An ALP fundraiser near you. That is the issue.

Mr Scott—Senator, let me come back on the detail, but I draw a distinction between the first one—

Senator BUSHBY—I can see the distinction between the first one where a candidate has booked that in.

Mr Scott—But if, in fact, fundamentally a musical is being shown in town that people are spinning fundraising activities off and there is an interview on ABC local radio discussing the musical that is being shown in town, then, prima facie, that would be a reasonable thing to do to promote the musical. I think the question would be: is it the promotion of a fundraiser or is it the promotion of the musical? Let me look at the record and come back to you.

Senator BUSHBY—I appreciate that, because I suspect they are sailing a bit close to the wind again regardless of the fact that you may well have taken some action regarding the previous Greens fundraiser. Thank you.

Mr Scott—Thank you.

Senator LUNDY—Thank you. I wanted to ask the ABC some questions about the ABC Open initiative. I attended the launch, which was capably done by yourself and the minister last week. I would like you to spend a couple of minutes outlining the policy proposal, but I would like to ask some questions about your approach to which regions will attract the resources for this initiative.

Mr Scott—This initiative was first outlined in the budget of last year. We received funding for a three-year period to create what we have now described as ABC Open. Basically it is using the ABC to engage regional Australia to enable them to participate in media creation, which is part of the opportunity that comes in a fast-broadband world—a web 2.0 world—which you are well aware of. We are going to recruit 50 digital media specialists who will operate in regional and rural Australia. We have put out the first call in advertisements that appear in the newspapers today, and the first 12 will be appointed by the end of June. These people will create broadband content, but, as importantly as that, they will train and develop community members and expertise so they can create their own local content using video, audio, text, photography—all the opportunities that digital media opens up.

We will be able to showcase content that is created by the community on our ABC Local websites and other ABC websites. There was an incorrect statement that was made last week by the CEO of a media organisation that we were creating a whole lot of new websites on the back of this. That is not true. We are not creating new websites. We will showcase this content on existing ABC websites. But, of course, this content will be available for other media and community organisations to use on social networking. A good example is the ABC Unearthed site, which is a site for unsigned Australian music talent, which we have now been operating for some years. If somebody uploads a song on Unearthed it can be heard there, but if they want to put it up on their MySpace page, they can; if they want to do a recording deal around it, they can as well. In a sense, we are developing a capacity for communities in regional and rural Australia to take advantage of fast broadband, to develop their own media content and for them to be able to share their own media content. The ABC, in fact, will be a distributor of the content that is created by the communities. We think there are great advantages in us playing this leadership role. We think user-generated content is a key to the future in a digital

media world. We relish taking on the opportunity of engaging community members, training them and giving them the capacity to develop media in this way. That is why we were delighted to be able to launch the project last week, to advertise the positions today and to be able to get this local content out to Australian communities as soon as we can.

Senator LUNDY—I know I raised this with you directly at the launch, but I am interested in how regions attain the status of being regional and rural for the purposes of this project. In particular, as I am a senator for the ACT, it will not surprise you to know that I would like to see Canberra, given its service to the region in which it finds itself, considered as a region for the purposes of ABC Open. I did undertake to write to you formally about this but, given estimates was today, I thought it was a perfect opportunity.

Mr Scott—We can take this on notice. As you know, we have 60 local radio stations. Nine of them are in state and territory capitals and also Newcastle. We view them as metropolitan and the rest we view as regional or rural stations. We are going to look at where our talent emerges in our first call out for talent that we are doing now, seeing precisely where we will locate the first people. I take on board your comments around the ABC.

Senator LUNDY—I do not need to tell you about the strong regional focus of the ABC here in Canberra and its employment of journalists who serve specifically the needs of the rural constituency and the listeners of both 666 radio and ABC television locally.

Mr Scott—They do an outstanding job here, I know. The thinking behind this was particularly to develop capacity in areas that up until now have not been serviced by anything that could be described as fast broadband. I remember when we launched Unearthed we had to scale back some of the capacity of that because Triple J has a very strong audience in rural Australia, and we had to make Triple J work for those who had dial-up. The reason we have a rural focus on ABC Open is that some of the content that we will be looking to develop has been easier to develop in the major capitals that have had faster broadband speeds than the bush. So that is where our focus is going to be. We will take on notice your request around the ACT.

Senator LUNDY—Thank you very much for that. I am a member of the advisory committee of the Archives of Australia. In terms of the generation of this content, I am therefore interested in what sort of copyright treatment you will place on the content and how much it can be genuinely shared within the internet community.

Mr Scott—The copyright will be maintained by the creator. If they want to take the content that appears on an ABC site created under ABC Open and give it to Rural Press to put on its websites if they choose, on a community or local town's website or develop it in some other way, that would be fine. That will belong to them. We will be helping them find an audience through the ABC websites but not actually appropriating that work and giving it away, in a sense, without their permission. We are going to uncover some wonderful talent that we will be happy to showcase, but they will get careers as digital media makers in their own right and be able to develop their careers with the content that we have helped them create now.

Senator LUNDY—Thank you for that. A final question: how quickly do you think you will get people on the ground in those positions you have advertised?

Mr Scott—By the middle of the year we expect to have 12 on the ground. We are going to move as fast as we can. The advertisements are in the paper today.

Senator LUNDY—I know we are short of time, but it is a fantastic initiative and I congratulate the ABC.

Mr Scott—Thank you.

Senator MINCHIN—Mr Scott, your evidence to this committee is that this initiative represents no commercial threat to anybody. Is that right?

Mr Scott—Yes.

Senator MINCHIN—You do not see this as competing with the commercial sector at all?

Mr Scott—No. Let me talk about that, because I have read the comments from Mr Brian McCarthy and others.

Senator MINCHIN—I would like you to.

Mr Scott—We have long had established websites in regional and rural Australia, and I would argue that our commitment to the distributing of our content on line is without peer in the Australian media environment. I appreciate we have been funded to do that, and the ABC has remained strong. This, I think, goes back beyond the recent economic downturn. We have made a continued commitment to localism out there and we have been funded to do so. I think a number of misunderstandings were evident in the statement that was made the other day. It suggested we were creating a whole series of new local websites. We are not. We have had websites linked in with ABC local radio stations for over a decade now. There are no new websites that have been created. We are going to be creating content that we put out there and equipping the community to do that.

As I have said to Senator Lundy, the content that we create we will be able to show but others will be able to show as well. In fact, I would argue that training people to create vibrant local content that can run on any website is good news for the ABC and good news for anyone who is offering websites in regional and rural Australia, including local newspapers. I think the ABC has vigorously embraced user-generated content—probably ahead of some of the other media outlets—and this will help lead the way for them. Of course, the key to regional media is their ability to attract revenue. We are not taking any ads. This is totally non-commercial. We are taking no slice of their revenue pie at all.

Mr Scott—We think this is a good thing that really takes the opportunities of broadband and user generated content to a new level in the bush and we think that all media outlets will benefit from that. We think if there is a more detailed understanding—once people look at what we are actually doing rather than following some misapprehensions about what we are doing—I think that will be a good thing.

Senator MINCHIN—Is it fair to say Fairfax are the organisation most concerned?

Mr Scott—Fairfax put out a statement the other day, but almost the lead of the statement was that we are opening a whole series of new websites, and that is not true.

Senator MINCHIN—This is an organisation you used to work for, is that right, Mr Scott?

Mr Scott—That is indeed correct.

Senator MINCHIN—Have you sought to meet with Fairfax to reassure them that you are not intending to—?

Mr Scott—No, I have not, but the first I was aware—

Senator MINCHIN—Would that not be a good idea?

Mr Scott—I am happy to meet with Mr Brian McCarthy of Fairfax, but the first I was aware of any concerns that Mr McCarthy had on this was the statement that he put out on Friday afternoon.

Senator MINCHIN—I think when this initiative was announced there was concern expressed—

Mr Scott—APN. Another newspaper group again asked questions about it, but this was the first reference that I had seen from Mr McCarthy on it. I am happy to talk with Mr McCarthy and others. We think it is good news and of benefit to all.

Senator MINCHIN—Sure, I would suggest that a meeting might be a very good idea.

Mr Scott—When we think in terms of people who want to create content the fact is that this is creating 50 jobs for people who are interested in digital media. That is a positive thing too.

Senator MINCHIN—Sure, okay, thanks.

Senator ABETZ—Mr Scott, you gave a speech on 5 November, I understand, in relation to what was described as your ‘plan for global domination’.

Mr Scott—Not by me, Senator Abetz, I can assure you.

Senator ABETZ—We do not have to worry about how it was described, but can I ask whether in that speech you provided an indicative sum as to how much this grand plan might cost?

Mr Scott—I refer you back to the speech. As I said earlier, the speech outlined—

Senator ABETZ—I know what the speech outlined, you did not have an indicative sum in your speech.

Mr Scott—I did not.

Senator ABETZ—Right, thank you. Do you have an indicative sum that you might be able to indicate to this committee. We know what was said in the speech.

Mr Scott—On the indicative sum, the speech gives an example of the kinds of things that could be achieved with the doubling of Australia’s current investment.

Senator ABETZ—Yes, and if we were to pursue that—I accept what your speech says on face value, I do not want to question it. I want to ask: if we do that, what is the indicative cost? Did you put any figures to it?

Mr Scott—I have said earlier, we spend \$35 million now; if we double it, that is \$70 million.

Senator ABETZ—Right, thank you. One final question, how much influence does the minister have over ABC policy and, in particular, I ask how the Heywire cow got fitted out in a Collingwood guernsey?

Senator Conroy—Some things are just natural momentum.

Senator ABETZ—Thank you very much, Mr Scott. And I have promised Senator Fisher she can have the cow.

Senator WORTLEY—Thank you, Chair. Just on that note I would like to congratulate the ABC on the success of their Heywire project. It was terrific to be able to get together with some of the students at the dinner the other evening—

Mr Scott—Thanks for coming, Senator.

Senator WORTLEY—and to hear what they had to say. I know that they are saying now that they can make a difference, so that is a very positive thing. I would just like to refer you to the children's dedicated ABC channel that was launched last year in December. It has only been going for a couple of months but would you be able to tell us about the success of that program?

Mr Scott—Absolutely. We are very happy with the progress of the channel to this point. As you would be aware, the focus of that channel has been around primary school children, even though, clearly, younger children and older children will watch it. We are very pleased with the suite of new Australian programs that we have been able to put to air. On the first night we put the first episode of *My Place* to air, which has been a high quality historical drama that has been well received. Audience numbers have exceeded our expectation to this date. In fact, over the summer, it was achieving the largest audience in its target age group of a channel on Australian television in day time hours. I will be able to give you, over time, a more detailed breakdown of the audience performance of ABC3.

Senator WORTLEY—Just on the target audience, can you tell us the age groups? You said primary school?

Mr Scott—In a sense, the gap that we saw was for high-quality content on free-to-air television for children aged eight through to 12, but recognising that some 16-year-olds will watch it and some 14- and 15-year-olds will watch some of the programming. The ABC have been very strong in preschool content. Unless that gap was closed for primary school children, the eight- to 12-year-olds, with more at either end, then they were more likely to be watching programming that was actually designed and developed for adult audiences. We are increasing our levels of Australian content. We are getting some great content from around the world, from the Canadian Broadcasting Corporation and from the BBC, and putting it all together. We are very happy with the reaction that we have had.

Senator WORTLEY—Can I just go back to the issue of Australian content. I understand that the aim was to try and get it up to around 50 per cent Australian content. Can you—

Mr Scott—That is right. I think we are already at 40 per cent. We opened at 40 per cent, and we will continue to grow that over time.

Senator WORTLEY—Can you divulge some of the programming with regards to the Australian content section of it?

Mr Scott—I will be able to give you a list of those. My Place has started. Dance Academy is coming as well, and there are a series of new Australian dramas and factual programming. We have extended BTN, Behind the News, which is a news program. It was developed in South Australia, as you would be aware, and has been popular in schools for a number of years. We are expanding programming for that. Prank Patrol has proven to be quite popular with children. There are a range of programs; I can give you a list.

Senator WORTLEY—Can you give us the impact on jobs in Australian drama, acting?

Mr Scott—Absolutely. At this point, Senator, I can speak generally but I will be able to speak more specifically as the channel develops. On many of these programs we are working with the independent production sector. My Place is a good example, as is Prank Patrol and Dance Academy. When we work with the independent production sector, it provides real growth in that vibrant community, which really underpins a lot of Australian television production. At the same time, we have done some internal production as well; the links for this are done internally, as is BTN. So, there has been a significant expansion on both fronts.

Senator WORTLEY—Just going back to BTN—and having been a school teacher I am very much in favour of BTN—how has that been received in schools?

Mr Scott—The channel only opened in December, so I think we will have a better idea once school term really gets underway. I think one of the things that anecdotally we know and understand, certainly this is the feedback I have got, is that kids are interested in news. Kids are interested in news presented in a lively and engaging way for them that will help them understand some of the more complex issues we have to deal with. It is quite an editorial challenge to create news content that is engaging and compelling for eight-to 12-year-olds but is still accurate and balanced and meets all our criteria. That is why our ABC news division is responsible for putting out BTN. We think it will be quite successful. It is important not to underestimate this audience's level of interest and engagement around news issues.

Senator WORTLEY—Thank you.

Senator BOB BROWN—Thanks. About the last election, following up on Media Monitors coverage or analysis of that and the study by Dr Sally Young from the University of Melbourne, the Greens got 3.9 per cent share of voice coverage on TV and some eight or nine per cent of the vote. Do you know why that shortfall occurred in the election campaign? The ABC is the paragon and cannot be perfect but—

Mr Scott—No, thank you, Senator. Again let me take that on notice. We are currently reviewing a couple of things; firstly the way we allocate free time, consultations are taking place with the parties at the moment around that, and we continue to look at how we cover election campaigns. I think that stopwatch driven metric, is not always the best measure of the coverage of campaigns. You may have a politician who has been grilled for 20 minutes in a somewhat difficult and demanding interview, so they have clocked up 20 minutes and it comes on the chart like that, but they may not think and the audience may not think that that was a positive experience for them, necessarily. So there are limits to that kind of stopwatch driven analysis.

I would also suggest that as far as the Greens are concerned, yes, it is how many times your candidates were on air being discussed but there would also be issues around how much the

issues that are of concern to you and your voters are being discussed. So it is a complex issue, I think, weighing up share-of-voice issues around election campaigns. That figure you put to me today is one figure on that, and I can come back to you with more detail if you can put the question on notice, Senator.

Senator BOB BROWN—Share of voice is a pretty direct measure of coverage—good or bad, I agree. But, when it got to *Lateline*, *The 7.30 Report* and *Insiders* in particular, it fell to 2.3 per cent. Have you got any explanation for that?

Mr Scott—Let me consider that and come back to you on that, Senator.

Senator BOB BROWN—Okay. There is just one other very localised issue in Tasmania concerning the term ‘lock-up’ of forests. There was an announcement recently about forest certification and so on in the running dispute down there. The ABC News Radio refers to the protection of forests—for example, in reserves and national parks—as ‘locking up’ forests. In other words, it has taken on the logging industry’s spin as a news factual matter. Is there some means of assessing when that happens?

Mr Scott—It has not been raised with me before, Senator. I am not aware what the style guide is around that particular matter, but again I can look at that for you.

Senator BOB BROWN—Thank you.

CHAIR—Thanks, Senator Brown. If there are no further questions for the ABC, thank you very much to the officers of the ABC for appearing before us this morning.

[12.43 pm]

Special Broadcasting Service Corporation

CHAIR—I now call officers from the Special Broadcasting Service. Thank you, Mr Brown. Would you like to make a brief opening statement before we go to questions?

Mr Brown—No, I do not have a statement to make.

CHAIR—We will go straight to questions, then.

Senator WORTLEY—Thank you. I am just wondering if you can clarify an article that was in the *Australian*, ‘Multi-cultural SBS may launch 24/7 news’.

Mr Brown—In this morning’s paper?

Senator WORTLEY—Yes.

Mr Brown—Thank you, Senator. Yes, I read that story this morning. SBS has no plans for a 24 hour news channel. I think what has happened in the context of that interview is that my chairman quite rightly said that in going into a strategic review you do not rule anything out. But there are no plans. I would point out, of course, that SBS had a dedicated news channel up until June last year with the World News Channel; it just did not happen to be in English. Mr Scott does not really have the entitlement to say it is the first ever dedicated news channel. The fact is that we did one last year and we have moved on since then.

Senator WORTLEY—There is also reference in the article to top-to-bottom review of SBS activities. Could you perhaps shed some light on that.

Mr Brown—Yes, that is the strategic review I was referring to. A number of matters have come into alignment that motivate us to carry out a very thorough review. Firstly, we have a corporate plan that is a five-year corporate plan but carries a three-year review process on it. We are just approaching that, so it would have been timely anyhow. Secondly, we have a new chairman so it is very appropriate after 10 years of the previous chairman to take stock and look at everything we are doing. Externally, there are a number of very significant matters: this year we enter into the beginning of analogue switch off; we have to consider the implications of the broadband rollout; last year we saw, really, the first evidence of a multichannel world in Australia with the birth of a number of different channels; and, of course, we have digital radio as well. So all of these things have combined, rightly, for us to review what we are doing and lay down a fresh path for SBS for the future.

Senator WORTLEY—Can you tell us anything about plans for any new channels—and online as well.

Mr Brown—With regard to new channels, we do not have any specific plans, and it would be premature, really, ahead of a review to have any views on that. Online we are keen to expand our services, but again I think the strategic review now will give us the opportunity to define exactly how that should be. We are currently in consultations, for instance, with a number of language communities to identify the best way of delivering services to them in this changing broadcasting and media landscape. And, of course, we have digital radio, where we have a number of channels which are currently using time shifting, which one might consider might be better used for new services in the future.

Senator WORTLEY—Thank you.

CHAIR—Are there any further questions for SBS? If not, gosh! Thank you, gentlemen.

Senator MINCHIN—I am sure that Mr Brown will be most relieved.

Senator Conroy—Unbelievable!

CHAIR—Thanks very much.

Proceedings suspended from 12.49 pm to 2.02 pm

Australian Communications and Media Authority

CHAIR—I now call officers from the Australian Communications and Media Authority. Mr Chapman, did you have an opening statement or should we go straight to questions?

Mr Chapman—I do not have an opening statement other than perhaps to note that recently the ACMA implemented a restructure. We did that for a couple of reasons. We have a division dedicated to the digital transition matters, because of the focus and the concentrated effort that will bear. We established a Digital Economy Division, for obvious reasons, because that is where the trend line is and we wanted to have a whole-of-organisation view about matters digital. Finally, one of the other initiatives was to put the word ‘citizen’ back into content and ‘consumer investigations’. In that vein, I just wanted to mention that the former Deputy Director of the Classifications Board, Olya Booyar, was appointed. Ms Booyar is with us today. She started last Monday so we thought that we would not call her to the table this afternoon. I say that simply because some of the general managers who had responsibility for the briefs up until last week are at the table. It gave me an opportunity just to mention to

senators that we have implemented a restructure. We think it is a very effective restructure and I wanted to, in particular, note the appointment of Ms Booyar in that role. Thank you.

CHAIR—Thank you. Senator Macdonald.

Senator IAN MACDONALD—We do not seem to have a lot for you today. I think you have worn us out in every other estimates.

Senator FISHER—Speak for yourself.

Senator IAN MACDONALD—I would like to follow on with the little issue that I raised last time. Thank you for your response to my question about whether you are having staff resourcing difficulties in dealing with applications for variation of local area plans. Your answer, which came in relatively recently, was that, no, you are not having any problems. You said that you are managing the program effectively and that a dedicated team is now prioritised and the outstanding requests for LAP variation are being managed efficiently. My little issue was about Sweet FM, the local community radio station in the Lower Burdekin, where I live. I raised this last time. They have had a letter from you dated 10 July 2009, which they had responded to. They put in their application and had not even had so much as an acknowledgement at the time of the last estimates and they tell me that, apart from their account for the licence, which they paid immediately, even though it was not due for another month, they still heard nothing about their local area plan.

Mr Chapman—I will ask Mr Tanner to address that specifically.

Mr Tanner—This is the service known as Sweet FM, which is about 70 kilometres from the Townsville in a settlement called Ayr. I am not sure how that is pronounced; I am from south of the border.

Senator IAN MACDONALD—It is where I live. It is a great little place.

Mr Tanner—I hope to get there some day. The service is not a community radio station at all. It may very well be a community organisation which is running it for community purposes. It is actually an open narrowcasting station, which means that the group would have acquired at auction most likely an FM transmitter to provide a service in that particular area. We are aware that the group is interested in providing a service in a substantially larger and different area. As a general rule, we do not simply replan open narrowcasting services so as to serve much larger areas on request, because to do so would be unfair to the other people that may have bid at auction had they known the property was actually far more valuable than that which was originally offered.

Having said that, these sorts of requests are legitimate, not unprecedented and there are some approaches that we could potentially take that might be able to accommodate the group's wish to proceed. The status of that matter is that we are developing some options internally, and I understand the staff will be putting them to me in the course of this month.

Senator IAN MACDONALD—I am sorry, what was that? What do you understand?

Mr Tanner—We are developing some options for the service internally. Once I have had the chance to consider those in the relevant planning committee we would like to approach the group and discuss what the options and issues are.

Senator IAN MACDONALD—I did raise this in October. You had written to them in July and they had sent in a submission by 10 August, as required. They did not even get an acknowledgement and they still have not. Things are busy. Last time we were here I said to you perhaps the area of your authority that deals with this might be overworked or not properly staffed, and that was the question you took on notice. You said in your written response that there is a dedicated team now prioritised to outstanding requests. Could you tell me how many requests have been dealt with since October? Have any been dealt with?

Mr Tanner—It takes months or years to work our way through quite a number of the requests we get to replan broadcasting facilities, because we are required to consult publicly with affected groups and often to test and develop technical options where there will be a number of interested parties, including potential competitors, other broadcasters and members of the community. It is not just like processing an application for a licence. It is generally an extended process of negotiation. With this group I would anticipate that we would need to spell out what options are potentially available to them. If they are interested in proceeding along any of those courses it is going to take us a substantial part of a year to finalise that course. That is what goes into changing an FM facility.

Senator IAN MACDONALD—Nobody has been in touch with them to tell them of this. It is ridiculous that we are doing this in a Senate estimates committee hearing. When you say that it is a small community station, it is. It is in the delta of the Burdekin River, which is subject to severe flooding and substantial cyclones at times, if we are unlucky enough to be in the path. There are a lot of natural disaster implications. They are really the communication between the authorities and the 25,000 to 30,000 people they serve. All they want to do is resite the transmitter—and not far, as I understand it. They want to extend the service radio to 50 kilometres. They want to increase the radiated power to 1,000 watts. They want the antenna to radiate circularly polarised signal and have omnidirectional radiation. I might say none of that means anything to me. Before I came to the last estimates I did have a better idea of exactly what the problem was, but I understand they are not very big things. I understand they are relatively minor applications. The volunteer ‘engineers’ who help them say that it is really just a matter of going through the process.

Mr Chapman—I hear what you are saying. I am disappointed if that is the circumstance. That would surprise me, but I do not want to disabuse you of what you have put to us. I will look into it to ensure that that communication happens. We pride ourselves on communicating and facilitating before we regulate, and on what you have put to us that does not seem to have been the case. I acknowledge what you say and we will look into that.

Senator IAN MACDONALD—I will leave it there. I was just reading the note. After the last estimates someone from the department did ring to say they were sorry they had not answered. No, they might have rung me to say they were sorry they had not answered the question on notice. Anyhow, thank you, Mr Chapman. As I understand it, it is not a big problem. My real question—and I do not want to prolong this—is whether that section of your authority is adequately resourced to do all of this?

Mr Chapman—The answer in the question on notice was that we are adequately resourced. No regulator would decline additional funds, but it is my job as CEO to continually balance those resources and to reprioritise continually. The answer gives you some insight as

to some of the reprioritising. We have made the statement that we now have a dedicated team working on those LAP variations, but the matter you raise is a separate one and I will look into it.

Senator IAN MACDONALD—Thank you.

Senator BOSWELL—How many submissions did Free TV Australia receive during the consultation process on the new code of practice?

Mr Tanner—Is this the review of the code of practice?

Senator BOSWELL—Yes.

CHAIR—Are we with the right department?

Mr Chapman—Ms O'Loughlin is probably in the area that you want to direct questions about, the recent registration of the TV code.

Ms O'Loughlin—Free TV received around 1,500 submissions.

Senator BOSWELL—How many of those were individuals and community groups?

Ms O'Loughlin—I do not have the breakdown of that, but I can happily take that on notice and provide that to you.

Senator BOSWELL—Were you supplied with copies of the submissions?

Ms O'Loughlin—We were provided with all the submissions.

Senator BOSWELL—Did ACMA take into account the concerns of the community about the weakening of the code of practice when it approved it?

Ms O'Loughlin—Yes. I think the authority, in considering the Free TV code, considered all the submissions. We undertook our own analysis of those submissions in putting those up to the authority, as well as other evidence that was available to the authority.

Senator BOSWELL—Why did ACMA approve the removal of the word 'discreetly' from the classification guidelines?

Ms O'Loughlin—I will start with this, but I may call my colleague Ms Wright to the table. We considered very carefully the removal of the word 'discreet' from the restrictions on visual depictions of implied sexual behaviour in MA classified programs. We recognised that was a matter of concern to many of the submitters. We did, though, add additional wording to the clause that we consider will have the effect of maintaining the existing limits for depictions of implied sexual activity, and ensure that there is consistency in restrictions on all depictions of sex and nudity. It also for the first time included in that clause consistency for verbal sexual references. Our view was that, with that new safeguard, the removal of the word 'discreet' would not weaken the protections offered in the code.

Senator BOSWELL—Does ACMA anticipate that this change of wording will result in program content which would have been considered to exceed the MA classification in the previous code now being accommodated in the new code?

Ms O'Loughlin—No, we do not.

Senator BOSWELL—If the change of wording does not mean a change in the standard, then what is the point of it? Why would you go to all this trouble to change the wording when it was already covered?

Ms O’Loughlin—I might ask my colleague Ms Wright, who is the executive manager responsible in that area, to update you on that.

Ms Wright—You may be interested to learn that after the public consultation the ACMA took on board the concerns expressed by submitters about the ramifications of the removal of the word ‘discreet’ and we negotiated further changes to that guideline. The guideline that is now published for MA sex and nudity in the new code is not the guideline that was publicly consulted on. We took on board the concern that submitters had that this might, as one of them said, open the door at 9 o’clock in the evening to TV porn. We discussed with Free TV why they have revised the wording to the code. They said that they had revised the wording for two reasons. One was to introduce a scalable impact test.

To take you through that, G on a scale must be very mild, PG would be mild, M would be moderate, MA is strong and material not allowed on television is high. They were endeavouring to introduce that scale. Further, they told us that there had been some confusion around the term ‘discreet’. They noticed that the current version of the classification board guidelines uses that word in relation to M content and that is also a test that they must apply when they are showing movies on television, but they saw the two categories as fairly similar. They also said that the term in the M guidelines that they had been using is ‘restrained’ and some of their viewers had told them that they regarded ‘restrained’ and ‘discreet’ as synonyms, so it was not clear to viewers what they might expect, hence the emphasis on the impact test.

As I said, the guideline has been substantially amended but it also works in conjunction with other areas of the code to buttress the effect that there will be no weakening of that provision. I would point to, for example, the essential principles that underline the use of the guidelines. These are set out in appendix 4 of the code of practice and they remain identical to those in the previous code. They relate to factors that go to impact of classifiable elements, and ‘impact’ derives from practices such as frequency, intensity, tone and camera work. Again, they wanted to extrapolate from that a meaningful impact test. They also retained words that cap what happens in MA so that the content cannot be weakened and I would quote the part of the guidelines that says, ‘A program’—

Senator BOSWELL—Is this all in the guidelines?

Ms Wright—Yes, I am quoting from the guidelines.

Senator BOSWELL—I can read the guidelines, thank you very much.

Mr Chapman—I think Ms Wright was trying to make the point that we feel that the same protections have been afforded.

Senator BOSWELL—Why did the ACMA approve the introduction of a multichannel channel 8 appendix which extends the PG times only for multichannels so that there is now no time period in which parents can be sure only G programs are being broadcast on commercial free-to-air television?

Ms O'Loughlin—This is an issue that the authority considered very carefully. It looked at the use of the multichannels as a way for broadcasters to introduce more choice for consumers and to drive digital take-up, on the one hand, so that broadcasters had greater flexibility in what they could program on those digital multichannels. On the other side, we looked very carefully at the submissions put to us which raised concerns about allowing PG. We also looked at some research that we had undertaken and other evidence to see whether or not approving a code which allowed PG on multichannels all day would provide appropriate community safeguards? The authority decided that what was put to us from Free TV was not sufficient in the first instance and requested that Free TV undertake a community education campaign around those digital multichannels so that parents and people watching those channels would be made aware that they could expect different types of programming on those multichannels than on the main channels.

Senator BOSWELL—I do not particularly think it is very satisfactory. As a grandfather who has three kids who watch these free channels, I know you do not monitor it, you do not understand it and you let the kids watch it. You assume that if they are watching something that is appropriate for children they are going to be watching G. I know you are very interested in this, Senator Conroy, but now you have changed the whole concept of kids watching television.

Senator Conroy—The key issue that is facing the digital transition is that the capacity—and it is not fully there at the moment—to put a lock on channels that parents do not want to be accessible to their children is starting to become a reality. It is certainly not there yet. I do not for a moment want to suggest to you that it is there for 100 per cent of homes, but we are increasingly in a situation where there is a capacity for parents to put a lock on channels that they do not feel are appropriate for their children to watch.

Senator BOSWELL—There are a lot of people who are concerned with this. They think that the appropriate rule is G and they assume that when a kid is watching a cartoon or programs that are appropriate for children they are not going to get introduced to something more sophisticated. This just picks up Senator Conroy's comments. As the installation of parental locking mechanisms in digital set-top boxes was the justification for the introduction of multichannel appendix, what will the ACMA do to educate Australian parents about the use of these locking mechanisms that has just been illustrated by Senator Conroy? How is everyone going to find out about these locking devices?

Mr Tanner—We are at a fairly early stage. I will go back a step. We have actually been directed by the minister to mandate parental lock as a compulsory feature of digital receivers used in Australia. I should say that it is already a feature of a very large percentage of digital receivers that are sold, but not all. Later this month my team will be putting to the ACMA a draft discussion paper which will be going out looking for predominantly industry views on a couple of issues as to how we go about mandating that standard. I would be looking to mandate that standard, as we have been directed to do, in the course of this year. There will then presumably be a period when we will actually consult on—

Senator BOSWELL—You are going to advertise it. The minister has told you to get on the ball?

Mr Tanner—Yes.

Senator BOSWELL—And you will advertise and/or promote blocking devices?

Senator Conroy—I do not think this is solely ACMA's responsibility. The TV industry have put a proposition and I think it is absolutely incumbent on them to make sure that they are also promoting this new parental lock facility or capacity. They also should be playing a very big role in this education campaign. It is not just a fact that it is ACMA's role—

Senator BOSWELL—I could not agree with you more.

Senator Conroy—I do not know about ACMA but I expect the TV industry to be playing a very constructive role in an information campaign of the type you are considering.

Senator BOSWELL—Why did ACMA approve the amendments to the code which allow MA programs to be advertised to minors during G rated programs? That is a serious event.

Ms O'Loughlin—While the broadcasters perhaps have more scope to promote those programs, nothing is permitted in the program promotion, program listening or voiceover which would be unsuitable for the time slot.

Senator BOSWELL—Who makes that decision?

Ms O'Loughlin—It would be a matter for the broadcasters to comply with their code in the first instance. But, of course, if we received a complaint where people raised concerns about that not happening, that would be a matter for us to investigate.

Senator BOSWELL—And you would investigate complaints?

Ms O'Loughlin—We would.

Senator BOSWELL—What role did the ACMA play in making Free TV Australia accept formal complaints electronically when it has not included this mechanism in its draft code?

Mr Chapman—Ultimately, as you are no doubt aware, the final code that was registered did include that capacity and there was a dialogue between us and Free TV that led to that outcome which we think is a very important, timely and apposite outcome in this day and age. The final outcome is that online complaints are now part of the process, and that brings it into line with a number of the other codes.

Senator BOSWELL—What role did the ACMA play in having removed from the draft code the requirement for a member of the public to have actually viewed a program in order to register a complaint?

Ms O'Loughlin—The role of the authority is to make sure that the code meets a number of tests, including that it provides appropriate community safeguards. We did not agree with Free TV that the removal of that clause was appropriate because we consider that a complaint is just a prompt for inquiry for us. We consider that it is not necessary for somebody to have viewed or listened to a program to be able to come to us with a concern.

Senator BOSWELL—I think you would concede that the code is weaker now than it was before. My question is: why did the ACMA effectively ignore the concerns of a large number of Australians in approving a new Free TV Australia code of practice with significantly weaker standards when people, including the minister, wanted these standards strengthened?

Mr Chapman—That is a proposition you have put to us that the authority would not agree to. We do not consider—

Senator BOSWELL—You do not think the standards are weaker?

Mr Chapman—We do not concede that the code is weaker. We could presume that in the sense that it offers fewer consumer safeguards—

Senator BOSWELL—You concede—

Mr Chapman—Like all considerations of codes there are lots of checks and balances. There are a lot of new initiatives that need to be dealt with. The introduction of the digital channels needed to be addressed. There were a number of major safeguards introduced into the code on this occasion: electronic dealing of complaints, the protection of participants in reality programs, a very significant provision to encourage broadcasters to correct significant factual errors in a timely fashion and the strengthened classification criteria for sex and nudity in MA programs. They were significant consumer enhancements in this code.

At the same time, the code needed to deal with the introduction of the digital channels. The authority, consistent with the exhortations contained in the explanatory legislative material at the time of the introduction of those amendments in 2006, sought to be flexible in the way in which it addressed the multichannels in their initial phase. When we worked our way through all those permutations we came up with a code that we were satisfied we could register prior to that. In part, the code took a long time to work its way through the system—the system being the interaction between Free TV, their stakeholders and their engagement with us—because there are a number of complex matters to deal with. At then end of the day we feel comfortable with the final position we came up with in the code. I do not agree with your proposition, nor do I make the concession, that it is fundamentally a weaker code as a result of those consumer safeguards that we introduced.

Senator BOSWELL—A few minutes ago you made some concession in your statement; what was that concession?

Mr Chapman—I am not sure what you are alluding to.

Senator BOSWELL—You conceded that it was not as strong.

Mr Chapman—No.

Senator MINCHIN—I think Mr Chapman said that to weaken it would be to weaken the consumer safeguards and he was asserting that that was not the case.

Mr Chapman—Thank you, Senator Minchin.

Senator BOSWELL—You have a minister sitting beside you who is taking on a mammoth task to clean up the internet and it seems to me that you are weakening this code by allowing advertising of MA products on kids programs. To me it does not seem as strong as the previous code.

Mr Chapman—I would put to you that, with respect to all the elements that you might raise as constituting a weakening, we sought to address and build in caveats and qualifications to that in a way that provided some appropriate checks and balances on the matters that you are no doubt alluding to. When weighed as a totality of debits and credits, if you like, in the

whole code process, we think that the four principal consumer/citizen safeguards that I have touched on do not ultimately represent any diminution in the strength of those codes. We think the authority has been very resolute and consistent in its approach with Free TV and that that consistency is borne out in a number of benefits that have been derived; in particular I will refer again to the introduction of electronic complaints for commercial free television.

Senator BOSWELL—Thank you very much for that.

Senator LUDLAM—While we have got the ACMA here I would like to ask some questions that relate to your administration of the black list that is currently used for internet filtering.

Mr Chapman—Did you say the current list?

Senator LUDLAM—Yes. If this is not your area, that is fine and I will move on. Does the ACMA have a policy research capacity at all? Is that part of your brief?

Mr Chapman—The ACMA does have a comparatively extensive research and analysis capacity, yes.

Senator LUDLAM—Is there anything you can point me to that would illuminate the question of accidental or inadvertent exposure to refused classification material online? Is there any evidence pointing to the frequency with which that occurs?

Mr Chapman—Are you talking in the occupational health and safety capacity of those classifiers who work for the ACMA?

Senator LUDLAM—No, although that would probably be a really interesting line of questioning. What is the likelihood of Australian children online stumbling across refused classification material inadvertently or by accident?

Ms O'Loughlin—We do not have any research internally but that might be a question you could also ask the department, which has recently undertaken some research that might touch on that.

Senator LUDLAM—I think they might have done; we are meeting up with the department later in the day. So, there is nothing that you are aware of that you have either commissioned or come across recently that would be relevant?

Ms O'Loughlin—No.

Mr Chapman—No, but you having put the question to us we will see what we are aware of.

Ms O'Loughlin—Of course, apart from the complaints that have come to us where people have come across material online and reported back to us as being of concern.

Senator LUDLAM—That would certainly give you some kind of record, I suppose, but I am just wondering whether there has been any kind of either quantitative or qualitative research at all—but I guess you will take that on notice. Have you been directed by the minister to undertake any such research?

Ms O'Loughlin—No.

Senator LUDLAM—Are you in negotiations or discussions with third parties who maintain black lists? I am speaking specifically about an overseas group called the Internet Watch Foundation that you would no doubt be aware of, who keep quite a large database of material. Are you in negotiations with that foundation about importing the list for use in Australia?

Ms O'Loughlin—We have had previous discussions with the Internet Watch Foundation, whom we work with quite closely, about the potential to use some of their list as an adjunct to our list. That is not currently the case but that is something that certainly has been raised by the government in a possible future environment.

Senator LUDLAM—Is that something that you are actively considering or pursuing, or is that just in the normal course of your work that you are in negotiations or discussions with them?

Ms O'Loughlin—We have been aware of their list for quite some time. Obviously the Internet Watch Foundation is a highly reputable international organisation which focuses on listing child sexual abuse images. It has some similarities in terms of the work that we do in listing material that is child sexual abuse material as part of our job.

Senator LUDLAM—The RC list that you administer has obviously got a much broader brief. Does the IWF actually focus just on child abuse materials?

Ms O'Loughlin—That is their major focus, yes.

Senator LUDLAM—Is there any notion or incompatibility, or is it strictly just a list of URLs?

Ms O'Loughlin—It is a list of URLs.

Senator LUDLAM—Are you involved or have you been tasked with auditing or assessing that list for suitability in an Australian context to be included on a potential Australian filter?

Ms O'Loughlin—I think the government has indicated that it would be interested in looking at whether there is a potential for those sites to also be used in the filtering process domestically. That is a matter that we are working through at the moment.

Senator LUDLAM—In the last few iterations of this process I have asked you to table a breakdown of the material that currently lies on the black list. Could you give us a very brief overview? Maybe in order to not tie up the committee's time I would ask you to table anything supporting that?

Mr Chapman—We are happy to table it. We have got a brief shorthand, if you like.

Ms O'Loughlin—I can give you a summary. The last data I have is from 30 November. The list at that stage contained 1,254 URLs of which 51 per cent were refused classification items, 40 per cent were X18+, 8 per cent were R18+ and there were no MA15+ without a restricted access system items on the list.

Senator LUDLAM—My understanding was that last year subsequent to the leaking of the black list you actually suspended distribution of that list to filter providers. How long did that suspension go for and can we presume that that was lifted during the course of last year?

Ms O'Loughlin—I will seek some advice on that. It went for some months, approximately about six months.

Senator LUDLAM—Has that been lifted now and you are back to business as usual?

Ms O'Loughlin—Yes, for those filter providers that we were satisfied that they had appropriate security in place.

Senator LUDLAM—Were there any changes to your procedures or to the way that list is administered from your agency's point of view subsequent to the leaking of that list?

Ms O'Loughlin—We certainly looked very carefully at our processes once that list, or a list purporting to be that list, appeared on the Wikileaks site. We suspended the provision of the list to the ISP filter providers and they were asked to report back to us and put in place better levels of security for the filters themselves. We also looked internally at raising the level of encryption of the list as they were provided to ISP filter providers, so generally there was a raising of the security around the list.

Senator LUDLAM—You say you looked at raising the level of encryption. Did that subsequently occur?

Ms O'Loughlin—Yes.

Senator LUDLAM—Minister, maybe this is best directed at you. I understand that for a while at least there was an investigation afoot—maybe with the Federal Police—as to the origin of that leak. Should I put that to the AFP downstairs or is that something you can inform us on?

Senator Conroy—We deal with the ongoing nature of it.

Mr Chapman—My recollection is that the AFP have not pushed on with any prosecution.

Senator LUDLAM—Did the investigation lapse or has there just been nothing so far?

Mr Chapman—It is my understanding from the AFP that they considered the prospects of success under their guidelines not sufficiently strong enough to push on with the prosecution.

Ms O'Loughlin—And also that they had competing operational priorities.

Senator LUDLAM—I guess that must come up from time to time. Finally, I want to go through the process that you are required to undertake if somebody does refer a URL to you and you are required to classify it according to the scheme that we are all pretty familiar with. When a URL that you believe is potentially worth listing is brought to your attention, what process do you have to go through? Do you automatically have to refer that to the classification board or is that up to the discretion of one of your officers?

Ms O'Loughlin—Not currently. Under the current provisions our internal ACMA staff, many of whom have either been on the Classification Board and certainly go through regular training on the Classification Board guidelines, assess the material. Usually two staff assess rather than one, for a variety of reasons, partly to do with occupational health and safety with some of the material we deal with, but also so there is a cross check. We are required under the law to refer material that could be subject to a take-down notice for Australian content to the Classification Board. With the overseas hosted content staff will make a judgment call where they consider that it would be useful, helpful or instructive to refer material across to

the Classification Board, and we would do so. As you would be aware, the government is currently consulting on a discussion paper where what would be required would be for anything that we thought would be RC to go directly to the Classification Board.

Senator LUDLAM—That is one of the options in the discussion paper. What is the ACMA's current annual budget for those referrals to the Classification Board and how much do they cost per referral?

Ms O'Loughlin—I do not have the annual budget for those with me at the moment, but we could take that on notice.

Senator LUDLAM—If you could undertake that. Do you have an order of magnitude estimate for how much it costs to make one of those assessments?

Ms O'Loughlin—I think it would be best if I took that on notice.

Senator LUDLAM—We will come back to it. Also, I would like to know whether or not you are budgeting for an increase in that line item given the government's proposal to increase the scope and nature of the black list? Within what you feel you are able to tell us and within the bounds of the security and the integrity of the black list, can you describe for us what actual formal procedural or technical changes were made in the distribution of the current black list following that leak last year that we were speaking about?

Ms O'Loughlin—Could I just point out that our understanding of how that list which appeared on Wikileaks was described in the press to have been constructed was through the hacking of a filter, so it was not something where there was a breach of security from the ACMA's point of view. We have improved our database management, we have improved both our automatic and manual reviews of content and we have certainly, as I have mentioned earlier, raised the level of encryption of the list to the current filter providers. We think that what we have got in place now are more robust requirements than were previously there, but as I have said we have also required those filter providers who were on the family-friendly filter list to report back to us about how they also have improved their level of security around those types of lists.

Senator Conroy—I can clarify. The existing lists were for nine years.

Senator LUDLAM—Yes, which leaked last year. I am just enquiring into the follow-up from that process. Have all those reports from the family-friendly ISPs come in?

Ms Andree Wright—You may be interested to know that under the current code of practice the IIA, in addition to anything that we do, runs tests on the accreditation of the filters. We understand that they contacted all listed filter providers after the purported leak and asked those providers whether they wished to have their product retested and that they would be tested against an additional feature, as I understand it, for keeping the list secure. Only those that have been tested by IIA, under that new set of criteria, now receive the list from us. In addition to our own correspondence with the parties concerned, the industry has also put its house in order.

Senator LUDLAM—Thank you.

Senator MINCHIN—Can you just clarify who sets the standards that the filter providers have to meet? Is it you, IIA or both of you?

Ms Wright—They derive under the code of practice, which is an industry code but registered by the ACMA.

Senator MINCHIN—Have those standards changed as a result of this or is it a matter of enforcement of existing standards?

Ms Wright—Discussion with the IIA, after the questions around security, were that there was an agreement that those who provided filters would also need to assure IIA that they had security measures that were commensurate. In a sense, that came on to the table as a new issue and, as I said, we expressed concern, the industry itself expressed was concerned and the industry ensured through its own testing that the house was put in order.

Senator MINCHIN—I am trying to determine whether the standards have been toughened up as a result of this or it is simply a matter of enforcing existing standards.

Ms Wright—I would put it in the sense that the standards that the IIA had previously used to test remained the same, apart from adding an additional one that went to the security of the list. I understand that they had not tested against that previously because over the nine or 10 years it had not been an issue, but when it became an issue they also sought undertakings from those providing filters that they had adequate levels of security.

Senator Conroy—This is the black list that your government introduced.

Senator MINCHIN—I am not making it political. It is about the security of the black list—

Senator Conroy—Absolutely.

Senator MINCHIN—and ensuring that filter providers are able to secure it from being hacked into.

Ms O'Loughlin—I can just add that the IIA, of course, at that point focused very precisely on the way in which the purported leak came about, as in how it was extracted. They focused their attention on that particular aspect of how things were done.

Senator MINCHIN—Does either you or the IIA run what you might call hacking exercises to see if you can hack into those, or would you be in breach of the law to do that? These guys move so fast, so how do you stay ahead of the game?

Ms O'Loughlin—Internally, we take very seriously the security of the list and we work very closely with our internal IT department to ensure that it is as safe as possible.

Mr Chapman—The IIA's integrity with respect to their accreditation program, given the co-regulatory nature of that, exhorts them to not only lift their game but stay across it in view of any foreshadowed move from voluntary to mandatory aspects. Like the ACMA, the IIA had their eyes opened and we are all more resilient as a consequence.

Senator MINCHIN—Thank you.

Senator FISHER—How are you dealing with the technical shortcomings? For example, you may well not black list or not know to black list a website if the offensive material is some links down the track or if one page at the end of a large number? Have you worked out a way to get through those technical difficulties?

Ms O'Loughlin—We list a URL, so it will be a specific URL. It will not be a domain name, that is, the whole site. What we list are specific URLs where the content has been found to be refused classification.

Senator FISHER—Yes. That is what you do once you find it. What I am asking you is: how do you know you will not miss it?

Ms O'Loughlin—We work on a complaints based approach, so it is the complaint that comes to us that we would investigate.

Senator FISHER—Therefore, it will not necessarily provide the security that parents might hope it would.

Ms O'Loughlin—The process is one where if people discover material on the web that is of concern to them then they can complain to us. As you would be aware, we have a very broad range of complementary programs around outreach programs and education programs to assist parents in that regard.

Senator FISHER—Good luck.

CHAIR—Senator Ludlam, have you finished your line of questions?

Senator LUDLAM—I have a couple more on this one.

CHAIR—Thank you.

Senator LUDLAM—Do you have any contingency in place for the next time the black list leaks, whether it is prior to or post the implementation of the mandatory filter? What have you put in place for the next time that it occurs, because we were warned well beforehand that it was just a matter of time?

Ms O'Loughlin—We are constantly looking at how we can improve security. As the chairman said, we have had systems in place which reflected a voluntary scheme of take-down notices. As it moves to the mandatory scheme, we are very well aware that there will be a heightened requirement for security, but also a heightened requirement for accountability and transparency, which is the subject of the government's discussion paper. They are matters that we are thinking through internally. It is also something that we will be talking to industry, ISPs in particular, about: how we can make sure that there is appropriate transfer of that list between us—for example, doing machine-to-machine transfer, enhanced encryption and all of those things. That is a matter that we will discuss with the industry as well.

Senator LUDLAM—I have two more questions and then I will wrap up. Firstly, do you have numbers available, either at the table or on notice, as to the residence time of the material that is on the black list, specifically the RC portion of the black list?

Ms O'Loughlin—I am sorry, I missed the question.

Senator LUDLAM—How long is that material there for? You said of 1,254 URLs that about half are refused classification. How many of those are new? What is the residence time of that kind of material? How long is it around for?

Ms O'Loughlin—I do not have that figure with me. I think the Internet Watch Foundation estimated that their complete list turned over within a three-month period. Again, it fluctuates,

but their list is between 1,000 and 1,500. They estimated that there is probably total turnover within a three-month period.

Senator LUDLAM—The characterisation of the nature of this material is that it does cover a lot of illegal material and that it is not there for long.

Ms O'Loughlin—Particularly with child sexual abuse material, where that moves very fast.

Senator LUDLAM—Are there any statistics or have you done any numbers on the average residence time of child sexual abuse material on a public URL of the kind that we are blocking here?

Ms O'Loughlin—I would like to take that on notice. As I said, I would point to the IWF as being an organisation that has undertaken that analysis and that is the sort of time frame they were looking at.

Senator LUDLAM—Could you undertake to take that on notice? I have a final question, but it is really whether any analysis has been conducted on the Australian black list as to how long that material is live for before it goes down for whatever reason?

Ms O'Loughlin—As you are aware, we undertake quarterly analysis of the black list to review each of the URLs to make sure that the content for which we found refused classification is still there. If it is not, we remove it.

Senator LUDLAM—My last question is a research one. You may direct me to the Australian Federal Police. Do you have any idea what proportion of the child sexual abuse material that is online, in total, is available on the public internet, thus subject to the kind of filtering that we are discussing, as opposed to the proportion available on the dark net essentially—encrypted networks, peer-to-peer networks and so on?

Ms O'Loughlin—That is probably something that the AFP, who are dealing with the actual crime scene called Child Sexual Abuse Online, would be better placed to comment on.

Senator LUDLAM—It is not research that you conduct or are aware of?

Ms O'Loughlin—It is not research that we conduct. As I said, we can only indicate that material that comes to us as complaints, either from the public or from the police themselves.

Senator LUDLAM—Thank you very much for your time.

CHAIR—Senator Fisher.

Senator FISHER—We were not blessed with ACMA's presence at last week's inquiry into the Do Not Register Bill. I have a few questions about how the process currently works and logically, by extension, presumably how it would work if the bill were to become law. Can you step us through, very quickly, what the process would be? You would have a number of businesses who would say, 'Don't call me', so they have numbers, one or more, as I understand it, listed on the Do Not Call Register on an account by account basis, so that one particular business could have a range of numbers registered as do not call. In terms of businesses wanting to check prior to making what would be telemarketing calls, can you walk through the process? What would that business have to do? If they want to make some calls then what do they do?

Ms O'Reilly—Under the current scheme it is obviously only personal and household numbers that are on the register and once the number is registered on that it is then put there for the three-year period until it expires. If a telco company wanted to call a number or any company wanted to call a number, it would need to wash its list through the register to see what numbers are on there and then call those that are not registered.

Under the bill that is currently being considered, businesses will be able to put numbers on the register and fax numbers will also be able to go on to the register. That is the proposal. It will be the same process, in that a company that wants to call another business number would need to make sure that it washed its list through the register to see what numbers are on it, remove those that are on the register and only call those that are not.

Senator FISHER—Do not call status currently lasts for three years.

Ms O'Reilly—Yes.

Senator FISHER—I understand from last week's evidence that, once washed, washing lasts for 30 days. What does that mean for an individual business that wants to make telemarketing calls? They put to you a list of numbers; they are cleansed; that business can then make calls to the numbers that come back—that is, they have been cleansed—for a period of 30 days. Is it for any telemarketing purposes?

Ms O'Reilly—Yes. For those that are not on the register telemarketing calls can be made to those numbers.

Senator FISHER—Given the provisions that enable registered consent, so a business can say, 'Don't call me, except I consent to be called in respect of things relating to this ANZSIC classification,' does the wash list come back, presumably with some indication of registered consent?

Ms O'Reilly—No. The company making the telemarketing call keeps the consent. They have the onus of proving that they have consent. If they have a customer database which says that they can make calls to me about any of these following products, then if it calls and that number is on the register and there is a complaint, it would say to the ACMA, 'Here is my evidence that I have consent to call this person about that product or service.'

Senator FISHER—Hence the well-intended business trying to comply with the legislation not only needs to go through the washing process, but they then need to create and maintain an ongoing system of maintenance for numbers they can call today for this purpose and numbers for whom they have consent to call for specific purposes; is that right?

Ms O'Reilly—That is right. Most businesses would probably make sure they had consent to call those customers because that is what they do as part of their business.

Senator FISHER—How does the length of time of a registered consent interplay with the duration of washed numbers of 30 days? How does that interplay and how does a business get its head around that?

Ms O'Reilly—The registered consent is something done within the business itself. It is not part of the register. It is a separate issue. When I say 'registered consent', it can be any form of consent, so long as they have some way of showing us that they have obtained consent to call that number. The 30-day period is just for numbers that are on the register itself. When it

washes its list, if there is a number on the register then it cannot call that number for 30 days unless, of course, in its own internal database, it has consent to call that customer about a particular product or service. The register itself just registers the numbers.

Senator FISHER—I am not criticising you, Ms O'Reilly, but I am really struggling to get my head around this and you stumbled over it in your very good attempts to explain it. I am struggling to see how business, and in particular small business, is going to get its head around that process. Let me give you an example and you can tell me if it would fall within the provisions of the bill. A small business logs on to another business's website to have a look at a product. They then exit the website and go back to their everyday business. That business then gets a phone call from the business whose website they accessed saying, 'We're interested in talking to you about our products.' The first one is business A and the second one is business B. Business A says, 'How did you know about me?' Business B says, 'Because you accessed our website and we got your details from that, so we want to talk to you about our products.' Would business B be engaged in the process of telemarketing within the terms of the bill in that example and would the definition of the exception for business B, where there is a pre-existing relationship, mean that business B can go ahead and have that discussion in any event, or does business B have to, on that occasion, go through the do not call washing process at \$80 or thereabouts per throw?

Ms O'Reilly—That is a hypothetical question and it is probably one that will depend, firstly, on whether the bill gets through and, secondly, that it might take a little bit more time than we have to answer now.

Senator FISHER—If the bill were to go through, would the fact that business A logged on to business B's website for investigation be sufficient to constitute a pre-existing relationship, so as to relieve business B of the obligation to have to comply with the do not call bill?

Ms O'Reilly—Maybe a better way to answer it is that under the current act if a customer walked into a business and expressed interest in a particular product or service and provided their details, there would be nothing to stop that business then ringing the customer to follow up about that particular product or service, based on the fact that they had indicated consent. It is a similar analogy, if you like, in that if a customer has a relationship with a business through wanting to buy a particular product or service then that would establish a pre-existing—

Senator FISHER—That is an interesting analogy and not entirely on all fours because, of course, the existing legislation, as you said, applies to private numbers and private individuals. Is it unreasonable to think that the process of obtaining consent might be more clear-cut from an individual than it would be under the bill from a business, because with another business it is not going to be sufficient to have one person from that business walk into your shop; you will have to make sure that you have whatever you need from the business in its entirety, rather than from a junior employee. It is not a valid analogy, is it?

Ms O'Reilly—I am trying to draw out the similarities between the current system and the new bill, but given that those issues are probably getting more into the policy side of the bill, which is still being considered—

Senator FISHER—Actually, it is the machinery of operation and it relates to ACMA's capacity to maintain the register and deal with it, if the bill becomes law. Who wants the proposed Do Not Call Register, and what percentage of businesses—not numbers—do you expect would register to not be called?

Mr Chapman—We simply do not have a view about that.

Senator FISHER—You do not have a view or you do not have any evidence?

Senator Conroy—This is an option. This was something that small businesses asked for and it is an option.

Senator FISHER—Do you have proof of the request from small business?

Senator Conroy—Yes.

Senator FISHER—This bill applies to all business, not just small business. Big business, the likes of Fairfax, told the inquiry last week that they did not like it a lot.

Senator Conroy—It has been a particular concern of mine that unwanted and unsolicited calls and faxes are wasting valuable business resources and could potentially affect the operation of emergency service organisations.

Senator FISHER—That is a view of yours. Do you have evidence from business?

Senator Conroy—Businesses that choose to register their number clearly want protection against telemarketing calls. If they do not, then they do not have to.

Senator FISHER—That is the easy bit in relative terms. What about the rest of the business world, who is then obliged to consult the register, cleanse numbers at quite some cost, then maintain a separate system within their own business of who is on, who is off, who has consented, et cetera? What percentage of business will be required to comply with the Do Not Call legislation if it goes through?

Senator Conroy—Just to go back to one of your earlier questions—

Senator FISHER—Do you know?

Senator Conroy—approximately 85 per cent of the submissions for the public discussion paper—85 per cent—were in support of the extension of the register for all telephone—

Senator FISHER—The Senate inquiry will drill down into from whom they came.

Senator Conroy—and fax numbers.

Senator FISHER—The percentage of those who will actually be directly affected and given the obligations that the government is proposing to encumber them with under the bill will make very interesting reading and tell a very interesting story.

Senator Conroy—I am sorry you oppose choice for small business.

Senator FISHER—It is the other side of the equation. Once some have exercised their choice the rest of the business world is then compelled to work out who has exercised their choice or not and which way. On what basis has the government decided that you will not end up with an empty register that the rest of the business world will then be compelled to search to make sure it is empty—with taxpayers funding ACMA for the pleasure?

Senator Conroy—A 2008 independent study conducted by the call centre industry found that 90 per cent of call centres surveyed experienced no change in gross revenues following the introduction of the original register and none experienced decreased gross revenues.

Senator FISHER—What about Australia? What about Australia? What about Australia?

Senator Conroy—I am sorry you are opposed to choice for small business. I am sorry you are opposed to choice for small business. I am sorry you are opposed to choice for small business.

Senator FISHER—You are a very brave man trying to explain what I like and what I do not like. Was that answer you just gave in respect of the existing bill? Was your reference to call centres in relation to the existing law?

Senator Conroy—I think that was an organisation called CallCentres.net and you can—

Senator FISHER—Is that in respect of the existing regime restricting calls to private numbers?

Senator Conroy—No, I think that was talking about the circumstance for call centres but—

Senator FISHER—If the bill were to be passed.

Senator Conroy—No, by definition you cannot do a survey on the impact of revenue if it has not been introduced yet.

Senator FISHER—That is right. Presumably it is based on the current regime and the population of call centres who would propose to call a home would be very different from the population of call centres who would propose to call a business, would it not?

Senator Conroy—As I said, I am disappointed that you do not share my concern for small business and—

Senator FISHER—That is exactly why I am asking the question. I do.

Senator Conroy—I guess we are going to have to agree to disagree.

Senator FISHER—This is using a sledgehammer to crack a walnut and in the process decimating small business potentially in terms of the red tape with which they will be encumbered for no avail; that is the sort of evidence we were getting last week.

Senator MINCHIN—I want quickly to come back to this issue of classification and raise with you correspondence you have had with Mr Mark Newton with respect to the availability to minors of MA15+ movies via the i-Tunes online store using gift cards, which is of some concern. Mr Newton, I declare, is a constituent of mine resident in the state of South Australia. He complained to you in January of last year about this matter and got a response from Mr Richard Frazer in September of last year. Is there someone at the table who is familiar with this case and who can answer questions on it?

Ms O'Loughlin—Yes.

Senator MINCHIN—Could you indicate to me why it did take eight months to deal with this matter and respond to Mr Newton?

Ms O'Loughlin—It certainly was a longer time frame than we usually have for our online complaints, but it was a very technical investigation which came to looking at the ACMA's restricted access system declaration which we did in 2007. It was really the first time that we had an investigation before us that went to looking at whether or not that restricted access system determination was being complied with by the provider of the service. In our defence, I would note we did about another 700 investigations during that period, so it was not as if we were only focused on this particular investigation. It also took quite a long time because we had to gather quite a lot of technical information about how the system actually worked, what measures were put in place by i-Tunes, whether in fact those technical aspects that had been put in place by i-Tunes complied with that determination. There were quite complex legal issues arising as well. Sometimes when we have a first investigation it does take us a little longer because we are testing all of these things. We think that we did a very thorough job on the investigation. As I said, we continued our work in other areas while we were on the case.

Senator MINCHIN—It was not the determination of the content as being prohibited content that was time consuming, it was more this issue of the restricted access system which they are required to have in place?

Ms O'Loughlin—MA15+ without an appropriate restricted access into the system is currently prohibited content.

Senator Conroy—We must be very, very clear about this. This was your government—

Senator MINCHIN—You should not immediately leap to the conclusion that every line of questioning is party political.

Senator Conroy—If you are barracking on behalf of Mr Newton—

Senator MINCHIN—He is a constituent of mine and I feel an obligation to—

Senator Conroy—the direction you are coming from is very obvious.

Senator MINCHIN—And I declare an interest; I have a 12-year-old daughter so I am interested in this whole area. In this case you gave the hosting service provider a notice directing it to ensure that access to the content is subjected to the restricted access system or remove access to the content. Can you indicate what the actual outcome was? Was the access removed?

Ms O'Loughlin—My understanding was that the content was taken down, so the content host did comply with our notice.

Senator MINCHIN—Rather than have a restricted access system in place?

Ms O'Loughlin—Rather than introduce a restricted access system which was compliant with the determination. They may have done that after time, but in this circumstance they took down the content.

Senator MINCHIN—Were you able to do that because it was an Australian host?

Ms O'Loughlin—Yes, that is right.

Senator MINCHIN—Had this not been an Australian host what would have happened?

Ms O'Loughlin—It would have been added to our current URL list.

Senator MINCHIN—Do you subsequently confirm that in fact this content has been removed and these films are no longer available?

Ms O’Loughlin—I think we certainly confirmed that one.

Senator MINCHIN—This was through a gifting mechanism, I gather?

Ms O’Loughlin—That is right.

Senator MINCHIN—You might click on ‘gift’ or something and go anywhere?

Ms O’Loughlin—For somebody acquiring the material directly the restricted access system currently in place was compliant with the determination, but where there was a gift being given to somebody else we found that that was not subject to an appropriate restricted access system.

Senator MINCHIN—Is that a wider problem? Presumably it is not only i-Tunes that has a similar arrangement in place. What I am getting at, I suppose, is: is this the tip of an iceberg? Is there a systemic problem here?

Ms O’Loughlin—We have had, I think, one other complaint that came to us for a different service where we had concerns about the restricted access system, but I think it is a matter that when the complaint comes to us we would look very carefully at whether it was compliant with that determination.

Senator MINCHIN—Mr Newton also makes the point that debit cards can be used to access this material—to purchase this material online—and debit cards are available to minors, so what is to stop a minor using a debit card to go to one of these online stores and acquire movies that are at least MA15+ if not higher?

Ms O’Loughlin—Obviously we would investigate any complaint that came to us. There is a restricted access system determination which industry has to comply with that deals with not only content which is for over 18-year-olds but also for MA15+ content, and we would expect them to comply with that determination. I am happy to take on notice the detail of that determination. That also requires the provider to do a bit of a risk assessment about what material they are acquiring from the purchaser to prove their age, so it does make them think about what is coming to them and whether that is an appropriate age verification process. That is what the determination does.

Senator MINCHIN—Thank you. Could you take that on notice?

Ms O’Loughlin—Yes.

Senator WORTLEY—I would just like to change topics and speak about cyberbullying. In September, I think it was, we launched the Let’s Fight it Together resource on the Cybersmart website. I am just wondering what the take-up of that has been in relation to schools and the wider community.

Ms Wright—As you know, we have asked people, particularly teachers, to contact us for copies of that pack, because it contains a DVD and extensive information. We have had I think 1,500 schools approach us for that resource, which we think is a good take-up. I am also delighted to add that next week we are trialling a new cyberbullying resource.

Senator WORTLEY—Are you able to tell us about that? Is there going to be a special launch in relation to that?

Ms Wright—I am very happy to tell you about it. I think you may be aware of another successful program we have called Cybersmart Detectives. This is a new module for that program. It is going under the working title of Cybersmart Heroes. We have been particularly interested in both our own research and other research that focuses on the possible role of the bystander and how in real-life bullying situations and cyber bullying situations that role is a crucial one.

The activity that we have designed focuses on the role of bystander and how the bystander can provide support to a friend who is being cyberbullied. We have pitched this at the transition age from primary to secondary school, because research shows us that this is when cyberbullying begins to intensify. As it is for the main Cybersmart Detectives, our scenario will be a live event played by schoolchildren in the classroom and they will be provided scenario clues while they are online from our experts group and they will ask questions to drive the activity forward.

We hope that the work we have done with the scenario will show that it is important for those undertaking the activity, if you like, who are in the role of the bystander—their friend is being bullied—to be supportive of the friend. According to the research we have seen, that is crucial in a young person or a child overcoming being bullied and allows them to feel that they have the courage to take an active step, perhaps tell somebody or other, and block the bully rather than feeling it is somehow their fault.

When we trial this activity next week we will be trialling it over three grades that span primary to secondary school with teachers to see if the scenario is working, to see how the children find it, if they have got more ideas. We think the feedback we will get from them is very important. But we hope by actually making the role a bystander can play real to young people we are breaking new ground by offering this new activity.

Senator WORTLEY—I know that cyberbullying particularly in the UK has been a very big issue. I have looked at some of the research that is going on here in Australia. Do we have figures on the number of children and young people who are cyberbullied? How are we getting the information about the programs on the ACMA website through to schools? How are schools finding out about that? Is that via email? Is there a targeted person in the school? Is it through the principal?

Ms O'Loughlin—We have a broad range of programs to get into schools. In terms of research, Edith Cowan University did some research quite recently that indicated that one in six Australian young people has experienced some form of covert bullying, which may include cyberbullying. That is probably lower domestically than in some other countries, but we still think it is concerning because once these things take off they do tend to increase exponentially. As my colleague Ms Wright indicated, Cybersmart Detectives cyber bullying game is one that we are very pleased to introduce into schools.

Generally we do an enormous amount of work with schools. Obviously one of the key things that we do is our outreach program. That is very much using the school networks to talk to parents and teachers and students in schools around general online safety. We estimate

that by the end of 2011 there will probably be about a quarter of a million teachers, parents and students we have talked to through these outreach programs, so we are really getting into the schools through that.

We have a professional development program for teachers which, again, we have worked very carefully on with the state education departments and private school providers to develop a program for teachers specifically to help them teach in the classroom online safety messages and also positive messages about getting online. We also introduced a program directed at trainee teachers so that they are coming into the workplace informed. As we do that, they are not only informed about the messages, they are also informed about the role of the ACMA in this area and the resources that we can provide to them. A key part of that is our schools gateway on our Cybersmart website, which is another way of getting to schools and getting to teachers and providing them with resources that the find helpful.

Senator WORTLEY—I have met with many groups and individuals in the community regarding this particular issue and I think it is more prominent probably than what research shows because a lot of kids do not actually tell people. One of the biggest fears is that they will have the mobile or the computer taken away or they will be told to switch it off by their parents rather than actually addressing the issue.

A couple of things have come up, including the way the perpetrators of cyberbullying are dealt with. Are you able to tell us what legislation there is already in place that would deal with perpetrators of cyber bullying and any programs that you know of that actually, particularly with young people, look at different ways of dealing with perpetrators of cyberbullying? I am happy for you to take that on notice if you do not have it at your fingertips.

Ms Wright—We are aware that one of the great drivers for the outreach program and our professional development for teachers is teachers being very keen to be aware of their legislative responsibility, and our outreach program goes through that with them. We can provide you that information on notice.

Ms O'Loughlin—There are laws where cyberbullying can be picked up, but I would like to take that on notice so that I get their titles correct.

Senator IAN MACDONALD—The trigger events—Minister, you might remember that you and I shared a common view on these some years ago.

Senator Conroy—I am hopefully close to an announcement on some reform in that area.

Senator IAN MACDONALD—Just before the election you made a series of policy statements that I was eagerly looking forward to receiving. It is—what?—two years from the election now. My query was: when is it happening?

Senator Conroy—The good news is that it is under very active consideration and I would hope to have something to say on that in the very near future.

Senator IAN MACDONALD—Will that address all of the issues of importance to the industry?

Senator Conroy—I cannot say that I agree with every point. They basically want to abolish the trigger event. I am not sure I am going to be able to go quite that far, but I think that it is a package that will have the support of the sector.

Senator IAN MACDONALD—They do not want to abolish the trigger event.

Senator Conroy—Yes, they do.

Senator IAN MACDONALD—They want to deal with control rather than transfer and those sorts of things.

Senator Conroy—An instance which I know we have talked about before—where there is a death in the family, ownership moves and that suddenly causes a trigger event—is clearly an unintended consequence of, perhaps, a rushed piece of legislation. At the moment we are looking at a range of very practical issues.

Senator IAN MACDONALD—Are you looking at the local content, too, on which you and I shared a view—and which I would not agree on with some of my colleagues, I have to say.

Senator Conroy—I would not want to pre-empt all of the discussion. It has not been finalised yet.

Senator IAN MACDONALD—All I want to ask today is: can you give me a timetable? There are a lot of radio stations, particularly a lot of family and small country ones, that are very interested in this. Can you set out for the committee and for them an indicative timetable, bearing in mind that there is an election coming up?

Senator Conroy—I always favour my predecessor's answer at times like this: soon.

Senator IAN MACDONALD—You were always critical of her when she said that. How would you expect us not to be critical of you?

Senator Conroy—It would be fair for you to make that point, but no-one else.

Senator IAN MACDONALD—Will it require new legislation?

Senator Conroy—To achieve amelioration of some of the unintended consequences there would certainly need to be amendments.

Senator IAN MACDONALD—So draft legislation would need to be introduced into and passed by both houses. You would be hopeful of that happening by when?

Senator Conroy—Hopefully before the election. I do not think they are especially controversial.

Senator IAN MACDONALD—No, I would not think so. They might be in some instances.

Senator Conroy—In some corners they might be considered controversial, but hopefully the parliament will see its way to progressing them.

Senator IAN MACDONALD—Would you expect it before the election?

Senator Conroy—The legislation will definitely be introduced before the election. I do not know when the election is going to be.

Senator IAN MACDONALD—Will that be before May?

Senator Conroy—I do not know when the election is going to be.

Senator IAN MACDONALD—How can you say it will be before the election?

Senator Conroy—As I said, the package of reform would hopefully be out very soon.

Senator IAN MACDONALD—Certainly you would expect it before September or October?

Senator Conroy—I feel confident that we would be able to get that far.

Senator IAN MACDONALD—Thank you, Minister. That is all I have there.

CHAIR—Are there any further questions for the ACMA?

Senator LUNDY—I have a few. I understand the ACMA is conducting a review of the spectrum band that is predominantly used by emergency services personnel, such as fire and police?

Mr Chapman—That is correct—the 400-meg band.

Senator LUNDY—What are the objectives of the review?

Ms Cahill—There are a range of objectives in relation to that band, which we refer to as the 400-meg band. Primarily we hope to achieve a level of improved radio communications interoperability and we also want to improve certainty for government users to build or expand existing networks. We also wish to offer incentives for the consolidation and efficient use of government spectrums more generally.

Specifically in relation to the emergency services, the ACMA has been taking a lead role and is working with a range of state, federal and local governments to progress the issue of harmonisation of the emergency services work. In particular, we have been working with committees and departments which include the National Coordination Committee for Government Radio Communications, the Law Enforcement and Security Radio Spectrum Committee, the Australian Government Radio Communications Working Group, the Department of Broadband, Communications and the Digital Economy, the Attorney-General's Department and the Department of the Prime Minister and Cabinet. We have been instrumental in working towards an agreed strategic framework for the national harmonisation of the radio network, which was signed off, I believe, in December last year. I will check that for you.

Senator LUNDY—Thank you. Can you give me an idea as to whether a final decision has been made or any more information about what progress has been made to date?

Ms Cahill—The overall review of the 400-meg band commenced in April 2008. As it is a complex band with lots of users we have been going through a staged process associated with actually seeking to harmonise issues. The ACMA issued a spectrum options band in April 2008, which was really there for us to stimulate discussion and gather information. Subsequent to our analysis of those proposals, we again, in April 2009, issued the second iteration of the 400-meg process. We received significant contributions to that discussion paper, which went to issues concerning technical regulation, licence conditions and how you

might actually harmonise the spectrum. We expect to release the final process in the first quarter of this year.

Senator LUNDY—Can you describe the sorts of benefits that you are hoping will emerge from this rather lengthy and obviously complex review?

Ms Cahill—As I said, the objectives go to issues of efficiency, not only for us as a spectrum manager but also for people providing emergency services and defence services in the states and territories. We are hoping that with the harmonisation of bands providers of those services will be able to have full interoperability.

Senator LUNDY—Just to clarify, ‘harmonisation of bands’ means all moving to the same band? Is that what you mean by that?

Ms Cahill—All moving to segments of the band so that their devices are fully interoperable. I am sure you are aware of this but, just to clarify, interoperability is basically where those who need to speak to each other can do so with their devices when they want to and when they need to, primarily in disaster and emergency services planning processes.

Senator LUNDY—Can you tell me about the national framework?

Ms Cahill—The national framework, as they say, is part of the process that was put together to look at how you could improve government radio communications interoperability. It has released a framework in December 2009 that lists six principles that are going to be used by the planners at state level, at local government level and federally to see how they can move towards harmonisation. There are six key frameworks that go towards, firstly, jurisdictions agreeing to work together to develop a framework to deliver on appropriate levels of interoperability between and across jurisdictions and agencies, which goes to things like the development of an agreed universal list of priority services for enhanced interoperability. It also goes to the development of a set of principles for agencies to access harmonised networks.

The second primary principle goes to the jurisdiction agreeing to work collaboratively to establish a national baseline of interoperability with existing systems and to develop transitional operability arrangements. The third one goes to jurisdictions agreeing to work collaboratively to define interoperability standards. As you would appreciate, state and local government emergency services and all local governments—including police and rural firefighters, for instance—have different equipment that they have purchased over many years. Part of this whole process is to put in place a framework with enough lead time so that we actually work within the purchasing and procurement processes so we are not providing additional costs directly on to those services to be able to speak to each other. We are basically working within the seven- to 10-year timeframe that goes towards sourcing the equipment needed.

Senator LUNDY—Thank you. I also have a couple of questions about mobile phone jammers. I understand a review of the arrangements about the use or potential use of mobile phone jammers is proceeding and that they are currently prohibited but that this is being reviewed, for example, for application in correctional facilities and so on.

Ms Cahill—That is right. The ACMA released a discussion paper on 29 January that outlines issues we would like to consider and seek public and industry comment on in relation to a review of the mobile phone jammer prohibition. The then ACA issued a mobile phone jammer prohibition in 1999 and reaffirmed its requirements in 2002, on the premise that at the time there was no legitimate use for jamming technology. Since that time, however, there have been a range of technological advances that have required the ACMA to reconsider its approach to jammer prohibition. We expect to receive submissions by 30 April. As part of that discussion paper we have identified our work with the New South Wales correctional facilities and we are proposing a trial of the jammer in Lithgow. That should move forward very quickly.

Senator LUNDY—Are mobile phone jammers used elsewhere? Are there international examples of their being used in correctional facilities?

Ms Cahill—There are. They are currently used in New Zealand in correctional facilities and in some parts of the USA. By looking at our processes and moving forward we are seeking to ensure that we stay at the forefront of planning for these sorts of issues.

Senator LUNDY—Could you take it on notice to provide more information about the context and the rules that apply. I do not know whether there is a legislative framework for their use in other jurisdictions.

Ms Cahill—Yes, certainly.

Senator LUNDY—That is all I have.

Senator WORTLEY—I have one question. It is a question I intended to ask before. Tomorrow is Safer Internet Day 2010 and I know other countries make a big deal of it. I understand that ‘Think before you post’ is the theme for this year. Could you tell us what is happening in Australia regarding Safer Internet Day?

Ms O’Loughlin—Yes, tomorrow is Safer Internet Day, which is organised by Insafe, the European Internet Safety Network. The ACMA is the official Australian Insafe Awareness Centre. We have a broad range of activities that we are going to be undertaking. I would also point to the national level, where a range of organisations, particularly participants among the members of the government’s Cyber-Safety Consultative Working Group are also undertaking activities. They are people such as Telstra, Fox Interactive, Google and Yahoo!7. We are all doing quite a lot of activities.

As Ms Wright indicated previously, we will be running a cyberbullying Cybersmart Detectives pilot next week, but we will be doing a national session of Cybersmart Detectives this week involving 671 children from around 13 primary schools across Australia. We are also going to be participating in a live hot seat event along with our member of the Victorian police and launching a new cybersafety badge activity through SuperClubsPLUS Australia. We are hoping that up to 500 children will participate in the hot seat and up to 1,000 will commence the badge on that day.

We will be launching some new cybersafety themed videos on our website. These were created through a sponsorship we had with the Australian Centre for the Moving Image Screen It film-making competition. They are quite excited about these because they are videos

that are actually made by young people for young people through ACMI in Melbourne and they are a great example of the way that youth audiences engage with cybersafety issues.

We are also placing banner advertisements on Facebook and Windows Live Messenger to highlight the 'Think before you post' theme and to also direct young people to our website. We are doing a special mail-out of our materials and posters, which are going to around 2,000 local council and public libraries, and we are hoping that through those activities we can build a strong national and international reputation about the work we do in cybersafety education.

The European Internet Safety Network has acknowledged the work of the ACMA in developing these new and innovative programs for cybersafety and has been picking up on a number of our materials to recommend to European regulators and other people interested in cybersafety as something that they should pick up. I would draw attention, in particular, to our materials for libraries. They have indicated to us that that is a world first and we are very proud of that, and they have also expressed keen interest in our professional development program for teachers, which they also see as world leading.

Senator WORTLEY—That sounds like a very positive contribution. Well done.

CHAIR—Thank you. I understand that Senator Eggleston is going to put some questions on notice. I thank you for your attendance this afternoon.

Proceedings suspended from 3.40 pm to 3.59 pm

NBN Co Limited

CHAIR—We will resume proceedings. I welcome Mr Quigley from NBN Co. Mr Quigley, thank you very much for coming along today. Do you wish to make any opening comments?

Mr Quigley—Yes, I do have a statement that I would like to make. First of all, thank you; I appreciate the opportunity to be here again, in Canberra, to talk to you about what we are doing on the NBN project. As you know, the company was accredited as a government business enterprise to design, build and operate the infrastructure that will enable vast digital services to be provided across the nation. We will be Australia's first national wholesale-only open access, high-speed broadband platform program. This means that retail service providers—such as Optus, Telstra, iiNet, Primus or Dodo, just to name a few—will be able to access NBN Co's network and provide services and content to the general public and to businesses.

As our organisation grows, we are keeping our attention focused very tightly on the objectives that we have in front of us. The first objective is to provide broadband coverage across the nation, offering speeds of up to 100 megabits per second to 90 per cent of premises over fibre and offering up to 12 megabits per second, using wireless or satellite, to the remaining 10 per cent of premises. The second objective we have is to facilitate the development of a competitive playing field for access seekers by building a wholesale platform providing open and equivalent access. The third objective is to build this wholesale network in the most cost effective manner possible. The NBN Co team is focused on these three broad objectives as a reference point for all that we do.

So our job is really to build an access network that can provide a suite of wholesale products to access seekers. That involves developing a wholesale product offering, selecting

technology and then designing the network and systems in close cooperation with the industry and our potential customers. The design we come up with will be tested and qualified in our labs and the end-to-end solution will be exercised in pilot rollouts. We will then move into volume rollout of the network. In parallel with the design and planning process, we are developing, as you would expect, both a financial plan and a project plan. We are working closely with the lead advisory team of McKinsey-KPMG, as they undertake their implementation study, although we in NBN Co are focused on somewhat different aspects of the project to those they are focused on. There are many complex issues to be tackled and the interaction between NBN Co and the McKinsey-KPMG team is very productive and will, I am sure, lead to the right outcomes.

Before you direct any questions to me today, I would like to address some points about the company that I believe will be of interest to you. We now have 112 people in the company and we plan to be at about 300 people by June. These people are located in Sydney, Melbourne and Canberra. Recruiting good people takes time and I am, in fact, quite pleased with the progress that we have made in that area. In particular, we have recently appointed a head of construction, a chief information officer and an executive who is now leading our procurement activities. We will soon be announcing the establishment of facilities to house our network operations, integration labs and data centre and we anticipate having about 250 people employed in these facilities. This will be another very important step in taking NBN Co towards its full operational mode.

Just to provide a little more detail on what we are establishing, the network operations centre—or NOC, for short—does all the surveillance and management of the operational network. The integration lab that we are building will validate and prove our technical design; and the data centre will house the business and operational support systems, which we need to use to provision, monitor, manage and, ultimately, be able to build for the services that run on the network. The integration lab, which is a very important part of what we are doing, will provide a full multivendor end-to-end test environment where we do network and systems integration and where all new releases and capabilities will be qualified and tested prior to deployment in a live network. The integration lab is also an environment that service providers—our potential customers—can use to test their connections to the NBN. It also provides a production support environment that enables testing and resolution of field issues, should we have them—and all telcos, of course, plan for that. Finally, the integration lab will provide an environment that allows us to demonstrate current and future functionality of the NBN. So they are the facilities that we are continuing to put in place.

On the industry front, after a lot of internal drafting and development, we issued a product consultation paper on 21 December last year. That paper provided a high-level view of the proposed wholesale product that we would be offering to retail service providers. It described the proposed network topology and the reasoning behind the choice of the technology layers and the points of interconnect. As you would expect, there has been a lot of interest from the industry in that paper and we conducted two very well-attended industry briefings regarding our thinking behind the discussion paper; we were seeking initial feedback. In all, we had nearly 400 industry representatives attending the two sessions, one in Melbourne and one in Sydney. In these sessions we asked the industry to provide us by 12 February, which is

coming up, inputs on our product consultation paper. So we are giving folks in the industry an opportunity to comment on what we are doing. We will be following a similar process for some of the other aspects of the project, such as the operational interfaces and the product specifications for the non-PON based fibre-to-the-prem product offerings.

We have also started the procurement process for the active network equipment and have also called for capability statements in relation to satellite equipment. On 7 December last year, we issued a request for capability statement for the active components of the network—this is all equipment that sits on the ends of the fibre—and we have now developed a shortlist of suppliers, following our evaluation of the request for capability study. On 19 January, we issued another request for capability study and this time for satellite capabilities; we have provided that to satellite network operators and equipment providers. We are expecting written responses to that request for capability statement by 15 February. We have also, incidentally, been invited to participate in the federal government's environment department's 'Smart Grids, Smart Cities' process. This is of considerable interest to us in NBN Co because of the synergies between the tasks that the utilities face in making the smart grids a reality and what we are doing in NBN Co; there are, in fact, some synergies.

In preparation for the start of our volume rollout, we in NBN Co are now going to select a number of locations for initial rollout and trial of a high-speed broadband network. These will be what we are calling our first-release sites. The aim is to validate the network design and qualify the total end-to-end system. This will, of course, follow full testing in the integrational labs, which I have just described. There is simply no substitute for complete end-to-end qualification in a live environment. The first-release rollout will also allow us to test different construction techniques. We are in the process of selecting a representative sample of areas across the country which gives us the diversity of situations which we expect to be confronted with as we roll out the network across the country.

We have, as you know, an obligation to build a ubiquitous fibre network to 90 per cent of the population, so we need to understand the challenges of different locations as we prepare to use different construction and design methodologies in each type of geography that we meet. We will test the impact of the rollout on different terrain, housing types, densities, demographics and climate and existing infrastructure and, of course, other local factors. We are looking to select a suburban area where we will need to service semi-detached houses, detached houses and multidwelling units, or blocks of apartments. We will also select a smaller rural town, with more dispersed housing, and other places, in fact, in between those two extremes, with different local geologies, local infrastructure and, as I mentioned, housing types. Some of the things that we will be able to establish are the actual differences in cost between cabling underground and using overhead power infrastructure, in what circumstances it is best to put optical network terminations on the outside or the inside of homes, the difference it will make between connecting a wooden house from one of double brick and so on.

So we will be issuing a request for tender shortly seeking suitably qualified companies to participate in the detailed design phase. This will be specific to selected location—and, by that, I mean the folks who will actually get down and design exactly where things go,

according to the architecture and overall network design that we in NBN Co have established. We are then going to issue a further RFP for the construction phase for these first releases.

The work on the first part of this first-release rollout is expected to start early in the second half of this year. This will be structured in three stages. Stage 1 will see the deployment of the passive components of the network, including the fibre optic cable. In stage 2, we will deploy some of the active network equipment in our fibre access nodes and at customers' premises. This is the equipment that allows us to light up the fibre in readiness for service delivery. Stage 3 involves working with retail service providers to give them access to the network and, via our network, to end users so that they can verify their retail services. This testing will provide critical information about the practical applications of our designs and technology in a real world environment.

Changing tack now to what is happening in Tasmania, NBN in Tasmania is continuing on track to connect the communities of Smithton, Scottsdale and Midway Point by July this year. Doug Campbell and the team down there have been busy behind the scenes building the network, and we have reached the point in the project now where the first Tasmanian streets and homes will soon be wired. So, in the coming weeks and months ahead, the residents of Smithton, Scottsdale and Midway Point will get the opportunity to see for themselves the progress that is being made on the NBN in Tasmania. They will see the fibre being laid and construction workers beginning the process of connecting the first homes to this high-speed service. The Australian Communications and Media Authority has awarded the company a carrier licence in Tasmania—an important milestone—and it plans obviously to connect up the homes there.

That awarding of a carrier licence came after some months of progress in network construction. In fact, in December, Aurora Energy, on behalf of NBN Tasmania, awarded John Holland a construction contract to roll out the local fibre distribution cable. NBN Tasmania also expects to finalise a contract to provide cable drops from the street to the house, which is obviously an important step in making premises ready to hook up to the NBN. In addition, this month NBN Tasmania will open a live network testing facility in Mornington, which is near Hobart, allowing retail service providers to test and demonstrate live services. So residents of the communities of Smithton, Scottsdale and Midway Point will soon have the opportunity, at a series of community briefings at local council venues, to learn more about the work planned in their neighbourhood. Ahead of the briefings, further details will soon be issued to residents by mail also.

In conclusion, I would like to return to our mission and the three core objectives that the government has given to us: coverage, enhancing competition and cost effective deployment. I believe that we are making significant progress in all three areas, as we move through the design phase and into the first-release rollouts. Our choice of technologies, our position in the value chain and our points of interconnect address the coverage and competition issues by developing a solution that will allow retail service providers to access end-user customers through our network on equivalent terms. Our open access network will provide a level playing field on which competition between service providers can flourish. Our first-release deployment will allow us to gain further information about the costs of different construction and deployment options and help us to address our objective to be cost effective. So we are

pleased to be working to ensure that the people of Australia have access to super-fast broadbands in their homes and businesses so that they can enjoy the emerging social and economic benefit that we really do believe this new technology will provide. Thank you.

CHAIR—Thank you very much; that was very useful. Senator Fisher.

Senator FISHER—Thanks, Mr Quigley. Mr Mike Kaiser has got a gig with the NBN, has he not? Does he have a job with NBN Co?

Mr Quigley—He is an employee of NBN Co, yes.

Senator FISHER—What was the process used to appoint Mr Kaiser?

Mr Quigley—The process was, frankly, not dissimilar to what we have used for many other employees. Just out of interest, I happen to have seen a report from our HR folks just in the last couple of days. A little over 40 per cent of our permanent employees came by way of referral. That is, they have come from people who are known—and that is not surprising in a company that is growing fairly rapidly. So, in looking at the senior team that we would need, I recognised that we needed to have somebody who knew how governments operate at every level—federal, state and local—because, in this business, there will be a lot of interaction. As you have heard, just in the first releases we are going to do—we are doing it in Tasmania at the moment—there is a lot of interaction with both state and local councils. So I really was looking for somebody who had the requisite skills who could help us with that and I asked quite a number of people, ‘Is there anyone that we could think of to fill that type of role?’ Mr Kaiser, in fact, was suggested to me as a possibility, so I handed him—

Senator FISHER—Whom did you ask, when did you ask them and who raised Mr Kaiser’s name with you?

Mr Quigley—I believe that the timing was probably—I am stretching my memory here—around the October/November time frame. That is as best as I can remember. I raised that with a number of people in government, including Senator Conroy and, I think, probably a few other people.

Senator IAN MACDONALD—What a surprise!

Senator FISHER—When was that?

Mr Quigley—To be honest, I cannot remember the exact date; but it was around, as I have said, that time of October or November that Mr Kaiser’s name came up. I referred it to the head of HR.

Senator FISHER—Where did his name come up?

Senator Conroy—I suggested his name as a possible person with the relevant experience.

Senator FISHER—So the minister suggested Mr Kaiser to you as a person with—

Senator Conroy—That is what I have just said.

Senator FISHER—the relevant experience. When did you do that, Minister?

Senator Conroy—As I have said, I would agree with whatever date it was that Mr Quigley was roughly around. I am not trying to be deceptive; I just do not remember the date of the conversation.

Senator FISHER—October or November.

Senator Conroy—Yes, whenever it was.

Mr Quigley—Yes, whenever. I honestly cannot—

Senator Conroy—I am genuinely not trying to be evasive.

Mr Quigley—There was a lot going on in the company at that time.

Senator Conroy—There was a lot going on. We can try to narrow something down a little closer, if you would like, but I do not remember the day.

Senator FISHER—Minister, you raised Mr Kaiser's name with Mr Quigley. What else did you tell him at the time in respect of Mr Kaiser?

Senator Conroy—That he may have the experience necessary.

Senator FISHER—What then followed, Mr Quigley?

Mr Quigley—At that time we were trying to grow rapidly. I was getting referrals, as you can imagine, from lots of people—from our board members and people in the industry. They knew that we were trying to grow the company quickly. So I referred Mr Kaiser's name to our head of HR, who I believe contacted him. He then had, I think—once again I think this is correct; I can check—two interviews. I am almost certain that there was some reference checking done and I think that they were done through private companies. I do not think anybody in government was asked. They were, I think, private references. Then I think I interviewed Mr Kaiser, and the conclusion was that he would be a good person for the job. We then, inside the company, went through the normal process of deciding what Mr Kaiser's salary would be, along with all the other senior people in the company, and offered him the job, as far as I am aware.

Senator FISHER—Before we get to that, were there other candidates; was there a shortlist?

Mr Quigley—No, there was not a shortlist. In fact, quite a number of the senior people in the company have followed that same process. In some cases we have had a number of candidates. In other cases we have a candidate and, if we think the person is satisfactory, we go directly to the—

Senator FISHER—Do you have an organisation chart handy, Mr Quigley?

Mr Quigley—Somewhere in here I probably have, yes.

Senator FISHER—Perhaps you can provide one to the committee as soon as you can; I would appreciate having a look at that. You did say earlier that about 40 per cent of NBN Co's employees come by referral.

Mr Quigley—I believe that is the case.

Senator FISHER—That is what you said.

Mr Quigley—Yes.

Senator FISHER—What is Mr Kaiser's job title within NBN Co?

Mr Quigley—That is a good question. I think it is probably government relations. I can—

Senator FISHER—If he is in charge of spin, he is doing very well at his job already: you are not quite sure of what his title is.

Mr Quigley—I can tell you what he is doing.

Senator FISHER—He must be good; he would want to be.

Mr Quigley—It is Principal Government Relations and External Affairs, so I had half of it.

Senator FISHER—What executive level is he at with NBN Co?

Mr Quigley—He reports to the head of HR and Corporate Services.

Senator FISHER—So the tiers are that you are at the top?

Mr Quigley—Yes.

Senator FISHER—Then you have what? Where does Mr Kaiser come in the pecking order?

Mr Quigley—He reports to somebody who reports to me.

Senator FISHER—So there is you, there is—

Mr Quigley—The head of HR and Corporate Services.

Senator FISHER—an in-between and then there is—

Mr Quigley—Mr Kaiser.

Senator FISHER—Mr Kaiser. So he is one level below you, essentially?

Mr Quigley—Yes.

Senator Conroy—No; two levels below.

Senator FISHER—However, you cut it. Let us go ‘two levels below you’. You have talked about 40 per cent of NBN Co’s employees being the result of referrals. Of the people two levels below you, how many positions are there with NBN Co at the moment and how many of them have been filled at that level?

Mr Quigley—We have, as I said, 112 people, and we probably have about nine people reporting directly to me. So the bulk of those people—the remainder—will be reporting at that level. There will be another level below. But I should also mention that they have different responsibilities. Some people in the company obviously are doing detailed design work now and we have some technicians and such type. Some people are doing much more responsible jobs. For example, at the same level as Mr Kaiser and reporting to the same person is the Chief Information Officer of the company.

Senator FISHER—That is all very interesting, but how many people are on the same level as Mr Kaiser two levels below you? How many of those positions are there and how many of them are filled and how many of them are unfilled?

Mr Quigley—I cannot give you that. I can certainly provide the information later, but I do not have it in front of me right now.

Senator FISHER—I want to know: of those positions that have been filled two rungs below you, what percentage have been filled by referral and what percentage have been filled

by other means—and what are those other means? Other than the nine reporting directly to you, these are your second most important management people, as I am sure you know.

Mr Quigley—Yes. As I have mentioned, we are a company of 112 people now. There are the people reporting to me—

Senator FISHER—You want to go to 300, so you want to be ready.

Mr Quigley—and below them will be the bulk of the people who then report to them. So, if 40 per cent of the employees overall are by referral, there will be roughly the same ratio, I would guess, at that next level down. But we will give you those details; I am sure we have them.

Senator FISHER—Do you know of any of those employees on the same level as Mr Kaiser—that is, two rungs below you—having been appointed purely as a result of a referral process as opposed to a merit based selection process?

Mr Quigley—In terms of a merit based selection process, we do not take people into the company who we do not think can do the job.

Senator FISHER—Do you know of any of them having been appointed as a result of a referral?

Mr Quigley—Yes.

Senator FISHER—How many?

Mr Quigley—How many do I personally know?

Senator FISHER—On the same level as Mr Kaiser—and I hope you personally know them.

Mr Quigley—Quite a large number of people in the company are at that second level inside the company—in other words, the people who report to me—then there is a larger number who, in turn, report to them.

Senator FISHER—I get that.

Mr Quigley—Yes. If 40 per cent of the company has been via referral, there will be many of those—

Senator FISHER—How many of those who are on the same level as Mr Kaiser—so two levels below you—were or have been appointed as the result of a referral process?

Mr Quigley—I cannot give you that information right now.

Senator FISHER—Do you know of any of them who have been, other than Mr Kaiser?

Mr Quigley—Yes, I know of some individuals who—

Senator FISHER—How many?

Mr Quigley—Do you mean how many do I personally know?

Senator FISHER—Yes.

Senator Conroy—I think he has indicated that he can get you that information.

Senator FISHER—I have not really heard that yet, Minister, but let us hear.

Mr Quigley—Do you mean numbers?

Senator FISHER—Yes, I do.

Mr Quigley—I can try to provide you with the numbers—

Senator FISHER—Yes. I am sorry; not names but numbers.

Mr Quigley—of people at that level who have been referred rather than gone through agencies, for example—search firms.

Senator FISHER—Approximately how many managers do you have on that level, Mr Quigley? You must know. Is it 10, 20, 50?

Senator Conroy—I think Mr Quigley has indicated that, other than the nine direct reports, the majority of the rest of the 100-odd staff are at that level.

Mr Quigley—Yes, at that level.

Senator FISHER—So they are all the same as Mr Kaiser.

Mr Quigley—No.

Senator FISHER—So you, as appropriate Boss Hog, have nine people under you and then you have everybody else.

Mr Quigley—No. There is the topology of the organisation and then there is the grade of the job—

Senator FISHER—I think you got it wrong, Minister.

Senator Conroy—No. I think you are just not listening.

Mr Quigley—so some organisations are going to go deeper and some organisations are going to go less deep. For example, in the organisation that Mr Kaiser is in—he is in the organisation that is headed by our head of HR and corporate services—is the head of procurement, the chief information officer of the company and Mr Kaiser. They are the three senior people reporting to our head of corporate—

Senator FISHER—Of those other three reporting to the person to whom Mr Kaiser reports, the manager of HR and corporate services—so you have four of them reporting to that person, including Mr Kaiser—how many were appointed by referral process?

Mr Quigley—No, I am sorry. I mentioned three, I think, in total—the CIO, the head of procurement and Mr Kaiser—at that sort of level.

Senator FISHER—So three in total.

Mr Quigley—Yes.

Senator FISHER—Were either of those other two who report to the same person to whom Mr Kaiser reports appointed by referral process?

Mr Quigley—That I will have to get back to you on; I do not honestly know. I interviewed both of them but, to be honest, I do not know from what route they came in.

Senator FISHER—Was Mr Kaiser's position advertised?

Mr Quigley—No.

Senator FISHER—So you just kind of went to people, including the minister, and said, ‘Got a job going; got anyone you reckon might want it—and that they would be good at it, please, would be a help?’

Mr Quigley—That is the No. 1 criteria: they needed to be good at it.

Senator FISHER—The minister has just said he said to you that Mr Kaiser may have the experience necessary. He did not even say to you that he would be good at it; he said he might be.

Mr Quigley—But we would make that assessment. In other words, we went through—

Senator FISHER—How did you assess that against other candidates when you did not have any?

Mr Quigley—We made an assessment against what we believed the job needed to have. We have done that in other circumstances also. For example, our CFO—

Senator FISHER—So is that testing in the field for the best that is out there with, arguably, taxpayer money?

Mr Quigley—I am sorry?

Senator FISHER—Is that testing for the best that is out there for the position that Mr Kaiser now operates, or is near enough good enough?

Senator Conroy—That is certainly a more thorough process that John Short went through when Senator Minchin—

Senator FISHER—I am asking about Mr Kaiser.

Senator Conroy—had him rehired after he was sacked.

Senator FISHER—That was before my time. Oh, yawn! I am asking about Mr Kaiser.

Senator Conroy—Yawn, yes. You can yawn about it.

Senator FISHER—How do you know there were not people better equipped to do the job than Mr Kaiser is who may have been interested, given that you did not advertise it in any independent way?

Mr Quigley—I understand the question. In start-up—and we are, in fact, in a rapid growth mode—we used a combination. In some cases, if we did not have somebody who we thought could fill the job, we would go out and potentially advertise or use search firms or, in some cases, we knew people. Even people inside the company—this is what tends to happen—know people who would be good for a role. For example, there is our CTO whom we have appointed. I knew an individual whom I knew would be very good for the job. I had seen him in the past; in fact, I had been a customer of his in the past when he worked with a large telco.

Senator FISHER—So you, yourself, had had personal dealings with that person. Had you had personal dealings of any sort with Mr Kaiser prior to your meeting him for interview?

Mr Quigley—No, I had not.

Senator FISHER—So it was purely on the say-so of the minister.

Mr Quigley—No, it was not purely on the say-so of the minister.

Senator FISHER—Did someone else suggest Mr Kaiser to you?

Mr Quigley—We had a collection. As happens with a company, names come into the company by various routes for specific jobs. We have a look at those—

Senator FISHER—Did anybody else suggest Mr Kaiser to you?

Mr Quigley—Not that I recall.

Senator FISHER—So the minister was the only person who raised Mr Kaiser's name with you?

Mr Quigley—As far as I recall, yes.

Senator FISHER—You did no testing of the market, other than the ministerial market, and in the process you have appointed an arguably discredited former Labor politician.

Mr Quigley—I would have to say that I have found the work that Mr Kaiser has done for us so far, frankly, to have exceeded our expectation. He is doing a very good job.

Senator FISHER—His salary might exceed some people's expectations as well. What is his salary?

Senator Conroy—Less than John Short was getting paid four years ago when Senator Minchin had him appointed without any discussion.

Senator FISHER—We are paying lots of money and we have not got one new megabit yet, Minister, have we? Have we got any new internet sites or a new customer?

Senator Conroy—And what did John Short do, other than spy on behalf of Senator Minchin inside Telstra?

Senator FISHER—Minister, I will go back to Mr Quigley. You can run your interference and I will stop talking to you. I had better put my mouth back in my mug; that might be a better place for it.

Mr Quigley—I will have to get back to you. I think I recall what the number is, but I had better be sure. So I will provide it, if I can, later.

Senator IAN MACDONALD—It was announced when you issued the media release, wasn't it?

Senator Conroy—It is about 450.

Senator FISHER—It is almost half a million dollars, isn't it, Mr Quigley?

Mr Quigley—That is about right, yes.

Senator FISHER—So for how long has Mr Kaiser been working for NBN Co?

Mr Quigley—My recollection is that he started perhaps at the beginning of December.

Senator FISHER—We would hope to see some results—or taxpayers would—if for that length of time he has been on half a million dollars. How was his salary determined?

Mr Quigley—Our general salary process is to do market benchmarks and try to set it around the median of large Australian companies. We have a performance and remuneration

committee of the board; they oversight the remuneration policy and it is executed by the HR department.

Senator FISHER—On what basis do you believe that Mr Kaiser is being paid a fair market rate?

Mr Quigley—On the basis of the surveys that our HR department ran.

Senator FISHER—Are there any market based equivalents of NBN Co?

Mr Quigley—Yes, I believe so.

Senator Conroy—There is Mr Quilty. He is reported to be on half a million dollars. He is a former staffer for John Howard and Richard Alston and he got the job at Telstra—and is doing a good job.

Senator FISHER—Minister, were you consulted about Mr Kaiser's salary?

Senator Conroy—No.

Mr Quigley—I can answer that: absolutely not.

Senator Conroy—I had no other discussions, other than that initial one, with Mr Quigley.

Mr Quigley—In fact, nobody in the government was consulted over Mr Kaiser's salary.

Senator FISHER—That is, once the minister had said to you, 'Here's a guy who may have the experience necessary', with the minister being the only person who raised Mr Kaiser's name with you. That is right, isn't it?

Mr Quigley—That is correct, yes.

Senator FISHER—Perhaps, on notice, you could provide the committee with a list of the responsibilities that Mr Kaiser has as part of his job.

Mr Quigley—Yes, we sure can.

Senator FISHER—Does he manage and supervise any staff?

Mr Quigley—Yes, he does.

Senator FISHER—How many?

Mr Quigley—I think it is one at this stage, but we are still actively recruiting.

Senator FISHER—Thank you. I have some further questions in a couple of other areas, but I have a colleague who is champing at the bit.

Senator IAN MACDONALD—Mr Quigley, are you aware of Mr Kaiser's background?

Mr Quigley—I believe that he worked for the Queensland government.

Senator IAN MACDONALD—You would have known that he was mentioned in the royal commission into electoral fraud in Queensland, wouldn't you?

Mr Quigley—I heard that subsequently, yes.

Senator IAN MACDONALD—You would also know that he was described by Maurice Iemma, a former Labor Premier of New South Wales, as 'an outstanding political administrator and tactician'; and you probably also know that he was described by Peter

Beattie, a former Labor Premier of Queensland, as 'one of the most gifted campaigners that this party'—the Labor Party—'has ever produced'. You would have known that he was in that league?

Mr Quigley—Certainly, when I interviewed him, he seemed to me to be a very capable individual.

Senator IAN MACDONALD—But, before you interviewed him, were you aware that he had been described as—my words—'he political fix-it man' and 'the man who won elections for the Labor Party in Queensland'?

Mr Quigley—I had not heard either of those two quotes.

Senator IAN MACDONALD—Were you aware that he had this reputation?

Mr Quigley—No, I was not.

Senator IAN MACDONALD—Were you aware that he admitted that he signed an electoral form for a residence at which he had never lived?

Mr Quigley—No, I was not.

Senator IAN MACDONALD—Who did your investigations and inquiries into him, if that was not elicited?

Mr Quigley—Our HR function rang up a number of referees—I do not know who they were. I also spoke to Mr Kaiser and our head of HR spoke to Mr Kaiser.

Senator IAN MACDONALD—And no-one knew that he had been accused of—

Mr Quigley—No, I did not say that. I said that I did not know.

Senator IAN MACDONALD—and, in fact, admitted—

Senator Conroy—That is not what he said at all, Senator Macdonald.

Senator IAN MACDONALD—having signed an electoral enrolment form for an address that he had never lived at.

Mr Quigley—My questions to Mr Kaiser, when I spoke to him, were about the job.

Senator IAN MACDONALD—But, with a new organisation that is so much subject to scrutiny right across Australia—there is a lot of controversy about NBN Co—wouldn't you be wanting squeaky clean people and not someone who had been accused of wrongly filling in an electoral form and who had, in fact, admitted it himself?

Senator Conroy—And resigned from parliament and paid the price for a youthful indiscretion in 1985.

Senator IAN MACDONALD—Minister, I am not judging Mr Kaiser. I am asking Mr Quigley whether the CEO of a fully funded taxpayer organisation—a very heavily taxpayer funded organisation to the extent of \$43 billion—

Senator Conroy—A hundred per cent is 100 per cent.

Senator IAN MACDONALD—wouldn't want to have staff who were beyond reproach and not people who had confessed to wrongly and fraudulently filling in an electoral enrolment form.

Mr Quigley—When interviewing Mr Kaiser, I focused on the job NBN Co had in front of it. My assessment was that he could more than adequately do that job. He was, in fact—which was a little unusual—somebody who not only understood how governments ran, especially state governments—

Senator IAN MACDONALD—Well, he has run a few governments in his life.

Mr Quigley—but he also had a background in technology. That was, in fact, quite attractive; he would understand what it is we are trying to do.

Senator IAN MACDONALD—But, as for a bit of honesty in a very high-profile position and a very high-profile company, you did not think it was important to even find out about it.

Mr Quigley—I asked our HR people to go through the process they normally do, as they did for all of us.

Senator IAN MACDONALD—Who are your HR people?

Mr Quigley—The head of our HR is Mr Kevin Brown.

Senator IAN MACDONALD—How far did his inquiries go? He would have only had to pick up the phone and ask me or, I am sure, Senator Minchin or any of us. He could have rung up any journalist in Australia and they would have told—

Mr Quigley—As far as I am aware, he did not contact anybody in government or in politics.

Senator IAN MACDONALD—He did not contact anyone who could have told him that Mr Kaiser had figured very prominently in a royal commission into electoral fraud?

Senator Conroy—Are you suggesting that Mr Kaiser did not disclose—

Senator IAN MACDONALD—As Senator Conroy rightly says, he was so damaged by it that he actually resigned from the state parliament.

Senator Conroy—Are you suggesting that Mr Kaiser did not disclose this information to Mr Brown? Is that what you are suggesting?

Senator IAN MACDONALD—I am wondering whether he disclosed it to Mr Quigley, who interviewed him. Mr Quigley might be able to answer that.

Mr Quigley—To be honest, all I can remember is focusing on the job that we had to do at that time. It could be that the subject came up but, to be honest, I cannot recall any discussion that—

Senator IAN MACDONALD—That is a bad start for you, Mr Quigley. It is a fairly recent interview. Surely, Mr Quigley, you have been around long enough to know that this would be the first question asked of you at Estimates: wouldn't you have wanted to avoid this sort of slur being passed on NBN Co at its very inception by employing someone who has been mentioned prominently in a royal commission into electoral fraud?

Senator Conroy—This is a politically inspired slur for a youthful indiscretion that took place 25 years ago. If you are suggesting that it is not possible for anybody who had a youthful indiscretion, admitted it and resigned from parliament, to have a career of any sort

25 years later, that is your view, Senator Macdonald. Mr Kaiser accepted that he had made a mistake, he had done something wrong, and he resigned.

Senator IAN MACDONALD—Mr Quigley, I get back to my question to you. You are head of a politically contentious corporation. You would be wanting to make sure that you got off the ground with the minimum of any of this sort of slur on your company, yet you cannot recall whether you asked about this or whether Mr Kaiser volunteered that he had been in this little bit of trouble when, as a member of parliament, he was forced to resign over a royal commission finding.

Mr Quigley—I cannot remember whether I raised that with him.

Senator IAN MACDONALD—Did he raise it with you?

Mr Quigley—To be honest, I cannot remember. I was aware of it before we appointed Mr Kaiser.

Senator IAN MACDONALD—How long will the job that Mr Kaiser now has continue for?

Mr Quigley—I am sorry; the job he—

Senator IAN MACDONALD—The job that he now has.

Senator FISHER—Is he on a contract?

Mr Quigley—I would have to advise you on that. I honestly do not know. I am not sure that we set fixed durations on the contracts on which we are employing people inside NBN Co.

Senator IAN MACDONALD—Did Mr Kaiser tell you that it was his intention to re-enter the Queensland parliament?

Mr Quigley—No, he did not.

Senator IAN MACDONALD—Would it worry you if you thought you might have got someone who has come from a political role and will spend a little time with you and then go back into a role as a member of parliament?

Mr Quigley—If somebody's long-term career aspirations are in a different direction, that would not be a great surprise. I do not expect everybody inside the company to sign up for life.

Senator IAN MACDONALD—So you did not ask him. You are paying him almost half a million dollars a year—

Mr Quigley—To do a job.

Senator IAN MACDONALD—to do a job—

Mr Quigley—Yes.

Senator IAN MACDONALD—but you would expect to have him, I would expect, for a couple of years.

Mr Quigley—And I should add that he is doing a very good job.

Senator IAN MACDONALD—That was not the question. The question was: would you expect to have him for a couple of years?

Mr Quigley—I would, yes.

Senator IAN MACDONALD—You did not ask him whether he had any intention of going back into parliament, knowing that he is a very political animal?

Mr Quigley—I did not ask him whether he was planning to go back into parliament, no.

Senator Conroy—I have a little more information for you, Senator Macdonald. I am informed that all of the matters revolving around Shepparton were discussed with Kevin Brown and disclosed by Mike Kaiser. Just in case you wanted to continue with the slur that he had not disclosed it, I wanted to make it absolutely clear that he had.

Senator IAN MACDONALD—Minister, I made no slur. I asked the question whether he had disclosed it to Mr Quigley, who interviewed this guy. This was not done by underlings or the HR manager; Mr Quigley interviewed him—did you say twice?

Mr Quigley—No. I said—

Senator Conroy—I think he said that he was interviewed at least twice.

Mr Quigley—Mr Brown interviewed him and I understand that he was interviewed, apart from my interview, twice also. It could have been by Mr Brown twice; I do not know.

Senator IAN MACDONALD—Did Mr Brown's brief to you, before you interviewed Mr Kaiser, indicate that he had been mentioned in a royal commission?

Mr Quigley—I knew there was some background in Queensland with Mr Kaiser. I had an assurance from Mr Brown that that had all been discussed. Frankly, it was not an area that I thought was germane to what I needed Mr Kaiser to do in the company.

Senator IAN MACDONALD—Mr Quigley, you are a very intelligent man.

Mr Quigley—Thank you.

Senator IAN MACDONALD—We have worked that out from our various meetings with you. You are also a very worldly person. You must have realised that NBN Co is at the height of the political spectrum in broadcasting. Everybody is watching it and you know that at least representatives of almost 50 per cent of Australians are totally opposed to the thing, yet you go ahead and appoint someone who is totally involved with the Australian Labor Party; they have run its campaigns and its governments. They have been part of electoral fraud—as a 'youthful indiscretion', according to the minister. You must have known all this and yet you still appointed this guy to this politically charged position. Do you think that is relevant—

Senator Conroy—Senator Macdonald, in the middle of the Telstra privatisation—something that was opposed regularly by more than 50 per cent of the Australian parliament—Senator Minchin interfered and had his good friend and spy John Short, after he had been sacked, installed back in Telstra. So do not sit here and—

Senator MINCHIN—That is a complete and utter nonsense.

Senator Conroy—He had been terminated.

Senator MINCHIN—That is a slur on me and Mr Short. In any event, it is ridiculous to compare Mr Short to Mr Kaiser, who is a highly controversial figure—

Senator Conroy—He had been terminated.

Senator MINCHIN—and who had to resign his seat in parliament because he had committed fraud by virtue of a false enrolment. How dare you compare that situation and how dare you slur me and Mr Short by making such an accusation for which you have no evidence whatsoever. You should stick to the facts in the question. You are setting up a \$43 billion company here with a management that is completely insensitive to the politics.

Senator Conroy—After he had been terminated, you had him installed in a \$60 billion company that you were selling.

Senator MINCHIN—That is nonsense. That has nothing to do with this case. To compare Mr Short to Mr Kaiser is ridiculous, and you know it.

CHAIR—Order! Can we get back to a question and answer format please?

Senator IAN MACDONALD—Madam Chair, I take a point of order. Could I ask that you ask the minister to apologise—I know that Senator Minchin would not ask for this, but I will—for that slur on a colleague?

Senator MINCHIN—It is more Mr Short.

Senator Conroy—What slur?

Senator MINCHIN—I object to the slur—

Senator Conroy—You can object all you like, but that does not mean it is a slur—

Senator MINCHIN—You are suggesting that he is some sort of pawn of mine—

Senator Conroy—and it is certainly not unparliamentary.

Senator MINCHIN—and that is the greatest slur on Mr Short, who is not here to defend himself.

CHAIR—Order! I remind senators that we have only a short time before dinner and we have a lot of this portfolio to get through, so perhaps we could return to the matters at hand.

Senator IAN MACDONALD—Mr Quigley, the last thing that you would want to be said about this organisation, NBN Co, or yourself is that it is or you are a pawn of the Australian Labor Party; that is the last thing you would want said. In that event, why didn't you look more closely into the background of a person who—

Senator Conroy—He is not the president of the National Farmers Federation; that is true. Oh, he got appointed to be chairman of Telstra!

CHAIR—Senators, have we finished with this topic?

Senator IAN MACDONALD—No, certainly not. I am trying to ask a question and I keep getting interrupted by the minister rudely interjecting and not being called to order.

CHAIR—I am mindful of the time constraints, Senator Macdonald, and that other senators have questions.

Senator IAN MACDONALD—I will repeat my question. Mr Quigley, surely in establishing this new organisation you would hate it to be described as a pawn of the Australian Labor Party and you would hate the suggestion that you, yourself, were simply a plaything of the Australian Labor Party; I know that you would hate that. With that in mind, can you explain to me why, having heard of some of the background of Mr Kaiser, you were not more cautious and perhaps advertised this position rather than offering a Labor Party apparatchik—to the highest degree—a half a million dollars for a job that I know he is not going to stay at too long because he wants to go back into the Queensland parliament?

Senator Conroy—That is untrue. I think Mr Kaiser has indicated publicly that he is not interested in re-entering parliament; so your whole line of questions is based on a false statement and a false notion.

Senator IAN MACDONALD—I ask Mr Quigley to answer that question, or I can repeat it yet again. I do not want to keep emphasising this, but I am happy to repeat the question.

Mr Quigley—I was appointed to what is quite a difficult job. I have no doubt that a lot of people have different opinions about the company. I took what is a very straightforward approach. I had a set of objectives given to me by the government, which I articulated a little earlier. I was starting from scratch. When I joined the company, I was the only employee. There were already enormous demands for getting on with the job. People were already saying, ‘Why haven’t you rolled the network out?’ I was the only employee, but I was being asked, ‘Why haven’t you rolled the network out yet?’

Senator IAN MACDONALD—But Mr Kaiser is not rolling out the network; he is spinning on why you are not rolling it out.

Mr Quigley—I got on with the job of building the organisation as rapidly as I could with the people I thought could do the job; that was my focus.

Senator IAN MACDONALD—I will ask this final question, as we must move on. Mr Quigley, as an intelligent man—as I say, you have come to several committees that we have all been involved in—who is obviously well read and would know a bit about politics, surely you would feel some hesitation when the most important person in your life, the minister, suggests to you—well, he is the most important person in your political life.

Mr Quigley—With respect to the minister, he is not the most important person in my life.

Senator IAN MACDONALD—He is in your corporate life, let me tell you.

Senator Conroy—I will not take that personally, Mike.

Senator IAN MACDONALD—Mr Quigley, if you lose his favour, you lose your job; I will tell you that.

Mr Quigley—That does not figure highly in the job I have to do. My job is to build this network to the specifications that are set by the policies of the government, and that is what I go about doing.

Senator IAN MACDONALD—Can I just finish? The minister, who is a very, very political animal and known to be one of the factional bosses, suggests a person to you and you blithely do not advertise for a half a million dollar job but simply get your HR people to look

at him. They give you a brief, which does not include that he is mentioned in a royal commission into electoral fraud, and you just appoint him and think that is a good start—

Senator Conroy—No, that is not what Mr Quigley said. Do not put words in Mr Quigley's mouth. That is not what he said.

Senator IAN MACDONALD—Mr Quigley is big enough to be able to answer for himself—and more intelligent than you, Minister, if I might say so.

Senator Conroy—That is true.

Senator IAN MACDONALD—He is more intelligent than all of us. That is why I am mystified that he would get himself and his company into this sort of a start by employing someone who is obviously political and whose sole job will be to save this minister from embarrassment and, in fact, sacking, when he destroys the National Broadband Network.

Mr Quigley—I have to say, from what I have seen so far of Mr Kaiser's work, he appears to me to be 100 per cent dedicated to doing the job at hand inside the NBN Co and he is constantly working on our behalf to try to make sure that we can succeed in building this network. I have seen him do nothing but that.

Senator IAN MACDONALD—Does he give you a constant update on what, for example, opposition spokesmen on communications are saying?

Mr Quigley—No, he does not give me any sort of update on those sorts of issues. I am not asking him for a constant running commentary on politics.

Senator IAN MACDONALD—But doesn't he tell you that there have been questions in question time about the mess NBN Co is in? Doesn't he tell you that, though?

Mr Quigley—I do not believe that NBN Co is in a mess.

Senator IAN MACDONALD—It is being alleged in question time and elsewhere. My question is: whether it is or is not, is he briefing you on these comments?

Mr Quigley—If I paid attention to everything that was written about NBN Co, I would not do my job. I have a network to build and I am trying to do it.

Senator IAN MACDONALD—That is what I am saying: is he briefing you on them?

Mr Quigley—No. Frankly, I am asking him more questions related to things we need to get done. His emphasis or his focus now is more on state and local government.

Senator MINCHIN—Is not one of your objectives to actively seek to minimise the political controversy surrounding NBN Co, or do you deliberately take a view that you should seek to ignore all of that static? Is that what you are saying to us?

Mr Quigley—Obviously I cannot ignore all of the static, but there is a lot going on at the moment inside NBN Co. It is a company that is growing and we are involved in some quite complex negotiations. I simply do not have time to try to keep across all of the things that are said about the company. I also have a lot of demands to come and talk to people about what the company is doing, which I try to fulfil to the best of my abilities.

Senator MINCHIN—I guess the point we are making is that I would have thought one of your objectives would be to seek to minimise that controversy because that will assist you in

performing your task. We are curious that an appointment like this runs totally counter to what I thought would have been an objective, because it adds to the controversy. To take Senator Conroy's point, no-one wants to deny Mr Kaiser a flourishing and successful career, but this is a controversial body involving a huge amount of taxpayers' money and it does add to the controversy surrounding the company. I am just interested in whether you as the CEO are deliberately saying, 'I don't want to know about all that; I'm just going to get on with this,' or that you actually do have a healthy political radar that would alert you to these things.

Mr Quigley—I believe that I have a reasonably healthy radar for what is going on in general opinion. But I have to be frank: since the last time I was here, I have not heard a word on this subject. This was the last place in which anybody ever raised the subject with me. So my radar is not particularly attuned to a subject that I was only asked about here—and I thought I had answered the questions last time.

Senator FISHER—Prior to NBN Co's appointment of Mr Kaiser, did the minister raise at all this aspect of Mr Kaiser's background with you?

Mr Quigley—No, I do not believe so—

Senator Conroy—I think there was a very short conversation.

Senator FISHER—Mr Quigley, did he?

Mr Quigley—I do not believe so.

Senator Conroy—There was a conversation. As I have said, it was almost along the lines that I have said earlier about 'Mr Kaiser may have the skills and attributes necessary'. From vague recollection, that was almost what the conversation was. That was the only conversation that we had about it.

Senator FISHER—Mr Quigley, prior to NBN Co's appointment of Mr Kaiser, there was never any mention from the minister to you of his politically controversial background; is that right?

Mr Quigley—As I have said, the minister had suggested Mr Kaiser's name and then he just went into the process with all the other names of all the other people—

Senator FISHER—But there weren't any other names.

Mr Quigley—All the other names that I got referred to me constantly from board members, from universities, from—

Senator FISHER—None of whom you short-listed.

Senator Conroy—No. He is talking about different positions.

Mr Quigley—I am talking about different positions.

Senator FISHER—Thank you. Thank you, Chair. I think that completes this part of the questioning of NBN Co.

CHAIR—There are no more questions on this particular issue. Are there further questions for NBN Co?

Senator MINCHIN—Just quickly, as we are talking about staffing: I asked at the last Estimates what the monthly payroll was. I got an answer—today, I think—telling me that, for the 46 staff, at 31 October it was \$1½ million a month.

Mr Quigley—Yes.

Senator MINCHIN—You have just informed us that there are now 112 employees.

Mr Quigley—That is correct.

Senator MINCHIN—I will understand if you cannot answer the question immediately, but at least take on notice to provide me with an update on the monthly payroll cost of the 112 employees you now have.

Mr Quigley—I certainly can do that, yes. I am not sure that I have that number to hand right here.

Senator MINCHIN—That is fine. Thank you.

CHAIR—Are there any further questions for NBN Co?

Senator IAN MACDONALD—Minister, you have assured us that the implementation study will be out by the end of February and be made public by then. As a result of that, the Select Committee on the National Broadband Network has extended its life so that we can have a look at the implementation study. Can we be assured that, beginning in March, it will be available for the committee to look at?

Senator Conroy—I am intrigued by your statement that I have agreed to release it; I have not done that. I said that I would consider whether or not I would release it, and I am still considering it. I have not received it yet, but I will give that serious consideration.

Senator IAN MACDONALD—But in previous estimates, as we have said to you, ‘How is the 49 per cent of private investment going to come in? Is it going to be government bonds’—

Senator Conroy—All matters are being considered.

Senator IAN MACDONALD—Let me finish—‘or is it going to be government guaranteed interest bonds?’ and you have always replied and said, ‘It’s all in the implementation study.’ There are a thousand other questions that we have asked and your answer has always been, ‘Oh, it will be in the implementation study.’ Perhaps you did not say it, but I think you did. But, even if you did not, the implication was that we, the tax taxpayers, would be able to have those questions answered when the implementation study is released.

Senator Conroy—Just so that I cannot possibly be misrepresented or have words put in my mouth, I have never said that I would release it. I have said that I would consider whether to release it. I am not ruling it out; I am simply saying that I will consider it. But I have never said that I would release it.

Senator IAN MACDONALD—But, Minister, to all of those very valid questions that we have asked, such as, ‘How is it going to be financed?’—and there were a thousand questions—the answer has been: ‘Can’t answer you now and won’t talk about it at estimates, because it’s all in the implementation study.’

Senator Conroy—And did you receive the implementation study this month?

Senator IAN MACDONALD—When we have asked Mr Quigley both at estimates and at the NBN select committee, it has always been, ‘Oh, this will be in the implementation study.’ The implication was that it was there. If it is not going to be released publicly, then we have to ask you those things now.

Senator Conroy—You can ask me those things now, if you like, and you will get the same answer you got previously.

Senator IAN MACDONALD—What, that they are in the implementation study?

Senator Conroy—They are being considered as part of the implementation study, which I will receive this month. It may or may not be possible for the report to be released. But I will be in a better position to answer those sorts of questions after I have read the implementation study, which I have not yet received.

Senator IAN MACDONALD—Are you still expecting it by the end of February?

Senator Conroy—Yes.

Senator IAN MACDONALD—The select committee has specifically extended its term so that we can conduct inquiries into the implementation study and how Mr Quigley is going to use the information in the implementation study to answer a lot of the questions that we have asked but have not had answered. That process has to continue.

Senator MINCHIN—Can I ask what factors would possibly prevent its release, Minister?

Senator Conroy—I have not received it yet. I have not ruled it out and I am not ruling it out. I am simply saying that, after I have had a look at it, I will make a decision. But I have not ruled it out and I have not said that I will release it. I have said that I will consider it, once I have read it. I would like to read it before I decide—

Senator MINCHIN—Do you have a disposition to release it?

Senator Conroy—As I have said, I do not want to give an indication in any direction; I would like to read it.

Senator FISHER—Once to hand, when and how will the government respond to the implementation study?

Senator Conroy—As I have said, we are due to receive it by the end of February and then we will consider it. But I do not think a date has been set or indicated at any stage about when we would respond to it. I do not think there has been a fixed date. I am happy to be corrected, if that is the case.

Senator FISHER—No; I am asking you.

Senator Conroy—But I am not aware of a date and I do not think I have set a date. So at this stage I would like to read it and consider it.

Senator IAN MACDONALD—Minister, tell me how it is going to be financed. You are coming up to budget.

Senator Conroy—I can give you the same answer I have given previously.

Senator IAN MACDONALD—The company is now operating and it has to raise \$28 billion to \$43 billion. How is that going to be done?

Senator Conroy—I can give you the same answer that I have given previously, if you like, but it will not be any different from what I have said previously.

Senator IAN MACDONALD—What, that it is in the implementation study?

Senator Conroy—I was actually going to give you the answer I gave before I was saying that it was in the implementation study. I can give you what I have said previously. But, if you want an accurate answer, I will be more informed after I receive the implementation study. If you like, I can give you the ‘it could be 50 per cent debt, 50 per cent equity, with 50 per cent debt coming from possibly the private sector or possibly government back bonds’. I can give you that answer again, if you would like.

Senator IAN MACDONALD—If you give us that, we then want to ask: on the package that it will cost the consumers, which we are told in the industry will be about four times as much as customers are paying presently—

Senator Conroy—That is not what the industry said at all. That has come from a couple of commentators and some analysts: Henry Ergas and the like.

Senator IAN MACDONALD—Your answer to that was: well, when you see the implementation study, all will be revealed on how much we are going to charge, how we are going to make it pay, how we are going to give a return to those private investors who are going to invest about half the capital for this conglomerate.

Senator Conroy—Those are your words and your interpretation; they are not my words.

CHAIR—Senators, I am mindful of time constraints. It is up to you how you use your time but I am mindful that we have the department only until six o’clock tonight so can we move along at least with NBN Co. I understand Senators Ludlam, Wortley, Fielding and Fisher still have questions for NBN Co.

Senator FISHER—I have three.

CHAIR—Away you go, Senator Fisher.

Senator FISHER—Mr Quigley, you referred to your industry consultation sessions; one in Sydney, one in Melbourne. They were oversubscribed, I understand.

Mr Quigley—I believe so.

Senator FISHER—You said some 400 people; so you had plenty more than that who wanted to come. On what basis did you choose Sydney and Melbourne, and will you be having consultations in other places to reach other people about the same things?

Mr Quigley—Yes. Obviously the consultation paper itself was publicly released. We also put out all the slides that we used. We in fact videoed the event, including the questions and answers.

Senator FISHER—I am asking will you be having the same in other places. Why only Sydney and Melbourne?

Mr Quigley—Because we cannot go to every place in Australia. We chose Sydney and Melbourne as the places where most of the industry representatives are located and we are putting the video of that onto our website.

Senator FISHER—But you could not cope with the audience who wanted to come to you, so what are you going to do about that?

Senator Conroy—I think Mr Quigley just answered that question.

Mr Quigley—We are trying to engage the industry as widely as we can. I have had a number of consultation sessions as well and I have invited people to contribute to the Communications Alliance, so we are really working hard to try and involve the industry as much as we possibly can.

Senator FISHER—You have been CEO for some six months. You registered your website domain about three months ago.

Mr Quigley—That is correct.

Senator FISHER—You indicated that it was an interim website and that the website would be fully operational by January. January has come and gone and you are still indicating an interim website. When will you be getting part of the core business of NBN Co into order?

Mr Quigley—We have got progressively more information going onto that website. We have finalised the domain name now; it is nbnco.net.au—that will not be changing.

Senator FISHER—When will you change the title of the website ‘NBN Co Interim Website’? That is what it was as of 5 February.

Mr Quigley—Honestly, I will have to look that up; I do not know.

Senator Conroy—Take it on notice.

Senator FISHER—That is not a great market signal. You might tell Mr Kaiser that. I mean, if you going to spruik NBN and everything that goes with it you had better walk the walk as well as talking the talk.

Mr Quigley—Thank you for that input; I will certainly inform our head of IT.

Senator FISHER—One further question from me; the supplier tenders that NBN put out to market gave two weeks for would-be tenderers to indicate their interest. It was reported in CommsDay that NBN Co had pushed back its search for NBN suppliers due to a large number of quality responses being received. Did you not expect people to be interested?

Mr Quigley—It was not for tender. It was a request for capability statement, so it was not a full tender. What we were looking for were those people in industry who had the capability to deliver what we needed. We did get a large number of responses to that and we want to treat each and every one seriously. Obviously, there were some people who did not have the capability; we have informed that, we have formed a short list and we are moving on.

Senator FISHER—Why have you fudged the time frame? Did you not expect the number of people to say they think they are capable and express their interest? Why have you needed to blow out your own time frame?

Mr Quigley—It was not so much a blow-out of the time frame, we just wanted to make sure that we evaluated all of the inputs carefully. We also had consultation sessions; we went through Q&A sessions with some of those people whom we thought could do the job for us.

Senator FISHER—Why did you indicate an expected time frame with which you then did not comply?

Mr Quigley—All I can say is that it obviously took a little longer than we expected it to, but we do not expect the overall process to be any longer than we had originally planned. So this happens in overall projects; sometimes things take a little longer; you put some contingencies in place and you catch up that time.

Senator FISHER—Do you think these send good signals to Australian taxpayers about their confidence in NBN Co's ability to manage its business and the \$43 billion NBN spend?

Senator Conroy—That is just an absurd statement.

Mr Quigley—I would be very surprised if Australians who knew anything about this industry would not look at the company and say, 'It has made reasonably good progress in the time from a standing start.'

Senator Conroy—Stunning progress.

Senator FISHER—But you cannot keep to your own time frames, whether it is as nuts and bolts as a website or a request for capability statements.

Mr Quigley—We have some large issues we are dealing with just at the moment and having the word 'interim' on our website I have to say is not something I particularly focused on, but I do thank you for the input; I will get that fixed.

Senator FISHER—Thank you.

CHAIR—Senator Ludlam, then Senator Wortley, then Senator Fielding.

Senator LUDLAM—I gather we are getting very short of time because we are now meant to be dealing with the department in total in under an hour, so I have just got one question which is to the minister on the implementation study. I am also being caught by surprise, in perhaps the same way that Senator Macdonald has, that you are reserving the right to keep that document from the public.

Senator Conroy—I have never indicated that it would be released.

Senator LUDLAM—I have obviously been under the misapprehension that it would, as I think probably most of the people sitting here have been. What is its intended circulation?

Senator Conroy—It will come to me, I will read it and then consider what to do with it then.

Senator LUDLAM—So it has been written entirely for you and then you are entirely at liberty to decide whether anybody else ever gets to read it?

Senator Conroy—Did you want to address that, Mr Harris?

Mr Harris—Yes, perhaps if I can. I think I said at the last estimates that we had a steering committee that oversees the implementation study, so the central coordinating department is part of that steering committee. That means the report is for the minister, but it means all the

departments are well informed and will brief their ministers accordingly. The probability is that there will be a cabinet process behind the implementation study, so the government can consider its recommendations and determine a view and then that will be provided to NBN Co. As a result of that NBN Co will finalise a business planning process and a rollout.

Senator LUDLAM—The implementation study will be provided to NBN Co once it has been through cabinet and signed off?

Mr Harris—The results of the government's consideration of it.

Senator LUDLAM—Not necessarily the study itself?

Mr Harris—The implementation study is for the government. Even though NBN Co is working very closely with the implementation study team, it is for the government to consider: 'How do you want to see your concept implemented?' So there will be some choices to be made and that information will be provided to NBN Co, NBN Co will turn that into a business plan, the business plan will result in a rollout and a rollout will result in the development of the system.

Senator LUDLAM—I think it is absolutely remarkable that all the questions that have been referred to this committee, to the Senate select committee and to other committees and inquiries into the NBN are told, 'The implementation study, wait for that', and then to find out that actually the public may never get a copy.

Senator Conroy—If I could just say in my own defence I think Senator Minchin asked me specifically this question, or perhaps Senator Birmingham asked me specifically this question last time, and you may not have been here.

Senator LUDLAM—Maybe not.

Senator Conroy—It is possible, and Senator Macdonald may not have been here. I quite specifically said I would consider whether or not I released it. I at no stage said that I would and, as I said, the reason I am saying this is that I was fairly clear that it was either to Senator Minchin or Senator Birmingham over the last couple of estimates where I have made this point. I am sorry if you perhaps were not in the room, which is entirely appropriate as you have got a variety of committees you have to attend, but I am reasonably confident that I have been consistent on this point.

Senator LUDLAM—Presumably you are giving yourself the option to release the study in part, if not in full.

Senator Conroy—I have said that is something I can consider after I have read it.

Senator LUDLAM—I will leave it there so we can move on.

CHAIR—Thank you, Senator Ludlam. Senator Wortley.

Senator WORTLEY—Mr Quigley, what lessons do you have in the international experience of broadband deployment and how are these being applied in the planning for the rollout of the NBN?

Mr Quigley—I was a chief operating officer of a vendor that was producing equipment that is used widely around the world for both fibre to the node and fibre to the home—fibre to the premises—deployments. I was involved heavily in some of the early deployments in the

US. Apart from my personal experience we in fact have just recently sent a very small group of people across to the US to talk with two large carriers there—the two biggest carriers in the US—to make sure we have learnt whatever we can about the rollouts that they have been doing in the US. One of those companies has rolled out more than five million lines of fibre to the premises, so we were using those to test against our architecture, our construction methodologies and our plans for operations, so we are looking all around the world and trying to identify those places that we can learn the most from and making sure we pick up those learnings.

Senator WORTLEY—I actually do have more questions but, given the time, I would be prepared to put them on notice.

CHAIR—We would appreciate that. Senator Fielding.

Senator FIELDING—Just on the implementation study, being reasonable here what is it that would delay that being finished by the end of February? What are the big things?

Senator Conroy—I did not say it is going to be.

Senator FIELDING—Didn't you?

Senator Conroy—I am still expecting it at the end of February.

Senator FIELDING—So, there is nothing that you can see that will stop it? You are not going to claim that the global financial crisis stopped you from doing it? I am being real here because we actually are keen to see how the government is progressing this issue. I do not want to get to the end of February and then someone says, 'We haven't finished it because of—'

Senator Conroy—At this stage—and I am happy for the secretary to jump in; he has worked on it more extensively than I have—my understanding is that we are on track.

Senator FIELDING—I understand that it is likely there is some legislation that you want to put through to parliament during the next sitting period; that is not going to impact it?

Senator Conroy—The legislation is separate from the implementation study. I think Senator Minchin managed to create the myth that the implementation study was relevant to the legislation. The legislation is about the structure of the sector and the regulatory framework around consumer protections and those sorts of things. The implementation study is about implementing the government's NBN agenda, which is separate from the legislation that is coming through.

Senator FIELDING—I just did want to make sure there was not a counterclaim going back—

Senator Conroy—No, it was just a desperate piece of political positioning to hide the fact that they were going to oppose the legislation in their support of Telstra.

Senator FIELDING—The next one is the head office of NBN Co. Where is that at again?

Mr Quigley—We have not got head offices.

Senator FIELDING—So what is the process? Most of the staff are in New South Wales; the senior staff and you are based in New South Wales. You are probably aware of reports that

say that the CEO really determines where the head office is. There are reports that have been out for about five or six years—not government reports, these are general reports—that say the CEO determines where head office is, contrary to what the board thinks.

Mr Quigley—We have always known we would have two locations—one Melbourne, one Sydney—with sizable numbers of people. We obviously have places in other parts of the country as well, but what has happened is we have, as it has worked out in fact, our head of construction and our CTO are both located in Melbourne, so we are finding now that we are on a rapid growth curve in Melbourne and while there were more people in Sydney at the beginning, what we are now finding is those two lines are converging pretty rapidly. I do expect we will end up with many more people in Melbourne than we have in Sydney, simply because that is where the technical base is growing and that is where also our construction base is growing; our head of construction is based in Melbourne. So I have always said that the whole issue of headquarters is one that I have never paid much attention to because it is not an issue for the company.

Senator FIELDING—Do you expect you will be commuting Monday to Friday down to Melbourne for the head office or is it going to be in Sydney?

Mr Quigley—I will be wherever I need to be to get the job done and I expect to spend an increasing amount of time in Melbourne.

Senator MINCHIN—Is your company the beneficiary of any particular incentives from any particular state government?

Mr Quigley—We have been made proposals from state governments and the company has decided, since in our view and my view, it did not make much sense for us to be juggling those different incentives to state government when we are in fact a publicly funded company anyway. So, we asked the state governments not to make those offers because we really could not take them into account.

Senator MINCHIN—I think that is a healthy attitude and I commend you on it.

Senator Conroy—You are only saying that because you got the submarine base. You stole it from Melbourne. Feel free to kick him under the desk any time you want, Senator Fielding, on behalf of Victorians.

CHAIR—Order!

Senator Conroy—You stole that over to Adelaide.

Senator MINCHIN—It was a decision based entirely on merit.

CHAIR—Hear, hear!

Senator Conroy—They were just about to close us down, Senator Fielding.

CHAIR—If there are no further questions for the NBN or if senators could put further questions on notice that would be good. Thank you for appearing before us today.

[5.17 pm]

CHAIR—I understand there may be some general questions of the department but not many. We will then go to program 1.1. I note that the Auditor-General and his officers are here

as well, at the request of the committee. I understand that senators wish to question both the department and the Auditor-General as part of 1.1.

Senator IAN MACDONALD—Minister, you wrote to all parliamentarians talking about 100 existing regional analogue self-help transmissions and regional viewers who are unable to receive digital television. Thank you for your letter.

Senator Conroy—That is all right. Is this relevant to this section?

Senator IAN MACDONALD—It is a general question. I hear you have the list of 100 sites from a chat I had with one of your staff at a function.

Senator Conroy—That is news to me. I am not sure that is accurate. I do not know which staff member it was you asked, but I am happy to find out.

Senator IAN MACDONALD—I just said, ‘You know we’ll be asking for that.’ He said, ‘We’re ready for that.’ It was a friendly conversation.

Senator Conroy—Certainly we guessed you would be planning on asking for it, but you have probably jumped too far by suggesting that we had already received it.

Senator IAN MACDONALD—You acknowledge we were going to ask but you do not have the answers or—

Senator Conroy—Sometimes it may not be possible to give the answers because they have not been supplied to us yet. That is also a possibility that could come in at this point.

Senator IAN MACDONALD—I was only asking it now because it was as a result of your very helpful three-page letter to, I assume, all parliamentarians, in which you mentioned the 100 existing self-help regionals. I would like to know on notice, if you do not have them later on, exactly where and who the regional viewers are who are unable to receive digital television from those facilities that you mentioned in your letter.

[5.20 pm]

CHAIR—We now move to outcome 1.1, Broadband and Communications Infrastructure.

Senator LUDLAM—My question to the ANAO is obviously in the context of report No. 20 into the original RFP for the fibre-to-the-node process. Thank you very much for coming in. Unfortunately time is much shorter than we anticipated. I have a couple of questions on the report that was released last week. One of the things that I am interested in is that your report notes that the ACCC gave unsolicited advice to the minister regarding the fact that a fibre-to-the-node network would not be a stepping stone to fibre to the home and that it would be installing obsolete network infrastructure. To me, that seems like an unusual piece of advice to be coming from an outfit like the ACCC. Did you raise it for that reason? Is there anything unusual there?

Ms Cass—The ACCC was employed to provide advice to the committee and it was also used to assess the proposals as they arrived. It provided a number of papers for the panel that gave them a better understanding of the technology, among other things. It was in that context that this paper was provided.

Senator LUDLAM—Should the department not have been providing that kind of advice? I do not understand why the ACCC is providing technical advice on different kinds of

network architecture. I thought their mandate was around competition. Is that the reason that it was raised in your report, because it seems like an unusual place for that piece of advice to come from.

Ms Cass—Our understanding is that it was provided in the context of being an adviser to the panel. The department could be in a position to provide that information but from our perspective it was the ACCC that provided the information to the panel.

Mr Harris—The ACCC has good, deep technical knowledge of the nature of the industry from all of its pricing consultations with industry and its competition policy aspect. If it had a view it would have made it available to the policy development process in the same way as other entities within the government would have made their views available, were they involved, such as, as you mentioned, the department. It depends therefore on who has capability. But it is not compartmentalised in a way which says the ACCC would not have any technical knowledge.

Senator LUDLAM—I understand that.

Senator Conroy—The expert panel was run at arm's length from the government. The secretary of the department chaired it but it was an independent organisation assessing these things.

Senator LUDLAM—Was that view formed during the process or was it reasonably common knowledge at the outset that the fibre-to-the-node network would require installation and network architecture that would need to be torn up and thrown away down the track when we proceeded to fibre-to-the-premises? At what stage during the process was that advice tendered?

Ms Cass—The unsolicited advice was provided in May, and then the expert panel also used it in January when it came to assessing the proposals.

Senator LUDLAM—May of which year?

Ms Cass—May 2008.

Senator LUDLAM—Can you clarify for me whether the process and your evaluation of it were examined as though this was a procurement process or advice to government?

Ms Cass—It was a procurement process undertaken under the Commonwealth procurement guidelines.

Senator LUDLAM—Is there some distinction there that is worth drawing between a process that is designed to provide advice to a minister—which I would contend that this was; it was a request for proposals—as opposed to a formal tender or procurement process, or is that a false distinction?

Ms Cass—Could you please explain that question?

Senator LUDLAM—I understand that there is in fact a difference between a formal procurement process whereby the Commonwealth government sets out to achieve an outcome which is reached at arm's length from a minister. With normal procurement processes you would not be waiting for a tick-off from the minister; the department would go ahead and do that at arm's length from the minister. However, this one seemed to be around providing

advice to the minister, who could then decide to do whatever he liked with that information. Is there a distinction there that is useful in terms of the way that you would evaluate these kinds of proposals?

Ms Cass—In terms of the way that it was set up to be done, the panel was independent. The department did provide advice to the minister as the process was being developed. But certainly, when it came to assessing the proposals, that was done by the panel totally distant from the minister. It was the panel that made the decisions, the recommendations and the assessments.

Senator Conroy—I remember being advised of this at the time, but I am advised that after taking some legal advice we could not rule out that it was not a procurement. So it was felt that the best thing to do to comply with all the rules was to run it as a procurement, which I think is what the ANAO pointed to, and they said that it was run within all the guidelines. Just because of legal advice that we received—

Senator LUDLAM—Did you have to take legal advice as to whether this actually was a procurement process, because you could run an argument that in fact—

Senator Conroy—I think we were simply being cautious. I know there has been a lot of stuff written in the last few days, but to be fair to the department they gave cautious and sensible advice about the way we should proceed, which is why ultimately the ANAO gave it a tick by saying it ran it well and within the guidelines. But I have seen some unfounded criticism of the department and officers of the department, and it is just not the case. There was cautious and sensible advice taken and given on how we should conduct the process. Even though it might have been called an RFP rather than a straight procurement, there was a range of measures put in place to ensure that we followed all the possible permutations and guidelines so that we could not contravene and be criticised, which we were not afterwards, notwithstanding some of the commentaries.

Senator LUDLAM—I think it is partly because it was run as an almost entirely watertight process that there was almost no information whatsoever released during the course of the RFP. In fact this report is one of the first documents on the public record as to what occurred. I suppose the distinction that I am drawing is that it did not lead to a procurement. It did not necessarily need to, because ultimately all that was provided to you was advice that you were free to disregard at will—

Senator Conroy—That is correct. In many cases you often hear of advice being sought and committees and expert panels being formed. They are asked to consider a question and they come back and give the government a very unpalatable report and the report gets put in a drawer for 10 years. We got some advice that suggested that a fibre-to-the-node network, which was our policy, was perhaps not the best option and instead of putting it in the drawer and going ahead we decided to take the advice that had been put to us by the panel. We then started looking at a range of different ways to proceed.

Senator LUDLAM—I apologise that we have drawn the officers all the way up here for such a short period of time. I have a lot more questions but I think I will have to let them go.

Senator MINCHIN—Senator Conroy, I wonder if you would like to take advantage of this opportunity to comment on the article by Jennifer Hewitt which I thought put a very

unfortunate slur on the former secretary of the department. I would invite you to respond to it because—

Senator Conroy—I did not speak at any stage with Jenny Hewitt in the lead-up to the article. I did have correspondence with one of the other journalists. They had put some written questions to us. I would happily release that. It was given to a journalist. But there was implied criticism in the questioning. I made it absolutely clear that the process had been given a tick of approval by the ANAO. It was run well by the department and the former secretary. In fact it was run so well that, in a very difficult set of circumstances—a global financial crisis—there was no criticism at all. The criticism in some of the weekend papers of the department and some of the officers of the department was unfounded. I have to say that you have helped whip up some of that. I do not mean with any particular individual, but you have tried to muddy up the process.

Senator MINCHIN—My concerns are with you and the politics of this, not the department. I have never attacked the department.

Senator Conroy—I appreciate the opportunity, because I think some of the commentary on the weekend was unfair and very unfounded. This was a very professional process that met with the approval of the ANAO, and I was a little disappointed to see some of the criticism, especially from you, but I learn to live with that.

Senator MINCHIN—My criticisms are of the way the government managed this process, but not the department.

Senator Conroy—That is true.

Senator MINCHIN—I appreciate your taking this opportunity to defend the department, because I think that was unfair.

Senator Conroy—Not just unfair, but inaccurate.

Senator MINCHIN—Yes.

Senator LUDLAM—Is the \$5 million bond required to be put on the table by participants to the RFP unusually high for a process of this kind?

Ms Cass—I cannot hear you.

Senator LUDLAM—Is the \$5 million bond that the proponents were required to put down as an entry into the process unusually high for a process of this scale? What is the quantum of money that would normally be required?

Mr McPhee—We did deal with this issue earlier. The Hon. Bruce Billson wrote to me earlier about the broadband network program. We dealt with this matter and the department received advice in this context. I am just trying to find it for you. The DBCDE had indicated that it received specialist advice that a bond helps to eliminate vexatious and frivolous bidders and provides a mechanism to identify bidders before the RFP closing date.

Senator LUDLAM—I would have thought \$500,000 would have been enough to sweep out vexatious applicants. Why is it a figure of \$5 million?

Mr McPhee—We did not look at the quantum. Obviously that is a judgment for the department.

Senator LUDLAM—Does the minister or anybody else want to take that question? It seems like an awful lot of money by way of bond.

Senator Conroy—We were conscious of previous processes involving satellites. Is that what they were? Bob Collins was the minister at the time.

Mr Lyons—I do not recall that. I just think it was thought to be a reasonable figure. As the Auditor-General said, it is a question of judgment where you set the quantum.

Senator Conroy—Some potential bidders sought a much, much higher figure, from recollection.

Mr Lyons—That is right. We thought ours was a reasonable balance.

Senator Conroy—We thought ours was a reasonable balance from some of the numbers that were tossed around by some potential bidders.

Senator LUDLAM—Thank you. I will leave it there.

CHAIR—I thank the Auditor-General, Mr McPhee, and your officers for appearing before the committee today. We appreciate your assistance. Are there any further questions in program 1.1?

Senator FISHER—I have questions on internet filtering. Why hasn't there been an independent audit of the trial results for the internet filter?

Senator Conroy—That was an independent company, completely independent of government. Without wanting to sound silly, you would be hiring someone to do exactly what had just happened. People were perfectly happy to take the Enex results previously, of which one was that, depending on which filtering technology you use, you could slow down the internet by 87 per cent—a claim that has been widely touted all around the world as a basis of a campaign against the government's proposal. People were happy to take the Enex statement then and not discredit it on the basis of it needing independent verification. Enex is an exceptionally good company that has done trials for both your previous government and this government, and no-one has yet questioned its technical expertise. It is an independent company and the government had no influence in the trial at all.

Senator FISHER—That may be so.

Senator Conroy—Mr Rizvi, is that accurate?

Mr Rizvi—That is right. I can add a couple of points to that. All of the results that Enex produced from its testing in respect of each individual ISP were then given back to that ISP to check their veracity. The second point that we would make is that Telstra separately undertook its own testing.

Senator Conroy—Completely independent of us.

Mr Rizvi—It came to very much the same conclusions. Against that background we are of the view that the Enex results were reliable.

Senator FISHER—Will the internet filter not be relatively easy to circumvent by anyone who knows anything?

Senator Conroy—That is identified in the report. They do not phrase it in the way you have glibly phrased it, but the Enex report is a warts-and-all report and has guided government policy based on its information. Do you still receive spam?

Senator FISHER—Do you accept that parents will be lulled into a false sense of security about what this internet filter will do?

Senator Conroy—Not at all. That is just one of the furchies that your and others have tried to perpetrate on this. The government has a comprehensive cyber safety policy that includes many different elements, of which the ISP filter is one. We specifically say—and in fact recently media commentators have started to complain that we keep saying it—that this is not a silver bullet. We have never once ever suggested that the filter will solve the problem. We said it requires more funding for police, which we have done; more funding for research, which we have done; more funding for educational processes of parents, teachers and children, which we have done; as well as resources for legal cases, which we have done; as well as an ISP filter. There are those who want to advocate that we should just go back to the previous government's policy of giving away free filters. That failed miserably, with almost no Australians—despite a massive advertising campaign—taking them up.

Senator FISHER—Will the internet filter rectify inappropriate behaviour on social networking sites?

Senator Conroy—It is not designed to. Again, one of the furchies that the opponents tried to put around is that it is designed to deal with peer-to-peer and other sites. It is not.

Senator FISHER—What will deal with social networking sites, Mr Rizvi?

Senator Conroy—Stop asking a policy question.

Senator FISHER—Actually it is a practical question.

Senator Conroy—No, it is a policy question. The government believes that a comprehensive policy of education for parents, teachers and children can begin to deal with this ever-growing problem. As more and more Australians move online and start taking up social networking, we need the sorts of policies that this government is advancing.

Senator FISHER—If education is the answer in respect of social networking sites, why is it not the answer in respect of the sites that you are proposing to target through your internet filter?

Senator Conroy—The filter cannot deal with those for technological reasons.

Senator FISHER—You are going to say that near enough is good enough because we cannot get the rest; we will educate about the rest, yet education is not good enough for the target of the filter itself?

Senator Conroy—We are doing all of the above. We are actually taking all of the elements that you have just identified. What we are acknowledging is that, as a result of the study—and we said all along it will be evidence based—there are some things that are not technologically possible. As an example, that includes high usage sites such as YouTube. If you were to try to apply a filter to a YouTube site you would have a serious impact on the internet, which is why we are not.

Senator FISHER—Will your filter slow down the internet?

Senator Conroy—I think both Telstra and Enex have identified that it is one-seventieth of the blink of an eye.

Senator FISHER—Is that a no? I missed your answer—yes or no?

Senator Conroy—To use the Enex phrase or the Telstra phrase, it is negligible impact, one-seventieth of the blink of an eye.

Senator FISHER—Once you implement the NBN will that remain a negligible impact, the blink of an eye—assuming you do, of course?

Senator Conroy—We are assured that it is scalable.

Senator FISHER—You are assured that it is scalable?

Senator Conroy—Scalable, which means that the answer is, yes.

Senator FISHER—That sounded a bit like ‘programmatically specific’.

Senator Conroy—It is not a favourite of mine. I cannot pronounce that many syllables in one go.

Senator FISHER—Touche! What about emerging technology? Is there evidence that emerging technology could affect the, albeit in my view, already hampered effectiveness of the filter?

Senator Conroy—There is no technological hampering taking place. It is just not true to try to make that argument.

Senator FISHER—You have already said there are some no-go areas technologically.

Senator Conroy—To be fair, most of the other opponents have had to drop off the speed argument because, despite their best attempts to continue to muddy that up, it is just not technologically hampering the internet at all.

Senator FISHER—I have one further question. Are there any examples from overseas where people running banned websites simply change URL sites? Once banned they shut down and start up again.

Senator Conroy—All the time, and that is why constant vigilance is necessary. That is exactly what the organised crime figures that are behind some of the more vile sites do constantly.

Senator FISHER—Do you have evidence that the new cop on the beat will ever catch its tail?

Senator Conroy—Do you know what a spam filter is? Does your filter get all of your spam? Should we repeal it because your filter does not work on spam?

Senator FISHER—Do you have evidence that the internet filter will keep pace at all with what has happened overseas in terms of moving to new URL sites?

Senator Conroy—I would much rather keep trying than just say, no, we will let them get away with it, without caring.

Senator FISHER—That is fine, so long as you manage to prevent some getting away with it, rather than giving parents a false sense of security.

Senator Conroy—Those underage drinking laws must work incredibly effectively in your mind, because I have known of kids who have got around them. On that argument you would repeal them too. You would repeal the drink-driving laws because some people still drink-drive. You would repeal the speeding laws because some people still speed. Those are not arguments that drive public policy.

Senator FISHER—Thank you.

CHAIR—Are there any more questions on Program 1.1?

Senator LUDLAM—Yes. Can I get an idea of who else has questions, in the 16 minutes that we have got?

Senator MINCHIN—Do you have some more on the filtering?

Senator LUDLAM—Yes.

Senator MINCHIN—You can go ahead with those and we will just see where we end up.

Senator LUDLAM—I have about a day's worth. I will start with the obvious stuff. It relates to the evidence based policy, a phrase the minister is reasonably fond of. I asked ACMA before, who pointed me to the AFP. I have asked the AFP and they are not sure. They are going to check their records. What is the evidence of the prevalence of children being accidentally exposed to refused classification material online?

Senator Conroy—What is the evidence that was based around the decision to ban it in movies and TV?

Senator LUDLAM—I am not after a question to answer a question. I am wondering, specifically in terms of the online environment, which you of all people know is actually quite different from the way we are going to need to regulate films, radio, books and so on, what is the evidence of children inadvertently being exposed to refused classification material. Is there a paper, a study or particular academic you are drawing on—anything at all?

Senator Conroy—Are you asking me or the department?

Senator LUDLAM—Whoever.

Senator Conroy—The government's policy is based on a desire to minimise where possible technologically the access of this material.

Senator LUDLAM—Is it a desire based policy or an evidence based policy?

Senator Conroy—It is an evidence based policy on the technological feasibility of the policy, but, in terms of the policy, the policy is to do what the government can, both technologically in terms of education, research and policing, to ensure that there is minimal access to material that is currently banned in libraries, movies, TV and Australian ISPs.

Senator LUDLAM—I did not ask you about public libraries.

Senator Conroy—No, I am sure you do not want to.

Senator LUDLAM—In terms of the internet, what is the magnitude of this policy problem that we are seeking to solve with evidence based policy? How many exposures per week per child?

Senator Conroy—You are now trying to be quite cute in drawing a distinction between the evidence based approach we have taken to the technological aspects of the policy and now trying to suggest that, because you do not know anybody who has encountered it, you should not do it.

Senator LUDLAM—I am asking you if you do.

Senator Conroy—The government has a view that we should do what we can within technological constraints.

Senator LUDLAM—Do you have any evidence at all? I am not saying the problem does not exist. I am asking whether you can quantify it for us at all. If the answer is, no, I will accept that and move on.

Mr Rizvi—It is very difficult to measure what you are asking for in this regard. There are perhaps two pieces of evidence that we might point to that would be relevant. The first is the steadily rising volume of complaints regarding this material to the ACMA. Over a period of 12 to 18 months the volume of complaints to the ACMA relating to this type of material has more than doubled.

The second piece of evidence that I would point to—and this has been confirmed to us by the experience of British Telecom as well—is that one ISP undertook a trial in this area of their own, completely independently of us, and not Telstra but a smaller ISP, which we understand has around one per cent of internet customers in Australia. They undertook a trial of their own and reported that over a five-day period they experienced something in the order of 20,000 hits on a defined list of child abuse URLs that they were seeking to filter during that trial.

Senator LUDLAM—Twenty thousand unique visitors hitting that site within a defined period of time?

Mr Rizvi—Hits are not necessarily unique visitors; they could be repeat visitors.

Senator LUDLAM—That is one very narrow study. Is there any research that you are either drawing upon or you are undertaking yourselves to inform that dimension of the policy? The 20,000 hits is not inadvertent access, which was specifically the question that I was asking.

Mr Rizvi—We cannot know how many of those were inadvertent or how many were deliberate.

Senator LUDLAM—We are a bit in the dark as to the magnitude of the problem of inadvertent access?

Mr Rizvi—It highlights the fact that the internet is such a dynamic environment that it makes these sorts of measurements very difficult. The second point I would make is that people, when they encounter such sites, will not necessarily know the classification rating of the site, because the site does not have a rating there. If you were to survey something like

this, it would be very difficult to get a sensible answer because most people would not know the rating of the sites that they found. They might be able to say, from their own perspective, whether they found it disturbing or not, but they would not know the classification of that site.

Senator LUDLAM—You said the number of referrals for material of this kind has doubled, but the size of the black list has not doubled. We heard from ACMA this morning that it is roughly the same size.

Mr Rizvi—You need to be careful in measuring it on the basis of the size of the list, given the speed with which these sites turn over. The degree of washing means that you are constantly turning over sites, so the size of the list is not necessarily an indicator of the volume of material.

Senator LUDLAM—Minister, you raised the example before of a YouTube site and how you are not proposing to be able to hit an individual YouTube clip, because it would crash the filter. I believe that is what the evidence is telling us.

Senator Conroy—It would slow it down significantly, yes.

Senator LUDLAM—It would become very slow.

Senator Conroy—It would not make it a practical solution.

Senator LUDLAM—What is the proposed response? Are you in negotiations with Google, who owns that service, or other third party content providers?

Senator Conroy—We are in discussions with companies such as Google over this issue. They are experts at deep packet filtering, to give you one example. They are currently probably the world's leading deep packet filterer, which is probably unknown to most people who are using their sites. They also have experience at blocking material in a number of other countries at the behest of governments—

Senator LUDLAM—Notably China.

Senator Conroy—China is a very famous one. Google were very happy to block China's material right up until they found out they had hacked their source code and suddenly discovered that censorship was a bad idea—after they had hacked their source code. But they block in a number of other countries. I understand Thailand is one. There are a number of other countries where Google complies with laws. We are in discussions and they are ongoing.

Senator LUDLAM—How many other parties, commercial or otherwise, are you negotiating with—third-party providers—in order effectively to outsource that surveillance role that the filter will not be able to handle?

Senator Conroy—Google currently censors and filters the internet extensively itself. There is no child porn currently on YouTube. You may ask them why. Apparently they filter it.

Senator LUDLAM—I have a pretty good idea why.

Senator Conroy—And a whole range of material. I understand recently there was a case where people objected to, I think, a race hate site being on YouTube. It was ultimately agreed, after some court pressure—it was disappointing that it had to go to court to achieve the taking down of a race hate site—

Senator LUDLAM—But it was knocked off.

Senator Conroy—It was good that Google decided to eventually come to the party and remove material. We are engaged in a number of discussions. I am happy to take it on notice to see how many others there are. They are the obvious ones because of the YouTube scenario, but I am happy to take that on notice.

Senator LUDLAM—Could you just tell us on notice which parties you are in negotiations with and for what reasons—because I am presuming there are various different sorts of content that the filter will not touch. Can you clear up for us in the few minutes that we have left a scurrilous rumour which was circulating, I think, before the announcement that you made last year that you briefed the Australian Christian Lobby before you made the announcement. Were there any other parties that you briefed specifically or was that just a routine meeting in your role as a minister?

Senator Conroy—That was a routine meeting. There was no special briefing for anybody. We would have given the same answer to anybody who asked whether or not we were on track to deliver our policy; the answer would have been yes.

Senator LUDLAM—Were there any other interest groups with specific interest in the net filter that you did meet with prior to the announcement of the policy?

Senator Conroy—I think I had occasional meetings. I would have to go back and check exactly when. But I have had meetings with individual ISPs. I have had meetings with the IIA. I know the department has had discussions with all of those. There has been regular consultation. I doubt that anyone could say that they have not been consulted about it. Thanks to your help there has been a very lively public discussion about it. It has been impossible to avoid discussion on it.

Senator LUDLAM—That is the idea.

Senator Conroy—You even managed to get a photo of me in *Rolling Stone* magazine, for which I am eternally grateful.

Senator LUDLAM—It was not a very pleasant article, but if you are happy to be there! My final question addresses the state of your thinking. I suppose this is directly a policy question. In the event that the Senate defeats the proposal for mandatory net censorship or filtering—whatever you want to call it—does the government have a plan B? Have you briefed the Prime Minister or has the Prime Minister requested any sort of briefing on the fallback plan in the event that the Senate defeats the proposal?

Senator Conroy—The Prime Minister has many things on his plate at the moment. We are still at the early stages of drafting legislation, so scenarios where it may or may not be defeated in the Senate are still hypothetical. We are in the early stages of drafting legislation. You asked: have I briefed the Prime Minister on plan B or prepared plan B? To answer your question directly: no, we are seeking to implement our policy, which involves legislation, hopefully passed in the Senate.

Senator LUDLAM—If the legislation is defeated you will think about what happens then?

Senator Conroy—Yes. I am not working on the basis that the legislation will be defeated. We are seeking, as we are with all of our election commitments, to implement our election policy.

Senator LUDLAM—I thank the committee for its indulgence.

Senator FISHER—I have some questions about digital television and the minister's announcement on 5 January that there will be the upgrading of various services to provide digital TV to viewers in regional areas, which sounds very good in principle. On what basis did you reach agreement to upgrade 100 of the 600 existing towers? How did you pick the 100?

Senator Conroy—We have not picked the 100. That was an indication—

Senator FISHER—How are you going to pick the 100?

Senator Conroy—We are not picking the 100. That was an indication from the broadcasters that they believed that that was what they wished to do. We indicated all along that we would be providing a satellite service, and the regional broadcasters indicated that they would look at a list of 100. I said earlier, I think, that we had not received a list at this stage.

Mr Townend—No, we are still in discussions with the broadcasters about two things. One is whether they are going to convert self-help sites, which are just sites run by local communities. They have also suggested building some more gap filler sites, which are essentially new transmitter stations. The broadcasters are still working on a list, but that list has not been finalised and discussions with them are continuing.

Senator FISHER—Why are 600 not going to be upgraded? Why only 100? Why aren't all of them being upgraded?

Senator Conroy—We are providing a satellite service and the satellite service will provide the full suite of channels to Australians in all of the areas.

Senator FISHER—Does that mean you believe you only need to upgrade whatever number the broadcasters say?

Senator Conroy—No. We are providing a satellite signal that is ubiquitous. It delivers to every home that has a satellite. If the broadcasters, as they have indicated, are going to do 100 towers, that is their decision. But the full suite of satellite services—all 16 channels—can be received from the satellite.

Senator FISHER—Why is the government itself not upgrading any of the towers?

Senator Conroy—Because we are putting up a satellite service that will deliver the same service as the towers. Ultimately we believe that we are future proofing the country from what has been over 50-odd years of population movement and that this is a more effective and efficient outcome. The fact that Australia does not have a satellite TV service like many countries is a historical anomaly. This is a robust platform that can deliver to all Australians.

Senator FISHER—Are you saying there will be 100 per cent saturation if you combine the satellite service that the government is doing with the upgrade proposed by the broadcasters?

Senator Conroy—No, there is 100 per cent saturation if you do not do any towers. That is what a satellite service does. It beams to the whole country.

Senator FISHER—Why are you bothering with towers at all?

Senator Conroy—I repeat: we are not. I do not know how many times I can say that. There is an indication from the TV regional broadcasters that they would prefer to do that, and that is entirely in their hands. But every Australian household in regional Australia has access to the satellite signal if they put a satellite dish on the roof. There are conditions. Unfortunately we have longstanding licence areas, and this is not seeking to eradicate the licence areas.

Senator FISHER—How does the \$300 subsidy work? What happens if the installation costs are more than the reported \$600 cost of a satellite dish, for example?

Mr Townend—The average cost of a satellite installation is approximately \$650. Like any other television installation, it is going to depend very much on your particular circumstances. The people who will be eligible for the subsidy are those who are currently receiving television from a self-help site. The purpose of the subsidy was to bring down the average cost of installation to approximately an average cost for installation where you would be converting by terrestrial means, particularly in areas where people might have to do some antenna work.

Senator FISHER—What happens if the costs are more than the average \$650 due to geographic reasons or isolation? What happens then? Do mums and dads have to foot the extra bill? They only get a \$300 subsidy. What happens then?

Senator Conroy—The vast majority of these towers are in remote Australia and simply retransmit the existing satellite service anyway. There is a perception that these 600 towers that you would have heard referred to are all retransmitting a terrestrial signal. That is actually not the case. They are actually transmitting—

Senator FISHER—Can you answer the question about the subsidy in terms of the satellite dish?

Senator MINCHIN—Are you making the point that they have already had satellite-receiving equipment at home?

Senator Conroy—Yes, because they are actually receiving the satellite signal. You are asking about a hypothetical. Our understanding after extensive consultations with the sector is that this is the cost.

Senator MINCHIN—When you say ‘average’, averages can be deceiving. You might have 99 per cent around \$650. Can you give us a bit more of the flavour of that? Are there areas where the cost is well over \$1,000 but some are only \$200, so that is how you get \$650?

Mr Townend—There are basically two different groups of people. Those who are reliant on the self-help transmitter should be within reasonable reach of that transmitter and therefore they are probably working off a reasonably ordinary aerial. Were they to convert terrestrially they would simply buy a set-top box and they may or may not have to convert their aerial, but the costs would be reasonably manageable. If you are living in an area where you are struggling to get an analog signal, the chances are you are already paying considerably over

the odds to receive television anyway. Even when you have spent hundreds of dollars sometimes to try to get analog television, you are actually not getting it at all and sometimes you are not getting all the services. The beauty about the satellite—

Senator MINCHIN—They would be paying a lot more in terms of the aerial they would have to have at home.

Senator Conroy—You have seen the photographs of the huge aerials. I think most people who live in metro areas do not understand what we mean when we say ‘huge aerials’. We are talking 30, 40 or 50 metres and upwards of aerials, which are far more expensive than satellite.

Mr Townend—Even those are unreliable. They do not always pull in the signals. The beauty of the satellite is that it does. As to the cost of the satellite system, the set-top box is pretty much the same cost wherever you live. The dish itself is relatively inexpensive. There are some installation costs, but on average the price is as we have stated.

Senator MINCHIN—The issue with satellite is always this: localisation. I refer to the famous Yankalilla case. Just for the benefit of the committee, can you say how that is going to be overcome?

Senator Conroy—We have been assured by the metro providers—and it is a metro signal that goes into Yankalilla even though it probably should not have been receiving it—that they will be upgrading that tower.

Senator MINCHIN—That is good to hear. But generally, in terms of satellite service, the complaint people have with satellite is that they cannot watch their local news.

Senator Conroy—As to the great thing about digital as opposed to analog transmission, I am a satellite Foxtel subscriber and the ‘red button’ is probably the simplest way to describe it. At the moment, as you have seen from the new services, if you hit the red button on news you get all the localised news. That is now possible across Australia—to capture the regional news services. In Mildura there will be the Mildura based news. There will be the satellite stream and then you can press the red button. In the early stage it will only be the Mildura one, because we are only switching off Mildura. If you press the red button you will get the Mildura news. You will be able to get that localisation. That is the great thing about the new technology. It is all about bit rates. I will not bore you with all that sort of stuff, but you can actually deliver this now, whereas in the past you have not been able to do it.

Mr Townend—The only thing I would add is that all of the local news that is available now will be available on the satellite, so no-one will be losing any of the local news.

Senator MINCHIN—For the customer is it essentially built into the set-top box? They buy a set-top box and—

Senator Conroy—You get the satellite set-top box. I have a satellite set-top box because I have satellite Foxtel. But—

Senator MINCHIN—But it will not be an additional cost to get that red button service? It is part of the service?

Senator Conroy—No, it is built in. If I can just make it clear, the vast amount of people who currently get the satellite retransmission get no local news today anyway. This is a massive upgrade of service for people who live in regional Australia. They are getting all 16 channels and local news. The vast majority of people covered by those 600 towers get no local news today.

Senator FISHER—Was your announcement yesterday about the local content rebate for broadcasters in any way in consideration of or in exchange for the preparedness of broadcasters to upgrade certain towers?

Senator Conroy—It was all part of the package.

Senator FISHER—What does that mean?

Senator Conroy—The announcement on the 5th and this were all part of the package. This was a budgetary item that was going to go into the budget, but unfortunately somebody gave a leak to the *Australian*, so we made the announcement. It would have been a budget announcement. But it was all part of the package around reform of the digital TV rollout.

Senator FISHER—Is it a deal with the broadcasters: ‘Upgrade the towers and we will give you the local content rebate’?

Senator Conroy—It is all part of the package of measures to deal with a whole range of issues in the digital transition process. It is a package.

CHAIR—I thank officers of the department. The committee has now concluded its examination of the Broadband, Communications and the Digital Economy Portfolio.

Proceedings suspended from 6.06 pm to 7.00 pm

ENVIRONMENT, WATER, HERITAGE AND THE ARTS PORTFOLIO

In Attendance

In Attendance: Senator Conroy, Minister for Broadband, Communications and the Digital Economy

In Attendance: Senator Penny Wong, Minister for Climate Change and Water

Department of the Environment, Water, Heritage and the Arts

Executive

Ms Robyn Kruk, Secretary
Mr Gerard Early, Deputy Secretary
Mr Malcolm Thompson, Deputy Secretary
Dr James Horne, Deputy Secretary
Mr Mark Tucker, Deputy Secretary
Mr Sean Sullivan, First Assistant Secretary

Approvals and Wildlife Division

Mr Peter Burnett, First Assistant Secretary
Ms Vicki Middleton, Assistant Secretary, Environment Assessment Branch 1
Ms Michelle Wicks, Acting Assistant Secretary, Environment Assessment Branch 2
Ms Carolyn Cameron, Acting Assistant Secretary, Strategic Approvals & Legislation Branch
Ms Rose Webb, Assistant Secretary, Compliance and Enforcement Branch
Ms Kathryn Collins, Assistant Secretary, Business Systems and Governance Branch
Mr David Atkinson, Assistant Secretary, Wildlife Branch
Mr Mark Flanagan, Executive Director, Environmental Planning Services

Arts Division

Ms Lynn Bean, First Assistant Secretary
Mr Mark Taylor, Assistant Secretary, Arts Development and Training Branch
Mr Paul McInnes, Assistant Secretary, Arts Policy & Access Branch

Australian Government Land and Coast

Ms Mary Colreavy, Acting First Assistant Secretary
Ms Michelle Lauder, Acting Assistant Secretary, Reef Rescue & Aquatic Partnerships Branch
Dr Charlie Zammit, Assistant Secretary, Biodiversity Conservation Branch
Ms Alison Archer, Acting Assistant Secretary, Indigenous Policy Branch
Ms Bernadette O'Neil, Acting Assistant Secretary, Business Planning and Performance Branch

Corporate Strategies Division

Mr Malcolm Forbes, First Assistant Secretary
Ms Lily Viertmann, Chief Financial Officer

Culture Division

Ms Sally Basser, First Assistant Secretary
Mr Kim Allen, Assistant Secretary, Collections Branch
Dr Stephen Arnott, Assistant Secretary, Film and Creative Industries Branch

Environment Quality Division

Dr Diana Wright, First Assistant Secretary

Heritage Division

Mr James Shevlin, First Assistant Secretary

Mr Theo Hooy, Assistant Secretary, Historic Heritage Branch

Mr Brian Prince, Acting Assistant Secretary, Natural and Indigenous Heritage Branch

Dr Greg Terrill, Assistant Secretary, International Heritage & Policy Branch

Mr Terry Bailey, Assistant Secretary, Natural and Indigenous Heritage Branch

Marine Division

Ms Donna Petrachenko, First Assistant Secretary

Mr Stephen Oxley, Acting First Assistant Secretary

Ms Lara Musgrave, Acting Assistant Secretary, Tropical Marine Conservation Branch

Mr Anthony McGregor, Acting Assistant Secretary, Marine Biodiversity Policy Branch

Mr Charlton Clark, Assistant Secretary, Temperate Marine Conservation Branch

Parks Australia Division

Mr Peter Cochrane, Director of National Parks

Policy Coordination Division

Mr Sean Sullivan, First Assistant Secretary

Mr Andrew McNee, Assistant Secretary, Strategic Advice Branch

Ms Rachel Parry, Assistant Secretary, Communications and Ministerial Services Branch

Mr Geoff Richardson, Assistant Secretary, Environment research and Information Branch

Renewable & Energy Efficiency Division

Mr Ross Carter, First Assistant Secretary

Mr David Smith, Acting Assistant Secretary, Building & Government Energy Efficiency Branch

Ms Mary Wiley-Smith, Assistant Secretary, Community & Industry Partnerships Branch

Mr Hilton Taylor, Assistant Secretary, Appliance Energy Efficiency Branch

Energy Efficiency Taskforce

Ms Kathleen Mackie, Acting First Assistant Secretary

Mr Aaron Hughes, Assistant Secretary, Home Energy Branch

Ms Anne-Marie Delahunt, Acting Assistant Secretary, Renewable Energy Branch

Ms Claire Howlett, Acting Assistant Secretary, Energy Compliance Branch

Supervising Scientist Division

Mr Alan Hughes, Supervising Scientist

Dr David Jones, Director, Environmental Research Institute of the Supervising Scientists

Water Reform Division

Mr Tony Slatyer, First Assistant Secretary

Ms Chris Schweizer, Assistant Secretary, Aquatic Systems Health Branch

Ms Kerry Smith, Assistant Secretary, Water Policy Branch

Mr Russell James, Assistant Secretary, Water Resources Branch

Mr Aidan Dalgliesh, Assistant Secretary, National Water Market Systems Branch

Water Efficiency Division

Ms Mary Harwood, First Assistant Secretary

Mr Richard McLoughlin, Assistant Secretary, Irrigation Efficiency Northern Branch

Mr Colin Mues, Assistant Secretary, Water Recovery Branch
Ms Suzy Nethercott-Watson, Assistant Secretary, Irrigation Efficiency Southern Branch
Mr Nick Rayns, Assistant Secretary, Basin Communities and On-Farm Branch

Water Governance Division

Mr Ian Robinson, First Assistant Secretary
Mr Steve Costello, Assistant Secretary, Urban Water Security Branch
Ms Gayle Milnes, Assistant Secretary, Environmental Water Branch
Mr Mark Kwiatkowski, Assistant Secretary, Project Management and Governance Branch

Agencies**Australia Council**

Ms Kathy Keele, Chief executive Officer
Ms Robin Cowdery, Executive Director, Corporate Services

Bureau of Meteorology

Dr Greg Ayers, Director
Dr Rob Vertessy, Deputy Director, Water
Mr Alan Vallance, Deputy Director, Corporate
Dr Neville Smith, Deputy Director, Research and Systems
Dr Ray Canterford, Acting Deputy Director, Services
Mr Trevor Plowman, Chief Financial Officer

Great Barrier Reef Marine Park Authority

Dr Russell Reichelt, Chairman
Ms Margaret Johnson, General Manager, Communications and Policy Coordination Branch
Mr Bruce Elliot, General Manager Corporate Services Branch

Murray Darling Basin Authority

Mr Rob Freeman, Chief Executive
Mr Frank Nicholas, Executive Director, Corporate Services
Mr Tony Morse, General Manager, Assets
Mr Fraser MacLeod, Executive Director, Basin Plan
Ms Jody Swirepik, Executive Director, Natural resource management
Mr Geoff Haberfeld, Executive Director, Engagement, Secretariat and Communications

National Gallery of Australia

Dr Ron Radford, Director
Mr Alan Froud, Deputy Director

National Library of Australia

Dr Warwick Cathro, Acting Director-General
Mr Gerry Linehan, Assistant Director-General, Corporate Services

National Museum of Australia

Mr Craddock Morton, Director
Ms Lisa Wilmot, Acting Assistant Director, Operations
Mr Mathew Trinca, Assistant Director, Collections, Content and Exhibitions Division
Ms Trish Kirkland, Acting Assistant Director, Audience, Programs and Partnerships Division
Ms Kylie Noonan, Chief Finance Officer

National Water Commission

Mr Ken Matthews AO, Chief Executive Officer
Mr James Cameron, Deputy Chief Executive Officer
Mr Matt Kendal, General Manager, Sustainable Water Management Group
Ms Kerry Olsson, General Manager, Assessment and Policy Coordination Group
Mr Will Fargher, Acting General Manager, Water Markets and Efficiency Group
Mr Gary Bullivant, Corporate Manager

Screen Australia

Dr Ruth Harley, Chief Executive Officer
Mr Ross Pearson, Chief Financial Officer
Ms Fiona Cameron, Executive Director, Strategy and Operations

CHAIR—We will now commence the examination of the Environment, Water, Heritage and the Arts portfolio in accordance with the agenda. The committee has fixed Friday, 26 March 2010 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 this Friday. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate in *Hansard*. Officers called upon for the first time to answer a question should state their full name and their position for the *Hansard* record and witnesses should speak clearly and into the microphones. Mobile phones should be switched off or silenced.

I again welcome Senator the Hon. Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, who is representing the Minister for the Environment, Heritage and the Arts, and I also welcome portfolio officers. Do you wish to make an opening statement?

Senator Conroy—I am okay.

CHAIR—Ms Kruk?

Ms Kruk—I place my thanks on the record for the committee's decision just to invite those officials from the various authorities that the committee wishes to actually seek further information from tonight. That is both a significant reduction in terms of cost, but also the staff involved have asked that the committee be thanked. It is much appreciated.

CHAIR—We are here to serve. Thank you.

[7.00 pm]

Australia Council

I will now call agencies in accordance with the agenda. I am calling officers from the Australia Council. I again remind witnesses that for the benefit of the *Hansard* record when they first speak they should identify themselves and the capacity in which they are appearing today. Are there any questions of the Australia Council? Senator Abetz.

Senator ABETZ—Can somebody enlighten me as to rationale that the Literature Board of the Australia Council took in relation to reducing the funding for the *Quadrant* magazine from \$50,000 to \$35,000 per annum? What was the rationale for that?

Senator Conroy—Artistic sense.

Senator ABETZ—So, it is artistic as opposed to other matters.

Senator Conroy—Quality of writing. Shall I go on?

Senator ABETZ—Unfortunately I understand, in terms of some of the scribblings in the monthly magazine, the monthly magazine has maintained its funding. Who can inform me as to the grants for the various literary publications that are funded?

Ms Keele—What is the question exactly?

Senator ABETZ—The question is whether the *Quadrant* magazine has been cut from \$50,000 to \$35,000 per annum.

Ms Keele—I would have to take that on notice, because I do not have that here with me, but I can make sure you find that out. I actually cannot tell you right off the top of my head, so we will let you know.

Senator ABETZ—I would assume then that you cannot tell us about *Meanjin*, *The Monthly*—

Ms Keele—I can tell you both of those, but I will have to tell you offline.

Senator ABETZ—Yes, if you can let us know. Is funding by calendar or financial year?

Ms Keele—It depends. There are a number of different grants. Some are for three years and some are for two years. Some are for projects. These are key organisation grants. My guess is that they are for three years.

Senator ABETZ—Possibly over three years and into the future. If you can, tell us the funding that has been and will be made available to the *Quadrant* magazine and also to the one we cannot quite agree how to pronounce but is spelt M-E-A-N-J-I-N and to *The Monthly*. Can you provide me with the comparisons of those three?

Ms Keele—Yes.

Senator ABETZ—You will be pleased to know that that is all.

CHAIR—Are there any further questions for the Australia Council?

Senator TROETH—Yes.

CHAIR—Senator Troeth.

Senator TROETH—I would like to inquire about some of the board appointments that need to be made. I am talking about the vacancies from 29 September 2009 to 18 January 2010. For instance, I understand that on the Australia Council itself there are two existing vacancies. Have they been filled?

Ms Bean—The chair of the visual arts board has been filled. I am not entirely sure what list you are looking at because the appointments are a continuing changeover.

Ms Kruk—Which vacancies, if you would not mind telling us again?

Senator TROETH—I will go through the boards under the Australia Council one by one, but I understand that with the Australia Council itself there are two existing vacancies.

Ms Bean—There was certainly at least one community interest representative vacancy and I think it might be two now, because one appointment expired towards the end of 2009. They are still vacant and are in process.

Senator TROETH—They are in the process of being filled?

Ms Bean—Yes. The third one, on the council itself, was for the chair of the visual arts board, and that has been filled by the reappointment of Professor Ted Snell.

Senator TROETH—I will just go through the vacancies that I have sequentially. There is an existing vacancy on the Aboriginal and Torres Strait Islander arts board?

Ms Bean—There may well be.

Ms Keele—Yes, there is.

Ms Bean—This is as at 31 January. There is one on the Aboriginal and Torres Strait Islander arts board.

Senator TROETH—Is that a community interest representative?

Ms Bean—No, the community interest representatives on the art form boards are actually appointed from within the membership.

Senator TROETH—There is still one existing vacancy?

Ms Bean—Yes, there is currently. As to whether it is the same vacancy since September, I do not have that information with me, because the membership turns over.

Senator TROETH—Perhaps on notice you could provide me with the existing membership of that board as of today, and the efforts being made to fill that vacancy.

Ms Bean—Yes, certainly. I will take that on notice.

Senator TROETH—Thank you. Moving on to the dance board, I understand there is an existing vacancy of one, as from 16 January.

Ms Bean—This sheet says it was three. There must have been two recently. I think one has been filled since then, but I can certainly confirm that.

Senator TROETH—Yes, if you could let me know how many vacancies there are on the dance board that would be useful.

Mr Tucker—The legislation does not require every vacancy to be filled. It requires a chair and four others up to a maximum of eight.

Senator TROETH—Yes, I understand that.

Mr Tucker—As Ms Bean said, people come and go and invariably that does lead to gaps at times.

Senator TROETH—Yes, I understand that, but I am interested in knowing what the progress is about filling existing vacancies. There are two with the literature board and I think you indicated just before that one of those had been filled.

Ms Bean—No, I mentioned the visual arts board.

Senator TROETH—The literature board?

Ms Bean—Again, this sheet says it was four.

Senator TROETH—Is action being taken to fill those vacancies?

Ms Bean—Yes, they are all in process.

Senator TROETH—With the major performing arts board, according to my documentation there are three vacancies on that.

Ms Keele—There is only one.

Mr Grybowski—There have been two recent appointments and there is now one vacancy.

Senator TROETH—Is there ongoing action to fill that vacancy?

Mr Grybowski—That is correct.

Senator TROETH—The visual arts board?

Ms Bean—That is the one where the chair has just been appointed. I understand there are two other vacancies.

Senator TROETH—Yes, that is as I have it. Who is responsible for providing the minister with advice on board appointments?

Ms Bean—What happens in the case of the Australia Council is that the council provides some recommendations, shall we say. It is usually two or three per position. That is provided to the minister. The department does the processing work. The minister may take advice from other sources, of course, but there is a formal process through the council.

Senator TROETH—Is that done by advertisement for suitable replacements or is it done by the department drawing up a list of suitable replacements?

Ms Bean—The department certainly does it.

Ms Keele—The Australia Council, on its website, has a place where people nominate and make their own self-nominations. That covers the requirement for advertising. We get a free flow of people who come and nominate themselves and others. That then goes in to all the boards and any interested party to be aware of on an ongoing basis.

Senator TROETH—Is there a selection committee for those boards to make the final recommendation to the minister?

Ms Keele—The council considers recommendations to be sent up to the minister.

Senator TROETH—The council acts as the selection committee. With regard to those vacancies currently exceeding three months, if there are any, what is the reason an appointment has not been made?

Ms Bean—I would have to take on notice whether there are any that have exceeded three months. Really it is a matter for consideration by the minister and at the minister's decision when he makes the appointment.

Senator TROETH—If there are any vacancies that have existed for beyond three months you might tell me, on notice, on which boards those vacancies are and whether they are currently with the minister.

Ms Bean—I can certainly take the entire board situation on notice.

Senator TROETH—That would be helpful. How many of these boards or authorities have failed to have quorum to meet because of board vacancies?

Ms Bean—I am not aware that any of the Australia Council boards or the council itself has not met its quorum.

Ms Keele—Not in my time.

Senator TROETH—So not now and not for the past 12 months?

Ms Keele—Three years.

Ms Bean—Not that I am aware of, no.

Senator FISHER—Ms Keele, in July 2008 you expressed the view to an inquiry into the effects of the ongoing efficiency dividend and expressed your then concerns about it. You talked about the impact of it being significant and ongoing. You expressed in disarmingly frank terms your view that arts organisations and artists' grants cannot afford further cuts. How have you found the impact of the efficiency dividend beyond the time of making that submission, 2008?

Ms Keele—In 2008 we applied the efficiency dividend to our administration.

Senator FISHER—Yes, so you decided to take a self-imposed operating hit?

Ms Keele—Yes. At the same time we made an investment in our IT systems to allow ourselves to be able to run more efficiently and be connected to our financial systems so that we would not have to be doing so many things manually. We did make a fair number of improvements. At that time we were able to partially index grants and organisational funding.

Senator FISHER—You cut some staff?

Ms Keele—We did at the time, and we have reported this in this room over the last any amount of times I have been in here; we went from about 150 to around 120 or 122—somewhere around there. You asked about the ongoing efficiency. We have stated that it is about 122. We remain at nine, 9.5 or 10 per cent admin to grants, and so we remain fairly efficient and stick to that for our budget. We do believe that it would be more appropriate to apply the efficiency dividend only to our admin and not to all of the grants across the other organisations. In time, that will have a larger impact going forward.

Senator FISHER—Has your management of the imposition of the efficiency dividends meant that you have been able to ameliorate the effects of the efficiency dividend through your organisation on what you can do for the arts or are you of the view that, despite your best efforts, there has still been a downside impact on the arts community?

Ms Keele—No, I do not think that in what we have done so far we have impacted the arts. In fact it has made us focus and be aware of doing the right things for the arts. I am just saying that over time you cannot keep doing it like that.

Senator FISHER—So, with the pain did come some gain perhaps?

Ms Keele—Yes.

Senator FISHER—Did the Australia Council's grant distribution policies change in the face of the global financial crisis?

Ms Keele—I would say that we are constantly reviewing our grants, our categories, our sector and how we are covering them. We constantly do that. The crisis in particular did not make us look at that any more than anything else, to tell you the truth, but we did watch it very closely. We made sure that our development programs and our art support were focused on supporting organisations that may have had more attention than others.

Senator FISHER—I have a couple of questions on notice about the actual grant recipients. I will ask you to indicate for 2008-09 the grant recipients state by state with total funding amounts and, secondly, to tabulate for 2008-09 compared with 2007-08.

Ms Keele—That is all available in our annual report.

Senator FISHER—Is it?

Ms Keele—Yes, absolutely. By geography and by comparative years as well.

Senator FISHER—Job done. Also in respect of the major performing arts board grants, I presume they are in your annual report as well?

Ms Keele—Yes, but if you find that that does not answer your question I am happy to provide more.

Senator FISHER—It probably will.

CHAIR—I thank you very much for appearing before us this evening.

[7.25 pm]

National Museum of Australia

CHAIR—I now welcome to the table officers from the National Museum of Australia.

Senator TROETH—I would like to thank you, Mr Morton, for the tour that was provided to the committee last year. We found it very educational, and I think we recognise the very valuable work that the museum does. Congratulations on what you are doing.

Mr Morton—Thank you very much.

Senator TROETH—I would like to ask you also about the ongoing efficiency dividend and the special dividend of 2008. Could you update the committee on how this has impacted operations?

Mr Morton—Clearly the efficiency dividend, because it is a drain on our overall appropriation, has an effect on our operations, but it is hard to quantify what that effect is. The fact is that I suppose we have become used to the efficiency dividend over many years. It has been a dividend which has been imposed by all governments for a long time and it is something that we have learned to live with. What it means is that we have to work smarter, we have to make very sure that we are not wasting money and we have to make sure that our programs are appropriate and that we do not run programs or projects longer than we need to

run them. The cumulative effect, though, is that any slack that we have had in our budget or any means of finding these savings has gradually been eroded over the years and we are now arriving at a stage where it really is starting to affect our operations. We are very well funded. I want to make that clear. We are a well funded organisation. But with yearly increases in the costs or our utilities, for example, with our yearly wage bill increasing, having an efficiency dividend on a year-by-year basis—as against that it just makes it harder and harder to operate.

Senator TROETH—So, what are you not doing now that you otherwise would be doing?

Mr Morton—I do not think it is a question of our having cut out programs, I think it is more a question of having rephased programs, taking a longer period to do them; it is that sort of thing rather than actually cutting things out.

Senator TROETH—Recognising that this is a hypothetical question: if efficiency dividends go on, there will ultimately be programs that you will need to cut back over time?

Mr Morton—That is correct. Rephrasing, taking longer timeframes, moving things into following financial years will work for some of the time, but eventually it gets down to the program level and programs will have to be cut or programs will have to be finished with completely.

Senator TROETH—Assuming that you are looking to the future, what sorts of cuts or termination would you be looking at?

Mr Morton—Recognising that it is a hypothetical question—

Senator TROETH—Yes.

Mr Morton—We would look at all areas to see where there were ways in which we could make savings. A couple of obvious areas would be our acquisitions program. We would look to be cutting back on that. We would be looking to cut back on our public programs or marketing perhaps. We would certainly be looking to cut back on the number of temporary and travelling exhibitions that we take around the states.

Senator TROETH—So, those are external programs in a way and you would be looking to cut those rather than cut internal programs, as it were?

Mr Morton—The fact is that a lot of our expenditure is fixed. Expenditure in relation to guarding, in relation to cleaning, in relation to power, electricity and so forth—they are pretty well fixed costs and we cannot do much about cutting them. The amount of discretionary expenditure we have is relatively constrained to a few areas. Exhibitions, acquisitions and staffing are the areas we would have to look to. So, obviously we would regret very much having to lose any staff and that would be one thing we would try very hard to avoid. Ultimately it would come to the stage, I think, if the efficiency dividend went on and on, if it stayed at the same level, increased or whatever—we are being hypothetical here—eventually we would have to look at the number of staff we had, and that would be part of the examination of the programs and projects that we run.

Senator TROETH—How many permanent full-time staff do you have at the moment?

Mr Morton—We have about 264 full-time equivalent staff.

Senator TROETH—Your council also has, as I understand it, four existing vacancies; is that correct?

Mr Morton—Under the act our council can comprise a number from seven to 11. At the moment we have eight members of council. My understanding is that other appointments are in the pipeline and that we will match our previous component, if you like, which was the 11 mark, in time for our next council meeting at the end of March.

Senator TROETH—By the end of March?

Mr Morton—Yes.

Senator TROETH—How do you go about seeking to fill those vacancies? Is that by a shortlist or by advertisement?

Mr Morton—These are appointments by the government. It is not something that we involve ourselves in.

Senator TROETH—So the government takes over that process?

Mr Morton—The government runs that process, yes.

Senator FISHER—I have a couple of questions about the government's funding of the National Library of Australia and also the National Museum of Australia to host a couple of history projects to assist scholars, support organisations, the public, Forgotten Australians and former child migrants to better reflect on experiences past. What response have you had to the project from the target audience?

Mr Morton—I might ask Mr Trinca whether he can help us there. At this stage, I might say by way of introduction, we are very much in the developmental phase.

Mr Trinca—I will reiterate what the director said: it is a fairly early stage in the process. We have had good anecdotal responses to the project so far through a website co-supported by the National Library and ourselves, and a number of contacts, if you like, that will be followed through.

Senator FISHER—Expand on the 'developmental' stage. You have gone out to see whether anyone is interested. Some have said, yes. Where is it at?

Mr Trinca—As I say, it is a relatively early stage. The government made the apology in November, and we have been contacting the major constituent groups, such as CLAN and the other representative groups in this field, together with the National Library. The National Library is funded for a series of oral histories and in a sense our project will piggyback on that work that is being done by the National Library. As those oral history respondents are identified—and we will play a part in helping the library with that—we will also conduct a collecting program to establish a collection that represents these experiences.

Senator FISHER—How long is the funding scheduled to run and how much is the government funding for the program?

Mr Trinca—With the government's funding the national museum \$1.32 million over the course of this financial year and the next financial year, we are due to deliver the exhibition at the end of 2011.

Senator FISHER—Did you approach the government for the funding, or how did it come about in the first place? From where did the idea seed?

Mr Trinca—It was in fact a finding of the Senate committee that there should be an exhibition detailing the experiences of the forgotten Australians and the lost children.

Senator FISHER—How much funding did you seek in order to implement the recommendation of the Senate committee report and did you get what you asked for?

Mr Trinca—We believe that the amount of funding that we have received will allow us to properly document the histories to do two things; firstly, to create an ongoing collection of material culture that will in perpetuity represent the stories of this constituency, and indeed an important aspect of Australian history; and, secondly, to then make an exhibition that will tour the country representing those histories.

Senator Conroy—This is possibly Mr Morton's last Senate estimates, as he may be moving on to greater things. I am sure the committee will join me in wishing him all the best.

CHAIR—Indeed. Certainly from the committee, thank you very much for your evidence before estimates—but also, as Senator Troeth said, for hosting the committee. That was wonderful.

Mr Morton—I have been doing this for more years than I care to remember. I started in 1976 on your side of the table, so I cannot say every day has been a pleasure, but most of them have. I thank the Senate very much for the courtesy I have been shown over the years.

[7.38 pm]

National Gallery of Australia

CHAIR—I now welcome officers from the National Gallery of Australia. Did you wish to make an opening statement? Or, even if you did not, perhaps you could give us an update on the Masterpieces of Paris exhibition before we go to questions.

Dr Radford—We have already passed the 190,000 visitors mark. We are just over halfway through at 190,000, which surpasses the Turner to Monet and well and truly passes the Degas. We have a couple of months to go. Of course, on 24 February all the parliamentarians and their spouses are invited to the Gallery to see it at 7.30 to 10 o'clock, so I hope to be seeing you all there.

CHAIR—That is excellent news to hear about the success.

Senator TROETH—I have a question that I asked of the museum. With reference to the ongoing efficiency dividend and the special dividend of 2008, could you update the committee on how this has impacted operations?

Dr Radford—We did identify at a former Senate estimates that we had to cut down some administration. The touring exhibition program and the publication program had to be cut, which it was.

Senator TROETH—Are you not doing anything now that you would have otherwise been doing, apart from those two programs that you mentioned?

Dr Radford—No.

Senator TROETH—So far it has not impacted at all on your operations?

Dr Radford—Only on those areas, and that has been offset by a new government initiative to help with touring exhibitions. That has helped us.

Senator TROETH—Has the new government initiative compensated for what you were doing before with the touring exhibitions?

Dr Radford—To some extent, yes, it has.

Senator TROETH—One hundred per cent?

Dr Radford—I would have to actually work that out. We will take that on notice. I am not quite sure. I think it probably does but I had better check.

Senator TROETH—That would be helpful. Also with regard to your council I know that probably similar to the museum that any vacancies are filled by the government but I understand you have two vacancies at the moment.

Dr Radford—That is right, yes.

Senator TROETH—I will ask the department about the process for filling those. Thank you.

Senator FISHER—Wearing my hat as representing South Australians, an article in the *Adelaide Advertiser* on 23 January—while we were on our way back from that break I hope we have enjoyed—referred to a suggested lack of government funds harming the ability of the Art Gallery of South Australia to host significant exhibitions. What is your view of that viewpoint and has that impacted on your ability to take exhibitions to South Australia?

Dr Radford—No. Many of our exhibitions from the National Gallery have gone to the Art Gallery of South Australia and we have received one recent exhibition from the Art Gallery of South Australia and are about to receive a Heysen exhibition from the Art Gallery of South Australia.

Senator FISHER—Hopefully a very good exhibition that will be, too. The same article quoted the then departing director of the Art Gallery of Systems Admin, Christopher Menz, describing Adelaide as having the status of an artistic backwater. The article suggested that South Australians are leaving the state in droves to go visit artistic outlets in other states. Now we cannot have that, can we? What do you think about that from a national perspective? Should we be concerned in South Australia or should we just get over it and get on with it?

Dr Radford—I should not be commenting on my old position but—and there were many in the *Australian*, the *Age* and the *Advertiser*—what was not quite clear about the situation was that the amount that the government gives, whatever it is—

Senator FISHER—The federal government?

Dr Radford—has to be taken into account that it is the second largest state gallery collection to look after. It is much larger, for example, than the Art Gallery of New South Wales collection. It has about 11,000 objects more than the Art Gallery of New South Wales. Also, South Australia generates proportionately more of its own income than any other large gallery in Australia. It came over more pathetically than that I think in the press. It needs to be seen in the context of those extra bits of information.

Senator FISHER—Do you mean more tragically? You said ‘pathetically’.

Dr Radford—I just think that it looked—

Senator FISHER—Do you think it was overplaying it?

Dr Radford—No, it looked more pathetic than it perhaps was, that is all. But as far as the lack of funding of South Australia from the government is concerned, I cannot comment on that.

CHAIR—If there are no further questions for the National Gallery, you have escaped lightly, again. Thank you very much for appearing before us.

[7.45 pm]

National Library of Australia

CHAIR—Did you wish to make an opening statement?

Dr Cathro—No.

Senator TROETH—I have my question about the ongoing efficiency dividend and the special dividend of 2008. Could you update the committee on how this has impacted on operations?

Dr Cathro—Yes. First of all we changed the process by which we collect publications from Indonesia, removing our A-based officer in Jakarta. That will lead to changes in the nature and quality of our Indonesian collection over time. We also reduced the numbers of staff in some reading rooms and in some of our collection management processes. We have responded to that by undertaking a major workflow improvement program to try to improve the efficiency of our workflows. We did make some reductions in the assistance that we give to libraries in the Asia-Pacific region. We also reduced the number of loans that we make to other organisations other than Commonwealth institutions or state libraries. Those were the major impacts on the library services.

Senator TROETH—I expect that answers my question: what are you not doing now that you would otherwise have been doing? With regard to the Indonesian representation, there is no longer a position in Indonesia?

Dr Cathro—What we have is now a locally engaged manager as opposed to someone on the Library staff who is then placed in the office in Jakarta for a period of time. There were very significant expenses associated with the A-based officer process and so we have changed the method. We still have a collecting presence. We will still be collecting Indonesian material but we expect there will be a decline in the quality and depth of that collection.

Senator TROETH—With regard to the presence of your staff in the reading rooms, has that had any impact on your operations?

Dr Cathro—We have tried to institute processes whereby readers can use self-help processes more. There have been a number of modest changes in areas like our manuscript reading room to put, if you like, some more workload onto readers instead of staff.

Senator TROETH—Has there been any feedback from that?

Dr Cathro—I think the readers understand the changes that have been made. They have been relatively modest.

Senator FISHER—Coming on the flipside of the question I asked the National Museum about the project that they working on with you, as I understand it, from your perspective how is the project progressing in respect of forgotten Australians and others?

Dr Cathro—We have appointed a project manager. She commenced work in November. This will be a major oral history program. It is still gearing up. It is still in the relatively early stages. It is a three-year funding project commencing last July. I think the amount of money is \$1.7 million altogether. It is gearing up now and we have appointed a project manager.

Senator FISHER—Will you have the job done within the time frame?

Dr Cathro—We are confident we can achieve that, yes. We have got a lot of experience in oral history programs.

CHAIR—Thank you very much for appearing before us tonight.

[7.50 pm]

Screen Australia

CHAIR—Did you wish to make an opening statement before we go to questions?

Dr Harley—No.

Senator TROETH—Could you tell me what is Screen Australia's total appropriation from the government?

Dr Harley—Ninety-three million dollars.

Senator TROETH—What portion of that is distributed as grants or funding?

Dr Harley—Sixty million dollars.

Senator TROETH—Is that grants or funding, or both?

Dr Harley—That is production funding. If you include all of our other activities, excluding administration, then the number is \$85 million.

Senator TROETH—Does that mean that administration occupies \$8 million?

Dr Harley—Twenty-three million dollars.

Senator TROETH—How many staff does Screen Australia employ?

Dr Harley—One hundred and thirty-five full-time equivalents.

Senator TROETH—What is the number of salary bands for those staff?

Dr Harley—Eight.

Senator TROETH—What is the salary range for each salary band?

Dr Harley—I would have to take that on notice.

Senator TROETH—I do appreciate that. It is probably a lot to go through at this stage, but if you could supply those that would be helpful. What is the average proportion of gross box office as a percentage of Screen Australia investment?

Dr Harley—I think it is 50 per cent.

Senator TROETH—Is that benchmarked?

Dr Harley—Internationally?

Senator TROETH—Yes, or nationally.

Dr Harley—No, I do not believe so.

Senator TROETH—Would you be able to table a list of all current provisional certificates for the Producer Offset?

Dr Harley—I think that is unlikely because it is a matter of tax secrecy.

Senator TROETH—You would appreciate that for us as policy scrutinizers it is difficult to understand the effectiveness of that, if we do not have an idea of what the current provisional certificates are.

Dr Harley—I do appreciate that, but I am mindful of the tax secrecy requirements.

Senator TROETH—Could you let the committee know if there is a benchmark regarding the timing it takes to get a final certificate for the Producer Offset?

Dr Harley—I know what the time is. It is 10 weeks. That is the average time.

Senator TROETH—Is that the average time?

Dr Harley—Yes.

Senator TROETH—If it is 10 weeks, are there any cases which require a much longer time?

Dr Harley—Eighty to 90 per cent of the final certificates achieve that 10-week turnaround.

Senator TROETH—Is there a reason for the other 10 per cent?

Dr Harley—I could speculate about that or I could take it on notice.

Senator TROETH—If you could take it on notice that would be helpful.

Dr Harley—I am happy to do that.

Senator TROETH—I refer to the email sent out on the afternoon of 18 November 2009 regarding the timing of the Producer Offset equivalent. Could I ask what prompted that email?

Dr Harley—I am sorry, I am not familiar with what the email says.

Senator TROETH—Perhaps I will not go on with that for the moment, but I would like to put some questions on that on notice and provide you with a copy of the material, if you could respond to some questions regarding that.

Dr Harley—Of course we will.

CHAIR—Thank you very much for appearing before us this evening.

[7.55 pm]

Department of the Environment, Water, Heritage and the Arts

CHAIR—I now ask to the table officers from the department in relation to program 1.1, Arts and Cultural Development'. Unless anyone wants to make an opening statement I will go straight to questions.

Senator FISHER—I would like to hear more about the resale royalty right for visual artists scheme. I think I have that right. How do agents, gallerists and auction houses establish the second resale of an artwork, which seems rather tautological to the uninitiated?

Ms Bean—That should be a matter of maintaining the records, because they will have the first resale. Shall I give you an example?

Senator FISHER—Yes.

Ms Bean—If a currently existing work is owned by someone and they sell it after the legislation comes into effect then that is the first resale and then the sale after that is the second resale. It is on that second one that the resale royalty right is activated. The way that the auction houses and the commercial galleries do business is that provenance is a very important part of the value of the work so they can actually trace ownership generally. They will have auction data or previous sales data and someone wanting to sell their work will have details of the purchase of the work because provenance is so important.

Senator FISHER—Despite that, what happens if an agent mucks it up; if they mistake the second resale as the first resale?

Ms Bean—Do you mean when it should not be? Is that what you are looking at?

Senator FISHER—Yes. Is there any liability for the agent, for example?

Ms Bean—That would be a normal operation of law.

Senator FISHER—Is the answer yes?

Ms Bean—If there is negligence or a breach of contract. It is that sort of common law.

Senator FISHER—So potentially, yes.

Ms Bean—There is no specific provision in the legislation to deal with it.

Senator FISHER—All right. Has there been a case of that?

Ms Bean—There has not because the legislation is not operative yet.

Senator FISHER—We are learning, aren't we? It would fall down to a normal civil case.

Ms Bean—Yes, in the end.

Senator FISHER—As you say, whether there was a mistake of fact.

Ms Bean—One would expect that the collecting society, once they have been appointed and they have not been appointed yet, will have appropriate processes in place to manage the turnover of the royalty right effectively. We would certainly want to have proper processes in place.

Senator FISHER—You talked about there being the repository of information which can be harvested, if you like, to enable this to work. How do you propose that the collecting agency will capture all art resales? How do you know that some will not be missed? What sort of process do you envisage?

Ms Bean—This is a bit tricky because we are in the middle of a tender process to select the collecting society.

Senator FISHER—I am sure you will cordon off the tricky bits.

Ms Bean—Yes, but part of the whole tender process is about what they will offer for the money. Firstly, it is not settled and, secondly, it is quite difficult to talk about it without interfering with the tender process.

Senator FISHER—Who is in charge of the tender process?

Ms Bean—The department.

Senator FISHER—Is the department seeking a waterproof outcome or will the degree of how waterproof it is depend upon the price?

Ms Bean—That is essentially always a question in tender processes, isn't it?

Senator FISHER—Yes, and what is the answer?

Ms Bean—We would like to minimise the risk as far as possible, but ultimately it will be a judgment on the basis of the tenders that have been received.

Senator FISHER—Where is the tender process at?

Ms Bean—It actually closed last Friday, so we are in the assessment phase at the moment.

Senator FISHER—When do you expect to announce?

Ms Bean—It will be a matter of weeks.

Senator FISHER—Are you able to say, with confidence, that the collecting agency will ensure that there is no disadvantage to the arts community through the operation of the legislation?

Ms Bean—I am not quite sure what you mean by 'disadvantage' in that sense.

Senator FISHER—Perhaps impact of red tape, a regulatory burden or trying to avoid mistakes being made, collecting the information and ensuring that it is available.

Ms Bean—Again, we are hoping to optimise all those factors. One would expect the collecting society would take a portion of the resale royalty collected as its fee, so in that sense I guess it is a disadvantage. It means that 60, 70, 80 or 90 per cent of the actual royalty collected will go to the artist and the 10, 20 or 30 to—

Senator FISHER—I can ask the question another way. Beyond the financial hit will there be any difference to the operation of art auction businesses pre- and post-legislation?

Ms Bean—I would not expect material differences. Certainly the experience, for example, in the UK has been that the auction process has virtually continued as it always did.

Senator FISHER—How long has the UK experience been? How long have they had it there?

Ms Bean—I do not actually know. I think it is about two or three years. It might be more. I can certainly take that on notice.

Senator FISHER—Which is in its relative infancy, I would have thought with something like this.

Ms Bean—It is, yes.

Senator FISHER—What is the start date for the scheme?

Ms Bean—It is either on the date of proclamation or 9 June.

Senator FISHER—I do not think you indicated to me how many tenders you had received, or maybe you do not know yet.

Ms Bean—No. I do know. But again, as part of a normal tender process, one tends to keep all of those sorts of things confidential to preserve the integrity of the process.

Senator FISHER—Will you be able to disclose that in due course?

Ms Bean—Quite possibly. I would have to check.

Ms Kruk—We can take the process in this regard on notice and then obviously with the time frame the process will have progressed as well.

Senator FISHER—That is fine. Thank you.

Ms Bean—Did I say 9 July? I meant 9 June.

Senator FISHER—Yes, you did say that.

Ms Bean—It is either 9 June or by proclamation.

Ms Kruk—I can assist here. It actually received royal ascent on 9 December and the scheme will come into effect six months after this date or on a date to be fixed by proclamation.

Ms Bean—If it is before then.

Ms Kruk—If it is before then.

Senator FISHER—In terms of whether there is any potential downside to the Australian art community when participating internationally as a result of the scheme and the legislation, you talked about the UK, but I was of the understanding that our proposed resale royalty is the only scheme with this new bit in it. Is that right?

Ms Bean—It is the only scheme, certainly that I know of, that has the second resale component. However, across the world there are many different sorts of schemes. It is a broad matching of the two schemes. When you are looking at reciprocity you look for two things that are equal in their impact, rather than actually having to match the fine details.

Senator FISHER—Survival and/or profit are very powerful business motivators. What reassurance can you offer that there will not be ducking and weaving to get around this scheme in Australia, for example, so that major Australian artworks are sold internationally so that the relevant resale happens in a place where there is either a cap or no similar scheme in place, and does that matter anyway?

Ms Bean—There is potential there, particularly in the US because the US does not have a resale royalty scheme. However, our research indicates that generally a work obtains its best price in the home country of an artist, unless obviously you are talking about someone like Van Gogh. For a mid-range contemporary living artist you would generally find that their work will get more money in their home country than it would in the US, the UK or France, so that is the powerful motivator. If the best price is available here then why would you pay the freight to send the work overseas to get a low price?

Senator FISHER—It might be penny wise, pound foolish.

Ms Bean—It might be. Most professional collectors—and you are really talking about the professional end of the market—pretty much know what they are doing, particularly the investors at the investment end of the market. They are the ones that buy and sell frequently. They are interested in prices.

Senator FISHER—This is for the big boys and girls.

Ms Bean—The smaller boys and girls are least likely to go overseas anyway and are less likely to be looking for ways around that.

Senator FISHER—How do international reciprocities work in this environment?

Ms Bean—Fundamentally they have to be negotiated on a bilateral basis and that will primarily be the responsibility of the collecting society.

Senator FISHER—Do you think that, at the moment, the rather unique design of the Australian scheme will impact international reciprocities?

Ms Bean—As I said, I would expect that there will be broad compatibility. Some have caps and there are different rates. There are all sorts of differences between the schemes. Some survive the death of the artist and some do not. You would expect that in any negotiation there would be pluses and minuses on both sides.

Senator FISHER—The talent in the artistic world will find a creative way, if you like. Thank you, that is quite helpful.

CHAIR—Are there any more questions in this portfolio area, 1.1?

Senator TROETH—Yes.

CHAIR—Senator Troeth.

Senator TROETH—I would like to take you to Labor's election commitment which said:

Labor will develop a social security and the arts policy that harmonises current Australia Council, Centrelink and Australian Tax Office rules and determines the most equitable way to treat earnings and royalty payments for artists currently receiving welfare.

At the last estimates hearing the department said, on notice:

The department is undertaking joint research with the Australia Council to review the current state of artists' incomes.

Has that review been completed?

Ms Bean—Yes, it has.

Senator TROETH—Would you be able to table a copy of the report?

Ms Bean—Can I take that on notice?

Senator TROETH—Yes. If you cannot provide it then I will ask for it on notice. An officer also said at the last estimates hearing:

The department is working in collaboration with other Australian government departments to implement the election commitments surrounding employment and social security matters.

What work has been done on that?

Ms Bean—We are continuing to work with those agencies. We do not have any government decisions in this area at this point in time.

Senator TROETH—Is that with other Australian government federal departments?

Ms Bean—That is correct. It is primarily FaHCSIA, DEEWR and, to a certain extent, Treasury.

Senator TROETH—Is there any sort of work plan on that?

Ms Bean—The work is ongoing with those agencies. There is not a project-by-project work plan in that sense.

Senator TROETH—I would like to ask, on notice, for a summary of the work that has been done up until today.

Ms Bean—I will take it on notice.

Senator TROETH—Thank you. That is all.

CHAIR—There are no further questions in this program area. Thank you.

[8.13 pm]

CHAIR—We will now move to conservation and protection of Australia's heritage. Would somebody be able to give us an update on where we are at with the Kokoda Track?

Mr Shevlin—We gave a reasonably detailed update last time so I will try not to bore you with any of the same details.

CHAIR—It is never boring to me what is happening over there.

Mr Shevlin—The program continues to roll out very well. It is not without its problems because it is a complex environment we are working in, both physically and also cross-culturally. As a rule, it is going very well. The work on the Kokoda Development Program, which is the bit that is focused on, if you like, assisting the communities, continues to roll out. We are trying to do as much as we can to help improve education, health, communication, transport and so on for the communities there. That is an ongoing bit of work which we are working with AusAid on.

Another big area of activity has been working with the PNG authorities to build their own capacity to manage the Kokoda Track and that region, so we have invested a lot in the Kokoda Track Authority, providing them with people and resources to do a better job, and that is going well.

We are also working longer term with the Department of the Environment and Conservation, which has got the lead on this issue in the PNG government, to actually build

their capacity to effectively protect the region of the Kokoda Track and the Owen Stanley Ranges. Those three elements are the core part of our program and, as you would be aware, after the tragic air crash in August there was the Kokoda safety package that was introduced. We have been rolling out what is the first tranche of that, which has focused on really getting on top of where all of the issues are and also doing some of the short-term improvements that we can—improving communications, et cetera—and identifying where the things are that need to happen for the next stage. That is a process that we are working on with the PNG government and also other departments across the government here to identify what are the best things that we can do to contribute to improvements in safety. I say that because there is nothing in the end that we can do to eliminate all risk associated with either walking on the track or obviously flying, for example, in PNG because it is a very rugged, mountainous, difficult terrain. All of that work is going very well and we are working very well with the PNG authorities on that.

CHAIR—What about interaction with Australian based tour companies?

Mr Shevlin—We are in very regular communication with everyone now. We have a regular email update that we send around. We also try and meet with the track operators about twice a year now, preferably before the season and at the end of the season to talk about things that are going to be happening and things that will be happening in the following year and how the season actually went. We met last year; I could get you the dates for when the next one is. I think we are very well engaged with most of the operators. Of course, there is the occasional grumble we get from an operator about things they might have done slightly differently, but overall I think the relationship is very good and they appreciate the communication.

We are trying to increasingly shift the focus of the communication to being through the Kokoda Track Authority, which is the PNG authority that is responsible for this so that they become the primary source of interaction between the track operators and what is happening along the track, because that is trying to build their capacity and their status.

CHAIR—There has been some criticism of the way that KTA distributes funds to villages along the track. Have you got a response to that?

Mr Shevlin—Previously the situation was that there were a whole lot of track fees that were being paid and not a cent ever got to any of the villages, which is one of the reasons why we have tried to work to improve the management within the Kokoda Track Authority. Now it is a lot better; the money from the track fees is starting to flow for the first time ever back to the communities. To enable that to happen the PNG government decided—and the KTA worked with them—to establish a number of what they call ward development committees, which are local committees based around different villages and things. The idea is that the money will go to those ward development committees who will then determine how best to use that money for the benefit of the communities. Inevitably there are different views within communities, I suppose as there would be in Australia or anywhere else, about whether exactly the right things are funded. Ultimately it is their land, their villages and their decision.

CHAIR—Thank you very much for that update; I appreciate it.

Senator LUDLAM—Some of these questions will seem familiar, having been through this a couple of times with you. Can you just give us the staffing number for the division at the start of the 2009-10 financial year in full-time equivalents, please?

Mr Shevlin—Yes. In fact, I think you have asked for the comparison in the past between the last couple of years, so if I can just give you that.

Senator LUDLAM—That is exactly what I am about to do.

Mr Shevlin—Basically, the average staffing levels in 2007-08 were 98.7—plus each of these years will be the same in that we actually officially have the members of the Australian Heritage Council on our books. I could add the seven or not, but I will leave them out for the moment. In 2008-09, we had 100.6, and in 2009-10, 104.

Senator LUDLAM—Do you have an anticipated staffing equivalent for the 2010-11 financial year?

Mr Shevlin—Not at the moment.

Senator LUDLAM—So it is trending flat or even slightly up. At the last estimates session I think you will remember we were talking about whether or not we have a national heritage strategy in Australia and you pointed me to the departmental strategic plan during that conversation about national heritage strategy. That was 20 October; on 27 October the minister launched a process to develop a national cultural policy. Does that embrace any aspects of cultural heritage that would be a meaningful addition to that discussion we had?

Ms Kruk—You might refer to Mr Mark Tucker, who can also give you a bit of background information on the cultural policy as a whole and answer your question specifically.

Mr Tucker—The national cultural policy proposal development was announced by the minister. There has been an extensive consultation process on what that policy may cover, which includes a public consultation process, which has closed. We have essentially a blog site that people can make comments on. We received almost 6,000 comments and a number of submissions, and certainly a number of those submissions and comments came from bodies and individuals who believe that heritage should be a component of that strategy. They set out their case for that and made a number of suggestions, so that has all been collected together now and we are in the process of advising the government of the outcome of that consultation process.

Senator LUDLAM—Has your division, the Australian Heritage Council or the minister's heritage working group made any contribution to the development of that policy?

Mr Tucker—They certainly have not made a submission, but there are members in there who are members of other organisations, and some of those organisations certainly have made submissions. It is quite within the capability, if the minister asks, for those bodies to give him advice.

Senator LUDLAM—I am presuming you remember the context of the discussion we had last time around in October: it was that I could not find a national heritage policy. We were looking at a subsection of the departmental strategic plan, but I am wondering whether this national cultural policy will in any way inform that or if it is really a bit of a tangent.

Mr Tucker—We are very much in the early stages of development. There has been a consultation process in part to get people's views on what they believe the policy should encompass.

Senator LUDLAM—At the most it sounds like there may be a heritage footnote in the cultural policy but it is not really the main objective of that.

Mr Tucker—I think it is too early to say. One of the interesting things about culture—and I have actually had this discussion with the minister—is that it is such a broad concept and defining it in a way that is meaningful and in which governments can contribute in some way is a challenge in itself.

Senator LUDLAM—I will move to the Jobs Fund. I am just wondering whether you can give us an update of the Jobs Fund—this is the heritage specific funding that was allocated as a consequence of Greens negotiations in the stimulus package last year—as to the amount of that funding that has been committed already and the amount that is still yet to be spent?

Mr Shevlin—I am just looking up the exact details but off the top of my head I can tell you that all of the money is committed and all of the projects are progressing well.

Senator LUDLAM—Is there anything yet in the public domain or are you able to produce something for us now which would give us a total rundown of all the projects that were funded? If that is on your website, maybe just point us there.

Mr Shevlin—I am not sure whether the list of all the funded projects is on the website. I would assume it would be, but we can easily provide it.

Ms Kruk—I think it was in the public arena, but take it on notice.

Mr Shevlin—We could easily provide you with a list of all the projects.

Ms Kruk—I must admit I would have to be reminded which ones were negotiated at various stages in the Senate.

Senator LUDLAM—It was the whole package that was negotiated in the Senate. We did not have an opinion on which specific projects.

Ms Kruk—I stand corrected.

Mr Shevlin—Details on which projects are funded would be on the website, but I am happy to give you a list of all the projects that are funded. In terms of progress with them, obviously it has been a fairly short period of time—just over six months—since the first of the projects was announced, so they are all rolling out at the moment and they have got only until the basic deadline of 30 June this year to be finished. We are starting to get progress reports in from them, which is obviously one of the milestones that we pay against. I cannot really give you a lot of detail about exactly where all of the projects are up to other than to say I have visited a couple while on leave and the ones that I have visited were actually really roaring along. They were clearly delivering a lot of what we were hoping for in terms of better heritage outcomes; there were lots of things being fixed up and some people being employed.

Senator LUDLAM—That is great. I would not expect you to detail all of them because I know there are a large number of projects. Is there any consideration within the department at continuing this kind of thing, because it has been a bit of a shot in the arm to heritage and it

has led to a lot of new activity—a lot of skills, employment and so on—but the money is finite. Is there any consideration of continuing these sort of programs into the future?

Mr Shevlin—There is a new program—obviously this was a particular one-off—called the national heritage sites program, which commences next financial year and runs for the following three years.

Senator LUDLAM—What is the budget allocation for that in total?

Mr Shevlin—It is \$14.9 million over the three years.

Senator LUDLAM—My maths was never that great but that is only really a small percentage of what has just been allocated and funded overall, is it not?

Mr Shevlin—That is right, yes. It is almost \$5 million a year but once you take off some staff costs it is about \$4.3 million, \$4.4 million per year for grants.

Senator LUDLAM—Whereas we just committed something in the order of \$60 million?

Mr Shevlin—That is correct.

Senator LUDLAM—So there is some kind of continuation, but really it is going to be a trickle compared to what has just been funded?

Mr Shevlin—It is certainly less.

Senator LUDLAM—You do not have to accept that language if you do not want to. Is there going to be a review of the effectiveness of the Jobs Fund heritage projects? What kind of review work will be undertaken as to the effectiveness of the spending?

Mr Shevlin—One that is built into the actual grant agreements is regular reporting, so we will be looking at that. Also, at the end of the projects, they have to provide us with detailed reports, and we will have a normal evaluation process for any sort of grant scheme like this. So we would obviously look at that, but we would be part of a wider DEWHA-led effort in terms of the overall Jobs Fund because the heritage component was only a part of it.

Ms Kruk—If I may assist, I think the coordinator-general released a progress report on all of its stimulus related funds, of which this is obviously one stream, last year. I am unaware, but I would not be surprised, if there was not a subsequent report in relation to the progress of those. I know your question goes further to the issue of some of the results on the ground.

Senator LUDLAM—With regard to the work that Mr Shevlin is describing, is that just in the nature of an internal review or would some of what has been learned along the way be put into the public domain?

Mr Shevlin—In terms of what has been delivered in jobs and heritage outcomes, I cannot think of any reason why the results would not be public information.

Senator LUDLAM—I am sure there would be press releases, but what about the reviews themselves?

Mr Shevlin—To be honest, I have not got to that point of working out exactly what we are going to do with the review, but I would definitely expect the outcomes to be out there. In terms of lessons learnt, there are all sorts of reviews and we always try and pick up those

things, but I do not know how public any of this will be, because we have not quite got to that point yet.

Senator LUDLAM—I am asking the questions. I will ask them again next time we sit down, because that is something that would be valuable in the public domain—as to whether or not there is anything that we have learnt for the next time there is funding of this sort that was thrown at the sector rather unexpectedly and whether any of these jobs are lasting or we are going to be laying people off once that work is concluded. Can you give us an update on the recent activities or achievements, if any, of the heritage working group?

Mr Shevlin—At the last estimates, from memory, the group had met about five times. The first four of its meetings, to be honest, were very much focused on discussions about how best to use the Jobs Fund money. They were very involved in the design of the program and then the assessment of a number of the applications. That was a real focus for them. The most recent meeting of the working group was in October and was more focused on some of the longer term issues. I think it was to do with some of the things that you are talking about: how can we make sure that we maximise the lessons we are learning from the Jobs Fund and how we can apply those to future efforts, whether they are by the Commonwealth or by others? It is also looking at how we communicate not only the results of the programs but also things like how good these projects are for local economies—for example, what sort of return you get from investing in heritage and how that can be useful. Ultimately what we want is a whole lot of people to invest in heritage projects—obviously not just the Commonwealth. It is trying to capture all of that and how to convey that to people. It is also looking at the best ways to message heritage. How do we communicate? How do we get people who are not already the converted, in terms of heritage, to actually care about it and want to do something about it? They are pretty big issues, but they are starting.

Senator LUDLAM—That sounds like really valuable thinking that is going on. Are they developing anything along the lines of a national heritage strategy such as I have spoken about? What kind of framework are they operating within?

Mr Shevlin—They were set up by the minister to provide him with advice on issues such as communication and how to maximise the economic return from heritage in such a way that other people will then pick it up. A lot of those things that I am talking about that they are starting to discuss are the very reasons they were set up. They may, in fact, themselves have a view on whether a heritage strategy, as such, is a useful thing.

I would note that, in terms of what it is that we are doing and what the Commonwealth is doing, there are a whole lot of things in the actual portfolio budget statement which list that out. There are about eight items that we are required to deliver against. That constitutes, if you like, our strategy for what we have to deliver, but in terms of the overall—whether there is a need for a collective Australian heritage strategy—that would be an item I would imagine that group will have a view on as well.

Senator LUDLAM—Let us know if they come to a view. That would really be appreciated. I am going to stray, perhaps, into matters of policy, so feel free to direct me to the minister, who I understand is outside his portfolio area tonight. It is around the Hawke review recommendations of the EPBC Act.

Senator BOSWELL—How long will you be?

Senator LUDLAM—A couple of hours.

Senator BOSWELL—You are not going to be a couple of hours. You are going to split the time.

Senator LUDLAM—How long do we have for this section?

CHAIR—We are here until 11 o'clock.

Senator LUDLAM—I do not have until 11 o'clock. I will be another 15 or 20 minutes at the most.

CHAIR—We then have Senator Troeth. We can call you back.

Senator BOSWELL—How long will you be, Senator Troeth?

Senator TROETH—About five minutes.

Senator BOSWELL—I will be back.

Senator LUDLAM—I was just asking about the EPBC Act review, which obviously catches heritage. The Hawke review recommended that the EPBC Act:

... be restructured and drafted to modernise, clarify, simplify and streamline both language and process

There was a comment in there about heritage. It was:

... DEWHA develop a guide to the heritage provisions of the Act to assist those with specific interest in heritage matters in applying and understanding the relevant provisions.

That does not sound controversial at all, but in the midst of the streamlining and simplifying there is also a recommendation to roll in the ATSI Heritage Protection Act, the Historic Shipwrecks Act, the Protection of Movable Cultural Heritage Act and the Australian Heritage Council Act. You will obviously be familiar with those recommendations. It also rejected the idea of a separate heritage act. I am wondering whether you can update us on your thinking as to that review, especially on whether there has been or will be a formal response in the heritage portfolio to the recommendations of that review. Maybe we should start there.

Mr Tucker—I can answer that. It covers responsibilities beyond the heritage division that come under my responsibilities. We are well and truly aware of the recommendations of the Hawke review. We are in the process now of assisting the government in considering those recommendations and certainly the different perspectives and arguments that are brought in terms of heritage protection and moveable cultural heritage. We are obviously taking into account the stakeholder groups that are affected by each of those current pieces of legislation. All that information will be put into the government for the government to take its decision on how it wants to proceed with those recommendations.

Senator LUDLAM—Is there a contradiction there—on the one hand they are streamlining things to make them simpler and shorter but on the other hand they do not have a separate heritage act, whilst simultaneously rolling in another four complex pieces of legislation under the EPBC? How are you going to achieve all of those things?

Mr Tucker—I would not say there is a conflict per se. One of the things that we are always trying to achieve is to make sure that we get the most effective results in the most efficient

manner. We also want to make sure that the people who are subject to our laws do not have unnecessary red tape and that we can still achieve the outcomes for which the legislation was established. We look at these things with multiple objectives. That did not occur to me, initially, as a contradictory set of objectives, but it is something we will obviously look at in more detail when providing our advice.

Senator LUDLAM—Obviously the Hawke review has said there should not be a separate heritage act. Are you able to enlighten us as to any of the prevailing opinion within the department, or is that out of bounds?

Mr Tucker—We are going to the policy arena there in terms of advice that we would be giving.

Senator LUDLAM—Regarding national trust funding, the Commonwealth has directly funded the activities of individual state and territory trusts for many years and I understand that you have also been providing for funding for the administration of the Australian Council of National Trusts. Can you tell us what that costs the department?

Mr Shevlin—The amount this financial year is \$927,000. It was \$911,000 last year. It is basically an amount that has been indexed over time.

Senator LUDLAM—It is just under \$1 million. Does that carry the states and territories as well, to the extent that you provide funding?

Mr Shevlin—Yes, that is the total funding that goes to the National Trust, other than the money that has gone to quite a lot of them through the Jobs Fund projects.

Senator LUDLAM—That is the project based funding. Can you tell us if there is a proposition or proposal at the moment to shift the purpose of that funding or perhaps the amount of funding that is going to the trusts?

Mr Shevlin—The amount is as it is in the portfolio budget statements, at \$927,000. There is no shift in our objectives. We have been working with all of the trusts through the Australian Council of National Trusts over a number of years to move from a system where, rather than paying eight or nine different grants to each of the trusts, we actually provide it through the Australian Council of National Trusts and encourage them to work with the state trusts to identify the projects that will best deliver strategic heritage outcomes. Rather than arbitrarily divide it in advance, we are working through the Council of National Trusts for them to come back to us with what they and their stakeholders consider the best possible projects.

Senator LUDLAM—Is it not the case that this is not all project funding and that some of it is providing direct administrative support so that these organisations can exist? Is there a decision to withdraw that and to have everything go in as project funding?

Mr Hooy—No. The current arrangement has been going for two years, so it is nothing new. There is a single contract with the Australian Council of National Trusts. Previously the program has been going for about 30 years. Previously, all of the money essentially went to a range of outcomes, including administrative support. What we have tried to do is better define a split between administrative support for the organisation and also to enable the Australian Council of National Trusts collectively to deliver on some national outcomes.

Senator LUDLAM—I am still not quite sure what to take from that. The proposal is to channel the funding through a single grant through the Australian council and then let them sort it out?

Mr Hooy—That has been the case for the last two years. That is correct.

Senator LUDLAM—Is the amount that the Commonwealth funds collectively, no matter how it may be allocated, proposed to go up, down or sideways?

Mr Hooy—The collective amount is a matter for the budget. It is a matter for government.

Mr Shevlin—As I said, it has over the last few years been slightly increasing.

Senator LUDLAM—There is no expectation that is going to suddenly fall or anything? I am trying to squash rumours here on your behalf.

Mr Shevlin—We obviously do not control the budget process.

Senator LUDLAM—The minister is studiously doing something different. Is that something I could ask you to take away?

Senator Conroy—I will happily take that on notice and seek an answer for you.

Senator LUDLAM—Whatever it was I was talking about.

Senator Conroy—*Hansard* is a marvellous thing.

Senator LUDLAM—Can I take it that there is a policy decision here to switch funding support to projects rather than administration? Is that a fairly clear shift in policy that is occurring already?

Mr Hooy—No. The policy decision has been to better define the outcomes that the Commonwealth would get from funding the national trusts. As you can imagine, before we adopted a single contract, the contracts were negotiated with each national trust. What that meant was that it was very difficult for the Commonwealth to get any national outcomes. We also had the fairly perverse outcome that, whilst the Commonwealth was providing funding to individual national trusts, a number of those national trusts were in severe financial difficulty and actually went bankrupt. The Commonwealth really did have to look at another way of dealing with the trusts.

Senator LUDLAM—You have said that future funding decisions are up to the government, but is there any guarantee that we can provide to these organisations that the future amount of funding will stay stable, or should they be looking around for other sources of staying afloat?

Mr Hooy—Collectively, the funding from the Commonwealth is a relatively small part of the overall budget of the national trusts. I think it is fair to say that for some of the smaller national trusts it is a very important source of funding. The larger trusts are a lot more robust and the whole issue of Commonwealth funding is less of an issue for them.

Senator LUDLAM—I suppose it is the smaller ones that I am more concerned about. What should we be telling them—that, if they have funding difficulties, they should take it up with the national council?

Mr Hooy—I think that is really the business of the Australian Council of National Trusts and the individual state trusts. Previously all of the states were funded under a fixed formula which really did not recognise the pressures or the achievements of individual trusts. What we have been moving to over the last couple of years is an arrangement whereby, as I said, the individual circumstances of trusts can be better managed by the Australian Council of National Trusts and at the same time we can be assured that the Commonwealth is getting value for money.

Senator LUDLAM—Thank you. My final question is as to whether or not the Australian Heritage Council has provided any formal strategic heritage advice to government since the last estimates hearing or whether it has just been the normal two-way dialogue. Has there been any formal strategic heritage advice provided to government?

Mr Shevlin—The council continues to provide advice to the minister on assessments of properties and so on. I am sure there have been some conversations between the minister and the head of the council, for example, on issues.

Senator LUDLAM—That is not quite what I mean.

Mr Shevlin—There has been no formal written advice on issues other than their assessments.

Senator LUDLAM—Thank you very much. I will leave it there.

CHAIR—Are there any further questions in this portfolio area?

Senator BOSWELL—I would like to talk to someone about World Heritage listing on Cape York. The communiqué issued in Tasmania has stated that council welcomed the proposal to include the initial tentative list of Cape York and the tentative list will be submitted in 2009 and will include Cape York. At the moment what stage is this World Heritage listing at?

Mr Shevlin—As you would be aware, the government had an election commitment to work with the Queensland government and traditional owners to pursue World Heritage listing for appropriate areas of Cape York, recognising the importance of Commonwealth leadership and the consent of traditional owners. That was the election commitment. To be honest, we are only really at the start of the process. We would expect that the completion of any World Heritage nomination, if it progresses, would take at least three to four years.

Senator BOSWELL—I am not asking how long it will take. I am asking: what have you done so far?

Mr Shevlin—That process of actually developing up the nominations will require a thorough assessment of the heritage values that may or may not exist in Cape York and also extensive consultation with the stakeholders. A normal prerequisite would be that we would pursue a national heritage listing in advance of any World Heritage listing of an area.

Senator BOSWELL—What is a national heritage listing?

Mr Shevlin—A national heritage list is something that came out of the EPBC Act. It is basically the list of places which have outstanding heritage value to the nation.

Senator BOSWELL—Has that been done?

Mr Shevlin—No.

Senator BOSWELL—Is it proposed to be done?

Mr Shevlin—No formal national heritage assessment of Cape York has commenced yet, although the Humane Society International nominated Cape York for the National Heritage List in 2006 and also again last year, but it is not yet included on the work program for the Australian Heritage Council.

Senator BOSWELL—What preparatory work have you done with this listing?

Mr Shevlin—I am just trying to make sure that you have got all of the information.

Senator BOSWELL—Thank you.

Mr Shevlin—Just to be clear, the council looked at the nominations that came in, as it does with all nominations, but actually recommended that in terms of the national heritage assessment for Cape York the assessment should be deferred until there was further work in the area, just to start to get a sense of what are some of the values and also recognising the requirement to engage with all of the stakeholders fully.

Senator BOSWELL—But their communiqué said that it will be submitted in late 2009 and will include Cape York.

Mr Shevlin—That was the intention at the time when the Environment Protection Heritage Council ministers met, but the government's intention was always that that would only proceed with the consent of, particularly, Indigenous stakeholders. As you would be aware from the media there are issues between the Queensland government, in particular, and traditional owners in relation to the wild rivers legislation and, effectively, those issues are preventing further progress on the World Heritage assessment.

Senator BOSWELL—Has there been any work or costing on the World Heritage listing being merged with the wild rivers?

Mr Shevlin—The two issues for us are quite separate. Minister Garrett and his Queensland counterpart have actually tabled what is called a draft road map, looking at how we could progress the World Heritage assessment, also taking into account activities that are happening within Queensland. They have their own processes looking at identifying areas of international conservation significance. There is a whole regional advisory committee up there to work with them on that. The minister has actually tabled with his Queensland counterpart a draft road map.

Senator BOSWELL—I have seen the draft road map. What I am asking is whether your department has prepared or been involved with the state department in collapsing the wild rivers and having it covered by World Heritage?

Mr Tucker—I was actually in Cairns with the minister and with his state ministerial counterparts when this issue was last discussed. You said that you had seen the draft road map that had been prepared in terms of the way World Heritage may proceed, which is a bit of a short work plan. The wild rivers is mentioned in that draft road map as one of the existing management arrangements, but the minister made it quite clear in that meeting with stakeholders that he saw the wild rivers issue as one for the state government to work out with

the people of the Cape and, as Mr Shevlin has mentioned before in relation to World Heritage, he encouraged the state government and the stakeholders concerned in that part of the world to reach an agreement on how they would move forward on wild rivers.

Senator BOSWELL—I will ask the question again. Have you done any work? I know what the minister has said. I am asking you: have you done any work or costings on merging?

Mr Shevlin—No.

Senator BOSWELL—Have there been any maps prepared, either by the state or federal government on the World Heritage area?

Mr Tucker—There are certainly maps of the area. By that, do you mean boundaries?

Senator BOSWELL—Yes, I mean boundaries.

Mr Tucker—No.

Mr Shevlin—No.

Mr Tucker—It would be nowhere near that stage.

Senator BOSWELL—Has the state government been involved in the listing? Has there been any information exchanged between state and federal governments?

Mr Shevlin—Certainly there is information exchanged between the two governments. As I mentioned, Queensland has a process to identify areas under its Cape York Peninsula Heritage Act 2007. They have a process underway to identify areas of international conservation significance. That obviously has a fair bit of overlap in identifying potential areas of national or World Heritage value within the area. We are trying to bring those sorts of assessment processes together, in terms of gathering together basic information. As Mr Tucker said, we have not done extensive costings on that because basically we have a draft road map that has been prepared, but there is a significant blockage in the road at the moment.

Senator BOSWELL—What costings are there at the moment? What have you spent money on with this?

Mr Tucker—We have done some preliminary estimates. If we were to implement some of the studies, an idea of what they might cost from previous experience, but we have given no detailed assessments of costs for work in the Cape for World Heritage purposes.

Senator BOSWELL—To achieve tentative listing does the Indigenous community have to give support? Can you do it without Indigenous support?

Mr Shevlin—Theoretically it could occur, but the government has an election commitment not to do so without the consent of traditional owners.

Senator BOSWELL—You do not need the traditional owners signing off. You can declare it without traditional owners.

Mr Shevlin—A tentative list nomination is submitted by the Commonwealth government, but it will only do so in working with the Queensland government and it has said that it will only do it with the consent of traditional owners.

Senator BOSWELL—The traditional owners are a bit gun-shy at the moment. How will that support be measured? They did not want wild rivers and they got it. They did not sign off on that. How can you measure that support?

Mr Tucker—The election commitment in relation to World Heritage is quite unequivocal.

Senator BOSWELL—I have seen the election commitment. I understand the election commitment. There are traditional owners, councils and peak bodies. How do you measure that?

Mr Tucker—With the draft road map that you have seen, one of the very first steps is to work out with traditional owners and their representative bodies what that consent model would be. At the moment we have not even progressed to the first step because, as Mr Shevlin said, we have reached a roadblock. As you know and as we know there is significant opposition up in that part of the world from the traditional owners in moving on this because of the wild rivers issue. One of the first steps that we would enter into with their agreement is how we would actually define what that consent means and whom it would need to come from.

Senator BOSWELL—The problem is that they are concerned—and I do not blame them—that you will get some people who will consent, but the overall Indigenous community do not want this and they have lost faith in the consultation process. They did not want the wild rivers and they were consulted, but it went through. I know it is a government commitment, but I am very concerned that consultation may be seen as an agreement, as it was in wild rivers.

Mr Tucker—We clearly recognise the situation that is happening in the Cape now with wild rivers. We are determined to design a process where the consent is clear, it is unambiguous, it is transparent and we have agreement on the process of reaching consent even before we get to consent. For us, we think it is very important that we get that right if we have any chance of getting community support for moving ahead for World Heritage nomination, but we have not even reached that stage yet, given the particular circumstances that are occurring in the Cape at the moment.

Senator BOSWELL—What groups have you consulted?

Mr Tucker—We can take on notice all the ones that we have consulted. When I was up there we talked to the Cape York Land Council.

Senator BOSWELL—Is that Pearson, is it? He is Balkanu?

Mr Tucker—No, but we have also spoken to Balkanu. We have spoken to a number of the other groups up that way.

Senator BOSWELL—Which groups—Aboriginal councils?

Mr Tucker—Aboriginal councils, yes.

Senator BOSWELL—Could you tell us which ones?

Mr Tucker—I have not got that off the top of my head, but we might be able to. It is the Cape York Land Council, Balkanu and some consultations with the Cape York Institute, which I understand is the Pearson group.

Senator BOSWELL—What about traditional owners?

Mr Tucker—We have not got into that detail yet because we want to make sure that we go through a design process and we want to talk to the representative bodies first. Ultimately, we would see, if we did get into that process, in our view it would need the agreement of traditional owners.

Senator BOSWELL—Have you spoken to the fishing industry?

Mr Tucker—Yes. There is a group that Queensland has which is called the Cape York Peninsula Regional Advisory Committee which has representatives of a number of sectors on it. We have not talked to them about fishing, but it has a number of other sectors. We have talked to them about if we were to proceed, what would be the right consultation mechanisms, including for industry such as the fishing industry.

Senator BOSWELL—Who was that? What was the name of that group?

Mr Tucker—The Cape York Peninsula Regional Advisory Committee.

Senator BOSWELL—What environment groups have you spoken to on this?

Ms Kruk—I might get Mr Bailey in to save Senator Boswell some time.

Mr Bailey—On the Cape York Peninsula Regional Advisory Committee, which has been set up under Queensland legislation, there are two representative environment groups. The Wilderness Society and the Conservation Foundation are both members of that committee.

Senator BOSWELL—They are on the committee.

Mr Bailey—That is correct. They are on the committee. We have been observers at those committee meetings and presented the draft road map.

Senator BOSWELL—What about the cattle industry?

Mr Bailey—The cattle industry is also represented on the Cape York Peninsula Regional Advisory Committee.

Senator BOSWELL—The Australian Heritage Database states that the proposed boundaries will include Thursday Island group and Flinders Island group. What impact will the World Heritage listing have on traditional Indigenous fishing and commercial fishing in the Torres Strait? Is listing the Torres Strait a proposal that you are going ahead with?

Mr Shevlin—The information on the Australian Heritage Database simply reflects the nomination that was put in by the Humane Society International. All of that information there about the significance of it, the values of it et cetera are just the information that the nominator puts in. It does not represent the government's or the department's view.

Senator BOSWELL—Have you spoken to the Thursday Islanders or the TIs to see what their views are on World Heritage listing?

Mr Bailey—Not at this time, because the nomination in the database that Mr Shevlin referred to is a nomination that is not currently under assessment. We are not required to conduct the community phases of that, given it is not under assessment.

Senator BOSWELL—When do you intend to further consult with the Indigenous people? Are you in consultation with them now, are you continuing consultation or are you not consulting? Where are you on this?

Mr Bailey—I would put it that we have been in discussion with representative bodies of Indigenous people, primarily the Cape York Land Council. As Mr Tucker pointed out regarding the draft road map, the commencement of that has a very strong emphasis on the need to develop a consent model and a decision-making model to reach that consent. So we are in discussions. It is a draft because there has not yet been full and thorough consultation with the Cape York Land Council and Balkanu.

Senator BOSWELL—You are answering my question with a question. When will the process be complete, or at what stage is the process at the moment? Is it at the start, or is it halfway through?

Mr Bailey—In terms of the preparation of a World Heritage nomination, it is very much at the start and it is some years away from being completed.

Senator BOSWELL—I am talking about a tentative listing.

Mr Bailey—The tentative-listing process was recognised in the decision, as mentioned earlier, of the Environment Protection and Heritage Council. The information to proceed with a tentative listing has not been concluded nor has there been some discussion and consultation regarding Indigenous aspects of that tentative listing. The tentative listing has not proceeded at this time for Cape York.

Senator BOSWELL—So it is not proceeding. You are waiting for the support of Indigenous groups. You have not seen all the Indigenous groups. How many more Indigenous groups do you have to see or consult with? You must have a list of who you have seen, who you are going to see and who you want to see.

Mr Bailey—In terms of consulting with Indigenous people on Cape York, there are multi layers. There are structures created under state legislation and there is the land council, which is the representative body in terms of native title administration at the Commonwealth level.

Senator BOSWELL—You could go into a council at Bamaga or somewhere and find a dozen people that are traditional owners that own different sections. So you may have to find a dozen people in one community, and that community may have six or more different landowner groups in it.

Mr Bailey—I certainly recognise that, Senator. That is why in the development of the nomination, at the very commencement of that roadmap, there is the note to develop a consent model. One of the layers in developing the consent model is understanding and working with people to get the structure of traditional ownership and the degree to which consultation should occur in discussions. There are a number of layers at both state and Commonwealth level around the administrative arrangements for Indigenous communities on Cape York that will need to be worked through in developing that consent model. It is too early to say that there will be X number of community groups consulted because there is a significant amount of work that needs to be done to determine how many communities will be consulted.

Senator BOSWELL—The question I have is: who does the Commonwealth intend to engage with on Cape York in the future? You are saying that you do not know.

Mr Bailey—We recognise that there are multiple layers that will need consultation both from Commonwealth and state. We are certainly commencing our discussions with the Cape York Land Council, as the Cape York Land Council is the representative body in terms of the normal Commonwealth administration of the Native Title Act. It is a representative body that we have had some discussions with, but we recognise that in Cape York it is complex land ownership; there are complex layers between the Commonwealth and state legislation, and we will be working, in discussion with the Queensland government, on an appropriate arrangement to recognise the Queensland government layers, which include those local community areas that I think you are referring to, Senator.

Senator BOSWELL—What happens if the Indigenous people do not give their support?

Mr Bailey—The government policy, as Mr Tucker has outlined, is very clear. It is to be with the consent of the traditional owners.

Senator BOSWELL—What areas are you going for? Is it going to be a bulk listing or a tentative listing? The Cape is a big place.

Mr Bailey—That is right, Senator. There are no thoughts on boundaries at this point. There are multiple factors that would need to be taken into consideration in terms of determining a boundary.

Senator BOSWELL—On the communique you have got the coordinates that mark the boundaries out.

Mr Bailey—No, that is not necessarily the case. In the tentative listing it needs to show a central coordination. There are two maps of Cape York that are floating around that sometimes get caught up in the public domain. One is the nomination map from HSI to the National Heritage List. The second map is the map that underpins the work under the Cape York Peninsula Heritage Act, which is a Queensland act. That defines an area for Cape York.

Senator BOSWELL—The Australian Heritage Database has the coordinates. I am sorry; I have not got it with me. There are 137 million square miles—

Mr Bailey—That is correct.

Senator BOSWELL—and then it says, ‘The boundaries will go from here to here, to here and to here’.

Mr Bailey—Correct.

Mr Shevlin—As I mentioned previously, that is just the nomination that was put in by HSI. It does not have any status. That is someone’s proposal of an area that should be looked at.

Senator BOSWELL—Has there been any request to your department to have work done on the World Heritage Listing to be ready this year?

Mr Shevlin—No.

Senator BOSWELL—There has been no request from any other department?

Mr Shevlin—No.

Senator BOSWELL—You have a road map, but what consent mechanisms are proposed for the World Heritage listing? You have a road map, but that does not say what you are expecting from the communities. What are you going to ask them? Do they have to sign up? What they fell for last time was consultation. They were consulted and they all said, ‘No, we don’t want it,’ and then they got it anyway. Are you going to get them to sign a piece of paper?

Mr Tucker—The first part of the consent process is to define what consent is. It is to reach agreement with the traditional owners and the representative bodies about what consent actually means and how it will be given effect. Then we move through the assessment process to do the various stages of the assessment for World Heritage consideration. At a point in that road map there is a very clear delineation that, if traditional owners do not consent, nothing further will proceed—it is over. So we have a process of how to design that, we have process for them to give their consent and, if they do not consent, we do not proceed.

Senator BOSWELL—When will the decision on consent be taken?

Mr Bailey—If you go back and look at that road map, seven pieces of information would be fundamental before you could ask for a consent decision. Those pieces of information are: what would the World Heritage values be, what would the boundary be, what would the management arrangement be, what are the native title implications, what are the social implications, what are the economic implications—and there is one more. In terms of the consent decision, the view that was established in developing the road map was that you could only have informed consent if you provided all that information for people to consider before they took their decision. So you cannot plan the decision until you have provided that information. If that is six months, 12 months, two years or three years, that would be the case in terms of that information being available for the informed consent decision to be taken.

Senator BOSWELL—Do the various groups have to sign an agreement, or is it just a consultation? How do you get the decision that someone has said yes or no? Is it by a signed agreement? If you have 200 participants, is 101 an agreement and 99 not an agreement?

Mr Bailey—The consent model would be worked out on how that would occur early on in the planning of the road map. Discussions that have been had with representative bodies indicate that they would like formal agreements associated with that consent decision. But the model for that agreement would be the subject of early discussion before information was gathered to allow the informed consent decision to be taken.

Senator BOSWELL—What decision-making role will the Cape York people have in managing the World Heritage areas?

Mr Bailey—Consistent with the road map is the need to develop the management arrangements prior to the informed consent decision being taken. That would be overt and clear in terms of reaching that informed consent decision point in the road map.

Senator BOSWELL—The local Indigenous people have been sidelined from the management of the Wet Tropics. What action does the Commonwealth propose to take to give confidence to Cape York people that they will not be similarly marginalised, particularly

given the recent heavy-handed approach of the Queensland government? How are you going to guarantee that they have a say in the running of this?

Mr Shevlin—As Mr Bailey has been explaining, basically the first part of this process will be to have a lengthy discussion with the Indigenous stakeholders to determine how they want us to consult with them, what represents consent for them, what models they want in place of that and what sorts of management arrangements would work for them. So it is all of those things. We are not trying to be evasive. We are just saying that we have actually agreed with the Indigenous stakeholders that we need to work with them to determine what is appropriate to enable them to provide informed consent and also what form that consent should take.

Senator Conroy—It has not been finalised yet. You can ask 10 different ways but the answer is going to be the same, Senator Boswell.

Senator BOSWELL—This is your policy that you are going to roll out to get those Green preferences, mate. They will be very disappointed if you do not—

Senator Conroy—Is there any fishing involved?

Senator BOSWELL—Yes, I would say there will be fishing involved.

Senator Conroy—You will be after their preferences then.

Senator BOSWELL—Who will monitor the biosecurity in the World Heritage area if it takes place?

Mr Shevlin—As Mr Bailey said, all of the management arrangements in the proposed management framework for any World Heritage area will be part of the development of the whole process. So I cannot really answer that yet. We do not know exactly what values we are protecting, because that is part of the process. We do not know what the boundary is, because that is part of the process. Therefore, we do not know who the relevant stakeholders all are, because we do not know what the area is. So I cannot really answer that.

Senator BOSWELL—Who will have the overriding authority on pastoral leases and other business activities affected by World Heritage?

Mr Shevlin—The normal thing with world and national heritage is that tenure does not change as a result of world or national heritage listing, so whoever has already got—

Senator BOSWELL—If the peninsula were to be listed there would be certain implications—

Senator Conroy—That is a hypothetical.

Senator BOSWELL—It is not a hypothetical.

Senator Conroy—You just said, ‘If it were to be listed’—

Senator BOSWELL—Yes, if it were to be listed—and it is your policy to list it.

Senator Conroy—But the form of that has not been resolved yet, so it is a little hard to speculate.

Senator BOSWELL—Someone must administer it. Would it be your department or the state department?

Mr Shevlin—As I said, the management arrangements will be determined as part of the process, but if an area were listed either on the National Heritage List or the World Heritage list then it would mean that the Environmental Protection and Biodiversity Conservation Act then had application. But that does not mean that the Commonwealth suddenly controls anything; it just means that the national or world heritage listed values of the place would need to be taken into account.

Senator BOSWELL—And what department would protect them?

Mr Shevlin—That piece of legislation is administered by this department.

Senator BOSWELL—Would that override the Wild Rivers Act? You have World Heritage and you have wild rivers. Which legislation would be the overriding legislation?

Mr Tucker—It is hard to see how they would be in conflict. If we look at other examples, we have other World Heritage properties that, for example, may have a state and national park legislation that covers them—or they may be partial leases, as they are on some other properties, plus we would have our legislation. We do not get into a situation where we override the state legislation.

Senator BOSWELL—One piece of legislation must be supreme over the other one if they are in conflict. If one says one thing and the other says another thing, which piece of legislation is the legislation that is relied on? I would assume that it would be the federal legislation.

Mr Tucker—What we do is make sure that we agree upon the management arrangements before the nomination is finalised and proceeds, so that each of us can give effect to those management arrangements so they are not in conflict.

Senator BOSWELL—You have two pieces of legislation. One says we will do this with wild rivers; the other says we will do this with World Heritage. I know you do not want to get into conflict, but I am a great believer in Murphy's Law: the worst thing always happens at the worst possible time. There will possibly be conflict. I am asking which one overrides. The World Heritage, I would understand, would override wild rivers.

Mr Shevlin—I am not a lawyer. We would have to take that on notice to get official legal advice on something of that nature.

Senator BOSWELL—I have asked you if the pastoral leases will be renewed and you have said you cannot tell us as yet. Is it correct that you cannot say whether the pastoral leases would be renewed?

Mr Tucker—We do not issue the pastoral leases. The state government does.

Mr Bailey—Looking at World Heritage properties around Australia, 70 per cent of the Willandra World Heritage area, for example, is pastoral lease, so it is not inconsistent.

Senator BOSWELL—I know it is not inconsistent to have pastoral lease, but certain conditions are applied. Will compensation be offered for loss of income due to non-renewable leases inside World Heritage areas if you cannot expand the lease or if you cannot do certain things to the lease? The implication is that you cannot use your property to its fullest extent.

Mr Tucker—As I said, we do not issue pastoral leases. One of the things, though, we will obviously be talking about in looking at the World Heritage values of the properties is: what are the current uses and management arrangements and how do they fit in? We would be talking to all stakeholders concerned.

Senator BOSWELL—You have told me you will not go ahead with this unless you have the road map and the road map has the agreement of the Indigenous people. I am trying to ask you what constitutes an agreement and you are telling me that it is an agreement with all layers of the Indigenous people. What I am asking you is: what if you get 50 per cent, what if you get 40 per cent—

Senator Conroy—You have asked this question now at least half-a-dozen times. The answer has been the same each time. Those issues are not resolved. You can ask it another 10 times and you will still get the same answer.

Senator BOSWELL—There are a certain number of people—14,000 Aboriginals and, if it goes up into the islands, probably another 8,000 or 9,000 islanders—that are very concerned about this. They want to know. They are in limbo. They do not know what is happening. They know it has been recommended for listing. They do not know when it is going to be listed. If it is an 80 per cent listing—

Senator Conroy—If you have any new questions please feel free to ask them.

Senator BOSWELL—I would like something more definite to say to them. Anyhow, I can only tell them that it will not go ahead if they are not satisfied with it.

CHAIR—Thank you, officers of the department, for appearing before the committee. The committee's examination of the Environment, Water, Heritage and the Arts portfolio will continue tomorrow morning at 9 am with general questions of the department.

Committee adjourned at 9.23 pm